

WOMEN AND THEIR ECONOMIC RIGHTS – A LEGAL PARADIGM

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ABSTRACT

The Socio-economic rights are a vital aspect of human rights agenda for women. The slow study process and radical change in recognizing the rights of women to a greater extent has helped to build her own identity and withstand her rights against all discrimination. The feminist movement questioned several discriminatory practices against women. However there was a need for revolution to debar the discriminatory practice of status on the ground of gender. And revolution was created by feminist movement. These Movements largely contributed by feminist writing recognized the need to subdue the discriminatory practice of status. Feminist theory emerged from these feminist movements includes general theories and theories about the origins of inequality, economic injustice and in some cases, about the social construction of sex and gender, in a variety of disciplines. Feminist activists have campaigned for women's rights as such, in contract, property, and voting, while also promoting women's rights from human right perspective. They have opposed domestic violence sexual harassment and sexual assault, in economics they have advocated for workplace rights, including equal pay and opportunities for careers and to start businesses. Interventions of national and international legal instrument have added grace and recognized women's right. All this resulted in increase participation of women both in formal and informal job sector. However the journey to heed her right did not end here; it was the beginning, the beginning to fight for her survival.

THE AIM OF THE PAPER

Though women are contributing to the economic development of the country, considerations for her service are unsatisfactory.¹ Study reveals, the women workers encompasses equal to that of men in any job sector. However there seems wage gap between men and women. Today women are not just turning out as self independent, but are also giving financial help to her family, subsequently any kind of discrimination against the women worker will not only affect her status in work place but will also affect her social life. This paper attempts to find the causes for such discrimination from legal perspective and focuses on the following major issues. Whether the pattern of discriminatory practice against women changes with changing time? What constitute economic discrimination? Whether it hinders the due process of economic justice? Are women subjected to gender discrimination with regard to economic right? Whether violation of economic right amounts to violation of women's human right? Whether women have equal right to equal wage? Whether discrimination in equal right to wage violates the correlated rights?

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¹ Kovuru Devi, Women's equality in India: a myth or reality? Discovery Publishing House, 2000, p.146

What are the rights associated with the economic right? All these issues constitute major part of legal enquiry

Thus the paper investigates principle factors contributing the economic discrimination and subdues the practice as violation of women's human right and to study the role of justice in dismantling the practice of economic discrimination.

INTRODUCTION

The law of nature never categorized the right of man and women, differently. Both endowed with same sense of reason, responsibility and rights.² Unfortunately the practice of gender discrimination is the most humiliating situation a woman is subjected to. Gender is the wide-set of characteristics that distinguish between male and female entities, extending from one's biological sex to, in humans to one's social role.³ Gender discrimination' is the prejudicial treatment of an individual based on their membership in a certain group or category. Discrimination is the *actual behavior* towards members of another group. It involves excluding or restricting members of one group from opportunities that are available to other groups. Discrimination denotes **Elite status** in perception and insight.⁴ When the Elite status, becomes a ground to distinguish the right of one human being from that of the other, the reason for such discrimination should be enquired. Is this difference due to intellectual capacity or performance ability between men and women, certainly not because today women have perceived her excellence in almost all field of occupation.⁵ The difference in elite status is definitely due to the variation in economic status of men and women. The United Nations stance on discrimination includes a statement that: "Discriminatory behaviors take many forms, but they all involve some form of exclusion or rejection. This denotes **Asymmetrical approach** adopted to exclude this class of people from social and economic activity. Today, women represent approximately 70% of the 1.2 billion people living in poverty throughout the world. Inequality with respect to economic, social and cultural rights is a central fact of women's lives in every country around the world, and is a central manifestation of women's lesser social, economic and political power.⁶ Ongoing inequality in the sphere of economic rights contributes to the continuing subordination of women and makes them especially vulnerable to violence,

² Article 7 of the Universal Declaration of Human Rights states "All are equal before the law and are entitled without any discrimination to equal protection of the law."

³ Chodorow, Nancy, *Feminism and Psychoanalytic Theory*. New Haven, Conn.: Yale University Press. 1989 pp.45-67

⁴ Discernment has remained in British English as a term denoting elite status in perception and insight, also see, *Introduction to sociology*. 7th ed. New York: W. W. Norton & Company Inc, 2009. page 334,

⁵ Gilligan, Carol "In a Different Voice: Women's Conceptions of Self and Morality". *Harvard Educational Review*, 1977, pp.12-40

⁶ Friedan, Betty, *"It Changed My Life": Writings on the Women's Movement: With a New Introduction*, Harvard Univ, press pp.345

exploitation and other forms of abuse. To address the core issue of social prejudice the feminist legal theory has become formidable and sought to dismantle the positive legal barriers that have denied women equal opportunity with men. Feminist activism also had major impact on many areas of law debating in favor of women's right. However, the ideology of legal feminism today goes far beyond the original purpose and widely supports the goal of equal treatment for both sexes. With the emergency of radical feminism, principles as neutrality of the law, inequality, and individual autonomy got discarded because of their "patriarchal" roots. The liberal feminist legal theory also emphasized on the legal rights of women entitling her to equal right to property, equal right to wage and social security. Today the necessity is not to identify the gender based rights⁷ but to recognize the rights of individuals beyond gender which connects the individual spiritually and morally and works against asymmetrical approach.

Asymmetrical approach (which also includes exclusion of class of people from engaging in social and economic activity) adopted to classify the social and economical right of individual on gender base is a discriminatory act violating the universal rule of justice. Women's social and economic rights are natural and inalienable rights which associate with right to life and livelihood. Any act of marginalization or exclusion, seriously violate the fundamental right of women resulting in economic inequality, gender wage gap, against equal participation and development.

ECONOMIC INEQUALITY BASED ON GENDER DISCRIMINATION

The core factor of economic inequality is that it can never be studied independently because economic inequalities are the outcome of social distortion. As mentioned above discriminatory practice involves some form of exclusion or rejection, and social exclusion is a kind discrimination detaching groups and individuals from social relations and institutions and preventing them from full participation in the normal, normative prescribed activities of the society in which they live.

Forms of social exclusion which amount to discrimination include exclusion from rights, opportunity and resource which results in economic inequality.⁸ Economic inequality or discrimination is an outcome of social exclusion. Gender discrimination of economic right amounts to economic inequality or economic discrimination. Economic discrimination is a term that describes a form of discrimination based on economic factors. These factors can include job availability, wages, the prices or availability of goods and services, and the amount of capital investment funding available to minorities for business. The term is broadly used in economic research, and includes discrimination against workers, consumers, and minority-owned businesses

⁷ Hooks, bell, *Feminism is for everybody: passionate politics*. New York: Pluto Press. 2000 p. 68

⁸ Michele A. Paludi 'Feminism and women's rights worldwide, ABC-CLIO, 2010, PP 123

Economic inequality comprises all disparities in distribution of economic assets and income. The term economic inequality is subjected to broad debate based upon its nature cause and importance and exists in wide range of societies and historical period.⁹ Women are subjected to economic inequality due to the social and cultural practice of society and gender based identification of economic right. Subjugation of women to economic inequality has no boundary of its own sometime the exclusion extends beyond gender to include discrimination on the ground of class, race and colour.

Gender based discrimination of economic right also various from nation to nation, according to National Organization for women U.S. reports that, for full-time, year-round workers, women are paid on average, only 78 percent of what men are paid; for women of color, the gap is much wider. These wage gaps stubbornly remained the same despite the passage of the Equal Pay Act in 1963, and a variety of legislation prohibiting employment discrimination. Women still are not receiving equal pay for equal work.¹⁰

The Numerous international and regional instruments have drawn attention to gender-related dimensions of human rights issues, the most important being the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted in 1979. The Convention defines the right of women prohibiting discrimination and sets the core principles to protect this right. It establishes an agenda for national action to end discrimination, and provides the basis for achieving equality between men and women through ensuring women's equal access to, and equal opportunities in, political and public life as well as education, health and employment.

The Convention is ratified by 180 states, making it one of the most ratified international treaties. State parties to the Convention must submit periodic reports on women's status in their respective countries. CEDAW's Optional Protocol establishes procedures for individual complaint on alleged violations of the Convention by State parties, and sets enquiry procedure that allows the Committee to conduct inquiries into serious and systematic abuses of women's human rights in countries. So far 71 States have ratified the Protocol.¹¹

In 1993, 45 years, after the Universal Declaration of Human Rights approval and eight years after CEDAW entered into force, the UN World Conference on Human Rights in Vienna confirmed that women's rights were human rights. That this statement was even necessary is striking women's status as human beings entitled to rights should have never been in doubt. And yet this was a step forward in recognizing the rightful claims of one half of humanity, in

⁹ D. G. Champernowne, Frank Alan Cowell, Economic inequality and income distribution Cambridge University Press, 1998, p 58

¹⁰ Echols, Alice Daring to Be Bad: Radical Feminism in America, University of Minnesota Press, 1989 p. 416.

¹¹ Wouter Vandenhoele, 'Non-discrimination and equality in the view of the UN human rights treaty bodies, Intersentia nv, 2005, PP147

identifying neglect of women's rights as a human rights violation and in drawing attention to the relationship between gender and human rights violations. In 1994, the International Conference on Population and Development in Cairo (ICPD) articulated and affirmed the relationship between advancement and fulfillment of rights and gender equality and equity.¹² It also clarified the concepts of women's empowerment, gender equity, and reproductive health and rights. The Programme of Action of ICPD asserted that the empowerment and autonomy of women's political, social, economic, and health status was highly important end in itself and essential for the achievement of sustainable development. In 1995, the Fourth World Conference on Women in Beijing generated global commitments to advance a wider range of women's rights. The inclusion of gender equality and women's empowerment as one of the eight Millennium Development Goals was a reminder that many of those promises made were yet to be achieved.¹³ It also represents a critical opportunity to implement those promises. In spite of these international agreements, the denial of women's basic human rights is persistent and widespread.

As mentioned in the introductory part, if both the features like the elite' status and Asymmetrical approach are to be considered as the characteristic of gender discrimination depriving economic right of women it will be easy to debate that the paradoxical changes can be expected through legal intervention.

ECONOMIC JUSTICE V/S GENDER DISCRIMINATION

The practice of gender discrimination violates cardinal principle of justice. Justice is the concept of moral rightness based on ethics, rationality, law, natural law, religion, fairness, or equity, along with the punishment for breach of said ethics. One definition of justice is "giving to each what he or she is due."¹⁴ But the problem is in knowing what is "due". If we analyze the economic right of women from theoretical perspective of justice whether she has right of choice with regard to work and the right of equal pay for equal work? What parameters have to be adopted to measure this right? Whether gender based discrimination of economic justice violates theory of justice?

Economic justice, which touches the individual person as well as the social order, encompasses the moral principles which guide us in designing our economic institutions. These institutions determine how each person earns a living, enters into contracts, exchanges goods and services with others and otherwise produces an independent material foundation for his or her economic sustenance. The ultimate purpose of economic justice is to free each person to engage creatively in the unlimited work beyond economics, that of the mind and the spirit.¹⁵

¹² "Report of the International Conference on Population and Development", UNFPA, 1995

¹³ en.wikipedia.org/wiki/International_Conference_on_women, 13/3/2011@2.30 Am

¹⁴ Sen, Inequality Reexamined, Harvard University Press, 1992,p 45

¹⁵ Sir Steling, Center on Social Welfare Policy and Law, BEYOND THE MYTHS: THE FAMILIES HELPED BY THE AFDC PROGRAM (New York, 1985).

Theory of justice specifies Justice as fairness within which comprises two main principles of liberty and equality. According to the first principle every individual has equal right to basic liberties and that certain rights and freedoms are more important than the other which include right to hold personal property to an extend of enjoying the basic liberty compatible with the similar liberty. The second principle of equality is the component of fair justice wherein, even if social and economical inequalities are to be arranged both reaches to the greatest benefit of the least advantaged, consistent with the just savings principle, and attached to offices and positions open to all under conditions of fair equality of opportunity. It was however pointed out that society cannot arrange inequalities to maximize the share of the least advantaged whilst not allowing access to certain offices or positions. The principle of fair justice also emphasizes on the difference principle which seem to be discriminatory because it regulates inequality but stress on positive discrimination like it only permits inequalities that work to the advantage of the worst-off. The third aspect of the theory is worth notable from the feminist point of economic justice which includes fair equality of opportunity This principle maintains that "offices and positions should be open to any individual, regardless of his or her social background, ethnicity or sex. It is stronger than 'Formal Equality of Opportunity' in that Rawls argues that individual should not only have the right to opportunities, but should have an effective equal chance as another of similar natural ability.

Theory of Distributive justice based on egalitarianism emphasizes the right of economic harmony.¹⁶ Distributive justice is concerned with the fair allocation of resources among diverse members of a community. Fair allocation typically takes into account the total amount of goods to be distributed, the distributing procedure, and the pattern of distribution those results.

Like every system, economic justice involves input, output, and feedback for restoring harmony or balance between input and output. Within the system of economic justice as defined by Louis Kelso and Mortimer Adler, there are three essential and interdependent principles: The Principle of Participation,¹⁷ The Principle of Distribution, and The Principle of Harmony. Like the legs of a three-legged stool, if any of these principles is weakened or missing, the system of economic justice will collapse. The distributive principles so far outlined, with the exception of strict egalitarianism, could be classified as liberal theories and are the product of, the liberal democracies which have emerged over the last two centuries. Lumping them together this way, though clumsy, makes the task of understanding the emergence of feminist critiques (and the subsequent positive theories) much easier.¹⁸

John Stuart Mill in *The Subjection of Women* (1869) gives one of the clearest early feminist critiques of the political and distributive structures of the emerging liberal democracies. His

¹⁶ Rawls, theory of justice, p.53 revised edition; old 1971 first edition, p.60

¹⁷ David Schmidtz, *Elements of Justice*, New York: Columbia University Press, 2006 p 78, also see Louis O. Kelso and Mortimer J. Adler, 'The Capitalist Manifesto', Random House, 1958, p 64-67

¹⁸ James Konow (2003) "Which Is the Fairest One of All? A Positive Analysis of Justice Theories", *Journal of Economic Literature*, 41(4), p. 1188-1239

writings provide the starting point for many contemporary liberal feminists. Mill argued that the principles associated with the developing liberalism of his time required equal political status for women.¹⁹ The principles Mill explicitly mentions include a rejection of the aristocracy of birth, equal opportunity in education and in the market place, equal rights to hold property, a rejection of the man as the legal head of the household and equal rights to political participation. Feminists who follow Mill believe that a proper recognition of the position of women in society requires that women be given equal and the same rights as men have, and that these primarily protect their liberty and their status as equal persons under the law. Thus, government regulation should not prevent women from competing on equal terms with men in educational, professional, marketplace and political institutions. From the point of view of other feminism, the liberal feminist position is a conservative one, in the sense that it requires the proper inclusion for women of the rights, protections, and opportunities previously secured for men, rather than a fundamental change to the traditional liberal position.²⁰ The problem for women, on this view, is not liberalism but the failure of society and the State to properly instantiate liberal principles.

Therefore any failure of economic justice to meet the necessity of economic equality would result into

1. Ongoing process of economic inequality
2. Create price distortion which can push low income family into poverty
3. Radical based income inequality could trigger social unrest; increase sense of vulnerability may deprive up morality rate and increase in crime.

THE ULTIMATE QUESTION OF WOMEN'S HUMAN RIGHT

When all mankind are born free and equal, and have certain natural, essential, and unalienable rights among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting property; in fine, that of seeking and obtaining their safety and happiness. Why is this class of member deprived from entitlement? Across the globe, women confront manifold violations of their human rights when they cannot participate in the decisions that affect their lives or claim fair political representation, when they face discrimination in employment, when they are denied entitlement to land and property, or when they suffer violence within their own home. Other obstacles to rights arise when women and girls are prevented from going to school or attaining health care, or are subject to harmful traditional practices.²¹ All this contribute to the factor of social and economic inequalities. The core factor of economic inequality is that it can never be studied independently because the

¹⁹ Supra,ibid,pp56

²⁰ John Stuart Mill, *The subjection of women*, Oxford University press 1869, p91-99

²¹ Hosken, Fran P., 'Towards a Definition of Women's Rights' in *Human Rights Quarterly*, Vol. 3, No. 2, May, 1981, pp. 1-10.

causes for economic inequality are associated with social injustice and that the economic injustice is the outcome of social distortion'.²²

Economic rights are significant parts of inalienable rights of all member of human family.²³ When these human rights are categorized under gender base, the violation of human right takes place. The women been the vulnerable group subjected to economic inequality suffers terribly under distortion of social change were the women are forced to be independent mother widow or single. Causes of economic inequality can have profound ill effect, which can push low income family into poverty. Radical based income inequality could trigger social unrest, increase sense of vulnerability may deprive up morality rate and crime. Thus the inequality can rob the very factors of law, order and efficiency. Attempts have been made to provide robust security system that addresses the longevity issue of gender discrimination.²⁴

BREAKING THE PATTERN

To address the pertinent issue of women's human right feminist movement, women organizations, both national and international laws have played important role in protecting human rights of women. Several international conventions have adopted feminist approach to tackle the situation of discrimination.

a) The feminist movement

A change is an outcome of revolution; a change can never be sudden, but only through slow and radical process. A Change through revolution is necessary either to stabilize society or re-establish justice. Revolution is nonetheless a child of agony.

Feminist movement was an effort to fight against inequality and retain gender equality.²⁵ This effort resulted in defining the gender equality in term of human rights, especially women's rights,²⁶ and economic development, as levelling the playing field for girls and women by ensuring that all children have equal opportunity to develop their talents.²⁷ The feminist movements were classified into first second and third wave of feminism. First-wave feminism was a period of activity during the nineteenth century and early twentieth century. This period was known as the feminism of classical liberalism and the feminism of social democracy. In the U.K. and U.S., it focused on promotion of equal contract, marriage, parenting, and property rights for women. However, by the end of the nineteenth century, activism focused primarily on

²² Lockwood, Bert B. (ed.), Women's Rights: A "Human Rights Quarterly" Reader ,Johns Hopkins University Press, 2006,p-56

²³ Gerhard, Debating women's equality: toward a feminist theory of law, Rutgers University Press. pp. 35

²⁵ Maren Lockwood Carden, 'The new feminist movement' Russell Sage Foundation, 1974,p15

²⁶ World bodies defining gender equality

²⁷ UNICEF definition of gender equality

gaining political power, particularly the right of women's suffrage, though some feminists were active in campaigning for women's sexual, reproductive, and economic rights at this time. First-wave feminism sought equality in property rights, changes in the marriage relationship, and, eventually, in women's suffrage, or women's right to vote.

Second-wave feminism, also called as women's liberation, began in the 1960s and focused on discrimination on cultural, social, and political issues. The so-called “Second Wave” of Women’s Liberation, the modern Women’s Liberation movement, had its origins in the entry of women into the industrial labour force during World War Two, the changing requirements for labour power in modern industry creating new jobs for women, the development of manufacturing, service industries and food processing which opened up women’s domestic labour for “socialization”, making domestic appliances and processing food for sale on the Market, rather than depending on women’s domestic servitude for this work.²⁸

Third-wave feminism began in the 1980s or early 1990s and addresses feminism across class and race lines, as being grounded in culture rather than biology, and through many issues, so there exists less concentration on particular issues.²⁹

The feminist movement largely influenced the women’s around the world reckoning the fundamental rights, that she is also the child of nature and have absolute right to survive with complete dignity.

b) Legal instruments acclaiming the rights of women

Several national and international conventions were adopted till date to recognise and protect the right of this suppressed class. The following conventions prohibit gender discrimination and emphasizes on the social and economic liberty of women.³⁰

1. Universal Declaration of Human Rights, 1948.

Nearly all international human rights instruments adopted by the United Nations bodies since 1948 elaborates principles set out in the Universal Declaration of Human Rights. The framers of the Universal Declaration of Human Rights considered fair status of women and granted them the equal rights enjoyed by men. Convention on the Political Rights of Women, 1952 provides for equal political rights for women. Under this Convention, states are obligated to ensure that women have the right to vote in elections, to be elected and to hold public office on equal terms with men. Women are entitled to be free from discrimination in exercise of these rights.

²⁸ Supra, at 25, p 23

²⁹ Ibid

³⁰ Caroline Sweetman, Women and rights, Oxfam, 1995, p10-14

2. The international Bill of Human Rights

The international bill of right covers wide range of issue on human right and concludes the right against discrimination. UDHR acts as the world constitution of human right and generate space for need of conventions which includes:-

- Equal Remuneration Convention, 1951
- Discrimination (Employment and Occupation) Convention, 1958
- Convention against Discrimination in Education 1960
- Protocol Instituting a Conciliation and Good Offices Commission to be responsible for seeking a settlement of any disputes which may arise between States Parties to the Convention against Discrimination in Education 1962
- International Convention on the Elimination of all Forms of Racial Discrimination (ICERD) 1969
- Declaration on Race and Racial Prejudice 1978
- Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief 1981
- World Conference against Racism, 2001 (Durban Declaration and Programme of Action)

UN Women's Approach

One of the primary ways UN Women works to advance women's human rights is by providing support to national actors, in government and in civil society, for their efforts to implement CEDAW. The focus of UN Women support in this area is threefold:

1. Facilitating the development of national human rights frameworks in line with CEDAW, such as constitutional law and policies
2. Supporting the implementation of existing human rights frameworks to help ensure impact and rights realization; and
3. Putting special emphasis on particularly vulnerable and marginalized groups, such as poor or indigenous women, so that national frameworks become more inclusive of and responsive to the full range of women's rights concerns.

Under CEDAW, States are required to eliminate the many different forms of gender-based discrimination women confront, not only by making sure that there are no existing laws that directly discriminate women, but also by ensuring that all necessary arrangements are put in place that will allow women to actually experience equality in their lives. Governments around the world have undertaken legal human rights obligations to combat gender inequalities. The key international agreement on women's human rights is the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which is also described as the international

bill of women's rights. Ratified by 185 UN Member States, CEDAW encompasses a global consensus on the changes that need to take place in order to realize women's human rights.

c) National Law

In India women workforce constitutes an integral part of total workforce, there is a serious under-estimation of women's contribution as workers and is far fewer women in the paid workforce than men.³¹ This disparity not only affects women's spending power, it penalizes their retirement security by creating gaps in Social Security and pensions. It's pathetic to see such situation in country like India where the legal systems are largely shaped by its unique history of fundamental freedom and right to equality, for instance principle of gender equality is enshrined in the Indian Constitution, in its Preamble, Fundamental Rights, Fundamental Duties and Directive Principles. The Constitution not only grants equality to women, but also empowers the State to adopt measures of positive discrimination in favor of women. India has also ratified various international conventions and human rights instruments committing to secure equal rights of women³²

The Indian Constitution guarantees equality as 'Fundamental Rights' under Part III. The fundamental rights were included in the constitution because they were considered essential for the development of the personality of every individual and to preserve human dignity. Charter of rights contained in the Constitution of India guarantees civil liberties such that all Indians can lead their lives in peace and harmony as citizens of India. These include individual rights common to most liberal democracies, such as equality before law and equal protection of law while the Constitution not only grants equality but also empowers states to adopt positive measures of positive discrimination in favour of women for neutralizing cumulative socio economic, education and political disadvantage faced by them.³³ The Constitutional (74th Amendment) Act, 1992, brought in provisions mandating one-third reservations for women in local governance bodies. These guarantees apply to state and public institutions.³⁴

Part IV of the Indian Constitution is dedicated to social, economic, political acclivity of depressed class. It enlists socio-economic and cultural rights under the title of 'Directive Principles of State Policies' (DPSP). The Judiciary under Article 32 and 226 respectively, have the power to enforce constitutional guarantees of fundamental rights, thus making the right to Constitutional Remedies as one among the fundamental rights.

d) Need for a Strong Legislative Framework in India

³¹ Jayapalan Indian society and social institutions. Atlantic Publishers & Distri, 2001 p. 145.

³² Pruthi Raj Kumar; Status and Position of Women: In Ancient, Medieval and Modern India Vedam books, 1998 PP56

³³ Shashi Nath Saraswati, Right to equality in the Indian constitution: a Gandhian perspective, Concept Publishing Company, 2002, p216-223, 301

³⁴ Laxmikanth, Indian Polity For Upsc 3E, Tata McGraw-Hill Education 2010, p 31.1-31.4

1. There is no comprehensive anti-discrimination code in India although there are laws that address specific aspects related to equality. For instance, laws like the Maternity Benefits Act, 1961, Equal Remuneration Act, 1976 and the National Rural Employment Guarantee Act, 2005 attempt to address the existent systemic discrimination towards women in employment. Based on the guarantee of equality, laws have been enacted to address violence against women under civil and criminal laws. The Protection of Domestic Violence Act, 2005 is an example of the civil law to address violence within the home. On the other hand, the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 is an example of criminal law to counter acts of violence against SC/ST women. In the absence of an anti-discrimination code, there is no comprehensive statutory definition of discrimination that takes into account different manifestations of discrimination and its impact.

2. Also there is a necessity to identify right of individual beyond gender and replace those notions with new breed of philosophy and jurisprudence premised on "connection" between persons and accordingly Law should be seen as an instrument to "change the distribution of power," which requires not just equal treatment but work, against an asymmetrical approach that adopts the perspective of the less powerful group with the specific goal of equitable power sharing among diverse groups."³⁵

CONCLUSION

Somewhere in the course of human history we have allowed ourselves to fall prey and consequently victim to the gross ambitions of power-starved megalomaniacs. The sad reality is that it is not the fault of such people that our world has become one of suppression and oppression, but the fault of the obsequious masses of the past and present so willing to allow their rights and Liberty to be bought and sold by the duplicitous masters of empty promises and false hope. ³⁶The law must be recognized for what it truly is, not the simple proclamations of mere mortals. The law is the perpetual axiom of pacific human interaction. The law is the incontrovertible origination of what we call the "golden rule," coming into existence long before the words ever needed to be spoken. The sooner this self-evident truth becomes fixated within the minds of not just Indian, but of people throughout the entire world, the sooner the world will be rid of such iniquities as institutionalized inequality and utter destitution.

Law which distinguishes the right and liberty of individual based on gender is not a law. As a matter of fact, they are quite contradictory to the rule of law that truly exists. That all men and women are equals under the heavens is law. That all men and women are free to pursue their own endeavors so long as they do not encroach upon those of another is law. That all men and

³⁵ Gardiner, Judith Kegan. Masculinity studies and feminist theory. Columbia University Press, 2002 PP.43

women have the right to acquire and dispose of property in any manner which does not violate the Liberty or property of another is law. That all men and women have a right to defend themselves from the transgressions of others is law. These are laws, natural and immutable, existing before the first state ever issued its first decree, and anything to the contrary is an affront to humanity.

To quote Justice Sujata V. Manohar of Supreme Court of India

"...It is not easy to eradicate deep seated cultural values or to alter traditions that perpetuate discrimination. It is fashionable to denigrate the role of law reform in bringing about social change. Obviously law, by itself, may not be enough. Law is only an instrument. It must be effectively used. And this effective use depends as much on a supportive judiciary as on the social will to change. An active social reform movement, if accompanied by legal reform, properly enforced, can transform society. And an effective social reform movement does need the help of law and a sympathetic judiciary to achieve its objectives"³⁷

LITERATURE REVIEWED

A. Marianne. Ferber, Julie A. Nelson. *Beyond economic man: feminist theory and economics*
University of Chicago Press, (1993)

Brian Barry. *Theories of justice*, Volume 1 University of California Press, (1991)

Crosby Faye J. *“Sex discrimination in the workplace: multidisciplinary perspectives*,
Wiley-Blackwell, (2007)

Cohn Samuel. *“Race and gender discrimination at work*, Westview Press, (2000)

Mohanty R.P. *“Culture, Gender And Gender Discrimination: Caste Hindus And Tribals*
Mittal Publications, (2007)

Nelson Julie A. *Feminism, objectivity and economics* Routledge, (1996)

Pujol Michèle A. *Feminism and anti-feminism in early economic thought*
Edward Elgar Publishing (1992)

Rawls John. *A theory of justice* Harvard University Press, (1999)

³⁷ As quoted by Dr. Sarla Gopalan's article 'Women's Entitlement to Property [http: times foundation .india times. com /articles howl 47870733.cms](http://timesfoundation.india-times.com/articles/howl47870733.cms)

Rawls John *Justice as fairness: a restatement* Harvard University Press, (2003)

Rhode Deborah L. *Justice and gender: sex discrimination and the law*,
Harvard University Press, (1991)