

“ETERNAL MAN AND FRATERNAL MEDIA – A TALE OF SOBBING WOMAN”

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ABSTRACT

Man reflects attitude and woman radiates perspective. To charge male for misogyny may sound hoarse, but his mammal dominance to subdue even his own rib results in his sordid and sadistic painful victory. Woman partnered his life to perpetuate God's will in myriad forms – mother, wife, sister, daughter and friend – for she is endowed with the virtue of perspective, not for her but for all. Times of rocks and rock-music strolled and sung the glory of woman's beauty to elevate her to sensitive status, and hence woman display reverence to man and his environment. Man befriended Media being swayed by virtual vibrancy leaving the virtuous world of better-half. Result – Media, the chum of man closeted scintillating feminism. Today, woman is sandwiched between her man and media. Woman moved from broom staff to business buoyancy, wading through whirlpools controlled the heights of flights in war and peace and took the progeny to moon and mars. Nothing is spared including the space.

Man and Media assured dignity of her life, privacy of her body and mind and to document her as history. The camaraderie of Man and Media extolled her beauty disguised in nudity, eulogized her trait in evasive embellishment and pierced her privacy in prurient publicity postures empowering everybody with her wealth and health. Laws exist in letters in favor of women protection and progress, but in execution become the three monkeys of Mahatma Gandhi. The innocuous press and media is often accused of distortion of feministic philosophy and putting the women issues in the sphere of conflicts and controversies. Be it east or west, woman is at rest.

Feminism is provided with many care-takers in the form of faith, legislative umbrella, social renaissance and political patronage. She is required to hold the scepter of sanctity in the palace of piety. Both public and private discourse are exhausted of finding the solutions for the inexplicable woes of women. The Doctrine of Piety and the Rule of Sanctity are made more referral to woman, even on behalf of man. Onus of proof is always the ornament of tender gender i.e. woman. Though feministic jurisprudence could not annihilate the suffering of women-folk, it could instill a confidence in them to rebel against unscientific, untenable and unthinkable propositions of parochial proclamations with regard to social, economic, educational and political interests of women enrichment, half of nature's strength and power. Who can judge on the concept of “Motherhood” when it is sought to be translated into commercial “surrogacy”? On whose basis the law of succession is to be conceived, formulated and emulated? Who will be the first victim of War, political, religious and linguistic chauvinism? How long should women live with entreaties before the imbalanced societies and governments and their agnatic agencies? List becomes lengthy and unwieldy with women issues. Most intriguing and interesting point is that women's life is subjected to the traditions – be it rational or irrational – and customs of the land and place, varying differently and disdainfully. Did color white descend from heaven and black spring from hell? What is needed to understand Woman is not the man-made law but women-lead principles. Woman becomes rarely judgmental but always disinclined to be the judge. Man's externalities hardly comfort the preserved pain of woman, but the humane sensibilities of man

and his society may console her soul and convince her sensitive mind.

Media, probably or presumably, has to stand for and if necessary fight for the millions of cursed women with bones and skin who are made to deliver children but could not give milk, give a clarion call for the destitute and divorced women guillotined under the cruelty of misguided beliefs and faiths anchored in religion, race, caste and birth. Indian culture and heritage is glorious and heterogeneous, loving and lulling, lure feminism with spell-bound chanting and deify woman, as could be perceived in other faiths of the world.

This paper intends to endeavour to expose the plight of women – both privileged and under-privileged, educated and uneducated, young and old with regard to their social and economic conditions, and the impact of restive conditions of devastating violence and war on the women in consequence of the political, social and economic turmoil. While exhorting the role of the press and media in taking up the women issues to the public and government notice for remedial measures, this write-up also appeals to the media for more effective and progressive activism for the eradication of time-worn superstitions and dead-wood theories running against the women empowerment.

Key Words: Feminism, women empowerment, Press & Media, Women Rights,

ARTICLE

*“Yatra Naaryastu Pujyante Ramante Tatra Devata,
Yatraataastu na pujoyante sarvaastatrafalah kriyaah.”*

-Manu Smriti.

(Where women are honoured, Divinity blossoms there; where women are dishonoured, all action no matter how noble remains unfruitful.)

1. Praising Primacy and Piercing Piety:

This glorious chanting echoes on the sanctity of feminism and place of pride of women eulogising Hindu culture and traditions. But the status of women is subjected to the cyclonic interpretations of varied permutations and combinations of religious indoctrinations, most orders to be subservient and few like Narada and Bruhaspati commentaries conceded ‘Choice’ to vindicate equality of women.

Even the Catholicism of Christianity had to undergo struggle when Jesus cured a woman from an indwelling Satanic spirit and called her a daughter of Abraham (Luke 13:16); taught Mary sister of Martha overthrowing centuries of tradition (Luke 10: 33-42); cured a woman who suffered from menstrual bleeding for 12 years (Mark 5:25-34) etc. and these actions earned the ire of main Jewish denominations stating that “the actions of Jesus of Nazareth towards women were therefore revolutionary.”¹

Islamic illumination on equal status for women is also dimmed by behavioural rituals and impediments of individuals. Islamic faith is credited with the declaration that “Heaven dwells

¹ See generally: http://www.religioustolerance.org/cfe_bibl.html

under the feet of Mother”, but women are found to be at the mercy and generosity of their male counterparts.

Neither Divine Declarations and Prophet Proclamations of ancient glory, nor the crusades of reformers of modernism could alleviate the women from the suffering of inequality and ensured her due respect. Of course, earnest efforts are perpetual and there is progress to be reckoned with on the status of woman though many essential measures are yet to be implemented.

Planet Earth is a beautiful place with a kind of logic and wonder, worth cherishing every day. If you come close to it, you find great darkness simmering within i.e. mankind – an altogether a different story. Beings created in the image of God are fair and good, strong and passionate, but man grew environment of greed and corruption, grew dominant, bestial and became a God-killer. Woman is cautioned to be careful in the world of men since they do not deserve women. The former P.M. of U.K. Margaret Thatcher classically stated that – "If you want something said, ask a man; if you want something done, ask a woman." Women are target-hitters.

Feminism is provided with many care-takers in the form of faith, legislative umbrella, social renaissance and political patronage. She is required to hold the sceptre of sanctity in the palace of piety. Both public and private discourses are exhausted of finding the solutions for the inexplicable woes of women. The Doctrine of Piety and the Rule of Sanctity are made more referral to woman, even on behalf of man. Onus of proof is always the ornament of tender gender i.e. woman. Though feministic jurisprudence could not annihilate the suffering of women-folk, it could instil a confidence in them to rebel against unscientific, untenable and unthinkable propositions of parochial proclamations with regard to social, economic, educational and political interests of women enrichment, half of nature’s strength and power.

2. Woman Befriending Woes in Riches and Wants:

Woman body is not a pleasure of flesh, but a wolf always hunts. The aura of women rights and aspirations has always been blowing hot and cold. Ban Ki-moon, the former U.N. Secretary General exhorted the women world not to sit idle in helplessness when caught in the cruel and atrocious conditions affecting her dignity, but to retaliate against the monsters with full force; and everyone is obligated to break the silence in cases of women victimization, and make legal norms a reality in women's lives. According to UN estimates, at least one out of every three women in the world is likely to be beaten, coerced into sex or otherwise abused in her lifetime, , and one in five women will become a victim of rape or attempted rape. Trafficking, sexual harassment, female genital mutilation, dowry murder, honour killings and female infanticide are other widespread aspects of the problem. Violence against women and girls makes its hideous imprint on every continent, country and culture.²

² <http://www.un.org.ua/en/information-centre/news/658-2008-02-25-19-59-39>

The clarion call of '*UNITE to End Violence against Women*' calls on governments, civil society, women's organizations, young people, the private sector, the media and the entire UN system to join forces in addressing the global pandemic of violence against women and girls.³

The modern glitter of 20th and 21st. centuries appears to be too evanescent to stick to the social mores and individual idiosyncrasies. This period is found to be an admixture of extremities and empathies. Julius Evola, a German philosopher (1898-1974) dubbed as anti-egalitarian and radical-traditionalist discounts the role of women and theorises that the essence of femininity is selfless dedication to another (man) external cause since masculinity is pure virility as could be seen in the action of warrior or ascetic action. While a man's success comes from achieving self-sufficiency and independent action, a woman achieves order by cleaving to a masculine force. Even in the absence of a man, she will seek to submit herself to some greater force.

Julius Evola states that 'the entrance of the woman with equal rights into practical modern life, her new freedom, her finding herself side by side with men in the streets, offices, professions, factories, sports, and now even in political and military life, is one of those dissolutive phenomena in which, in most cases, it is difficult to perceive anything positive.' In essence, all this is simply the renunciation of the woman's right to be a woman.⁴

Probably Evola estimates that Aztec mother dying in childbirth as valiant as a warrior on the battlefield, and Hindu woman who ends her life on the flames of the funerary pyre of her husband, to join him in eternal afterlife.

Evola's philosophy of life for women is certainly battered by the glorious women liberalism though attempts to revive his fascist spirits continue to exist even in the present days. Though possessiveness is a quintessentially masculine pose as per Evola, only women have the license to do it in the modern world.⁵

However, the movement for emancipation and empowerment of women in India for the last half-a-century has been phenomenal and productive though not complete. Eminent public leaders like Gandhi, Nehru, Patel and Social reformers like Raja Rammohan Roy, Ishwar Chand Vidyasagar, spiritual icon Vivekananda etc. took the cause of women development to its logical ends by emphasizing on education, social, economic, political and legal reforms like personal and property rights for women, equality etc. above party, caste or communal politics. Yet modern Indian woman is not freed from the vicious and heinous crimes like infanticide, feticide, physical abuse, early marriage, illiteracy, unequal rights in marriage, divorce, rape, molestation, dowry deaths, inheritance, polygamy, inauspicious widowhood with severe disabilities and restrictions, restrictions on widow remarriage or Sati etc.

National Crime Records Bureau testifies horrendous statistics of crime against women.⁶

It may be noted that violence against women in India is actually more than the reported cases, since many instances of crimes against women go unreported or documented due to certain Indian

³ <http://www.unwomen.org/en/what-we-do/ending-violence-against-women/take-action/unite>

⁴ Julius Evola, *Revolt against the Modern World: Politics, Religion and Social Order in the Kaliyuga* (1934) Inner Traditions/Bear 1995, ISBN 08928 1506X, 9780892815067

⁵ Emmanuel Goldstein, <http://www.returnofkings.com/7451/modern-woman-in-wanting-to-be-for-herself-has-destroyed-herself>

⁶ <http://ncrb.gov.in/Downloads/Crime%20in%20India%20V4.0/3%20Crime%20in%20>

cultural values and beliefs, fear, ignorance and poverty etc. These facts contribute to India's Gender Inequality Index rating of 0.524 in 2017, put at the bottom 20% of ranked countries of 2017.⁷

The death following a brutal gang rape and assault of a 23-year-old para-medical student in India's capital Delhi on December 16 has put a spotlight on crimes against women in the country. Ayesha, Arushi murders to honour killings and allegations of sexual harassment against the CJI by dismissed Supreme Court official terrify the slender and tender gender.

Similarly economic viability of women is no guarantee to her dignity of life.

URBAN WOMAN IN UTOPIA

Two income families are fast becoming the norm of urban modern society, entailing great pressure on urban women. Modern trend of nuclear family system and desire of liberated woman for complete freedom have aggravated their problems. Urban women lost sight of the utility of traditional joint family support which is gradually vanishing to the discomfort and discomfiture of the modern educated working women. For lower middle class couple, day-care or crèches are too expensive and onerous. Lure of luxury items and increased necessities of modern consumerism added to the miseries of urban women and social evils like infanticide, dowry, divorce, child care, polygamy etc. nail the happy married and personal lives of urban women.

RUSTICATED RURAL WOMAN

Most of the rural women are natural prey to poverty, ignorance, illiteracy and unemployment, and irrespective of caste or class they struggle to encounter in three critical areas – Access to Education, Reproductive Health and Credit Resources. Rural women become superstitious due to lack of literacy, oppression and unemployment. It is a known fact that when men migrate to distant places for work/employment, rural women in about 30% to 35% are sole breadwinner with complete responsibility to raise children and run the household. They mostly work in unorganized sector and are usually oppressed or exploited by their employers. Most of the women in rural areas become victims of abuse, harassment, humiliation and exploitation because of the laziness, drunkenness, debts, vices or violent attitude of their own men-folk. Wife beating, desertions, polygamy are the common practices amongst them. However, women belonging to lower castes get laxity in regard to all those social or religious restrictions, rituals and observances, by which urban women or caste Hindu women suffers like Pardah system, polygamy, Sati Pratha etc. Widows have lesser ritual or religious restrictions. Divorce or remarriage is allowed to rural women. Though, now a day, both the Central and State Governments are providing good welfare measures to women, both rural and urban, with regard to health, education, free consumer goods like rice, pension for aged and disabled persons etc., much has to be done to alleviate their social status and dignity.

3. Media Galore around new Feminism:

⁷ Development Programme. <http://hdr.undp.org/en/content/gender-inequality-index-gii> (retrieved on 20th April 2019) "[Table 5: Gender Inequality Index](#)". *hdr.undp.org*. United Nations

Media – print and electronic – is not to be construed as a mere conduit to transmit or convey information from the governor to the governed. Media is the magnum opus of public voice in people’s democracy, cutting across colours of assumptions and presumptions of selected species, designed to dissemination of truth. Media is an inspirator of human bondage, not just to aid power and positions but to shield the persons and principles; a melody transmitted from mind to conscience of human to human reaching out to eternal cause. Oceanic literature persists to illuminate the purpose of co-existence of organic and inorganic entities for mankind, and media not only convey the information but educate the people for consummation of need and greed.

Every speaking human can explain and explore the connotation of media and there is plenty of guiding knowledge that sprung up from human intelligence. Media is the mentor of free speech and expression, and as opined by John Milton, there can be no health in the moral and intellectual life either the individual or the nation without free expression.⁸

Hailed as the Fourth Estate, free press is an essential limb of democracy. Justice Krishna Iyer said that “the Philosophical basis for freedom of publication and circulation is the social purpose of supplying unadulterated information without tendentious presentation, readily and at the right time.”⁹

However, the media cannot powered to become Goliath. Conceding the important position to the press, Sarkar warns that there some inherent dangers affecting the society in case the liberty of the press goes berserk.

“A free press with its undoubted powers and resources has to champion the cause of the weak and oppressed and to point out the shortcomings of the government of the day has been described as the sentinel on the qui vive. Exposure of a grave scandal like that of Watergate may even lead to the fall of a Government.”¹⁰

Without going to opulent exposure of the concept of Media, this author confines the understanding about media in relation to the man and woman issue.

Man reflects attitude and woman radiates perspective. To charge male for misogyny may sound hoarse, but his mammal dominance to subdue even his own rib results in his sordid and sadistic painful victory. Woman partnered his life to perpetuate God’s will in myriad forms – mother, wife, sister, daughter and friend – for she is endowed with the virtue of perspective, not for her but for all. Times of rocks and rock-music strolled and sung the glory of woman’s beauty to elevate her to sensitive status, and hence woman display reverence to man and his environment. Man befriended Media being swayed by virtual vibrancy leaving the virtuous world of better-half. Result – Media, the chum of man closeted scintillating feminism. Today, woman is sandwiched between her man and media. Woman moved from broom staff to business buoyancy, wading through whirlpools, controlled the heights of flights in war and peace and took the progeny to moon and mars. Nothing is spared including the space.

Man and Media assured dignity of her life, privacy of her body and mind and to document her as history. The camaraderie of Man and Media extolled her beauty disguised in nudity, eulogized her trait in evasive embellishment and pierced her privacy in prurient publicity postures empowering everybody with her wealth and health. Laws exist in letters in favour of women

⁸ See John Milton, *Areopagitica and other Tracts* (1644) p. 27 quoted by Dr. Madabhushi Sridhar in *The Law of Expression*, (First Edition-2007) Asia Law House, Hyd. P. 18.

⁹ Justice V.R. Krishna Iyer, *Law, Freedom and Change*, New Delhi, Affiliated East West Press (P) Ltd. (1975) p. 68.

¹⁰R.C.S. Sarkar, *The Press in India* (1984) New Delhi. P.6.

protection and progress, but in execution become the three monkeys of Mahatma Gandhi. The innocuous press and media are often accused of distortion of feministic philosophy and putting the women issues in the sphere of conflicts and controversies. Be it east or west, woman is at rest.

Who can judge on the concept of “Motherhood” when it is sought to be translated into commercial “surrogacy”? On whose basis the law of succession is to be conceived, formulated and emulated? Who will be the first victim of War, political, religious and linguistic chauvinism? How long should women live with entreaties before the imbalanced societies and governments and their agnatic agencies? Judicial clarity, nay judicial charity, on the status, privileges and rights rarely comes as succour, for example, maintenance rights to second wife (or kept mistress) in Hindu Law were not permissible for a long time, but with the recognition of living-in relationship, such a privilege to claim maintenance is accorded, the children from unlawful wedlock were blessed with maintenance rights and recently our apex court conceded right to share in the self-acquired property of such children.

List becomes lengthy and unwieldy with women issues. Most intriguing and interesting point is that women’s life is subjected to the traditions – be it rational or irrational – and customs of the land and place, varying differently and disdainfully. Did colour white descend from heaven and black spring from hell? What is needed to understand Woman is not the man-made law but women-lead principles. Woman becomes rarely judgmental but always disinclined to be the judge. Man’s externalities hardly comfort the preserved pain of woman, but the humane sensibilities of man and his society may console her soul and convince her sensitive mind. In all such situations, the media and press have taken up the mantle and marched forward to impel the State institutions to examine the contemporary issues in the light of the dynamic interpretations on law in theory and law in practice, keeping in view of the change of attitudes and needs of the existing society. Media and Press act as an effective Vox Populi to bring in rationality and utility in formulation, application and implementation of law for the people and society.

It is pertinent to recall the genius of E.W.Hocking who held that an idea of an individual is not an item of capital stock, but to be given to the world knowledge. He said – “The destiny of private thought is to gain power and effect through shaping public behaviour or public enactment. Nothing could more describe a human failure than a man physically prolific whose ideas should count for nothing to his group or his time. A suppression of speech, in its most painful consequence, would be the mental sterilization of the community.”¹¹

Unfortunately, the Media and Press is charged, now and then, for its complacency and disregard to highlight the aberrations of law, and failure of institutional functioning particularly with regard to the women, children and disadvantaged classes of the society. Press and Media are accused of turning themselves towards commercial cosmos rather than expounding the public plight due to failure of state institutions, political anarchy, executive apathy and judicial senility.

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¹¹ Earnest William Hocking, *Freedom of the Press: A Framework of Principle*. (A Report from the Commission on Freedom of the Press_1947) pp. 88-89.

woman, as could be perceived in other faiths of the world.

4. Woman as Source of Exploration or Exploitation of Ecstasy:

This write-up is primarily restricted to only one aspect of feminism i.e. Depiction of Woman or portraying of woman in Press and Media. It is not only the traditional women of bye-gone age but even modern civilized feminine world is getting annoyed or exasperated by the demeaning depiction of women in newspapers, publicity material, rickety and misguided artistry, T.V. and Cinema. This author, as many fair hearted women, is duty-bound to recall the fainting feministic ethos beautifully embedded in the following poem –

“They suffer, their cries dead,
Stifled by the world’s regard for chastity,
They are flailed shamed for his wrong,
They fought still – Nobody believed them.”

- Clara Rita Padilla n.d.

Since woman is conscious of her rib-origin, she remains loyal to fructify his life and strengthen that man’s rib. But the man avenges breaking the ribs of women. Having partnered man in life, she is preserved in golden cage or her beauty is auctioned or traded, when many avenues including media, in the civilization gratify the greed of man to make him eternal. Woman befriended man and fraternized media, which is predominantly masculine. Both man and fraternal media added lustre to her on World Stage as a doll, damsel and precious product of commerce. Her beauty and person became commercial art, skill and sex-capital. Media and Press, no doubt, stood firmly to fight for the dignity of woman on many fronts, but the damage done to her dignity outweighed the benefits she derived from the fraternal press and media.

No language has appropriate vocabulary to describe the demonic atrocities like rape, torture, kidnap and murder committed against women regularly with impunity by masculine monstrosity in our society. Rape is being felt as the masculine virility which is despicable and detestable. More than such heinous and horrendous crimes against women, there are offences of sexuality which make the strength of women sterile both physically and psychologically.

Shohini Ghosh observes that to know the impact of media on people, one should understand the complexities of spectatorial engagement. Deep anxieties and affirmative engagement simultaneously marked the Indian media-space of late 20th and early 21st. century and the illusions of ‘opening of skies’ to the corporate philosophy consequent to new international economic policies and world trade wizards.¹²

The issue of media projection of women in degraded scales, exposing them sexually under the guise of beautification etc. became more riddle-some when the people is divided into lovers and haters. For example, Beauty contests are marred by violent protestors, moral policing deadening young lovers and faith symbols of feministic form clashing with artistry etc. compelled recall of the law of obscenity, decency and morality. In all clashes of liberty, mostly women become the victims and charged with obscene sexual predation as if male is an innocent and trapped prey.

¹² Shohini Ghosh, *Looking in Horror and Fascination: Sex, Violence and Spectatorship in India*, published in *Sexuality, Gender and Rights* (Ed. Geetanjali Misra, Radhika Chandiramani, Sage Publications (2009) ND, pp.29-30.

The most intriguing question is – why only woman should be accused of defiling decency, morality and sexual behaviour? The intransigent moralists opine that purity is attributable only to woman. This is the obstinate proposition that caged women liberty for century without any justification. Sanctity and purity are no doubt the attributes of women which are to be safeguarded and protected men-folk. Defilement of feminist character occurs only with the touch or invasion of male hand. The virginity and purity of women will be in tact even in a crowd of hundred women, but entry of one male may affect the piety of the whole congregation. Purity or sanctity is not the cloistered virtue of woman alone.

A word in law like lascivious, libidinous, prurient, sexy and depravity of morality etc. is generally charged against women even though male is a necessary and proper element and participant in culmination of crime. We need to dig into deep into the social, economic and political conditions surrounding the women right to liberty and re-examine and re-assess and redefine the law of obscenity.

Obscenity – Ostentatious or Odious:

The words “Decency, Morality and Public Order” are adumbrated in Art. 19(2) of the Constitution of India to check the unbridled use of the rights enunciated in Art.19 (1). These words may sound to be sacrosanct but inexplicable, and for many commoners they may be confusing without boundaries and articulation. However, judicial interpretation on these terms is acceptable from time to time and they are neither vague nor evasive as they rivet the liberty of the individual with the social values and order. Statutory support to enforce decency, morality and public order could be found in Sec. 292 of the Indian Penal Code which refers to obscenity.

Obscenity as a term is also fluid and slippery in its texture and composition. What constitutes obscenity depends upon the characters, their action and enforcement operators under the sanction of judicial articulation of the term. In common parlance, obscenity is a situation odious to the senses and sentiments of mind and conscience of common man. Obscenity is offensively or repulsively indecent¹³

According to Webster’s New Collegiate Dictionary (Indian EdN-1981), ‘obscene’ means offensive to chastity or modesty; expressing or representing to the mind or view something that delicacy, purity and decency forbid to be expressed, impure, as obscene language obscene pictures. Obscenity suggest unchaste and lustful ideas; impure, indecent.

Decency connotes conformity to standards of propriety, good taste or morality, conformity to ideals or right human conduct. Contra term ‘indecent’ is a wider concept than obscenity and includes anything which an ordinary decent man or woman would find to be shocking, disgusting and revolting.

Thus it is under such a cloudy and boundless environment that the chastity and purity of woman is measured and declared with all masculine virility without damaging the fame of man. A man can walk on a road with half-pant or underwear which is not indecent, but if a woman walks with a short and half-blouse, it becomes indecent. Oh. Decency lies in the closed eyes and indecency clicks in the open eyes!

The test for obscenity laid down by Chief Justice Cockburn in R vs. Hicklin¹⁴ runs that – “...whether the tendency of the matter charged as obscenity is to deprave and corrupt those whose minds are open to such immoral influences, and into whose hands a publication of this sort may

¹³ The Concise Oxford Dictionary-1990Edn

¹⁴ (1868) LR 3 QB 360 @ 371

fall. It is quite certain that it would suggest to the minds of the young of either sex, or even person of more advanced years, thoughts of a most impure and libidinous character.”

The quintessence of the test is measured from the average person applying contemporary community standards, the dominant theme of the material taken as a whole appeals to prurient interest.¹⁵

Thus, the Hicklin Test of Cockburn C.J., survived for 90 years when it was rejected by Justice Stable in *Regina vs. Martin Secker and Warburg Ltd.* in 1954 holding that ‘present day context and prevailing attitude to sex should also be considered while applying Hicklin Test.

But our Supreme Court respected Hicklin test in **Ranjit D Udesh vs. State of Maharashtra** and still continue to regard the same confirmed by **Samaresh Bose vs. Amal Mitra**¹⁶. Further, the nuance between Obscenity and Vulgarity is explained in Samaresh Bose case as follows:

“A vulgar writing is not necessarily obscene. Vulgarity arouses a feeling of disgust and revulsion and also boredom but does not have effect of depraving, debasing and corrupting the morals of any reader of the novel, whereas obscenity has the tendency to deprave and corrupt those whose minds are open to such immoral influence.”

In **Raj Kapoor vs. State**¹⁷, film *Satyam – Shivam, Sundaram*, was sought to be castigated on the grounds of prurience, moral depravity and shocking erosion of public decency. In this pro bono publico prosecution against the producer, actors and others, the Supreme Court elaborately dealt with the obscenity and observed that –

“Art, morals and laws manacles on aesthetics are a sensitive subject where jurisprudence meets other social sciences and never goes alone to bark and bite because State-made strait-jacket is an inhibitive prescription for a free country unless enlightened society actively participates in the administration of justice to aesthetics.”

The apex court also observed that the world’s greatest paintings, sculptures, songs and dances, India’s lustrous heritage, the Konarks and Khajurahos, lofty epics, luscious in patches, may be asphyxiated by law, if prudes and prigs and State moralists prescribe paradigms and prescribe heterodoxies.”

In **Bobby Art International vs. Om Pal Singh Hoon**¹⁸ (*Bandit Queen – Phoolan Devi* movie) the supreme court stated that ‘the scene of nudity and rape and the use of expletives (vulgar words) were in the aid of the theme and intended not to arouse prurient (excessive interest in the sex) or lascivious (sexual) thought but revulsion against the perpetrators and pity for the victim..... The scene where she is humiliated, stripped naked, paraded, made to draw water from the well, within the circle of a hundred men. The exposure of her breasts and genitalia to those men is intended by those who strip her to demean her. .. The object of doing so was not to titillate the cinemagoer’s lust but to arouse in him sympathy for the victim and disgust for the perpetrators. ... Nakedness does not always arouse the baser instinct.”

This goes in consonance with what Justice Krishna Iyer opined in *Satyam-Shivam-Sundaram* case that –

“The relation between reality and relativity must hunt the court’s evaluation of obscenity, expressed in society’s pervasive humanity, not laws penal prescriptions. Social scientists and

¹⁵ Dholakia H.C. Right to Freedom of Speech and Expression in India. P. 167.

¹⁶ (1985) 4 SCC 287

¹⁷ 1980) 1 SCC 43

¹⁸ (1996) 4 SCC 1

spiritual scientists will broadly agree that man lives not alone by mystic squints, ascetic chants and austere abnegation but by luscious love of beauty, sensuous joy of companionship and moderate non-denial of normal demands of the flesh. Extremes and Excesses boomerang although some crazy artistes and film directors do practise Oscar Wilde's observation: Moderation is a fatal thing. Nothing succeeds like excess."

Raj Kapoor vs. State¹⁹

The Indecent Representation of Women Act, 1986 prohibits the depiction in any manner of the figure of a woman, her form or body or any part thereof in such a way as to have the effect of being indecent, or derogatory to or denigrating women or is likely to deprave corrupt or injure the public morality or morals.²⁰

Sec. 3 of the IRWA, 1986 prohibits exhibition, publication or advertisement of indecent representation of women in any form.

Sec. 4 punishes sending such things by post or circulating, unless it is for public good or used bonafide for religious purposes in the shape of sculptures, paintings etc. ancient monument or in temple.

Similarly, the Cinematograph Act mandates that human sensibilities are not offended by vulgarity, obscenity or depravity (Sec. 2 (vii)); and scenes degrading or denigrating women in any manner are not presented. (Sec. 2(ix))

Despite all such legal restrictions, women is depicted deliberately in the media through publicity, sponsorships or business related ambassadorial assignments, in most despicable way offending the sentiments and sensibilities of the individual woman and social conscience at large. Films and T.V. shows further aggravate the situations portraying the women in low and demeaning profile. No doubt, media employs considerable strength of women but could not instil confidence in them with regard to their dignity, safety and protection to their honour and lives.

5. Women Rights in Whirlpool of modernism:

No doubt, the media is transforming itself into one of the major instruments of social change. As defined by Lord Mansfield way back in 1784, liberty of press consists in printing without previous licence, subject to the consequences of law.

King vs. Dean of the State Asaph²¹.

Media is for information, reformation and transformation.

The Constitutional strength of Fundamental Rights should equipoise between men and women, as conceived by Part-III of our constitution and other international instruments. Insofar as the liberty of a journalist is concerned, the freedom of the journalist is an ordinary part of the freedom of the subject, and to whatever lengths the subject in general may go, so also may the journalist, but apart from the statute la, his privilege is no other and no higher.²²

There are many socio-legal problems affecting the peaceful and dignified lives of women, be rich or poor, in the present fast changing attitudes of the people and society, unpredictable socio-economic conditions driving the poor women to beg on the streets or to resort to flesh-trade, rigid

¹⁹ (1980) 1 SCC 50

²⁰ (Sec. 2C) The Indecent Representation of Women Act, 1986

²¹ 1784 3 T.R. 428

²² Speiser vs. Randall, 357 US 513 – quoted by Justice Mudholkar, in "Press Law", Eastern Law House, CA (1975) pp. 2-3.

legislative provisions relating to property rights to women, succession and inheritance, domestic violence, live-in relationships and divorce and maintenance malaise etc. to be roared, with the active support of the Media and Press, into the ears of rhino-skinned legislators and executive for solving women problems in the society. The sanctity of motherhood is declining with fraudulent, corruptive and illegal adoptions, and with commercial surrogacy, this irresponsible society and state governance have to witness waning wombs and fading motherhood with devastating future of motherless society.

Media has an obligation to raise its power against the injustice being caused to women and demand the State and Society comply with their legal and moral obligations towards women by respecting, emancipating and empowering them through education, employment and enabling them to live their lives with liberty and dignity. Let us all unite and strengthen the pens of the press and strength of the media.

"I rise up my voice—not so I can shout, but so that those without a voice can be heard...we cannot succeed when half of us are held back."

—Malala Yousafzai