

XVI National Conference on Women's Studies

Constitutional Principles in 21st century India: Visions for Emancipation

28th – 31st January 2020, National Law University, Delhi

“On 26th of January, 1950 we are going to enter into a life of contradictions: In politics, we will have equality, and in social and economic life we will have inequality. In politics, we will be recognising the principle of one man-one vote, and one-vote-one value. In our social and economic life, we shall by reason of our social and economic structure, continue to deny the principle of one-man one-value.... How long shall we continue to live this life of contradiction? How long shall we continue to deny equality in our social and economic life?”

These words from Dr. Babasaheb Ambedkar's last address to the Constituent Assembly of India on November 25, 1949 resonate even today. This contradiction that Dr. Ambedkar cautioned against, about a political democracy ushered in with the adoption of Indian Constitution while socio- economic inequalities persist, and become more glaring than at any time since independence, needs to be challenged. The 16th National Conference of Indian Association for Women's Studies (IAWS), while recognizing the Indian Constitution as a founding document, embodying a moment of transformation from being ruled to becoming a nation of free and equal citizenship, also notes that this transformative promise of the Constitution, over past seven decades, remains to be fulfilled. In this context, the IAWS National Conference in Delhi aims to discuss and think with the Constitution and its principles in order to challenge the prevailing and growing material, social, inequalities and violence affecting women in particular.

The long struggle for women's rights and the persistent and varied forms and levels of engagement of women's movements with the state for equality, liberty and justice for women, have revealed that the dream of ensuring constitutional rights of all women across different social groups is yet to be realized. Women from working classes, marginalized castes, tribes and communities, sexual and gender minorities, the elderly and those with disabilities face violent discrimination and oppression as an everyday experience and in newer forms. The conference aims at unravelling the multiple points and axes of these inequalities, prejudices and discrimination, and power relations underlying the same. The conference will also look at how the intersectional systems of inequalities are challenged by counter cultural discourses and varied social movements discussing power, violence, and justice. This could lead to new methodologies of enquiry and newer understanding of agency.

Today, the stigma and discrimination pervading labour markets are taking on newer forms of labour exploitation. Globalization and changing socio-economic realities are driving people, especially women, to labour migration in risky situations. The gender parity in higher education is being achieved, but with elusive forms of sexism, and with one of the lowest female work participation rates continuing to subject women to the relations of dependency. Violence of development further accentuates the on-going processes of displacement, dispossession and alienation of people from their land, resources and livelihoods. Brutal caste violence and everyday humiliation, especially newer forms sexual violence against Dalit women continues with social and civic impunities, thereby placing Dalit communities and other subordinated castes in peril. The vulnerability of tribals to protect and promote their

rights to control and use land and forest is also curtailing their ability to protect their pluralistic cultural identities. The normalization of violence, in its everyday forms, in public and private arenas, calls for its recognition as a crime against the State and the Constitution.

The dynamics of plural and overlapping social identities across different marginalities are producing contentious consequences for citizenship in a democratic society. The freedom to think, dissent and express without fear is vital for building a democratic public culture. There is a need for creating a social environment to think critically, to develop scientific temper that would enhance the ability to make rational and informed life-choices. The media, old and new, is lending itself to a variety of dynamic and contradictory uses. In such a context, we need to investigate what has become a common sense about women's issues, especially as the discussion around women's empowerment and inclusion is mainstreamed in specific ways, in a context of increasing social and economic inequalities.

The Indian constitution is firmly grounded in the key values of liberty, equality and justice, with the foundational support of the values of fraternity and dignity. As a progressive charter, it had emerged as a radical departure from two legacies of injustice; firstly, the subject hood in colonial regime, and secondly, the social organization entrenched in persistent hierarchies such as caste and varied forms of patriarchies. It sought to reconstruct the state as well as society, for the citizens of republic, altering the legal relationship of individual with the state, and also with the exclusionary social authorities of multiple forms restricting the state authority to intervene in the social. This is reflected in the constitutional provision for horizontal rights i.e. fundamental rights enforceable against groups, communities and private parties, and not just against the state. This transformative vision of the constitution needs to be retrieved and reclaimed today.

The constitution defines women's rights to equality and non-discrimination as justiciable fundamental rights. It explicitly clarifies affirmative action for women as compatible with the principle of non-discrimination, and also recognizes specific freedoms essential for women's equality. The various constitutional amendments in last seven decades or so, as well as the review of working of the Constitution brings out how the constitution has acted upon women and other groups experiencing indignities, and also how the Constitution is acted upon by them. Women's movements and struggles focusing on constitutional rights and its principles to ensure gender justice, often joining other struggles for justice and equality, have resulted in both shaping and enacting several laws and policy changes, and in the process have expanded the concept of justice. Further, the enactment of laws and the widening scope of rights and claims by the women's movement have been accompanied by creative engagement with the Constitution and constitutional morality as in the case of Justice Verma Commission Report and Nirbhaya. These are gains that need to be protected. Some of the recent attempts to interpret the constitutional principles and to assert rights in the 21st century bring out the struggles of a range of groups from sexual minorities, LGBTIQ to sewers and manual scavengers, focusing on issues ranging from entry in religious shrines, adultery, euthanasia, inter-faith, inter-caste marriages to self-identity and citizenship.

We therefore need to re-read the working of the Constitution and of constitutional morality at large to fully realize the social, democratic and human values enshrined within. The IAWS 16th National Conference will attempt to foreground the dynamic, diverse voices of women and other marginalized groups, drawing also from the rich and growing data bases, in the discussion on the Constitution and its key principles which carry the emancipatory potential

and hopes. We seek to bring out experience of struggles against multi-layered oppressive structures, economic inequalities, hierarchies of caste, social discrimination, poverty and their interlinkages so as to rebuild a gender just Indian society. Our perceptions and tasks for social transformation are hence deeply connected with constitutional interpretations. This conference aims to focus on these struggles, their consequences, the debates they have given rise to and the ways in these interventions have and can impact the lives of our most marginal citizens. In short, this conference aims to think along with the Constitution and its visions of emancipation.