independent grounds of divorce, thus releasing the Christian women from the century-old shackle of having to prove dual grounds of adultery along with cru-elty or desertion in order to obtain a di-vorce. Christian men could obtain divorce upon a single ground of adultery. In 1997, (he Bombay High Court had struck down this provision as discriminatory against women. Kerala and Andhra Pradesh High Courts had also similarly struck down this provision. But through the amend-ment, Christian women all over India will be rid of this discrimination.

Another significant aspect of the amend-ment is making available the remedy of mutual consent divorce to a Christian couple for the first time in the history of modem India and thus doing away with the need of proving a matrimonial fault. While all other communities could avail of this facility for last several decades, a Christian couple desiring a divorce had to collude and fabricate false grounds of matrimonial fault against each other, adul-tery being the most oft used among them. Usually the husband would accuse the wife of adultery and in the hope of adecent settlement the wife would consent. In this absurd farseplayed in court roomson oath, the couple, their lawyers and die judges were all consenting parties! Now finally thecouplecan opt for an honest and straight-forward divorce with consent.

Inching its way towards gender justice, ihe ceiling set upon maintenance that it should noi exceed one-fifth of the husband's income has boen removed. The amendments have, also deleted the provi-sion of confirming every decree passed by the district court in a subsequent procedure in the high court whidh rendered the pro-cedure of obtai n i n g d iv orce do ubly cu mber-some for a Christian couple and amounted to 'procedural unreasonableness'.

The amendment have also expanded the jurisdiction of courts to entertain petitions in both the place of marriage as well as the place of last residence. While under all matrimonial statutes the dual jurisdic-tion was conferred, a Christian couple could file for divorce only at the place of last residence. For women Shis would invari-ably be the place of their husband's resi-dence which would make i; impossible for ihem to file for divorce if, after separation they moved back to their naial home where the marriage had been performed.

The blatantly sexist provision entitling, a husband to claim damages from the aduiterer or ihe power of the court 10

settle an errant woman's property in favour of her husband/children has also been deleted.
The struggle for amending the archaic statute has been long and chequered with the orthodox and conservative opinion within the various churches thwarting every move to modernise the statute since ihe

1960s. Met with repeated opposition from the churches, around 1983 Jyotsna Chatterjee of the Joint Women's Programme, Delhi, initiated a sustained campaign to obtain consensus of all the churches for a new bill along the lines of the Special Marriage Act. After the struggle of a decade, a new bill was finally ready and was sent to the prime minister's office in 1993, where it lay gathering dust till ihe country entered a new millennium. When Ram Jethmalani was the law minister, he took it upon himself to finalise the bill. But the bill, finalised by the present NDA government, met with opposition from the churches as it included certain provisions which would lay the clergy susceptible to penal provisions by the state. In the final drafting Ihe law department had added provisions which had not been endorsed by the community hence ii raised
an alarm. In the present communally vi-
tiated atmosphere, the church fell that it .
Could be misused against the clergy. After
the unceremonious departureof Jethmalani
from the ministry, one felt that the issue
had betri shelved. But the new law min-_ ^ Thursday, the August 30, 2001.

the interest of women are not sacrificed
In November 2000, a delegation com-
prising of Maj lis represent ti ves along wi th
Jyothsana Chaterjee of Joint Women's
Programme, Delhi and Virginia Saldhana
of Women's Commission of the Catholic Bishops Conference of India (CBCI) met the law minister and urged him to include eight more amendments along with the three already suggested by him. The meeting was facilitatedby Beatrix D'Sou2a, Lok Sabha MP from the Samata Party Majlis representatives also met the CBCI representatives.and urged them to consent to these amendments as they did not hinge upon any religious tenet and were in fact matters of practical concern for women. These amendments were then circulated to all Christian MPs seeking their active support in parliament. When the bill was introduced in parliament, in its earlier form with only three amendments, due to this campaign, it was referred to a select com-mittee headed by the congress MP Pranob Mukherjee to explore the possibilities of including the other eight amendments to the bill. Through yet another winding process the consent of the community readers was sought so that it did not raise fun her controversy. Finally a new amend-ment bill was drafted which met with the cabinet approval in mid-August and was passed by the Rajya Sabha on Monday. August 27,2001 and by the Lok Sabha on

ister, Arun Jaitley n>i-rd up i\,s threads. I n September 2000, he made an announce-ment that the controversial bill would be shelved and the government would only introduce amendments to the most blatant provisions of the Indian Divorce AcL The church responded to the news with the traditional apprehension asking why the government had changed its course midway. Any move from a right-wing government with a declared anti-minority Stand becomes a suspect. For the women's organisations, this would mean a major setback to thestruggiewhichspannedtwo decades. The challenge then was to bring
• all stakeholders to the negotiating table to work out common grounds of reform. At this stage, Majlis, a women's rights group from Mu inbai stepped in and initial fresh rounds of negotiations with the Church and the stats. If by amending the existing bill the purpose of gender justice would be served, there would be no problem in shelving the controversial bill. The tight-rope walk was that while ensuring that minority sentiments are not trampled upon,

While th* Gazette Notification herald-ing the changes are stili awaited, there is a sense of jubilation among thousands of Christians whose ceases are pending in various courts across the country. With these amendments, the Indian Divorce Act will very closely resemble the Special Marriage Act. The only discriminatory aspect of the new bill is that the period of separation for a divorce by mutual consent is two years whileunder the Special Marriage Act and the Hindu Marriage Act it is one year.
These developments provide an interest-ing study in the realm of gender justice for minority women within a communally vitiated atmosphere. The process is slow and gradual and each juncture a new strat-egy will have to be evolved. But rights of women which is « complex issue, en trenched in broader political processes must
evoke a complex response. The positive
outcome of these two campaigns will
hopefully pave [he way for many more
struggles for empowerment of women in
the years to follow. (UD

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