

WOMEN EMPOWERMENT*

Hon'ble Mrs. Justice Gyan Sudha Mishra**

Jawaharlal Nehru had once said: “You can tell the condition of a Nation by looking at the status of its women.” But a phrase from the *Manusmriti*, *Na Stree Swathantryam Arhati* (Woman is undeserving for independence), reflects our stance towards women in our country. Woman suffers discrimination and injustice in almost all the spheres of the society. Although we have entered the third millennium and have passed by thousands of years of human civilization, we are still striving to attain complete civilization in its actual sense. This hard reality finds place in the society by virtue of the ongoing contest to recognize the rights and privileges of women, equal to that of men. Women have always been suppressed and even after five decades of our political emancipation their status remains discriminated, opinionated and ignored. Gender inequality over the centuries has evolved deep-rooted cultural traditions that regard women as docile and meek, the girl child as a liability and treating them with bigotry is normal. The root cause of all the prejudices caused to women is ignorance towards them. Even after framing a plethora of laws and adopting several constitutional measures the dream for a Utopian stage with respect to the empowerment of women remains insurmountable.

The position of women varies not only in our country but also from one part of the world to another however nowhere in the world they enjoy equal status as to that of men. The status of women in India has been subject to many great changes over the past few millennia. From equal status with men in ancient times to the low points of the medieval period, to the promotion of equal rights by many reformers, the history of women in India has been eventful. In order to understand the concept of women empowerment and realize its need for our country lets us take a glance and consider the journey of women from the ancient period to independent India.

Ancient Period:- Scholars believe that in ancient India, women enjoyed equal status with men in all fields of life. Scriptures such as *Rig Veda* and *Upanishads* mention several women sages and seers, notably Gargi and Maitreyi. Women held very important position in ancient Indian society. There are literary evidences to suggest that women power destroyed kingdoms and mighty rules Veda Vyasa's *Mahabharata* tells the story of fall of Kauravas because they humiliated queen Draupadi. Valmiki's *Ramayana* is also about the wiping away of Ravana when he abducted and tried to marry Sita forcibly. The Plethora of Goddesses in ancient period was created to instill respect for women. *Ardhanareeshwar*, where God is half-man and half-woman was highly worshipped. Women were allowed to have multiple

* Abstract of the Speech delivered by Hon'ble Mrs. Justice Gyan Sudha Mishra, Judge, Supreme Court of India at Bharati Vidyapeeth Deemed University, New Law College, Pune.

** Judge, Supreme Court of India.

husbands. Widows could remarry. They could leave their husbands. In the vedic society women participated in religious ceremonies and tribal assemblies. There is no evidence of seclusion of women from domestic and social affairs but they were dependent on their male relations throughout their lives. Women could choose their husbands through Swayamvara and this practice has also been narrated in epics like *Ramayana*. The concept of *nagarvadhu* was also known in the vedic period. But around 500 B.C. the status of women began to decline with the *Smritis* (esp. *Manusmriti*) and with the Islamic invasion of Babar and the Mughal empire and later Christianity curtailing women's freedom and rights. The position of women gradually deteriorated as the golden vedic ideals of unity and equality began to fade off through the passage of time.

Medieval period - During the Medieval Period the condition of women started deteriorating when social evils like the practice of *sati*, child marriage, ban on widow remarriage became part and parcel of the life of certain communities in India. *Purdah* system got deep rooted in the society which is practiced till date in our country. Several other immoral practices like *jauhar* among the rajputs of Rajasthan, devdasis or the temple women, polygamy etc. were widespread in the country. In many muslim families, women were restricted to *zenana* areas. The Bhakti Movements tried to restore women's status and questioned some of the forms of oppression. Mirabai, a female saint-poet, was one of the most important Bhakti Movement figures. Shortly after the Bhakti Movement, Guru Nanak¹, the first Guru of Sikhs also preached the message of equality between men and women. In spite of these meticulous efforts by certain highly influencing personalities like the above mentioned, the status of women could not be uplifted and revolutionized completely.

British Rule Period - During the British Raj, many reformers such as Ram Mohan Roy, Ishwar Chandra Vidyasagar, Jyotirao Phule etc. fought for the upliftment of women. While this list might suggest that there was no positive British contribution during the Raj era, that is not entirely so, since missionaries' wives like Maratha Mault nee Mead and her daughter Eliza Caldwell nee Mault are highly remembered for pioneering the education and training of girls in south India – a practice that initially met with local resistance, as in flew in the face of tradition. Raja Rammohan Roy's efforts led to the abolition of the *sati* practice under Governor-General William Cavendish-Bentinck in 1829. Ishwar Chandra Vidyasagar's crusade for the improvement in condition of widows led to the Widow Remarriage Act of 1856. Many women reformers such as Pandita Ramabai also helped the cause of women upliftment, Rani Lakshimi Bai, the Queen of Jhansi, led the Indian Rebellion of 1857 against the British. She is now widely considered as a nation hero. Begum Hazrat Mahal, the co-ruler of Awadh, was another ruler who led the revolt of 1857. She refused the deals with the British and later retreated to Nepal. They did not observe *purdah* and were trained in martial

1. <http://womenandsocietyinworld.blogspot.com/2010/06/medieval-period-and-women.html>

arts. In 1917, the first women's delegation met the Secretary of State to demand women's political rights, supported by the Indian National Congress. The All India Women's Educational Conference was held in Pune in 1927. In 1929, the Child Marriage Restraint Act was passed, stipulating fourteen as the minimum age of marriage for a girl through the efforts of Mahomed Ali Jinnah. Though Mahatma Gandhi himself married at the age of thirteen, he later urged people to boycott child marriages and called upon the young men to marry the child widows. Women played an important part in India's independence struggle. Some of the famous freedom fighters include Bhikaji Cama, Dr. Annie Besant, Pritilata Waddedar, Vijayalakshmi Pandit, Rajkumari Amrit Kaur, Aruna Asaf Ali, Sucheta Kriplani and Kasturba Gandhi. The Rani of Jhansi Regiment of Subhash Chandra Bose's Indian National Army consisted entirely of women including Captain Lakshmi Sahgal. Sarojini Naidu, a poet and freedom fighter, was the first Indian woman to become the President of the Indian National Congress and the first woman to become the Governor of a State in India.

Independent India - The scenario in India turned tables after independence. The women in India are now free individuals and they actively participate in all activities such as education, sports, politics, media, art and culture, service sectors, science and technology, *etc.* Not only have this, Indian women adorned offices for the two most significant posts also *i.e.*, ex-Prime Minister Indira Gandhi and the ex-President Pratibha Devi Singh Patil. The feminists activism gained momentum in Indira during the late 90s. The landmark case in the history of Indian judiciary *i.e.*, the *Mathura rape* case was one of the national issues that became an impetus for the women of the country to unite and fight against the injustice done to the victim Mathura by the Indian courts. The acquittal of policemen accused of raping a young girl Mathura in a police station led to a wide scale protests in 1979-1980. The protests were widely covered by the national media, and forced the Government to amend the Evidence Act, the Criminal Procedure Code, and the Indian Penal Code and introduce the category of 'custodial rape'. Female activists united over issues such as female infanticide, gender bias, women health, and female literacy. Several campaigns and movements were launched by the women activists against the violence committed against women. In independent India the Indian muslim women were nowhere to tag behind as they too questioned the fundamental leaders about their right to equality.

Since the 1990's women were being identified as key agents of sustainable development and women's equality and empowerment were made objectives included in the development strategies of the nation. Several number of Non Governmental Organisations also played a major role in the field of women empowerment by educating poor and downtrodden women about their rights and how can they claim them in case of violation. SEWA is one of them (Self Employed Women's Association). Institutions that provided free legal aid and monetary support to indigent women also came forward. The Government of

India declared 2001 as the Year of Women's Empowerment and passed the National Policy for the Empowerment of Women with its goals and objectives as to bring about the advancement, development and empowerment of women. Some of the objectives of the policy and objectives as to bring about the advancement, development and empowerment of women. Some of the objectives of the policy are as -

1. Creating an environment through positive economic and social policies for full development of women to enable them to realize their full potential;
2. The *de-jure and de-facto* enjoyment of all human rights and fundamental freedom by women on equal basis with men in all spheres – political, economic, social, cultural and civil;
3. Equal access to participation and decision making of women in social, political and economic life of the nation;
4. Equal access to women to health care, quality education at all levels, career and vocational guidance, employment, equal remuneration, occupational health and safety, social security and public office etc. On 9 March 2010 one day after International Women's day, Rajyasabha passed Women's Reservation Bill, ensuring 33% reservation to women in Parliament and State Legislative Bodies. Lastly but above all, the Constitution of India guarantees to all Indian women equality (Article 14), no discrimination by the State (Article 15(1)), equality of opportunity (Article 16), equal pay for equal work (Article 39(d)). In addition, it allows special provisions to be made by the State in favour of women and children (Article 15(3)), renounces practices derogatory to the dignity of women (Article 51(A)(e)) and also allows for provisions to be made by the State for securing just and humane conditions and for maternity relief (Article 42).

Women Empowerment: The Concept

Empowerment as a concept was first brought at the International Conference in 1985 at Nairobi, it concluded that empowerment is a redistribution of power and control of resources in favour of women through positive intervention. Women empowerment refers to increasing the spiritual, political, social or economic strength of women. It often involves the empowered developing confidence in their own capacities. It is the ability of women to exercise full control over one's actions. The meaning of the term cannot be restricted just to an ideal or utopian concept nor can it be said that it refers to the rights and privileges granted to women by virtue of an existing defined legal system, rather it is a composite concept that includes genuine claims and collective rights of a woman. In almost all the societies of the world, specifically a patriarchal one like ours, women have been assigned the role of a home maker and are expected not to cross the threshold barrier of the four walls, their world is limited from the domestic chores to the upbringing of children. During her entire lifetime her role changes at various stages from a daughter to a sister and from a wife to a mother, but in this shuffling her

identity as an individual and as a woman fades off, leaving her in a lurch where no option self determination can be exercised. These patriarchal values to which our society is addicted are the main causes for gender basis and the subjugated status of women and as a consequence it leaves a big gap between the status of a woman that has been granted to her in theory and by law and the one that she enjoys in her day to day life. In order to attain the objectives for empowerment these social malices of limiting women's role have to be eradicated and it has to be ensured that women actively contribute in decision making, they have access to employment, education and they are being provided with incentives for the same because empowerment also means building a positive image of women by recognizing their contribution to the society polity and economy and most importantly develop in them a caliber to think critically. Women empowerment in India is a perplex task as we need to concede the fact that gender inequality is intensely entrenched in numerous ways since thousands of years in our society. This malevolence is not going to depart from us in a few years, it is only when efforts in a whole and soul manner are made can make the women of the country share the same platform with men in all the spheres. Empowering women must be a united approach, a cause that requires continuous attention and stewardship by all. In India, the State's responses to issues of women empowerment have been mixed and ambivalent, it has been both a process of progression and retrogression. The records of last twenty years show that various state laws and policies have been framed and adopted ostensibly to improve the status of women. At the same time their inability to effectively address the issue of equality between men and women, the gap in the implementation of policy measures with reference to women empowerment, would make one skeptical about the state's intention to address the issues of women and improve their status. Although the principle of gender equality is enshrined in the Indian Constitution in its Preamble, Fundamental Rights, Fundamental Duties and Directives Principles, however there still exists a wide gap between the goals enunciated in the Constitution, Legislations, Policies and related mechanisms and the reality of the status of women in India. Numerous factors can be held responsible for the creeping movement towards the development and empowerment of women in developing countries including India. The main reason behind it is the cold attitude and lack of sincerity towards women issues. It is quite ironical that the lawmakers, interpreters, and the implementing machinery advocate for fail to put their plans into action earnestly. Some of the challenges on the road to women empowerment have been mentioned.

Challenges to Women Empowerment

1. Wide Gap between Theory and Practice - Formulating laws and policies are not enough as it is seen that most of the times these laws and policies just remain on paper. The ground situation on the other hand just remains the same and in many instance worsens further. *E.g.*, with the coming of globalization and liberalization the induction of women centric strategies

has increased in the Country's development programmes but a look at the survey data shows that although women contribute to the 49% population but their literacy rate & growth rate is relatively less to that of men in our nation.

2. No Monitoring on the Implementation - There is a dire necessity to review our implementation machinery in order to put the policies and measures in action framed by the legislators and the decision makers. A well-designed and fully equipped administrative mechanism along with contemporary management techniques can transfigure the position of women. In this implementation in process women themselves would have to act as forceful agents for change and active participants in the development.

3. Need for Definite Goals - Women empowerment and development cannot be achieved without having specific and definite goals. It has to be kept in mind while adopting measures for the improvisation of the status of women we have targeted objectives not only for women in general but also the women in particular area, caste and strata of the society. For instance, when a law with regard to educating women is to be framed, the women in urban as well as rural areas specifically belonging to the lower strata have also to be accommodated in it.

4. Efforts are Not Being Done Meticulously - There is lack of sincerity and a holistic approach. The characteristics of being self-centered and seeking private ends first, have been attributed to human beings, but when these beings form a nation and live together, striving for the attainment of common goals these features have to take a back seat. The members while working with an integrated programme for the development of the nation have to keep in mind the Ethical Theory of Utilitarianism which implies imparting greatest happiness to the greatest number of people, so while imparting such happiness the women cannot be left out. However, this practice is quite prevalent in our country where quite often, the importance of women is insignificantly dealt with and their status is always considered subordinate to that of men. The concerns of women can only be addressed by working together in partnership with men towards the common objectives of gender equality and women empowerment.

5. Lack of Educational Opportunities to Women - Education is the chief defence of a nation. Mahatma Gandhi said: "If you educate a man you educate an individual, but if you educate a woman you educate an entire family". Our ancestors knew the importance of educating a woman however; we till date couldn't achieve the target of giving a literate status to even half of the women in our country. According to 2001 census, the gap in literacy rate between male and female was 21.7%. The girl child is still considered a stigma in our society. Educating women would take us to the zenith of all fields as women in education have always shown to possess immense and outstanding potentialities but their number at the top level is very less as compared to their intellectual attainments.

6. Violence Against Women - Violence against women is also one major obstacle in the road to women empowerment.

Constitutional and Legal Measures for Women Empowerment in India

The principles of gender equality and gender equity have been basic to Indian thinking. The 19th and early 20th Centuries saw a succession of women's movement first around social issues and later around the freedom struggle itself. The Constitution of India adopted in 1950 not only grants equality of women but also empowers the state to adopt measures of affirmative discrimination in favour of women.

The Constitution of India Guarantees to India's Women Fundamental Rights

Article 14: The State shall not deny to any person equality before the law or the equal protection of the laws within of the laws within the territory of them.

Article 15(1): The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

Article 15(3): Nothing in this Article shall prevent the State from making any special provision for women and children.

Article 16(2): No citizen shall, on grounds only of religion, race, caste, sex, place of birth, residence or any of them, be intelligible for, or discriminated against in respect of, any employment or office under the State.

Article 19(a): Right to freedom of speech and expression.

Article 19(c): Right to form association and unions.

Article 19(g): Right to chose an occupation and pursue a lawful vocation.

Article 21: Protection of life and personal liberty.

Article 23(i): Right against exploitation, traffic in human beings and other forms of Forced Labour.

Article 42: Enables the State of make provision for securing just and humane conditions of work and for maternity relief.

Article 51A(e): Instituted by the 42nd Amendment Act, 1976 imposed a fundamental duty on every citizen to renounce the practices derogatory to the dignity of women.

Article 325: Guarantees that all citizens shall have the right to vote irrespective of sex. In addition, the 73rd and 74th Amendments in 1993 inserted the 11th Schedule in the Constitution of India; and thereof served as a breakthrough for the reservation of 1/3rd seats in all the tires of local government for women.

Directive Principles of State Policy

Article 39: "The State shall, in particular, direct its policy towards securing (a) that the citizens, men and women equally, have the right to an

adequate means of livelihood; (b) that there is equal pay for equal work for both men and women; (c) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter vocations unsuited to their age or strength.”

Strategies in the Five Year Plan

The framers of the Constitution have not only considered women empowerment but the Legislator’s as well has also provided several measures and planned strategies on women in order to uplift their status. An overview of the Five Year Plan would enunciate the same:

First Five Year Plan (1951-1956): The First Five Year Plan aimed at providing adequate services to promote the welfare of women so that they can play their legitimate role in the family and community. It was observed that special organizations on behalf of the Central and State Governments for promotion of women had yet not been established and therefore the burden of organizing such activities for the benefit of the female population was to be borne by the private agencies. So in 1953, the Central Social Welfare Board was set up to promote voluntary organizations at various level that could take up welfare related activities for women.²

Second, Third, Fourth, Fifth Five Year Plans: The above also continued the same approach for the welfare of women development was clubbed with other categories of welfare such as the old and the disabled. The Women's Welfare and Development Bureau was set up in 1976 under the Ministry of Social Welfare to initiate necessary policies, programmes and measures for women.

Sixth Five Year Plan: There was a shift in the approach from welfare to the development it recognized women as participant of development and not merely as object of welfare. The Women's Employment Programme was introduced in 1982 with assistance from Norwegian Development Agency.

Seventh Five Year Plan: Stressed on generation of both skilled and unskilled employment of women through proper education and vocational training. The Government introduced schemes like STEP (Support to Training and Employment), and AGP (Awareness Generation Programme for Rural and Poor Women). During the Seventh Year Plan, the National Perspective Plan on Women, SAARC *Guidebook on Women's Development* were prepared. Department of Women and Child Development was set up in 1985 with the national machinery.

Eighth Five Year Plan: Adopted the strategy to ensure that benefits of development from difference sectors do not bypass women. Two schemes were introduced during this period as well namely *Mahila Samridhi Yojana* and *Indira Mahila Yojana*. The Eight Plan also brought the 73rd and 74th Constitutional Amendments that rendered 1/3rd of seats of rural and urban

2. <http://planningcommission.gov.in/plans/planrel/fiveyr/welcome.html>

self governing institutions to be reserved for women. The Commission for Women was also set up during the Eighth Plan.

Ninth Five Year Plan: It adopted an integrated approach towards empowering women related sectors with the ultimate objective of achieving the set goals. It directed both the Centre and the States to adopt special strategy of 'Women's Component Plan' through which not less than 30 % of funds benefit were to be directed in all women related sectors.

Tenth Five Year Plan: The Tenth Five Year Plan led to the introduction of the National Policy for Empowerment of Women, 2001. The policy aimed at creating an environment through positive economic and social policies for the development of women to enable them to realize their full potential.

Eleventh Five Year Plan: Eleventh Five Year Plan stresses upon curbing violence against women. It also provides for removing the multifaceted exclusions and discriminations faced by women and children; to ensure that every woman and child in the Country is able to develop her full potential and share the benefits of economic growth and prosperity. In the development process and the Five Year Plans of our Country emphasis was given to the instrument of education as one of major tools for empowering women. The Five Year Plans witnessed the shift from the stage of welfare to development and then to empowerment with respect to women.

Special Welfare Laws for Women

The Domestic Violence Act, 2005

This Act provides for effective protection of the rights of women guaranteed under the Constitution who have been victims of violence of any kind occurring within the family and for matters connected therewith and incidental thereto. Primarily meant to provide protection to the wife or female life-in partner from domestic violence at the hands of the husband or male live-in partner or his relatives, the law also extends its protection to women who are sisters, widows or mothers. Domestic violence under the Act includes actual abuse or the threat of abuse whether physical, sexual, verbal, emotional or economic. Harassment by way of unlawful dowry demands to the woman or her relatives would also be covered under this definition.

The Hindu Widow Re-marriage Act, 1856

The Act establishes that a marriage between Hindus can not be questioned on the ground that the women had been previously married. Simply put, this Act validates and gives legal sanction to widow remarriage in India. It must be noted that when a Hindu widow remarries outside the religion, the provisions of the Act cease to be applicable.

The Child Marriage Restraint Act, 1929

It was the first social reform issue which was taken up by the organized women in India. They played a major role in the development of argument and

actively used the device of political petition and in the process contributed in the field of politics. The Child Marriage Restraint Act, 1929 popularly known as the Sarda Act after its sponsor Rai Sahib Harbilas Sarda in the British India Legislature in India fixed the age of marriage for girls at 14 years. It was a result of social reform movement in India. The legislation was passed by the British Indian Government.

The Dowry Prohibition Act, 1961

This Act was enacted by the Parliament to prohibit the giving or taking of bribery. The penalty for taking dowry as provided in the Act is imprisonment not less than five years.

Various other legislations that have been enacted so as to empower the women of the country are as follows:

- The Maternity Benefit Act, 1961
- The Medical Termination of Pregnancy Act, 1971
- The Indecent Representation (Prohibition) Act, 1986
- The Commission of Sati (Prohibition) Act, 1987
- The Pre-Conception and Pre-Natal Diagnostic Techniques Act (Prohibition of Sex Selection) Act, 1994
- The Hindu Succession Act, 1956
- The Equal Remuneration Act, 1976

Besides these legislations institutions like NHRC and NCW have also progressed in addressing issues related to women empowerment and are working in order to protect and promote the interest of women.

Attempts have been made at the international level as well to provide women an equal status to that of men. The United Nation attempts have been made at the international level as well to provide women an equal status to that of men. The United Nation Charter of 1945 and the Universal Declaration of Human Rights of 1948 provides for prohibition against sex determination. The International Covenant on Civil and Political Rights, 1966 guarantees equal protection of law to both the sexes. Further, the International Covenant on Economic, Social and Cultural Rights, 1966 intends to provide women the equality of status. The Fourth World Conference on Women aimed at achieving gender equality as if pre-requisite for social justice. The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), 1981 provides that women should be given equal rights to those of men on equal terms and maximum participation on women on equal terms with men in all fields.

Conclusion

Women empowerment should be developed as a way of life and not merely as slogans which can only be done by completely eradicating the evil of gender biasness from our society. In order to do so, some concrete reforms are needed in favor of women to ameliorate their condition. Comprehensive laws should be made covering all the areas related to women and their implementation should be monitored strictly. Women must be made equal partners in the development processes and should be made to realize their potentialities by giving them complete freedom and involving them in decision making process.

