



EMPOWERING WOMEN –THE INDIAN PERSPECTIVE

Dr. Sunayana Trisal¹, Dr. Pankaj Tyagi²

^{1,2}Associate Professor, Faculty of Law, M.M.H.College, Ghaziabad, U.P.

sunayanatrisal@gmail.com, pankaj_ria@rediffmail.com

Abstract-- Woman differs from man by nature and by nurture. Biological difference between the two is taken as an excuse to project her as a weaker section of the society. This premise has led to her social exclusion from every sphere of life. Talk of political, social, economic or social rights -you find exclusion everywhere. The traditional system of seclusion and subordination has to change and a social transformation assuring equality to women is needed. The constitutional spirit of gender equality has to be turned into a reality. The social inclusion of women to ensure a status equal to men is the need of the hour. The paradox which one cannot ignore is that the referral point is the man and not the natural rights of a human being!

Keywords: Women, Gender, Rights, Empowerment, Equality, Social- exclusion, Inclusion.

INTRODUCTION

The very first sentence of the Introduction to The National Policy for The Empowerment of Women (2001) says that the “The 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 favour of women.”¹ Yet, much still has to be done and achieved. The social exclusion of women includes the discrimination and the restrictions imposed on them. Justice requires not only the rectification of rights for women but also the removal of imbalances. Women’s sense of self-worth has taken a beating through the centuries. History has been a silent witness. The emphasis has to shift from spreading mass awareness to an action plan. For this, active participation by women is required. Also, they have to be helped in developing the ability to influence the direction of social change.²

In reality, all men are a part of women, every child first lies in the mother’s womb as a part of the woman’s very being. The man in the throes of the ecstasy of his male power tends to forget this. They forget that harmonious existence has to be ensured for a peaceful co-existence. The attitude towards the traditional position regarding the role of women, commonly referred to as the three Cs, i.e., Cleaning, Cooking and Child Care, has to change. The time is now for the way forward towards the action plan, which can be referred to as the three Es, i.e., Education, Employment and Empowerment.³

How true are the words of Andre Gide⁴: “Everything has been said already, but as no one listens, we must always begin again.”⁵

¹ <https://wcd.nic.in/womendevelopment/national-policy-women-empowerment>

² Agnes, Flavia, Law and Gender Inequality: The Politics of Women’s Rights in India; New Delhi, Oxford University press, 2004. Also,

³ <https://www.un.org/development/desa/youth/youth-education-employment-and-empowerment-key-to-global-progress.html>

⁴ French Thinker and Writer

⁵ <https://www.goodreads.com/quotes/414930-everything-that-needs-to-be-said-has-already-been-said>



Does a woman have no right to conquer her destiny? Does she have to wait with tired patience hoping for a miracle to happen?⁶ The answer is, no; what is not given has to be taken. Recourse has to be taken for the implementation of the positive rights⁷ as well as the negative rights⁸. It has been observed from time immemorial that even though the human beings in various societies are similar, the rules of law that operate amongst them often differ due to the odd set of situations prevailing in the social, financial and spiritual variations amongst the contributors of every society. Consequent to the emerging trends in the social awareness and the acceptance of new values, even the tradition bound societies have felt the compelling need to forsake some of the fossilized religion or custom oriented practices in the intra-association of the society. In spite of the positive signs, why do violations happen against the women in every society? Is it the feudal attitude? Or are the social mores the culprits? Do the answers lie in age old prejudices? Is illiteracy the reason for such attitude? Or do the cumbersome legal procedures act as an encouragement to men to commit violence against women?⁹ The answers to these queries are not important, what is important is the action based forward step. One of the most pressing needs that have been highlighted at all the seminars, workshops and meetings of women activists, academics and the public is the need for legal education. The term covers education and information about the legal provisions and legal processes in relation to women. These include the Constitutional measures and the Legislative measures. Some of the Constitutional measures are: Right to equality¹⁰, Right to freedom¹¹, Right against exploitation¹², Right to freedom of religion¹³, Right to constitutional remedies.¹⁴ The legislative measures include a number of statutes having a bearing on the various aspects of the protection of human rights of the women. Knowledge of these enactments will go a great deal in further assimilation of the provisions of the laws by arousing a curiosity in the minds, thus succeeding in solving the purpose of these laws. After all, knowing them is the first step towards their proper implementation, they are not meant to be paper tigers! The empowerment of women can be achieved by earmarking the areas where they face discrimination and disillusionment.¹⁵ Each and every aspect of a women's life has taken a beating through the ages. Unfortunately, women get a rough deal in every sphere of life, even though equality and gender justice are the keywords of this era.

DICRIMINATION ZONES

The discrimination that a woman suffers can be illustrated as follows:

⁶ <https://thelife.com/practicings-patience-when-god-has-you-waiting>

⁷ Positive Rights are those rights where the State is asked to do something, e.g., economic, social and cultural rights, directive principles.

⁸ Negative Rights are those rights where the State is asked not to do something, e.g., civil and political rights, fundamental rights.

⁹ Goel, Aruna, Violence and Protective Measures for Women Development and Empowerment; Deep and Deep publications Pvt. Ltd., 2004

¹⁰ Articles 14 and 15

¹¹ Articles 19 to 22

¹² Article 23

¹³ Articles 25 to 28

¹⁴ Articles 32 to 35

¹⁵ Tripathi, S.C. and Arora, Vibha, Law Relating to Women and Children;3rd ed., Central Law Publications, 2008.



1. In womb: sex selection abortions
2. As an infant: female infanticide
3. As a child: child marriage, prey to incest, preference for a son
4. As a young woman: eve teasing, harassment at workplace, rape, bride burning, sati and marital rape.

Identifying the trouble areas is not a herculean task but dissipating the problems for the purpose of alleviating the standards of life of a woman is! The various aspects of the life of a woman where she faces hardships are easily identifiable. Once identified, steps for their protective discrimination and their empowerment in those areas can be easily undertaken. Women are to be included in the scheme of distributive justice for all strata of the society. The problem areas can be identified by structuring the status of a woman in the society. The basis of structuring can be in the form of classification of status of women in the following areas and this classification is not all inclusive: legal status, financial status, social status, demographic status, domestic status, religion-philosophical status, job-oriented status, decision-making status, political status and most importantly - the historical status. 'Most important', because roots of evil have to be identified and in a country like India, where people are religion, region, language and caste sensitive, one has to tread carefully so as not to hurt sensitivities of all concerned. With legal pluralism maintaining a balance, empowering women is not a dream of distant future which can't be fulfilled. With the strong pillars of the Constitution in place and the legislature acting dynamically and the Government implementing processes for uplifting the status of women in all areas, that day isn't far-off when gender equality will be in place in the society. Social-exclusion of women will be the thing of past and will lapse into history and social-inclusion of women will be the norm. Some of the major enactments which have helped in alleviating the plight of women are:

- The Indian Penal Code,1860;
- The Factories Act,1948;
- The Immoral Traffic (Prevention) Act,1956;
- The Dowry Prohibition Act,1961;
- The Maternity Benefit Act,1961;
- The Medical Termination of Pregnancy Act,1971;
- The Equal Remuneration Act,1976;
- The Indecent Representation of Women (Prohibition)Act,1986;
- The Commission of Sati (Prevention)Act,1987;
- The National Commission for Women Act,1990;
- The Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act,1994;
- The Protection of Women from Domestic Violence Act,2005;
- The Personal Laws;
- The Sexual Harassment of Women At Workplace (Prevention, Prohibition And Redressal) Act, 2013¹⁶.

Along with the constitutional and the legislative measures, the judicial response too has been very encouraging. Judiciary has played a very important role in the growth and development

¹⁶<https://legislative.gov.in/actsofparliamentfromtheyear/sexual-harassment-women-workplace-prevention-prohibition-and-redressal>

of law relating to women. Besides the function of interpretation and application of law, it has performed an educator function of bringing awareness of the major problems relating to women through various decisions from time to time. The courts have emphasized that women need protection and the society needs to develop a sensitive approach to the issues relating to women.¹⁷ Apart from this, what is needed to be done is to rudely awake the people to the violations of human rights of the women. The judiciary and the legislature have done their bit, now it is the turn of the people to heed the call to protect and cherish women. The status of a woman can be judged by the fact that women constitute half of the world population, perform nearly 2/3rd of the work hours, receive 1/10th of the world income, and own less than 1/100th percent of the world's property¹⁸!

SUSTAINABLE DEVELOPMENT GOAL - 5

“Limited gains in gender equality and women’s rights made over the decades are in danger of being rolled back due to the COVID-19 pandemic,” the UN Secretary-General said in April 2020, urging governments to put women and girls at the center of their recovery efforts.¹⁹

The 2030 Agenda for Sustainable Development, adopted by all United Nations Member States in 2015, provides a shared blueprint for peace and prosperity for people and the planet, now and into the future. At its heart are the 17 Sustainable Development Goals (SDGs), which are an urgent call for action by all countries - developed and developing - in a global partnership. They recognize that ending poverty and other deprivations must go hand-in-hand with strategies that improve health and education, reduce inequality, and spur economic growth – all while tackling climate change and working to preserve our oceans and forests.²⁰

Goal 5 (Achieve Gender Equality and Empower All Women and Girls) of SDG is of relevance here, so highlighting the nine targets,²¹ as mentioned by the UN:

The Goals to be achieved as per SDG-5:²²

- 5.1-End all forms of discrimination against all women and girls everywhere;
- 5.2- Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation;
- 5.3-Eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation;
- 5.4-Recognize and value unpaid care and domestic work through the provision of public services, infrastructure and social protection policies and the promotion of shared responsibility within the household and the family as nationally appropriate;
- 5.5-Ensure women’s full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life;
- 5.6-Ensure universal access to sexual and reproductive health and reproductive rights as agreed in accordance with the Programme of Action of the International Conference

¹⁷ Kant, Anjani, Women and the Law; 2nd ed., New Delhi, A.P.H. Publishing, 2003.

¹⁸ According to a report of the United Nations published in 1980.

¹⁹ <https://www.un.org/sustainabledevelopment/gender-equality/>

²⁰ <https://sdgs.un.org/goals>

²¹ <https://sdgs.un.org/goals/goal5>

²² <https://sdgs.un.org/2030agenda>



on Population and Development and the Beijing Platform for Action and the outcome documents of their review conferences;

- 5.a-*Undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws;*
- 5.b-*Enhance the use of enabling technology, in particular information and communications technology, to promote the empowerment of women;*
- 5.c-*Adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels*

CONCLUSION

The concluding pointers are:

- Empowerment of Women is not a slogan.
- it's an action which has to be continuously done
- it has to be consistently monitored at the National Level
- it has to be monitored at the international level also
- the Proactivity of the Government of India is leading India forward
- The SDG-5 will help in achieving gender justice for women

Some of the brighter sides of law with its dark sides are as follows:

- In 1829 sati was prohibited, but we still hear of 'sati' being committed;
- In 1856 widow remarriage was made legal, but socially the chances for a widow to remarry remain restricted;
- In 1870, the female infanticide was banned, yet today amniocentesis²³ skirts this issue with impunity. Under its garb the gender of the fetus is determined and if it is a girl... some things are better understood when left unsaid!
- In 1929, Child Marriage Restraint Act was announced, but in Rajasthan and Gujarat the group marriages of children, less than ten years old, still take place, the law is turning a blind eye!

It is not enough to pass a law; there is need for legal education so that people themselves can become the watchdogs of the laws. Laws do not work in isolation; social activism is required.²⁴ How long are we to follow law just because of the fear of being penalized? What about human ethics and humanity? A woman too has a right to live with dignity and this right is inclusive of all other human rights²⁵. Let's all take one step forward for social inclusion of women and that one step will prove to be a giant leap for mankind. Remember, quality is never an accident; it is always the result of intelligent efforts. Woman is not a sex object, she is a mother, a sister, a daughter, a wife and most important of all – A HUMAN.²⁶ In fact, promoting gender equality

²³ Amniocentesis is the most common test used to screen for genetic birth defects.

²⁴ http://ncw.nic.in/sites/default/files/Women%20Centric%20Legislations%20and%20Legal%20Reforms%20Since%202014%20in%20India%20%281%29%20%282%29_0.pdf

²⁵ See Article 21 of the Constitution of India.

²⁶ Srivastav, V.P., Human Rights Training: Its Dimension and Approach; Vol.I, Indian Publishers Distributors, Delhi, 2003.



and empowering the women is included in the U.N. Millennium Development Goals (MDG), the deadline for achieving the goals was 2015.²⁷ The MDG report for Asia states: *Gender inequality persists in spite of more representation of women in parliament and more girls going to school. Women continue to face discrimination in access to work, economic assets and participation in private and public decision-making.*²⁸ Let us not develop immunity towards discrimination of women. Let us all start discarding unequal attitudes towards women, remember charity begins at home. The following quote is quite relevant here, “*Sow a thought and you reap an action; sow an act and you reap a habit; sow a habit and you reap a character; sow a character and you reap a destiny.*”²⁹

Laws are meant to be the means of progress and not means to an end. The provisions of enactments are weapons, not victories, law has to be activated. The progressive laws alone will not lead to social transformation, resolute action and social awareness is needed.³⁰ The struggle for justice - social economic and political, remains to be fought and won. What can be said if: 1 crime is committed against women every 3 minutes; 1 case of cruelty by husband and his relatives every 9 minutes and 1 dowry death case every 77 minutes!³¹ This is the sorry state of affairs, but we cannot continue doing what we have always done. Tomorrow cannot be just more of yesterday.³² We need flexibility and pragmatism, and also innovation. Each and every one of us needs to become eleutherians³³. The stress must be on action and social inclusion and that surely is the way forward towards the regime of equality and peaceful and harmonious co-existence. What with the Government becoming responsive to the gender budgeting concept and the judiciary becoming proactive by recognizing the reproductive rights of a woman, the empowerment of women can be achieved easily and this type of expansion of dimensions of thinking of the important organs of state and hence society can only be harbinger of good tidings. The National Commission for Women (NCW), along with National Legal Services Authority (NALSA),³⁴ has launched a pan-India legal awareness programme regarding legal rights and remedies provided under various women-related and women specific laws. The programme "Empowerment of Women through Legal Awareness", aims to cover all the States and Union Territories across the country through regular sessions to make women aware of the various machineries of the justice delivery system.³⁵ According to Roscoe Pound, the task of Law is social engineering. It is more powerful than religion and morality today. Social

²⁷ <https://www.un.org/millenniumgoals/gender.shtml>

²⁸ https://www.un.org/millenniumgoals/2015_MDG_Report/pdf/MDG%202015%20PR%20Regional%20Asia.pdf

²⁹ Ralph Waldo Emerson

³⁰ <http://ncw.nic.in/articles-initiatives-government>

³¹ These figures were released by National Crime Record Bureau (NCRB) in 2005. Visit NCRB website for total data. https://ncrb.gov.in/en/crime-in-india-table-addtional-table-and-chapter-contents?field_date_value%5Bvalue%5D%5Byear%5D=2020&field_select_table_title_of_crim_value=5&item_s_per_page>All; Also see: <https://ncrb.gov.in/en/crime-against-women-statesuts>

³² <https://www.thehindu.com/news/cities/Delhi/crimes-against-women-dip-by-24-cybercrimes-see-55-rise-ncrb-data/article36486113.ece>

³³ <https://www.etymonline.com/word/eleutherian>

³⁴ <https://pib.gov.in/PressReleasePage.aspx?PRID=1767904>

³⁵ <https://www.livemint.com/news/india/national-commission-for-women-launches-pan-india-legal-awareness-programme-11635594581897.html>



engineering is what prevents the law from becoming static. Dynamic social engineering is proving to be the savior of the women in all aspects of their life. This has to continue gradually and consistently till we come close to achieving the utopian ideals. Let us all strive to achieve together a harmonious co-existence and not become the lotus-eaters of this era. I conclude with the words of Kofi A. Annan³⁶:

“We cannot win overnight; success will require sustained action across the entire decade...”³⁷

³⁶ Former United Nations Secretary General

³⁷ <http://www.lifebridge.org/UNmillennium.cfm>