



Women Empowerment & law

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Empowerment of Women - a definition

Empowerment of women is a pressing need of the day. Unfortunately, it is least understood. It is therefore very essential to define empowerment for the benefit of all partners:

1) ***Empowerment is about people - both women and men - taking control over their lives: becoming conscious of their own situation and position, setting their own agendas, creating space for themselves, gaining skills, building self-confidence, solving problems, and developing self-reliance. It is not only a social and political process, but an individual one as well - and it is not only a process but an outcome too.***

2) ***Outsiders cannot empower women; only women can empower themselves, to make choices or to speak out on their own behalf. However, institutions, NGOs and Government agencies, can support processes that increase women's self-confidence, develop their self-reliance, and help them set their own agendas.***

The Constitution guaranteed formal equality and radical social reforms, forbidding child marriage (below the age of 18 for a girl), legalizing remarriage of widows and introducing important departures from the ancient fabric in the Indian social structure. But the enactment of laws do not change attitudes, and ironically, these advances in social legislation have acted as a disservice to women, engendering an attitude of complacency whilst the views of society towards the position of women have changed little over the years.

The prevailing attitude to women is still conditioned by religious symbolism which highlights the self-sacrificing, self-effacing pure image of women and the preferred role of a woman as a faithful wife and devout mother, whilst at the same time emphasizing the *subordination of women*, ie., a daughter or wife is a commodity or possession. Subservience of women is precisely summed up in the famous injunction of the Manu's code, where it is stated that a woman should never be independent. As a daughter she is under the surveillance of her father, as a wife, of her husband and as a widow, of her son or parents or male relative.

A woman is always viewed as someone's sister, daughter, wife or mother - never as a citizen in her own right who also needs to live with dignity and self-respect.¹

In the current social climate, the significance of family is vital for women, particularly for poor women in the rural areas. Women's survival is not socially conceivable without the family. Motherhood is the only

acceptable social goal to which she can aspire. Her worth as a 'reproducer' confers some status on her. At the same time, the social value placed on the role of women in the family is also responsible for her subordination to men and for her lack of access to economic and political resources, even where she contributes equally or more to the family economy.

Women face considerable insecurity in the *patriarchal family structure*. Sent as a young bride into a strange household, contact with her natal home is discouraged. At the same time, a woman is never a permanent member of her husband's family - she may have to leave if she does not satisfy.

This fear frequently encourages a woman to relinquish her rights to a share (legal coparcenary rights) in the parental property in favour of her brothers in order to enjoy the 'affection' of the brothers and to ensure a welcome in case she has to fall back upon them if her marriage breaks down.

The devaluation of women commences at birth with the preference for male offspring as the natural successor in the patrilineal family. The religious requirement of a son is an even more compelling reason for male preference, as a son alone is qualified to perform the rites of lighting the funeral pyre. The birth of a son is celebrated as the means of support in old age whilst the birth of a daughter is viewed as placing a heavy burden on the family to raise the necessary dowry for her marriage and for other functions. A daughter is considered 'another's property' and hence any investment in her development is regarded as fruitless. This leads on to discrimination in the allocation of resources - nutrition, medical care, education, etc. - between the sexes. Even as adults, women frequently do not have equal access to food within the family but share what is left after the men have eaten, with consequent repercussions on their health and strength. These attitudes are in turn reflected in higher rates of mortality amongst female infants and young girls, whilst, *female infanticide* is not uncommon, in some pockets, and amongst some communities.

The parental family undertakes the initial conditioning in acceptance of unequal status as young girls are taught to be submissive and docile while boys are given importance and status. The entire process of socialisation of females is to internalise the concept of *dependency* and *subordination* to the will and happiness of others, with the emphasis on the development of roles rather than of personality.

Whilst the *dowry system* has legally been abolished, in practice its prominence is more marked than ever particularly in urban middle class society where the payments have increased substantially. The whole practice of dowry is a further reflection of the devaluation of women and their powerlessness. It devalues the girl's contribution and her input into home-making and the family economy. In the commercial transaction, the girl as a person is a forgotten factor as she becomes a traded commodity. The problem of dowry is one of the most important issues in the women's movement in the country. As the demands for dowry continue to grow, so does the harassment of young brides by their husband's family for a continuous flow of gifts and cash and the inability to comply unleashes violence ranging from wife beating to resultant suicide and murder.

It is, however, a difficult problem to tackle through the law as it relates to the domestic sphere and to the private lives of women and domestic violence is treated as a family affair.

The *status of widows* is even worse.ⁱⁱ Although they form a minority, in absolute numbers widows are a large group of women subjected to a great deal of suffering. Although allowed to remarry in the lower castes, very few actually do. The plight of widows is the product of an unsympathetic attitude by society. Today not many men or their families approve of marriages with a widow. Where young brides have been married to older men, many widows can be quite young with young children to support. Widows traditionally suffer from a number of social indignities being debarred from public places and auspicious ceremonies, not allowed to wear good clothes or to eat normal food and made to observe lifelong mourning for their husbands. The plight of many widows is not exposed where they remain part of their husband's family but are frequently neglected and ill-treated.

Thus, to sum up, *early marriage*, preceded by a cheerless childhood, a gruelling exercise of dowry raising by the family, adjustment to a strange family at the husband's home, anxiety about giving birth to male children, the curbs on freedom of eating, sleeping, talking and moving, the various intrigues for position among the

women, the manipulation of males (sons) and a pathetic old age and unprotected widowhood are the prospects facing the majority of women.

Some women are beginning to question if this is all there is to life. The cocoon that had sheltered and given security and comfort to previous generations of women can no longer provide them to the younger women in the present highly materialistic and changing society. An effective intervention through process-oriented development and empowerment programmes for women has been found to be successful in improving her status in family and society, while giving her a feeling of self-worth.

Position of Hindu women before 1956

Before 1956, the property of a Hindu woman was divided into two heads viz a) sridhan b) Woman's Estate. The Hindu law interpreted sridhan as the properties received by a woman by way of gift from relations. Manu defined sridhan as that what was given before the nuptial fire, what was given at the bridal procession, what was given in token of love and what was received from a brother, a mother or a fatherⁱⁱⁱ.

Position of Hindu women after 1956

The parliament has enacted the Hindu Succession Act, 1956 to amend and codify the law relating to amend and codify the law relating to intestate succession among Hindus. Section 14 of the Act made radical changes in the rights of Hindu women to succeed to a property. "Property" includes both movable & immovable property acquired by a female Hindu by inheritance or device or at a partition or in lieu of maintenance or by gift from any person, before or after marriage.^{iv}

In India, after Independence, besides the constitutional safe-guards, different Acts under different heads have been passed with a bearing on prohibitions and conditions of employment, welfare facilities and relates to working hour, night work, security of health and the like for protection of the condition of women. Following are the important enactments.

- (1) The Factories Act, 1948,
- (2) The Mines Act, 1952,
- (3) The Plantation Labour Act, 1951,
- (4) The Maternity Benefits Act, 1961, and
- (5) The Equal Remuneration Act, 1976.

Maintenance:

Most of the women in Indian society have no independent earnings and are dependent on their men. Hindu Law whether traditional or modern, takes care of their maintenance

Guardianship:

Under the Hindu Minority and Guardianship Act 1956, the father and after him, the mother, is the natural guardian of a minor boy and a minor unmarried daughter, but the custody of the child below five is to remain with the mother. However, this rule is not absolute.

Adoption:

Under the old Hindu Law a woman had no right of adoption. A woman neither could adopt nor be taken into adoption. But under the Hindu Adoption and Maintenance Act, 1956, the Hindu women have got the right to adopt a child.

Right to Property and succession:

The Hindu succession Act, 1956 has included both men and women in the term 'successor'

The Dowry Prohibition Act, 1961:

Dowry has become a social evil, a veritable curse vitiating and undermining the family peace, harmony and growth. It has affected people

from all walks of life, the rich and the poor all alike. The problem of dowry has ruined a number of families and created many unhappy houses.

Protection of women under the provisions of Criminal Procedure Act, 1973:

There are also some protection to the women under the provisions of Cr.P.C. in matters of granting bail and detention. Under section 437 there is special provisions for granting bail to women while in similar situation it will not be granted to a male.

The Supreme Court in Case of **Sheela Barse vs. State of Maharashtra** ^v further gave direction for providing separate place of detention for female suspects and that they should be interrogated only in the presence of female officers.

The Constitutional (73rd Amendment) Act, 1992, provides for reservation of elective Posts for women. It has been provided that not less than one-third of total number of posts of Members and Chairpersons at all three tiers of Panchayat Raj Institutions (i.e. Gram Panchayat, Intermediate Panchayat and District Panchayat) shall be reserved for women. At present, there are 6,81,258 women elected to Gram Panchayats; 37,109 women to Panchayats at intermediate level and 3153 women to Panchayats at district level.

The empowerment of Rural Women is crucial for the development of the Rural Bharat. Bringing women into the mainstream of development is a major concern for the Government of India, which is why 2001 has been declared as the "Year of Women Empowerment".

The programmes for Poverty Alleviation have a women's component to ensure flow of adequate funds to this section.

The National Maternity Benefit Scheme extends financial assistance of Rs.500 to pregnant women, who are living below the poverty line and are 19 years of age or above, up to first two live births

Orientation training for elected representatives of Panchayats Raj Institutions is primarily the responsibility of the State Governments/Union Territory Administrations. The Constitution has placed enormous responsibility on the Panchayats to formulate and execute various programmes of economic development and social justice, and a numbers of Centrally Sponsored Schemes are being implemented through Panchayats. Thus, women Members and Chairpersons of Panchayats, who are basically new entrants in Panchayats, have to acquire the required skill and be given appropriate Orientation to assume their rightful roles as leaders and decision makers

The major Schemes, having Women's Component, (implemented by the Ministry of Rural Development during the last three years) include the Swarnjayanti Gram Swarozgar Yojana(SGSY), the Jawahar Gram Samridhi Yojana (JGSY), the Indira Awas Yojana (IAY), the National Social Assistance Programme (NSAP), the Restructured Centrally Rural Sanitation Programme, the Accelerated Rural Water Supply Programme, the (erstwhile) Integrated Rural Development Programme (IRDP), the (erstwhile) Development of Women and Children in Rural Areas (DWCRA)and the Jawahar Rozgar Yojana (JRY).

The brief details of the Schemes are as follows:

(a) **SGSY:** The Swarnjayanti Gram Swarozgar Yojana, which has been launched With effect from April 1, 1999, is a holistic Programme covering various aspects of self-employment, such as organization of the poor into self-help groups, training, credit, technology, infrastructure and marketing.

It is envisaged that 50 percent of the Groups formed in each Block should be exclusively For women who will account for at least 40 percent of the Swarozgaris. Under this Scheme, women are encouraged in the practice of thrift and credit which enables them to become self-reliant. Through assistance in the form of Revolving Fund, Bank Credit and Subsidy, the Yojana seeks to integrate women in the economy by providing increasing opportunities of self-employment.

(b) **JGSY:** The Jawahar Gram Samridhi Yojana (JGSY) has been launched

With effect from April 1, 1999, with the twin objectives of creation of demand-driven Community village infrastructure and the generation of supplementary employment (for the unemployed poor) in the rural areas. Wage-employment under the JGSY is extended to below poverty line families. It is stipulated that 30 percent of the Employment opportunities should be reserved for women.

(c) **IAY :** The Indira Awas Yojana (IAY) aims at providing assistance for the construction of houses for people 'Below the Poverty Line' in rural areas. Under the Scheme, priority is extended to widows and unmarried women. It has been laid down that IAY houses are to be allotted in the name of women members of the household or, alternatively, in the joint names of husband and wife.

(d) **NSAP:** The National Social Assistance Programme (NSAP), which came into effect five years back represents a significant step towards introducing a National Policy for Social Assistance benefits to households 'Below the Poverty Line', with a major focus on women. The NSAP has three components, namely, the National Old Age Pension Scheme, the National Family Benefit Scheme and the National Maternity Benefit Scheme. The National Maternity Benefit Scheme is exclusively aimed at assisting expectant mothers by providing them Rs.500 each for the first two live births. Under the National Old Age Pension Scheme, Central Assistance of Rs.75 per month is provided to women and men who are 65 years of age and above and have little or no regular means of subsistence from their own sources of income or through financial support from the family members. Under the National Family Benefit Scheme, Central Assistance of Rs.10, 000 is extended to the bereaved family in the case of death of the primary breadwinner due to natural or accidental causes. Women are also beneficiaries under this Scheme.

(e) **CRSP:** The Restructured Centrally Sponsored Rural Sanitation Programme (RCRSP), which was launched with effect from 1st April, 1999, provides for the Construction of sanitary latrines for rural households. Where individual household Latrines are not feasible; provision exists for construction of village sanitary complexes Exclusively for women, to ensure privacy/ dignity. Up to 10 percent of the allocated Fund can be utilized for construction and maintenance of public latrines for women.

(f) **ARWSP:** Under the Rural Water Supply Programme, training is being afforded to women to enable them to play an active role in using and maintaining hand pumps for the supply of drinking water. Women are also represented in Village Level Committees and are actively involved in the selection of sites for hand pumps and other Sources.

(g) The erstwhile Scheme of Development of Women and Children in Rural Areas (**DWCRA**), now merged with the SGSY, was intended to raise the income level of women of poor households so as to enable organized participation by them in social development for economic self-reliance. The primary thrust was the formation of groups of 10-50 women from poor households at the village level for delivery of services like credit and skill training and cash and infrastructure support for self-employment.

Social empowerment through

- Equal status, participation & powers of decision-making of women in household
- Equal status, participation & powers of decision-making in community and village
- Breaking social, cultural & religious barriers to equal development of women/girls
- Increased status, participation & powers of decision-making in democratic institutions

Economic empowerment through

- Greater access to financial resources outside household
- Reduced *vulnerability* of the poor women to crisis - famine, flood, riots, etc.
- Significant increase in the woman's *own* income
- Equal *access and control over resources* at the household level
- Financial self reliance of women

Capacity Building (is a strategy and an end in itself) through

- Better awareness on health, education, environment, etc.
- Improved Functional literacy, numeracy
- Better communication skills
- Better Leadership skills
- Self-help & mutual help

ⁱ G.B.Reddy's, Women & the Law ,3rd Ed. 2000at p.43

ⁱⁱ Women's Link ,Vol 14 ,Oct-Dec 2008 at p .20

ⁱⁱⁱ Mayne's Hindu Law & Usage ,13th Ed.1995 at p.875

^{iv} Harisatya vs. Mahadev ,AIR1983 Cal.76

^v AIR 1986 SC 378