

**WOMEN EMPOWERMENT.. FIGHT FOR THE NEED OR A GENDER CLASH??****MEGHANA.S.SINGH<sup>1</sup>****ABSTRACT**

My body ...my life....my choice...#VOGUE EMPOWER...#WOMEN EMPOWERMENT...A short film starring beautiful strong women with spine thrilling music short with a clear intention in support of women empowerment.. At the beginning of the film, you get all this positive feeling...but at its later stage you just feel blank... Or rather questioned... being a women or a man...if everything is my choice then where is the space for mutual understanding...mutual respect...and most important ...for law and order.!

On one hand this short film speaks about women empowerment ....wearing the clothes she desires...to be in shape which she s comfortable in... to follow her dreams... to have sex before marriage or to have sex after marriage...to love a man or a women .. to pick her man from one billion choice ..is definitely a girl's choice..in fact its every individual's personal choice.. but to have an extra marital affair.. To have sex outside marriage is NOT YOUR CHOICE...it's a clear act against the law of our land.

Our law does not encourage adultery. An adulterer was a man who had sexual intercourse with a woman he was not married to, either a married woman or one who was engaged to be married. A woman who did the same thing was an adulterous. Adultery is also considered as a clear ground for Divorce. Getting into a relationship and getting out of one is definitely your choice but commitment of an act of adultery in NOT YOUR CHOICE.. IT'S A VIOLATION OF LAW.

Now what exactly is Women empowerment??? The subject of empowerment of women has becoming a burning issue all over the world including India since last few decades. Many agencies of United Nations in their reports have emphasized that gender issue is to be given utmost priority. It is held that women now cannot be asked to wait for any more for equality. A long struggle going back over a century has brought women the property rights, voting rights, an equality in civil rights before the law in matters of marriage and employment. Being a women...fighting for our rights is a good thing which we have to continue...but through these new emerging shot films and hearing few negative incidents which speaks about misuse of 498A ... IT LEAVES ME BLANK... in the fight for equality... are we headed towards a war between genders??? Are we trying to prove above each other??

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The other short film I came across was the reply to the first by men ... an eye for an eye feeling was clearly seen... is portraying an image of their life n choices... a clear bridge is seen that each gender out here is trying to prove that they are above each other..."to love a women or a goat ...MY CHOICE" IS AGAIN IN AN ACT AGAINST LAW... SEC377 OF Indian Penal Code, 1860Unnatural offences: Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal shall be punished with imprisonment for life, or with imprisonment of either description for term which may extend to ten years, and shall also be liable to fine.

Equality in my opinion is about balance...mutual respect ... mutual understanding ... non discrimination...equal opturnity. To marry or not to marry is an individual's choice but to have a child or not must be a couple's mutual choice!!!

Many Women face many social challenges today but still struggle to secure an income for her family to raising children amidst the harsh economic crisis. A woman is dynamic in the many roles she plays. In the village of Warwarhere in Maharashtra 400 women stood up and raised their voices to ban alcohol and drugs. Women have withstood perennial health problems due to the lack of toilet facilities and are forced to use fields and open spaces for defecation. few of them are still locked up in their houses. .child marriage is still seen in backward areas...forget coming back home at 6 pm or 4 am... women in few sectors of the society are not allowed to step out of their respective home.. Dowry harassment ... physical torture... mental torture... sexual assault... they are the real victim's of the evil part of the society. so where exactly women empowerment institution must concentrate??? Who needs them the most??? For whom should our voice must be raised??? For what purpose??

To fight for the basic rights for such victim's or should we concentrate our this who's better sought of gender fight????there s no point in deciding who's the snow fall and who's the snow flake... the concept of quality is that ...we both are the same...we both are the strong rays of the sun... lets raise together for the "BETTER WE" .We must also remember that NO ONE IS BEYOUND LAW...and ignorance of law is not excused.

I am not a journalist... nor am I a critic... nor am I an expert ... I am just a 22 year old girl who's conscious got pinched as a viewer with a thought as to " where exactly are we heading towards...women empowerment or a gender fight or encouragement for violation of law and order????

## **INTRODUCTION**

The principle of gender equality is enriched in the constitution of India 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 favor of women for well being of women. But if the principle of gender equality is enshrined in the Indian Constitution, then why are Indian women treated as second citizens in their own country? why is equality not a practical activity? Why are inhuman crimes being reported against women on day to day basis? Why the doors of education are shut of the women? The Constitution officially grants equality to women and also empowers the State to adopt measures of positive discrimination in favor of women. However, this is making a very less difference. It is somewhere true that our society is male dominated till date although a man gives his success credit to his women. Though she has been worshiped as goddess from time immemorial, she's ill treated in every unfortunate situation...United Nation reports<sup>2</sup> reveal that women constitute half of the world's population. About two-third of the women population are manhandled by their husband or their in-laws...about one-third are mishandled by strangers.<sup>1</sup> Is this the true face of our society in spite of holding such a strong and an effective constitution or do we need to bring in a change???

### **The base of women empowerment**

The subject of empowerment of women has becoming a burning issue all over the world including India since last few decades. Many agencies of United Nations in their reports have emphasized that gender issue is to be given utmost priority. It is held that women now cannot be asked to wait for any more for equality. Inequalities between men and women and discrimination against women have also been age-old issues all over the world. Thus, women's quest for equality with man is a universal phenomenon. What exists for men is demanded by women?

They have demanded equality with men in matters of education, employment, inheritance, marriage and politics and recently in the field of religion also to serve as cleric (in Hinduism and Islam). Women want to have for themselves the same strategies of change which menfolk have had over the centuries such as equal pay for equal work. Their quest for equality has given birth to the formation of many women's associations and launching of movements. The position and status of women all over the world has risen incredibly in the 20th century. We find that it has been very low in 18th and 19th centuries in India and elsewhere when they were treated like 'objects' that can be bought and sold. For a long time women in India remained within the four walls of their household. Their dependence on men folk was total.

2. Sex-ratio patterns in the Indian population - a fresh exploration. SB Agnihotri, 2000 p. 70-71

A long struggle going back over a century has brought women the property rights, voting rights, an equality in civil rights before the law in matters of marriage and employment (in India women had not to struggle for voting rights as we find in other countries).

### **Constitution of India and women empowerment**

Our Indian constitution being mother of all laws has always voiced up for women. The India polity more or less has always tried to cope with the present need – based development of laws for the specified purposes. It may be in the field of Human Rights, Politics, Civil Rights, Constitutional Rights or Social Transfer. Still the judiciary always inspires in all possible ways to meet the challenges as per need, either by precedents, directions or suggestions etc. The Supreme Court in a case<sup>1</sup> observed that it is well accepted by thinkers, philosophers and academicians that if JUSTICE, LIBERTY, EQUALITY and FRATERNITY, including social, economic and political justice, the golden goals set out by the Preamble of the Constitution, are to be achieved, the Indian polity has to be educated and educated with excellence.

Article 14 and 16 (A) of the Constitution intend to remove social and economic inequality to make equal opportunities available. In reality the right to social and economic justice envisaged in the Preamble and elongated in the Fundamental Rights and Directive Principles of the Constitution, in particular Articles 14, 15, 16, 21, 38, 39 and 46 are envisaged to make the equality of the life of the poor, disadvantaged and disabled citizens of the society, meaningful. Further the Preamble which is invoked to determine the admit of both fundamental rights and Directive Principles as observed by the Supreme Court in Various cases embraces all the new laws after make Constitution. This is why the Government organs owe origin to the Constitution and derive their authority from and discharge their responsibilities within the framework of the Constitution. The Supreme Court in some cases held that the social justice enables the courts to uphold legislations to remove economic inequalities, to provide a decent standard of living to the working people and to protect the interests of the weaker sections of the society.

The democratic socialism aims to end poverty, ignorance, disease, and inequality of opportunity. This socialistic concept ought to be implemented in the true spirit of the Constitution. Article 14 is to be understood in the light of directive principles. Article 14 guarantees equal treatment to persons who are equally situated. Besides clause (3) of Article 15, which permits special provision for women and children, has been widely resorted to and the courts have upheld the validity of special measures in legislation or executive orders favoring women. In particular, provisions in the criminal law, in favor of women, or in the procedural law discriminating in favor of women have been upheld.

Article 21 spells that no person shall be deprived of his life or personal liberty except according to procedure established by law. This Article if read literally is a colorless Article and would be satisfied, at the moment, it is established by the State that there is a law which provides a procedure which has been followed by the impugned action. But the expression “procedure

established by law” in Article has been judicially constructed as meaning a procedure which is reasonable, fair and just.

The right to life and the right to personal liberty in India have been guaranteed by a constitutional provision, which has received the widest possible interpretation. Under the canopy of Article 21 of the Constitution, so many rights have found shelter, growth and nourishment. An intelligent citizen would like to be aware of the development in this regard as they have evolved from precedents of courts. This Article lays down that no person shall be deprived of life or personal liberty, except according to procedure established by law. This Article gives a positive effect by judicial interpretation. This right is a fundamental right, enforceable against the State, and Judicial decisions have imposed, on the State, several positive obligation.

A question arises while going through the constitutional provisions that why a constitutional provision arises on various subjects. Is the ordinary law not enough? To the answer it is true that Indian Penal Code contains adequate provision to punish a person who takes away or attempts to take away the life of another. But the impact of constitutional provision to take away the life of another. But the impact of constitutional provision lies in this respect, that by being elevated to the pedestal of a fundamental right, the right is placed beyond the reach of ordinary legislation inspired by political motives. Hence it can be said that the enumerative rights can derive from Article 21. Article 39(a) among other things provides that the State shall in particular; direct its policy towards securing that all citizens, men and women equally have the right to an adequate means of livelihood. This Article has been described as having the object of securing a welfare state may be utilized for construing provisions as to fundamental rights. Further Article 51A (e) imposes that duty of every citizen in India to renounce practices derogatory to the dignity of women.

Section 14 of the Hindu Succession Act, 1956 should be construed harmoniously with the constitutional goals of removing gender based discrimination and effectuating economic empowerment of Hindu women. The right to elimination of gender based discrimination so as to attain economic empowerment, forms part of Universal Human Rights. Article 2 (f) of CEDAW States are obliged to take all appropriate measures; including legislation, to abolish or modify gender based discrimination in the existing laws, regulation, customs and practices that constitute discrimination against women. Article 15(3) of the Constitution of India positively protects such acts or actions. Moreover the Constitution of India is a basic document which provides for women empowerment within the framework of the plenary provision of Articles 14, 15 (3), 21, 39 (a), 51A (e) and Preamble. The courts always try to interpret the cases which are detriment to women within the area of social justice with these Articles.

Reservation for women in local self-governing bodies and other bodies, concessions in tax for women entrepreneurs, reservation in employments and educational institutions, etc. are based on this provision.<sup>3</sup>

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3. Ibid.

### **The United Nations and women's rights**

At this stage, it will be worthwhile to mention the commendable work carried out by the Division for the Advancement of Women, the substantive office with the United Nations that develops policy advice for the promotion of women's rights and provides substantive servicing to the Committee on the Elimination of Discrimination against Women, as well as, the Commission on the Status of Women. To address most comprehensively women's equality with men and non-discrimination in the civil, political, economic, social and cultural fields, the General Assembly adopted, on 18-12-1979, an international human rights treaty, Convention on the Elimination of All Forms of Discrimination against Women. The optional protocol to this Convention entered into force in December 2000. It entitles individuals or groups of individuals, once certain admissibility criteria have been met, to submit claims of violations of the Convention's terms to the Committee on the Elimination of Discrimination against Women. It also provides the Committee with the power to inquire into grave or systematic violations of the Convention. The total number of States party to the Convention presently stands at 170, while 47 have ratified or acceded to the optional protocol.

Recently, the United Nations Division for the Advancement of Women in collaboration with the United Nations Economic Commission for Asia and the Pacific organized a judicial colloquium on the application of the international human rights law at the domestic level similar to that organized in 1999 to commemorate the twentieth anniversary of the adoption of the Convention. At that colloquium, almost 100 judges and Magistrates from 65 countries, and representing most legal cultures and traditions, considered the application of international human rights law at the national level as a strategy to advance the rights of women. Participants in the Vienna judicial colloquium focused on three key areas of concern, namely, nationality, marriage and family relations; violations against women; and work and work-related rights of women and girls. The recently (November 2002) concluded judicial colloquium was followed by a World Summit for building a gender-sensitive information society. At this summit, the world leaders, in the millennium declaration, reaffirmed gender equality as one of the fundamental goals in the twenty-first century. They resolved to promote gender equality and the empowerment of women as effective ways to combat poverty, hunger and disease and to stimulate development that is truly sustainable.

### **NHRC and Indian perspective of human rights**

The National Human Rights Commission (NHRC) was set up in 1993 as a statutory body to which individuals and interested parties can make complaints on human rights violations in the country. NHRC has explicitly stated that women's rights will be a part of its concerns. As yet NHRC has taken up no specific issues of violation, though it has attempted to address single instances of State violence on women. It is yet to take a significant interest in women's rights. Part of the problem arises out of the division seen between the National Commission for Women and NHRC; although a member of the Women's Commission is represented in NHRC, it is often assumed that the Women's Commission, its establishment has been criticized as a move on the State to appear accountable without providing these bodies with sufficient autonomy to push

through decisions or recommendations of the Law Commission that may appear to be contrary to State's interests. The Law Commission, the Minorities Commissions, the Commissions for Scheduled Tribes and Scheduled Castes, have been broadly mandated to look at women's issues. Barring the Law Commission, which has participated actively in recommending gender justice and legal change, the remaining Commissions have shown little concern for women's rights in their functioning. The causes of gender inequality are complex, linked as they are to the intra household decision-making process. It is, therefore, essential that public policies work to compensate for market failures in the area of gender equality. These policies should equalize opportunities between women and men and refract resources to those investments with the highest social returns. Of these investments, female education, particularly at the primary and lower secondary level, is the most important, as it is the catalyst that increases the impact of other investments, industry and infrastructure. Women themselves are agents for change because they play a key role in shaping the welfare of future generations. Public policies cannot be effective without the participation of the target group, in this case, women, who make up for more than half of the world's people. Their views, therefore, must find place into the policy formulation.

The causes of persistent disparity and inequality between men and women are only partially examined, explored and understood. In recent years attention has been focused on inequalities in the allocation of resources at the household level, as seen in the higher share of education, health and food expenditures, boys receive in comparison with girls. The decision-making process within households is complex and is influenced by social and cultural norms, market opportunities and institutional factors. There is considerable proof that the infrahousehold allocation of resources is a key factor in determining the levels of schooling, health and nutrition accorded to household members. Regional factors also have contributed in gender equalities.

### **Laws in support of women in India**

Women are deprived of economic resources and are dependent on men for their living. Women works are often confined to domestic sphere, she had to do all house hold works, which are not recognized and unpaid. In modern times many women are coming out to work but has to shoulder the double responsibility; one she has to work where she is employed and secondly she also has to do all the house hold works, moreover, she is last to be considered and first to be fired as she is considered to be less productive than her counterpart. Her general status in the family and in the society has been low and unrecognized. From the cradle to grave, females are under the clutches of numerous evils acts as discriminations, oppressions, violence, within the family. The root causes of all the evils practices faced by the women are: illiteracy, economic dependence, caste restrictions, religious prohibition, and lack of leadership qualities and apathetic and callous attitude of males in the society.

In our society girls are socialized from their tender age to be dependent on males. Her existence is always subject to men. In her childhood she is under the protection of her father, after marriage under the protection of her husband and in old age at the mercy of her sons. The

patriarchal system in India made women to live at the mercy of men, who exercise unlimited power over them. In order to ameliorate the condition of women in India Legislature enacted the large volume of enactments and many of these legislations were enacted in colonial period.

Which are as follows:

- (1) 1829, Abolition of Sati;
- (2) 1856 Widow Remarriage made legal;
- (3) 1870 Female infanticide banned;
- (4) 1872 inter caste, intercommunity marriages made legal;
- (5) 1891 age of consent raised to 12 years for girls;
- (6) 1921 women get rights to vote in Madras province;
- (7) 1929 Child Marriage Restraint Act was passed;
- (8) 1937 women get special rights to property;
- (9) 1954 Special Marriage Act was passed;
- (10) 1955 Hindu Marriage Act was passed;
- (11) 1956 Suppression of Immoral Traffic in Women and Girls Act was passed;
- (12) 1961 Dowry Prohibition Act was passed;
- (13) 1981 Criminal Law Amendment Act was Passed;
- (14) 1986 The Indecent Representation of Women (Prohibition) Act was Passed;
- (15) 1987 Commission of Sati (Prevention) Act was passed.

Apart from these above mentioned laws there are some enactments related to industry which contain special provisions for women such as: The Workmen Compensation Act, 1921; Payment of Wages Act, 1936; Factories Act, 1948; Maternity Benefit Act, 1961; Minimum Wages Act, 1948; Employees State Insurance Act 1948 and Pensions Act, 1987. In addition to this, the Constitution of India which is regarded as the supreme law of the land too gives special protection to women. Further, Indian Penal Code, Criminal Procedure Code and Indian Evidence Act to have some provisions which provide protection and a sense of security to women. Recently the Government's piecemeal approach to protect women has taken a step forward enacting a law providing protecting women from domestic violence. With the establishment of National and State Human Right Commissions and National Commission for Women, gender issues are receiving greater attention. The Supreme Court has imposed a duty on the employer or other responsible person in workplaces and institutions to prevent the commission of acts of sexual harassment and to provide the procedure for resolution, settlement or prosecution of the acts of sexual harassment by taking all steps required. Sexual harassment is described as violation of fundamental right in Apparel Export Promotion Council v. A.K.Chopra.<sup>24</sup> Several landmark judgments are laid down by courts protecting women from sexual harassment at workplaces.<sup>4</sup>

### **Status of Women in Indian Society**

The worth of a civilization can be judged by the place given to women in the society.

4. For detailed discussion on this issue see Naiker Lohit D Op.Cit. 539-548.

One of several factors that justify the greatness of India's ancient culture is the honorable place granted to women. The Muslim influence on India caused considerable deterioration in the status of women. They were deprived of their rights of equality with men. Raja Ram Mohan Roy started a movement against this inequality and subjugation. The contact of Indian culture with that of the British also brought improvement in the status of women. The third factor in the revival of women's position was the influence of Mahatma Gandhi who induced women to participate in the Freedom Movement. As a result of this retrieval of freedom, women in Indian have distinguished themselves as teachers, nurses, air-hostesses, booking clerks, receptionists, and doctors. They are also participating in politics and administration. But in spite of this amelioration in the status of women, the evils of illiteracy, dowry, ignorance, and economic slavery would have to be fully removed in order to give them their rightful place in Indian society.

Women are an integral part of every society. As history bears witness, there have been many famous and successful women in our country and all over the world. But what about the woman who lives in every home? Is she being given rights and freedom on par with men? The answer to these questions, even in today's age is a NO. Even today some women are not given the respect that every human being deserves. Is the condition any better today? It is definitely better than what it was then, but women are not liberated completely. A majority of women end up as homemakers, and being referred to as Mrs so and so. The identity of the women is lost in the process. Of course, there are women, who have made a mark amongst the greats in the world, and who are independent and stand on their own feet. But somewhere down the line, men don't permit women to walk shoulder to shoulder with them. Women have conquered all possible arenas in the world, be it being a bus conductor or an astronaut, women of today have been there and done that. Our grandmothers were probably only allowed to stay at home and cook and work but now the tables have turned. Women have a say in the matters of the house, we get to be independent, earn and save our own salaries, and we get to voice out our opinions.

### **Conclusion**

India is a country where woman is held in high esteem. "Mathru Devobhava" is the socio-cultural tenet that is accepted uniformly at all times in this country. During Vedic period women enjoyed a considerable amount of freedom and are treated as equal with men. But in the Post-Vedic period the status of women deteriorated. In the Smritic era, Manu accorded inferior status to women. The period that followed reduced women to an insignificant position. During the medieval period the position of women worsened. Muslim invasion brought the purdha system and seclusion of women. Girl child was taken as a liability leading to the practices of child marriage, prohibition of widow remarriage and sati. With the practice of polygamy, limited access to education, restricting women to household functions, child marriages, restriction of widows, sale of girls for marriages, etc.

the status of women further deteriorated.<sup>5</sup>British rule in India brought about many changes affecting the status of women. Female education, social movements against the evils of sati system, prohibition of widow remarriage, and child marriages by great social reformers increased the status of women. Many women's organizations were formed and took up various issues relating to women's rights.<sup>6</sup>In independent India women's movements were given due recognition leading to series of legislative and judicial steps to provide, protect and promote human rights of women. when our law is making necessary provisions..it should be used genuinely and voice should be raised for the needy.

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5. 1.Naiker Lohit D., The Law Relating to Human Rights, 2004, 512-14.

6 . Ibid