



## Understanding Empowerment Through The Lens of A Women Using RTI Act

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ABSTRACT

This paper seeks to link the emergence of empowerment as a development goal in modern democracy with the lived experiences of a woman who has used a progressive law. In this endeavour the effort is to see how the knowledge and the use of the law shape the woman's understanding on the changes in her life and the words she uses to describe empowerment. Empowerment is comparatively new concept and has multiple meanings. This article seeks to bring in the voice of an ordinary woman to add to meaning of empowerment. It is in popularising the word and the meaning of empowerment that it can truly become an achievable development goal.

### KEYWORDS

Democracy, Empowerment, Progressive Law

### Introduction:

The 1990's saw a significant step at the global level in formally recognizing several human rights movements, including the women's rights movements. It is a period that popularized liberal rights, ideas of democracy and justice into the political agendas of women's movement and various nation states. (Razavi & Molyneux, 2002) Democracy became the preferred form of governance as it is based on the principles of equality and participation and empowerment of citizens came to be a desired goal.

The role of the state in a democratic society is to create conditions that promote equality, legislate so that rule of law governs all the citizens equally and create enabling conditions to overcome any form of discrimination, oppression and exploitation that come in the way of development.

As a practicing social worker, the author was introduced in the early part of her career to the concept of empowerment by Srilata Batliwala and Vimala Ramchandran<sup>1</sup>. It has shaped her work as a community organizer, training facilitator and as an educator. Through nearly two decades of work empowerment has remained a key guiding principle for mobilizing women. Through a research study undertaken by the author, the aim is to delve deeper into the theoretical underpinnings of the concept of empowerment from the point of view of ordinary women.

In this paper the endeavour is to examine through one case study the potential of the Right to Information Act to bridge the gender gap that exist in India. In the first part of the paper the endeavour is to give a brief review of role of law making in democratic nation states and their relationship with the multiple meanings of empowerment. The case study would then present the experiences of a woman who used the RTI Act and how she defines empowerment and justice.

### Role of Democracy in Promoting Equality

It is generally believed that 'democracy' as a form of governance is a western concept - more specifically a European concept that refers to representative democracy. This conceptualization deals largely with the growing homogenization of the political institutions that now characterize democracy.

The tradition of a 'constitution' where the 'rule of law' is applied and where the majority opinion counted can be found in two ancient Indian traditions one of the *Sakya*, *Licchavis*, *Malla* and that of the *Jatakas*. It is said in the early Buddhist Canonical literature that the *Licchavis* of the *Vaisali* followed a non-monarchical tradition. It is said that they depict a central 'Mote hall' where all the questions of public concern were discussed. After discussion, the points at issue were put to vote and the opinion of the majority decided everything. The

governmental authority was vested in a Raja who was more of an elected President than a hereditary monarch. Other references suggest that *Licchavis* was a confederacy of 18 Kings of *Kasi* and *Kosala* where this form of elected leadership and decisions by discussion was held, in the confederate states the Kings were chosen on hereditary grounds. (Bandopadhyay N, 1995) In comparison the Buddhist Sanghas and the *Jatakas* were seen as more democratic.

The more contemporary notion of democracy as 'government by discussion' which was first coined by Walter Bagehot and later expanded by John Stuart Mill is an expansion of the older notion where democracy is based on citizens participation through election and ballots. (Sen, The Idea of Justice, 2010).

Modern democracies establish a fundamental aspect of namely its attitude towards law as a product of the collective will and not something emerging from a transcendent will or from the authority established by divine right (Post, 2006).

Since democracy requires equality of the democratic agency, it also holds the responsibility of promoting distributive justice. For instance when the Indian nation came to be free from the rule of the Queen of Britain, and when it adopted the democratic constitution, it was regarded as a nation besieged with problems of poverty, illiteracy, religious discontent among the Hindus and Muslims, and deep rooted caste divisions. Dr. Ambedkar stated in the last meeting of the Constituent Assembly, "Political democracy cannot last unless there lies at the base of it social democracy. ... It (social democracy) means a way of life, which recognizes liberty, equality and fraternity as the principles of life." He then goes on to explain the great caste divide and the economic divide that existed in India and the lack of the recognition of the principle of fraternity - the feeling of sharing a sense of brotherhood on belonging to a single nation of India are the challenges to achieve democracy in the complete sense. He stated that "in order to maintain democracy not merely in form but also in fact....(we) must hold fast to constitutional methods of achieving our social and economic objectives." (Guha, 2010)

Today India can proudly that that it has upheld the democratic form for over 60 years. However, many of the old inequalities persist and not all the citizens are able to participate in the desired way in the democratic processes. Caste inequalities, religion based inequalities, class inequalities and gender based inequalities persist.

### women and law

On gaining Independence the onerous task of framing the constitution took place under the leadership of Dr. Ambedkar. Several nationalist leaders, lawyers including women leaders

such as Hansa Mehta, Rajkumari Amrit Kaur became part of various sub committees that formed the architecture of the democratic constitution.

The debates regarding a Uniform Civil Code centred around the concepts of nation and national integration and not so much on gender and women's rights. Thus rights were divided in two segments, i.e the fundamental and enforceable rights and the Directive principles of state policy which were not non-enforceable. The Uniform Civil Code was placed under the latter. Dr. Amedkar settled the matter by wording the Article 44 as "the State shall Endeavour to secure for the citizen a Uniform Civil Code throughout the territory of India"; but left the task for future parliaments to do the job. (Agnes, 1999)

Thus right from the beginning of the democratic state of India, public opinion, dissent and larger political and cultural considerations have had bearing on the formation of legislation. In this paper the author examines one particular law which has been passed through a process of much public debate and demand from the civil society actors to seek greater accountability of the state – The Right to Information Act.

The Right to Information Act (2005): An Act to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a Central Information Commission and State Information Commissions and for matters connected therewith or incidental thereto.

Unlike the usual laws that specifically focus on women's equality, this paper seeks to examine the above mentioned progressive law that are meant for all citizens. The idea is to see if there are specifically different meanings for women in terms of empowerment.

### Empowerment and its various meanings

The concept of empowerment is comparatively a recent one which has gained significance in development discourse since the latter part of the 20<sup>th</sup> century. Largely popularized by feminists, embedded within the concept is greater people's participation, increased ability to engage and negotiate with power structures and institutional mechanisms that typically stem from patriarchy. (Kabeer N. , 1999,) (Batiwala, 1994) (Narayan, 2005). Towards the end of the 20<sup>th</sup> century, empowerment as a concept gained ground in national and international policy frameworks.

There are differing viewpoints on empowerment and its place in development and women's equality. According to one view empowerment has instrumental value in that it leads to better development outcomes such as provision of basic services, pro poor market development, improved local governance, improved national governance and access to justice and legal aid. (Narayan, 2005), (Keefer & Khemani, 2004), (Prahald, 2004), (Parameswaran, 2005). There has been a growing body of literature that assumes this posture in development discourse.

On the other hand feminists have used the term empowerment to refer to a transformatory process in social, political and economic structures through radical changes in law, property rights and other institutions that reinforce and perpetuate male dominance. (Batiwala, 1994), (Sen & Grown, 1985). It therefore focuses on societal and gender analysis, recognizing discrimination and it emphasizes consciousness raising, enhancing self worth, and is usually linked to collective action in developing countries.

Feminist literature on empowerment indicates that there is fair amount of emphasis on "process" and on recognizing the "agency" of women (Malhotra & Schuler, 2005). Empowerment is seen as a process of change towards greater equality or greater freedom of choices and action; it is a process of consciousness raising, questioning the dominant analysis and tacit acceptance of why men and women are unequal (Malhotra & Schuler, 2005), (Batiwala, 1994), (Kabeer, 1999).

While many authors say that in order for empowerment to be-

come a universal concept there is a need to measure it there are others who believe that empowerment is a process that cannot be measured but only be described.

While laws are critical in promoting gender equality, ending discrimination, transparency, without empowerment of the citizens, the democratic character of the nation would remain weak. Further, it is useful to study these outcomes from the point of ordinary and marginalized women as they form half the population and are known to lag behind. The question therefore being asked is whether the knowledge and use of laws can be empowering and if it is how does the woman who uses these laws describe the process of empowerment. The term empowerment has no exact translation in the local Indian languages and the word used are approximation. However the most commonly used term "sashaktikaran" is difficult to pronounce for most women and they have used their own terms and meanings.

The second section of the paper presents the case study to illustrate the above formulation.

### Case study

WRTI-A<sup>2</sup> has spent nearly a decade going to various courts in Bharuch, Ankleshwar, Ahmedabad and High Court in connection with her dispute with her in-laws. However, some significant breakthrough came about only when she used the RTI Act.

The basic issue according to her was that her husband had come under the influence of some of his relatives and had never called her back after the birth of their son. Today the son is 22 years.

WRTI-A was brought up in Ahmedabad and she studied upto 12<sup>th</sup> std. She was married into a family in Bharuch and her husband had a job in the railways. Soon trouble started but WRTI-A thought that it will all be fine if she tolerates and learns to make compromises. In a years' time she had a child – a son. But, nothing came out of it and her husband soon filed for a divorce. WRTI –A was clear that she did not want to separate and was hopeful that the differences could be sorted out if her husband agreed not be influenced by the relatives. So she opposed the divorce proceedings. She would have to travel from Ahmedabad to Bharuch where they filed the case for all the hearings.

### The first use of RTI

WRTI – A said when someone suggested to her that even as the divorce related case was going on she could apply for maintenance. So she filed for maintenance and after several hearings the monthly maintenance was fixed at a pittance of Rs. 150/- per month. She was appalled by the amount and decided to go for appeal. It was during the appeal related case in the year 2011, in which she was asking for a raise in the maintenance case that she read about the RTI Act in the newspaper. She asked her lawyer for more details and realised that she can use it to get information about the actual salary of her husband, which in turn can help her to get the required raise in maintenance amount.

Initially she started by going to the Ahmedabad railway station to find out about the procedure for seeking information. She says, "No one gave me a straight answer, they made go from one desk to another and from one office to another. Finally, one of the officers told me that I should go to Vadodara division office in Pratapnagar to get this information. So my son who was quite grown up by then also accompanied me. There too we were asked to go to several officers before one of the offices agreed that the RTI application seeking the details of my husband's salary could be submitted to him.

We had no guidance, so I just wrote out the application on my own. The information was not given in the first round of submitting the application. She learnt that instead of giving her the information, the application was sent to her husband. Her husband replied to the application saying that the information cannot be given as the person asking for the details is "third party". The information officer forwarded the same letter to me. WRTI- A says, "I was at a loss, how can they call

me third party? I am the wife of the person whose salary slip I am asking for! "

During this time, she came across the pamphlet being distributed by Mahiti Adhikar Gujarat Pahal – MAGP. Their van was stationed near the court and they were giving out information. So WRTI – A said, "We went there and came in contact with Panktiben and Harinshbhai. Here we got all the detailed information about the Act – how it works – what are the remedies – if we don't get the information? And all that," said WRTI – A. "It was Panktiben who told us that we could submit our applications to the Ahmedabad railway office and that they would forward it to the relevant office. This really made our lives quite easy."

On being asked, if they were then able to get replies to their queries, WRTI – A said, "No not at all. Many times we have got covers/envelopes addressed to me but there would no letter inside. They would always send it by registered post. This meant that we had to immediately write back to them saying there was no letter. This meant that we lost out on precious time."

WRTI- A shared that they were guided by MAGP that an applicant could go for first appeal if applicant did not get satisfactory response. WRTI – A explained that going for a "first appeal" meant that it took at least 65 days. By law they get 30 days to respond. Invariably they would wait till the very last date to send in their reply. And they write in the letter that in case the applicant is not satisfied with the response he/she can send in the appeal at so and so address."

WRTI – A acknowledges that only because of the use of RTI Act she has been able to secure maintenance of Rs. 4000/- per month. Although this is much lower than what she had asked for i.e. a monthly maintenance of Rs. 7000/. She had got the information that the monthly salary of her husband is Rs. 46,000/- through RTI.

She has also asked for details of his PF account and if he has ever withdrawn money from it and if so for what purpose. The responses of her applications are often incomplete and so she has had to go for second appeal for three of her applications. She informs that a second appeal takes at least one and a half years. She explains that, " There is an RTI office in Ahmedabad which is hooked up for video conferencing with the authorities sitting in Delhi. So we have to go to this office near RTO." One of her second appeals filed in 2014 is still awaiting a hearing.

Having understood the law, WRTI – A asked the researcher, - "So according to you when does the 30 days start? – from the date when I write the application? Or when they receive the letter? " In order to move the discussion further, the researcher said it would be from the date that they receive the application. WRTI – A was expecting this reply, and put a counter question – "In that case the time for us to submit a second appeal should also be 30 days from the time we receive the response or the date when they despatched the letter or the date that appears in their letter?"

This was a technical question and the researcher herself was unsure of how that particular rule was being interpreted. Almost as if she was reading the mind of the researcher, she said, "We have in-fact put a second appeal asking for this information and we have haven't yet got a straight answer."

WRTI – A then goes on to say that she has put in a RTI application regarding the details that have to be put out in the public domain by the railway authorities such as the salaries of the staff. She shared that she felt the need to ask this question as she had to go through a very tedious process every three months to get the salary details of her husband to be submitted in the family court. She says it was the MAGP team that explained to her about the provision of the proactive public disclosure of public information. "As the Railways are a public establishment, it is bound to put out the salary packages of its employees. However they only put out salaries of some of the officials at the top and not everyone", WRTI

– A explained. She also narrated the processes and demands made by the second appellate authorities which are time consuming – for e.g. they would write back saying that they should send all documents either in English or Hindi translations of the orders passed or letters written by the local railway authorities which may be in Gujarati; sometimes she says they say they have misplaced the file and so they have to send all the papers once again. Now that her son is all grown up it is he who goes out to send the letters and faxes and makes the follow up calls to support his mother.

She is currently awaiting the response from the railway authorities on its own proactive public disclosure practice.

When the researcher queried, whether she felt the law has been of any use to her – WRTI –A stated in an emphatic yes – she stated that had it not been for the RTI Act she would not have got the increased maintenance order. It was only when she presented the proof of her husband's salary that the court increased the maintenance amount.

### **On how has the law been of help?**

WRTI –A states that in her long struggle knowing the law has been the most useful and strength giving. "The process is long but the law itself was easy to follow and understand", she said. She had read the printed booklet that MAGP had brought out and her son reminded her that she has also read the downloaded act from the internet.

She suspected that the process has not been entirely fair. She narrated that in one of her cases in the high court, the judge has earlier served in a Bharuch court. Although she had never known this, when her husband's lawyer came to know, the lawyer stated that, " oh now it will be easy." WRTI – A suspected that there was some influence used and hence the order that was made was rather weak and not in her favour.

In another instance, she narrated a judge was putting pressure on her to agree to the conditions of the husband and not willing to consider her conditions. WRTI – A never wanted a divorce – she wanted to go back to her husband but had certain conditions, such as other relatives should not interfere in their matters. This particular judge had a record of disposing all cases appearing before him within 45 days. WRTI – A said, " He spoke to me badly asking me to accept the conditions so that he could "finish the case and maintain his track record." WRTI – A reflects for a moment and then stated, "But everyone has their own self respect. How can an esteemed judge speak like that?"

WRTI – A also shared that during one of the video-conference hearing during the second appeal, the person from Delhi knew nothing about the provisions of the Act and what were the responsibilities of his office. So WRTI – A stated that with the suggestion of MAGP, she started enclosing a copy of the Act with her letter so that the officer had easy access to the provisions of the Act.

Now WRTI –A stated that she approached MAGP team only when she is stuck, otherwise she and her son are well versed with the procedures.

In the case of WRTI – A one can say that it was her alertness that she came across this law and started using it initially with no help. Her experience points out that no one in the railway offices perhaps knew adequately about the law to guide her properly or they chose not the help her. Her experience also points out that the Public Information Officer broke the rules and instead of giving her a reply to her query, they sent her application to her husband!

With the support of MAGP, WRTI – A has not only been able to seek information more systematically for her case, but she started using the knowledge gained to question the railway authorities and to make their systems more accountable as a citizen. Thus with the guidance of the civil society organisa-

tion, WRTI – A is now using the RTI act to serve not just her individual interest but also the larger interest of the citizens.

Her struggle for justice has been long drawn for over two and a half decades, but she was able to make significant progress only with the use of RTI act in the past five years.

The judges, had at times passed untoward remarks in the court or in their chamber when he called both parties for reconciliation. WRTI – A said that she would be quite shaken and would be on the verge of tears. But she would hold herself back. Only when she left the court, she would go aside and shed a few tears. But soon she would gather herself and get even more prepared for the next hearing – telling herself that the judge and the lawyers of her husband may ask all sorts of questions, she will not break down in front of them.

### On her views of Empowerment

To the question what does she understand by the term empowerment - *sashaktikaran*?

WRTI – A's first response was I have heard of this term but never used it. "I think it means the ability to use the ability to tolerate - "*sahan shakti*"; to use one's own *shakti*". She then pauses and asks, "am I right?". Then she adds, "It means to think positive....." and she elaborates on a point made earlier when the judge asked difficult questions and she felt her dignity was being hurt – she would not sleep the whole night and think of how she would respond the next time she was faced with a similar situation and not lose heart.

Initially, WRTI – A stated, that she was afraid to go out to family functions as her in-laws had threatened that they would take away her son. So she never went for any family events. She had been warned and threatened by her brother-in-law that they will take away the child. Slowly she has gained strength and courage and is less afraid. But she says even now she asks her son to come straight to the house from his work and does let him go out of station on his own.

Economically, she has gone through a tough time especially when she lost her school job. The case related expenses are also a drain but she believed that she is doing this to get justice.

As she spoke, WRTI – A brought up the issue of empowerment means to be able to keep yourself safe and secure. She narrated the incident that she was being helped by an acquaintance lawyer in her case. She always went to meet him at his office to discuss the matter and would return home after business. Once the same lawyer told her that the next meeting would be at his home. WRTI – A was a little suspicious, and so instead of making an issue or not going at all – she simply asked her elder brother to accompany her to the lawyer's house. On seeing the brother along with her the lawyer was embarrassed and said he would have come to their house. Therefore, the point WRTI – A was making was that as a woman we have to be in control of ourselves and protect ourselves and being able to do that is 'empowerment'.

Despite the amazing amount of strength that WRTI – A has shown she also kept saying that it has all been possible due to everyone's support and encouragement. While this is a manner of speaking in several Indian cultures – i.e. to downplay one's achievements – it can be also interpreted as a reflection of what women have been taught – to not recognize or acknowledge one's own inner strength and power.

### Conclusion

This case undeniably presents that laws are useful for women and that women are using laws to seek justice and gender equality. The law gives strength to the woman seeking justice and conveys to her that in a democracy she has the right to be heard and creates hope for a better future for her. In this case despite the many hurdles, the woman continues her struggle and has in the process of over two decades come face to face

with many forms of gender based inequalities located in her marital home to the august judiciary.

For the woman the term was familiar but uncommon and as she elaborates she gives tentative responses initially but soon is able to add that it covers using one's own inner strength, to be able to protect one's self, to stand up to the challenges arising out of the deep rooted patriarchy.

One can therefore confirm that empowerment is both a goal and a journey for a woman and there is a need to popularize the multiple meanings to make a desired goal for each and every woman in order to substantially reduce gender inequality

As a practicing social worker, the author was introduced in the early part of her career to the concept of empowerment, by Srilata Batliwala and Vimala Ramchandran<sup>1</sup>. It has shaped her work as a community organizer, training facilitator and as an educator. Through nearly two decades of work empowerment has remained a key guiding principle for mobilizing women. Through a research study undertaken by the author, the aim is to delve deeper into the theoretical underpinnings, of the concept of empowerment from the point of view of ordinary women.

### Notes:

[1] Vimala Ramchandran was the National Director and Srilata Batliwala was the Karnataka State Director for the Mahila Samakhya program where the researcher worked for nearly 4 years immediately after post graduation. Their mentorship and guidance has been instrumental in translating the concept of empowerment which has resulted in a deep commitment to the power of the concept while working with women. It has also forced critical reflection and the search for holistic understanding of the empowerment still continues.

[2] In order to ensure confidentiality the name has been replaced with alphabets – WRTI – A : Woman using RTI – A

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