

## A WORKING WOMAN

I deem it a great privilege to have been asked to deliver a memorial lecture in honour of Dr. Sarvepalli Radhakrishnan, a teacher and a Philosopher President. I always admired him, apart from many other things, for his very generous gift of Rashtrapati Nivas, Shimla for academic work. I believe he inaugurated the Indian Institute of Advanced Study on 20th October 1965, fifty years ago.

I great previous speakers who are mostly professors. When Professor Chetan Singh suggested I deliver the 20th lecture in the golden jubilee year I was apprehensive and told him so. But he persisted and I agreed. It is always difficult to decide on a subject to speak on and though I toyed with the idea of speaking on the citizen and the constitution, I decided that 'A Working Woman' was a more appropriate subject, as this century is being referred to as the 'Women's Century'.

But who is a working woman? She has been defined variously and succinctly as a 'woman who works for wages'; another definition is 'one who labours.' This last would include all women, as they are all involved in housework and, or, looking after children and the family, which is known as domestic work. Strangely enough, when you are not paid for domestic work, you are not considered a working woman, in common parlance. But if a maid or cook or nanny or housekeeper does domestic work and is paid either in cash or in kind she is thought of as a working woman. What if you do regular unpaidvoluntary work outside the house--are you a working woman? Today most people would agree that you

are. So it would appear it is not dependent on wages. So does it mean that going to work outside the house makes you a working woman; but today many people work from the house on computers and so do women artists, writers, etc. So it would appear that it is also not dependent on working inside the home.

I think it is basically dependent on attitude. Often when you meet a woman for the first time and ask her what she does, she deprecatingly says 'I am just a Housewife'. So we now realize that in common parlance a working woman is not a person who takes care of her home, children, family, etc., if she is not paid to do it.

In older days men went to hunt and women stayed at home to cook and look after the children and when they came back tired and hungry were fed and looked after as well. Today in rural societies, apart from the housework women combine with men to work; so if men do the ploughing and harvesting, women do the planting of seedlings; if men go out to fish, it is often the women that go out to sell the fish. But in an urban society, women were expected to stay at home and do the housework and take care of everyone including the children and elderly. This kept them subservient as they were not economically independent. This suited the men as women were treated as chattel with hardly any property or other rights.

It was Gandhiji who said: 'Woman is the companion of man, gifted with equal mental capacities. She has the right to participate in the minutest details in the activities of man, and she has an equal right of freedom and liberty with him. She is entitled to a supreme place in her own sphere of activity as man is in his. This ought to be the natural condition of things and not only as a result of learning to read and write. By sheer force of a vicious custom, even the most ignorant and worthless men have been enjoying a superiority over

women which they do not deserve and ought not to have. Many of our movements stop half way because of the condition of our women.'

The first few acceptable professions that women worked in were, nursing or teaching or cooking or looking after children; and they had to combine it with their own housework. The men did not help them with it. But all the major decisions were made by men and they made it difficult for women to be educated and choose a profession they wanted. Women have had to fight for their right to work in some professions and be empowered. Women were also told that they were not capable or not meant to do these things.

I'll talk about the legal profession and my own experience as that is what I know best. It was so difficult for me to get into the profession, despite the fact that I had stood first in the whole of England in the Bar examination in 1957. When I came back to India, I had to join the chambers of a senior lawyer and apprentice with him for a year before I could practise on my own. Since I did not know anyone in the legal profession, I asked the Registrar of the Calcutta High Court to give me the name of a very competent senior barrister. He suggested Mr. Sachin Chaudhuri (who later became the Finance Minister of India). I thought that I would telephone Mr. Chaudhuri and seek an appointment. But it was impossible to get him on the line. His calls were all filtered and he obviously didn't talk to strange women. I realized that I had to find someone who would speak to him about me before I could get an appointment, but it was tedious and embarrassing to ask for a favour. Anyway, after a seemingly never-ending month filled with bouts of despondency, I was granted an interview with the great legal luminary.

I was full of fear and trepidation when I went to meet him but put on a brave and smiling expression. Despite the fact that he had some idea why I had come, he wanted to be

clear about the matter and asked me, 'Why?' in his grave and gruff manner. After I told him, he said, 'Instead of joining the legal profession, young woman, go and get married.' I replied, 'But Sir, I am already married.' 'Then go and have a child,' he advised. I responded, 'I have a child.' 'It is not fair to the child to be alone, so, young lady, you should have a second child.' I replied: 'Mr Chaudhuri, I already have two children.' Taken aback for a third time, he said, 'Then come and join my chambers, you are a persistent young woman and will do well at the Bar.'

Though Mr Chaudhuri had been so reluctant to take me on, once he had agreed, he encouraged me and helped me innumerable ways, extending a sincere hand of friendship.

I worked very hard and wanted to prove myself to be as good as a man, so I did mainstream work such as company law, income-tax law, complicated contract cases and some constitutional matters—hardly the sort of thing that would immediately warm the cockles of the heart. I consciously avoided doing women's cases, such as dowry, matrimonial and custody matters.

After a few years of practice I was sent a brief by Khaitan and Co, Solicitors in a complicated company law and income tax matter to give an opinion. In order to preserve confidentiality, it was of ten the practice not to disclose who had sought the opinion, so the brief came marked 'XYZ Co. Ltd.—Querist'. I was very anxious to establish my competence and worked very hard on the brief and gave my opinion. I did not receive the small fee marked on the brief for quite a while, and wondered what had happened.

Many months later, the solicitor who had sent me the brief came up to me at a party and said: 'I don't know whether I should tell you this, but when I sent the opinion you gave in the matter to the querist company, they were not at all happy and wanted a proper MALE opinion! They asked me why I

had taken the opinion of a woman lawyer. I replied bluntly that I had taken the opinion of a good young barrister and was not concerned about her sex.' When I heard his remark I smiled, but was also a bit apprehensive and wondered whether I had indeed given a correct opinion. He continued: 'I then sent the brief to one of the best senior lawyers for his opinion, but I also sent your opinion along with the brief. It has just come back after a great deal of time. The senior barrister has only written a short note at the end of your opinion. It consists of a single sentence. "After due deliberation, the best I can do is to endorse the opinion given".'

I was relieved and very pleased. I also realized, however, how difficult it was for a solicitor to brief us young female lawyers coming up in the profession. But the client was happy that he had an authoritative male opinion, even though he had to pay ten times as much as he paid me.

My brother, who by then had become a senior executive in Andrew Yule & Co., sought my opinion informally on one of their legal matters. When I asked him why I was not being briefed formally, he told me that the company would rather brief a male lawyer. I thought this was extremely unfair. He agreed with me, but said: 'All things being equal—fees, standing, ability and expertise—almost every company—or man, for that matter would do what we have done.' He added, 'It is only if you are Equal-Plus that you can hope to make some headway.' I realized then what I had to do.

I worked very hard, but did not make too much headway. Though I was often despondent, I never stopped trying and kept on going regularly to the High Court and attending chambers. I knew it was like having your own shop: the day you didn't open it would be the one when the lone customer or client would turn up.

When I think of the difficulties faced by me when I entered the profession, I remember the women, both in other coun-

tries and in India, who built some of the steps on which I have climbed. I think of their courage and determination and feel grateful and humble.

In 1872, Myra Bradwell in the USA was denied a licence to practise law. The argument made against her was that the 'paramount mission and destiny of women is to fulfill the noble and benign offices of wife and mother. This is the law of the Creator.' She did not give up and a few years later her efforts resulted in the US Congress passing a law in 1879 permitting women to practise before the Supreme Court.

In 1914, in the UK, it was held in *Bebb v. Law Society* that a woman could not become an attorney. Basically, the reasons adduced by Cozens Hardy, the Master of the Rolls, and two other judges were these: Lord Coke had said (three centuries earlier) that a woman could not be an attorney, and he was the authority on common law. No woman had applied or attempted to be an attorney for a long time, and usage was the foundation of common law. Finally, though the word 'person' and not 'man' had been used in the Solicitor's Act of 1843, this did not expressly remove her disability. But five years later, the Sex Disqualification Removal Act 1919 paved the way for women to practise.

In India, Regina Guha applied to the Calcutta High Court for permission to practise law in 1916, after passing her Bachelor of Law examinations. Her counsel argued before the Full Bench that the word 'person' in the Indian Legal Practitioner's Act both etymologically and logically would include a woman, especially in view of clause 13 of the General Clauses Act 1897 which provided that: 'In all Acts of the Governor-General in Council and Regulations, unless there is anything repugnant in the subject or context . . . words importing the masculine gender shall be taken to include females.' But her enrollment was refused by the judges on the ground that women were not fit for the 'hurlyburly' of the

profession and that, since no woman had ever been enrolled at the Bar, they were not willing to make an innovation.

In 1921, Sudhansu Bala Hazra applied to be enrolled as a pleader in the District Court of Patna, after obtaining a degree of Bachelor of Law from Calcutta University. She was in all respects a proper person to be enrolled unless debarred by the disability of sex. The judges referred to the judgment in Regina Guha's case and concurred with it. They said it would be repugnant to ideas of decorum to permit women to join in 'the rough and tumble of the forensic arena'.

But around the same time, the Allahabad High Court had admitted Cornelia Sorabji to practise law and this anomalous situation was pointed out to the Patna High Court. In fact, one of the judges specifically mentioned that their refusal was not an aspersion on women's intelligence as such, but that they required the legislature to intervene.

In 1922, Dr H. S. Gour moved an amendment in the legislature of the United Provinces so that women could be enrolled without any ambiguity. He made an impassioned plea for women and also stated that the Inns of Court in England had reversed their earlier stand and were admitting women. It was a matter of human rights, and not a special favour, to allow women to practise. He withdrew his amendment on the assurance that the Government of India would consult the local governments and the High Courts on the question: 'Whether women should be as eligible as men to enter upon a career as legal practitioners.' Thereafter, Act XXIII of 1923 was passed and received the assent of the Governor-General in April 1923, removing all doubts regarding women's right to be enrolled and practise. This was a little over ninety years ago.

One of the first women to practise law in the Bombay High Court was Mitham Lam. After she enrolled, she did not get any work. After a while, she received a brief from a solicitor;

she was pleased but surprised. When she asked him why he had briefed her, he told her that his client had a case that he could not possibly lose. But he wanted his opponents to be further humiliated by the insult of losing to a woman.

Much has changed since then. There are many more women practicing law now, and I am told that at some of the law schools there are more female students than male. But even when women do well at their studies, when they come to the workplace they are less confident and more fearful. This is because of the years of indoctrination that male opinions are better.

At the time of present writing—2015—there have been several women Chief Justices of High Courts. There have been six women on the Supreme Court bench. But it is interesting to note that there has, more or less, been only one woman at any given time on the Supreme Court. I wonder how a male judge would feel and behave if he were the sole man among thirty women judges.

A woman needs to feel empowered and as good as a man and this can only happen when women are treated equally and paid equal remuneration for the same work as a man. Sheryl Sandberg the Chief Operating Officer (COO) of Facebook, relates an incident in her book *Lean In* of a woman economist being hired by the Standard Oil Company. When she accepted the job, her boss said to her, 'I am so glad to have you. I figure I am getting the same brains for less money.' She was flattered by the compliment but did not dare to ask for the same remuneration.

Women have to remove the road block from their path both mentally and physically to become self confident to succeed. As Eleanor Roosevelt said, 'No one can make you feel inferior without your permission.' But the reality is that it is still men who are running the world and this is more than apparent in India.



Take the case of Bhanwari Devi. She was a sathin (grass-roots worker) in a village called Bhateri working under the Women's Development Programme of the Rajasthan government. She carried out a vigorous campaign against the evil of child marriage and prevented the marriage of a one-year-old girl. Consequently in 1992 she was allegedly gang-raped.

At the trial, it was asserted that not only was Bhanwari Devi raped in order to satiate the lust of a few men, but also that humiliation was inflicted upon her because of her campaign against child marriage, which went against the feudal set-up. But the District and Sessions judge, Jaipur, acquitted the accused on the grounds that they were middle-aged men of good social status and well placed in the caste hierarchy and therefore incapable of wishing to rape a lower caste woman.

I am told that after the rape it had been suggested to Bhanwari Devi that she leave the village. However, she said, 'I have not done anything wrong and I will continue to stay in Bhateri.' She was socially boycotted and her community ostracized her; her in-laws and neighbours despised her and called her a shame to the village as if it were she who had committed a crime. A lesser woman would have given up but she fought it out. During her in camera trial, she had to testify in front of seventeen men. It was virtually a re-enactment of the rape. She went through hell and even after the unjust judgment she was not ready to give up. She said, 'I will continue my fight till I get justice... How can I ask people to fight for justice when I am unable to get justice from the state even though I am a government servant?'

And while justice has eluded Bhanwari Devi, her courage has not been in vain. Following this case, the Vishakha Guidelines came into effect in 1997 (through a public interest litigation filed in the Supreme Court) and more recently the Sexual Harassment of Women at Workplace (Prevention,

Prohibition and Redressal) Act, 2013 was also passed; this, as its title implies, seeks to protect women from sexual harassment at the workplace and creates a mechanism for the redressal of complaints.

Though a law has been passed, how do we ensure that women feel safe and are comfortable at the workplace? How do we change mindsets and get men to respect women? In this connection it is important to have many more women at work and in positions of power and decision making. This will naturally take some time. But in the immediate future it is for men to appreciate the work women do and not discriminate against them for promotions. It is often said that men are promoted for their potential, but women are promoted only on the basis of work done. It is also necessary to ensure that women get equal pay for equal work. Apart from this it is essential to make sure that there are proper toilets for women and crèches for children at the workplace.

Most women combine work and family and somehow it is taken for granted that women are solely responsible for taking care of the children and the household. Men must share this responsibility otherwise working women have a dual burden to carry. While trying to balance a successful career and a good family life, I remember my own sense of guilt when a friend of mine told me what my young son Vikram had said when she chatted with him. She had stated, 'It must be wonderful to have such an intelligent mother' and he retorted, 'I do not care how intelligent she is, she is never here when I want her'.

It made me introspect and I wondered whether I should give up my legal career. Was I failing my children? I wondered how to find more time. I had prided myself on giving as much concentrated and attentive time to him as I could, and especially on inculcating in him my love of English language and literature. But obviously that wasn't enough, something was

lacking. How was I to create that fine balance between my career, my obligations as a wife and my duties as a mother, so that none suffered? Should I give up my legal work?

The answer to my doubts appeared soon after. One day when Vikram and I were having a serious conversation about poverty and its problems in and around Patna, he turned to me and said, 'Mama, I am so glad that you work and use your mind and don't talk to me only about the price of onions and the stupidity of servants.'

Men have to be more supportive of women and give them space to grow and develop their potential and self worth. I endorse what has been stated in Lean In: 'A truly equal world would be one where women ran half our countries and companies and men ran half our homes'.

Some women have to work because of financial necessity, some because they want a better standard of living and some because it gives them a sense of independent identity; but there are many who would rather stay at home and take care of the family; to each her own way. But it is important to have the education and skill in case she wants a career at a later stage in life. One must have the freedom to choose and the right to excel.

According to me every woman is a working woman. The poorer woman who lives in a rural society, often has to walk miles to get water and firewood. In an urban set up, she is often the first to rise and get the children ready for school and cook the food to be eaten or taken by them and her husband to school or work. She has to wash the clothes and keep the place clean and do numerous domestic chores and be ready to take care of and feed her family when they return. She often has to take care of a small baby and look after an elderly relative as well. She is not paid anything for her hard work and often it is not even acknowledged as work by her family and others, nor is she helped by her men folk. That is why she says deprecatingly 'I am just a housewife'.

Women are constantly being told that their only role is that of a wife and a mother and that they are not fit for certain professions. This is not true. They can at the same time be a wife, a mother, a sister, a daughter and a professional woman---and succeed in each of these roles.

In a sense, every woman is a working woman and holds up half the sky.