

## **WOMEN'S RIGHT AND THE INDIAN CONSTITUTION – A STUDY**

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### **ABSTRACT**

Women fulfill multiple roles in society, serving as the family's breadwinner, caretaker, mother, wife, daughter, and providing services to the community. Although women's contributions to the nation's development are equal to those of men, they still face several limitations that hinder their ability to realize their potential for growth. Against this backdrop, governments globally recognized the necessity to prioritize women's interests and their involvement at each stage of the development process.

**Keywords**— Women Empowerment, Legal Provisions, Indian Constitution, Women rights, Indian Penal Code.

### **INTRODUCTION**

Women became a separate interest group in the 19th century mainly due to the bourgeois democratic revolutions of the 17th and 18th centuries that marginalized women from their notion of equality. This difference was founded on gender. Since that time, women collectively have fought for the acknowledgment of their rights as human beings.

Women in ancient India held equal status to men in every area of life. Rigvedic hymns indicate that women wedded at a grown age and likely had the freedom to choose their husbands. During the early Vedic era, women had equal rights and status.

The Bhakti movements aimed to elevate women's status and challenged various forms of oppression. Practices like Sati, Jauhar, and Devadasi in certain communities have been prohibited and are mostly obsolete in contemporary India. Throughout the British Raj, numerous reformers like Ram Mohan Roy, Ishwar Chandra Vidyasagar, and Jyotirao Phule advocated for the improvement of women's conditions. In 1917, the initial women's delegation encountered the Secretary of State to advocate for women's political rights, backed by the Indian National Congress.

The All India Women's Education Conference took place in Pune in 1927, becoming a significant organization in the quest for social reform. The Child Marriage Restraint Act was enacted in 1929, establishing fourteen as the minimum age for a girl to marry. Although Mahatma Gandhi married at thirteen, he later advocated for the rejection of child marriages and encouraged young men to marry widowed children.

Women in India are now actively involved in various fields like education, sports, politics, media, arts and culture, service industries, science, and technology. Indira Gandhi, who held the position of Prime Minister of India for a total of fifteen years, remains the longest-serving female Prime Minister globally.

The Constitution of India provides equality to women and also enables the State to implement positive discrimination measures in favor of women to counteract the cumulative socio-economic, educational, and political disadvantages they encounter. Fundamental Rights, among other things, guarantee equality in the eyes of the law and equal legal protection; forbids discrimination against any individual based on religion, race, caste, gender, or

birthplace, and ensures equal opportunity for all citizens concerning employment matters. Articles 14, 15, 15(3), 16, 39(a), 39(b), 39(c), and 42 of the Constitution hold particular significance in this context



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## CONSTITUTIONAL PROVISIONS

The Constitution of India not only ensures equality for women but also gives the State the authority to implement positive discrimination measures that address the cumulative socio-economic, educational, and political disadvantages they encounter.

Fundamental Rights, among other things, guarantee equality under the law and equal legal protection; forbid discrimination against any individual based on religion, race, caste, gender, or birthplace, and ensure equal job opportunities for all citizens. Articles 14, 15, 15(3), 16, 39(a), 39(b), 39(c), and 42 of the Constitution hold particular significance in this respect.

Numerous measures have been established via the constitution to guarantee dignity and self-respect for women overall. As previously stated, Dr. B. R. Ambedkar, the creator of the Indian Constitution, (The constitutional and legal rights of women; Judith A. Baer, Leslie Friedman Goldstein...2005) ensured that the Indian Constitution protects women's social and legal rights.

### Constitutional Provisions for women in India

No	Articles	Description
1.	Article 14	Equality before Law
2.	Article 15(1)	Prohibition of discrimination, religion, race, caste, sex or place of birth.
3.	Article 15(3)	The state is empowered to make any special provision for women.
4.	Article 15(4)	Special arrangements for promoting socially and educationally backward class.
5.	Article 16(2)	Equality of opportunity for all citizens employment or appointment to any office under the state.
6.	Article 19	Every citizen has Freedom of speech and expression
7.	Article 19(1)	Right to information
8.	Article 21	Protection of life and personal liberty
9.	Article 21(A)	Right to Education.
10.	Article 23(1)	Traffic in human beings and forced labour are prohibited.
11.	Article 39(A)	The state to secure for men to women equally the right to an adequate means of

**1. Article 14:-** Article 14 of constitution of India ensures equality before the law or the equal protection of the laws within the territory of India. This is a very important provision which

provides equal legal protection to women against any women based crime. This provision also paves way for the introduction of various laws and acts to ensure protection and enforcement of legal rights of women in India.

**2. Article 15:-** Article 15 of constitution of India ensures that no one should create any sort of discrimination only on the grounds of religion, race, caste, sex or place of birth or any of them within the territory of India. At the time of Independence there was lots of discrimination in India against women which gradually abolished after introduction of article 15. As per article 15(3) of the constitution(Chalam ) state has the authority to make any special provision for women and children.

**3. Article 16:-** Article 16 of constitution of India ensures equal employment opportunity to every citizen of India. As per article 16 (The constitutional rights of women:cases in law and social changes;1992) there should not be any discrimination in respect of employment opportunity under the State only on grounds of religion, race, caste, sex, descent, and place of birth, residence or any of them. Now we can see women are doing really good work in politics and in corporate sector. Presently they are holding responsible positions in Government and Government run institutions. Let me share few good names from political and corporate field. These names are Chanda kochhar, Indira nooyi, Sonia Gandhi, Sushma Swaraj and this never ending list goes on.

**4. Article 39:-** Article 39 of constitution of India ensures the benefit of the directive principles of state policy to the women. Directive principles of state policy mean guiding principles for the framing of laws by the government at state level. Article 39(a) of directive principles of state policy ensures and directs a state to apply policies which focus on a men and women have an equal right of adequate means of livelihood and article 39(c) ensures equal pay for equal work for both men and women.

**5. Article 42:-** Article 42 of constitution of India caste a duty on every employer to ensure just and humane conditions of work and for maternity relief. In reality the position and treatment of women in corporate offices is really bad and in fact they are exploited by their seniors and bosses. In this scenario the provisions of article 42 are very important and now it is duty of employer to provide good working conditions to all the employees.

**6. Article 243:-** Article 243 of constitution of India ensures reservation of seats in gram panchayat for women. This opportunity of being a part of local level arbitration process<sup>3</sup> has improved the social conditions of women in village areas. These are few rights which are given by our constitution to the Indian women in order to ensure their dignity and social respect. Further to protect these constitutional rights there are numerous legal steps that have been taken by the state Governments which we will discuss in detail through this article.

## **LEGAL PROVISIONS**

To uphold the Constitutional mandate, the State has enacted various legislative measures intended to ensure equal rights, to counter social discrimination and various forms of violence and atrocities and to provide support services especially to working women.

Although women may be victims of any of the crimes such as Murder, Robbery, Cheating etc, the crimes, which are directed specifically against women, are characterized as Crime against Women. These are broadly classified under two categories.

## **LEGAL STATUS OF WOMEN IN INDIA**

After Independence there was have to acquaint some statutory laws with guarantee wellbeing and assurance of women. Keeping in see this prerequisite, much the same as established arrangements, different parliamentary advances have likewise been taken by the law of India with a specific end goal to guarantee stately life to the Indian Women. Parliamentary advances implies and incorporates the authorisation of different laws and statutory acts to secure the enthusiasm of ladies and to stop the wrongdoing against women.

### **(a). Acid throwing**

Women belonging to any class, caste, creed or religion can be victims of this cruel form of violence and disfigurement, a premeditated crime intended to kill or maim permanently and act as a lesson to put a woman in her place. In India, acid attacks on women who dared to refuse a man's proposal of marriage or asked for a divorce are a form of revenge. Acid is cheap, easily available, and the quickest way to destroy a woman's life. The number of acid attacks has been rising.

### **(b). Child marriage**

Child marriage has been traditionally prevalent in India but is not so continued in Modern India to this day. Historically, child brides would live with their parents until they reached puberty. In the past, child widows were condemned to a life of great agony, shaved heads, living in isolation, and being shunned by society. Although child marriage was outlawed in 1860, it is still a common practice. The Child Marriage Restraint Act, 1929 is the relevant legislation in the country.

### **(c). Dowry**

In 1961, the Government of India passed the Dowry Prohibition Act, making dowry demands in wedding arrangements illegal. However, many cases of dowry-related domestic violence, suicides and murders have been reported. In the 1980s, numerous such cases were reported.

In 1985, the Dowry Prohibition (maintenance of lists of presents to the bride and bridegroom) Rules were framed. According to these rules, a signed list should be maintained of presents given at the time of the marriage to the bride and the bridegroom. The list should contain a brief description of each present, its approximate value, the name of who has given the present, and relationship to the recipient. However, such rules are rarely enforced.

### **(d). Female infanticide and sex-selective abortion**

Ultrasound scanning constitutes a major leap forward in providing for the care of mother and baby, and with scanners becoming portable, these advantages have spread to rural populations. However, ultrasound scans often reveal the sex of the baby, allowing pregnant women to decide to abort female foetuses and try again later for a male child. This practice is usually considered the main reason for the change in the ratio of male to female children being born.

In 1994 the Indian government passed a law forbidding women or their families from asking about the sex of the baby after an ultrasound scan (or any other test which would yield that information) and also expressly forbade doctors or any other persons from providing that information. In practice this law (like the law forbidding dowries) is widely ignored, and levels of abortion on female foetuses remain high and the sex ratio at birth keeps getting more skewed.

### **(e). Honor killings**

Honor killings have been reported in northern regions of India, mainly in the Indian states of Punjab, Rajasthan, Haryana and Uttar Pradesh, as a result of the girl marrying without the family's acceptance, and sometimes for marrying outside her caste or religion. Haryana is notorious for incidents of honor killings, which have been described as "chillingly common in villages of Haryana". In contrast, honor killings are rare to non-existent in South India and the western Indian states of Maharashtra and Gujarat. In some other parts of India, notably West Bengal, honor killings completely ceased about a century ago, largely due to the activism and influence of reformists such

as Vivekananda, Ramakrishna, Vidyasagar and Raja Ram Mohan Roy.

### **(f). Accusations of witchcraft**

Violence against women related to accusations of witchcraft occurs in India, particularly in parts of Northern India. Belief in the supernatural among the Indian population is strong, and lynching's for witchcraft are reported by the media. In Assam and West Bengal between 2003 and 2008 there were around 750 deaths related to accusations of witchcraft. Officials in the state of Chhattisgarh reported in 2008 that at least 100 women are maltreated annually as suspected witches.

### **(g). Rape**

"Sexual intercourse or sexual acts by a man with his own wife, the wife not being under fifteen years of age, is not rape". While per-capita reported incidents are quite low compared to other countries, even developed countries, a new case is reported every 20 minutes. New Delhi has one of the highest rate of rape-reports among Indian cities. Sources show that rape cases in India have doubled between 1990 and 2008.

### **(h). Sexual harassment**

Eve teasing is a euphemism used for sexual harassment or molestation of women by men. Many activists blame the rising incidence of sexual harassment against women on the influence of "Western culture". In 1987, The Indecent Representation of Women (Prohibition) Act was passed to prohibit indecent representation of women through advertisements or in publications, writings, paintings or in any other manner.

According to a report from Human Rights Watch, despite women increasingly denunciate sexual harassment at work, they still face stigma and fear retribution as the governments promote, establish and monitor complaint committees. As South Asia director at Human Rights Watch explained, "India has progressive laws to protect women from sexual abuse by bosses, colleagues, and clients, but has failed to take basic steps to enforce these laws".

### **(i). Domestic violence**

In India, domestic violence toward women is considered as any type of abuse that can be considered a threat; it can also be physical, psychological, or sexual abuse to any current or former partner. Domestic violence is not handled as a crime or complaint, it is seen more as a private or family matter. In determining the category of a complaint, it is based on caste, class, religious bias and race which also determines whether action is to be taken or not. Many studies have reported about the prevalence of the violence and have taken a criminal-justice approach, but most woman refuse to report it. These women are guaranteed constitutional justice, dignity and equality but continue to refuse based on their sociocultural

contexts. As the women refuse to speak of the violence and find help, they are also not receiving the proper treatment.

**(j). Exploitation at work place:-**

Though we as a whole acknowledge reality that in this day and age ladies has left her picture of house spouse and substantiated herself as a superior director then a man. In all divisions ladies are buckling down and getting honors and rewards for that. She has crossed every one of the limits and close the mouth of each one of those people groups who has ever scrutinized her working bore.

**(k). Trafficking and Prostitution :-**

**(i). Trafficking :** Implies import and fare of people for sex business. It is for sure extremely tragic to discover that in India, where ladies are perceived as Devi and implored by all Indian's as Devi Shakti, they are additionally regarded as a wellspring of procuring by deceptive.

**(ii). Prostitution:** It is one of the most concerning issues in this world which is harming the ladies from various perspectives. By and large, the term prostitution implies offer of sexual administrations for acquiring cash.

**(l). Eve teasing: -**

It is a general observation that eve prodding is certainly not a major wrongdoing like assault or kill and might be a direct result of that we don't consider it important. Yet, from a ladies' perspective eve prodding is likewise a major wrongdoing as this action makes her vibe awkward the greater part of the circumstances

**The Crimes identified under the Special Laws (SLL)**

Although all laws are not gender specific, the provisions of law affecting women significantly have been reviewed periodically and amendments carried out to keep pace with the emerging requirements. Some acts which have special provisions to safeguard women and their interests are:

- ❖ The Employees State Insurance Act, 1948
- ❖ The Plantation Labour Act, 1951
- ❖ The Family Courts Act, 1954
- ❖ The Special Marriage Act, 1954
- ❖ The Hindu Marriage Act, 1955
- ❖ The Hindu Succession Act, 1956 with amendment in 2005
- ❖ Immoral Traffic (Prevention) Act, 1956
- ❖ The Maternity Benefit Act, 1961 (Amended in 1995)
- ❖ Dowry Prohibition Act, 1961
- ❖ The Medical Termination of Pregnancy Act, 1971
- ❖ The Contract Labour (Regulation and Abolition) Act, 1976
- ❖ The Equal Remuneration Act, 1976
- ❖ The Prohibition of Child Marriage Act, 2006

- ❖ The Criminal Law (Amendment) Act, 1983
- ❖ The Factories (Amendment) Act, 1986
- ❖ Indecent Representation of Women (Prohibition) Act, 1986
- ❖ Commission of Sati (Prevention) Act, 1987
- ❖ The Protection of Women from Domestic Violence Act, 2005

### **Special Initiatives For Women**

#### **(i) National Commission for Women**

In January 1992, the Government set-up this statutory body with a specific mandate to study and monitor all matters relating to the constitutional and legal safeguards provided for women, review the existing legislation to suggest amendments wherever necessary, etc.

#### **(ii) Reservation for Women in Local Self -Government**

The 73rd Constitutional Amendment Acts passed in 1992 by Parliament ensure one-third of the total seats for women in all elected offices in local bodies whether in rural areas or urban areas.

#### **(iii) The National Plan of Action for the Girl Child (1991-2000)**

The plan of Action is to ensure survival, protection and development of the girl child with the ultimate objective of building up a better future for the girl child.

#### **(iv) National Policy for the Empowerment of Women, 2001**

The Department of Women & Child Development in the Ministry of Human Resource Development has prepared a National Policy for the Empowerment of Women in the year 2001. The goal of this policy is to bring about the advancement, development and empowerment of women.

### **CONCLUSION**

Since the Fifth Five Year Plan (1974-78), there has been a significant change in the focus on women's issues from welfare to development. In recent years, the empowerment of women has emerged as the key factor in defining women's status. The National Commission for Women was established through an Act of Parliament in 1990 to protect the rights and legal rights of women. The 73rd and 74th Amendments (1993) to the Constitution of India established a reservation of seats for women in the local bodies of Panchayats and Municipalities, thereby creating a solid basis for their involvement in decision-making at local levels.

India has ratified several international treaties and human rights agreements committed to ensuring equal rights for women. A major highlight is the approval of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1993. The women's movement and an extensive network of non-governmental organizations with a robust grassroots presence and a thorough understanding of women's issues have played a key role in fostering initiatives aimed at women's empowerment. Nevertheless, a significant disparity persists between the objectives outlined in the Constitution, laws, policies, strategies, initiatives, and corresponding frameworks on one side and the actual circumstances regarding the status of women in India, on the other.

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