

# Constituional and Legal Provisions for Women in India

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### Abstract

Human rights are a necessary aspect of the idea of human respect which are ensured by various arrangements of the Constitution of India. It is an unforgiving reality that women have been abused in each general public for a very long time and India isn't an exemption to this all inclusive issue. Women are denied of financial assets and are reliant on men for their living. Her overall status in the family and in the general public has been low and unrecognized. Indian legal executive has been exceptionally delicate to women and women related issues. The zenith court checked out releasing its lawful and established commitments and shielding the enthusiasm of women in changing circumstance and cultural requests. Sacred arrangements, different laws and decisions of courts have made their own commitment to the reason for sexual orientation equity. It perceives women as a class without anyone else and licenses order of laws and reservations preferring them. It is understood that regardless of the sacred shield and the dynamic legal help towards the reason for women, changes in social perspectives and foundations can't be achieved quickly. Laws written in high contrast are insufficient to battle the wickedness. The function of Courts and judges accept more prominent significance and it is normal that the Courts would manage cases identifying with woman in a more reasonable way. In this paper we will talk about the significant lawful arrangements for women strengthening in India.

**Keywords:** Women Empowerment, Legal Provisions, Legislative Initiatives, Indian Constitution, Women Rights, Penal Codes.

### Introduction

Women empowerment in simple words are often understood as giving power to women to make a decision for his or her own lives or inculcating such abilities within the women in order that they might be ready to find their rightful place in the society.

According to the United Nations, women's empowerment mainly has five components:

1. Generating women's sense of self-worth;
2. Women's right to have and to determine their choices;
3. Women's right to have access to equal opportunities and all kinds of resources;
4. Women's right to have the power to regulate and control their own lives, within and outside the home; and
5. Women's ability to contribute in creating a more just social and economic order.

Thus, women empowerment is nothing but recognition of women's basic human rights and creating an environment where they're treated as equals to men.

### Historical background

It is a harsh reality that women are ill-treated in every society for ages and India isn't an exception to the present universal problem. The irony lies within the incontrovertible fact that in our country where women are worshiped as 'Shakti', the atrocities are committed against her altogether sections of life. She is being looked down as commodity or as a slave, she isn't only robbed of her dignity and pride outside her house, but she also faces ill-treatment and other atrocities within the four walls of her house also. The women are being considered as an object of male sexual enjoyment and reproduction of youngsters. Women are bereft of economic resources and are hooked into men for his or her living. Woman's works are often confined to the domestic sphere; she has got to do all household works, which aren't recognized and unpaid. In times many

Women are beginning to figure but have got to shoulder double responsibility, one she has got to work where she is used and secondly she also has got to do all the house hold works, moreover, she is the last to be considered and first to be fired as she is taken into account to be less productive than her counterpart. Her general status within the family and within society has been low and unrecognized. From ancient to modern period, women's condition-socially, politically and economically has not remained the same, and it kept changing with times. In ancient India, women were having equal status with men; in Early Vedic Period they were very educated and there are references of girls sages like Maitrayi in our ancient texts. But with the approaching of famous treatise of Manu i.e. Manusmriti, the status of girls was relegated to a subordinate position to men. All types of discriminatory practices began to take form like child marriage, devadashpratha, nagarvadh system, sati pratha etc.

Women's socio political rights were curtailed and that they were made fully dependent upon the male members of family. Their right to education, right to figure, and right to make a decision for themselves were removed.

During medieval period the condition of women got worsened with the advent of Muslim rulers in India; as also during the British period. But the British rule also brought western ideas into the country.

A couple of edified Indians, for example, Raja Ram Mohan Roy impacted by the advanced idea of opportunity, freedom, uniformity and equity began to scrutinize the predominant biased practices against women. Through his unwavering endeavors, the British had to cancel the evil act of Sati. Additionally a few other social reformers, for example, Ishwar Chandra Vidyasagar, Swami Vivekananda, Acharya Vinoba Bhave and so forth worked for the upliftment of women in India. For example, the Widow Remarriage Act of 1856 was the consequence of Ishwar Chandra Vidyasagar's development for improving the states of widows. Indian National Congress supported the primary women's delegation which met the Secretary of State to demand women's political rights in 1917.

The Child Marriage Restraint Act in 1929 was passed thanks to the efforts of Mohammad Ali Jinnah, Gandhi called upon the young men to marry the kid widows and urged people to boycott child marriages.

During opportunity development, practically all the heads of the battle were of the view that women ought to be given equivalent status in the free India and a wide range of prejudicial practices must stop. Furthermore, for that to occur, it was thought fit to remember such arrangements for the Constitution of India which would help dispose old enough old exploitative traditions and conventions and furthermore such arrangements which would help in engaging women socially, monetarily and strategically.

### **Research problem**

Constitutional and Legal Provisions for women in India.

### **Hypothesis**

The constitutional Provisions hasn't been efficient in protecting women's right and empowerment of women.

### **Objectives**

1. To study about the growth of Women Empowerment.
2. To study the various constitutional provisions for and in favour of Women Empowerment.
3. To analyse the legislative initiatives towards empowerment of the women in India.

### **Research methodology**

The methodology adopted for conducting the proposed research is a Doctrinal Research method. Doctrinal Research in law field indicates arranging, ordering and analysis of the legal framework, legal structure and case laws to search out the new things by extensive surveying of legal literature but without any field work.

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

Constitution of India has completed a fantastic process in making sure gender justice with inside the very best regulation of the country. Several articles in our Constitution make explicit provision for affirmative movement in prefer of women. It prohibits all varieties of discrimination towards women and lays a carpet for securing identical possibility to women in all walks of life, consisting of education, employment and participation. The dedication to gender equality is properly entrenched at the very best coverage making stage with inside the Constitution of India. The preamble to the Constitution, assures justice, social economic and political, equality of status and opportunity and dignity of the individual. It recognizes women as a category by itself and permits enactment of laws and reservations favoring them.

### **Preamble**

The Preamble to the Constitution of India guarantees equity, social, monetary and political; correspondence of status and opportunity and pride to the person. In this way it treats the two people equivalent.

A couple of significant arrangements for women are referenced underneath in a word.

### **Fundamental Rights**

The approach of women strengthening is very much dug in the Fundamental Rights revered in our Constitution. For example:

1. Article 14 – guarantees to women the privilege to uniformity.
2. Article 15(1) – explicitly restricts segregation based on sex.
3. Article 15(3) – enables the State to take confirmed activities for women.
4. Article 16 – accommodates equity of chance for all residents in issues identifying with business or arrangement to any office.
5. Article 39 (a) – The state will coordinate its strategy towards making sure about all residents people similarly the privilege to methods for vocation

6. Article 39 (d) – Equal compensation for equivalent work for the two people
7. Article 42 – Directs the state to guarantee arrangements for just and accommodating state of work and maternity help.
8. Article 46 – The state to advance with unique consideration the instructive and financial interests of the more fragile areas of individuals and to shield them from social shamefulness and all types of misuse
9. Article 47 – The state to raise the degree of sustenance and the way of life of its kin and the improvement of general well being
10. Article 51 (A) (e) – Mandates each resident to deny rehearses deprecatory to the respect of women.
11. Article 243D (3) – Not short of what 33% (counting the quantity of seats saved for women having a place with the timetable standings and the timetable clans) of the complete number of seats to be filled by direct political decision in each Panchayat to be saved for ladies and such seats to be apportioned by turn to various bodies electorate in a Panchayat
12. Article 243D (4) – Not short of what 33% of the complete number of workplaces of Chairpersons in the Panchayats at each level to be held for women.

These rights being fundamental rights are legitimate in court and the Government is obliged to follow the equivalent.

#### **Fundamental Duties**

Fundamental obligations are revered in Part IV-An of the Constitution and are positive obligations for the individuals of India to follow. It additionally contains an obligation identified with woman's privileges:

1. Article 51 (A) (e)- anticipates from the resident of the nation to advance concordance and the soul of basic fraternity among all the individuals of India and to disavow rehearses unfavorable to the poise of women.

#### **Other Constitutional Provisions**

Through 73rd and 74th Constitutional Amendment of 1993, a really important political right has been given to women which may be a landmark within the direction of girls empowerment in India. With this amendment women got 33.33 percent reservation in seats at different levels of elections in local governance i.e. at Panchayat, Block and Municipality elections.

Thus it are often seen that these Constitutional provisions are very empowering for ladies and therefore the State is duty sure to apply these principles in taking policy decisions also as in enacting laws.

#### **Legislative initiatives towards empowerment of women in india**

In India there are numerous laws aimed at empowerment of women in the areas of personal, labor, service and criminal and social economic matters. The Fundamental Law of the land namely Constitution of India guarantees equality for women. It would be proper to refer to some of the most

important Legislation pertaining to empowerment of women and these are as follows:

#### **Constitution of India, 1950**

The Constitution of India ensures correspondence to women as well as engages the State to embrace measures to positive segregation for ladies. The rule of sexual orientation fairness is cherished in the Indian Constitution in its Preamble, Fundamental Rights, Fundamental Duties and Directive Principles. Article 14 of the Constitution of India guarantees equality before law. Article 15 prohibits discrimination on the grounds of sex. Article 16 states about equality of opportunity for all citizens in matters relating to employment. The 73rd and 74th amendments to the Constitution of India provided for reservation of seats (at least 1/3) in the local bodies of Panchayats and Municipalities for women. Another Constitution Amendment (108th Constitution Amendment) reserving 33 per cent in Parliament and State Legislature is in the pipeline.

#### **Indian Penal Code, 1860**

1. Sections 292, 293 and 294 accommodate discipline in deal and display of vulgar books protests and for profane act openly place.
2. Section 304(b) bargains about homicide of women regarding request of share.
3. Sections 312 to 318 deals about discipline for causing unnatural birth cycle.
4. Section 354 gives discipline to offending the humility of any woman,
5. Section 366 deals about capturing for marriage without wanting to.
6. Section 366-An deals about procurement of minor young women for sexual reason.
7. Section 376 arrangements about discipline for assault.
8. Section 494 shields women from polygamy.
9. Section 497 deals about insurance of wedded women from infidelity.
10. Section 498-bargains about exposing women to pitilessness by her better half or family members and her significant other
11. Section 509 gives discipline to expressing words and motion or act expected to affront the unobtrusiveness of a woman.

#### **Code of Criminal Procedure, 1973**

Under Section 125, Code of Criminal Procedure, a woman has got right to maintenance.

#### **Indian Evidence Act, 1872**

Sections 113(a), 113(b) and 114(c) provide for presumptions as to abetment of suicide by a married woman within 7 years of marriage, as dowry death of a woman and as to absence of consent of woman for sexual intercourse.

#### **Hindu Adoption Maintenance Act, 1956**

Section 18-A provides for obligations of husband to maintain his wife. Section 18(2) provides right of wife to live separately and Section 19 provides for maintenance of widow by her father-in-law.

#### **Hindu Succession Act, 1956**

Section 14 of the Act provides for property of female Hindu to be her absolute property. Section 23 provides right of female legal heirs in the dwelling house.

**The Hindu Minority and Guardianship Act, 1956**

Section 6 of the Act provides for mother as a natural guardian for minors below 5 years.

The Hindu Marriage Act, 1955

1. Section 13(2) of the Act provides for wife to present a petition for divorce.
2. Section 13(b) provides equal right for wife for getting divorce by mutual consent.
3. Section 24 of the Act provides for relief for interim maintenance and expenses.
4. Section 25 of the Act provides for right to a wife to seek permanent alimony and maintenance.
5. Section 26 of the Act provides right to claim custody of children.

**The Dowry Prohibition Act, 1961**

Under the provisions of this Act demand of dowry either before marriage, during marriage and or after the marriage is an offence.

**The Muslim Women (Protection of Right on Divorce) Act, 1986**

Under the provisions of the Act provides for maintenance of women by the relatives after the iddat period.

**The Factories Act, 1948**

The provisions of this Act provides for health, safety, welfare and working hours for women laborers working in factories.

Jawaharlal Nehru once said "you can tell the condition of a nation by looking at the status of its women".

The financial status of women in the public eye can be taken as the measuring stick for estimating the degree of progress and improvement of a country. The strengthening, equity and self-sufficiency of women are universally perceived as a key factor for all round development and improvement of a general public. In the tale of a formative cycle; women strengthening involves highest need women strengthening and human advancement go connected at the hip. Dr. A. P. J. Kalam believed that strengthening of women is basic as their worth frameworks lead to the improvement of a decent family, great society and at last a decent country.

Aside from the previously mentioned legitimate and established arrangements the Government of India has set up few special initiatives for the security and strengthening of women:

1. **National Commission for Women** is a statutory body of the Government of India, generally concerned with advising the government on all policy matters affecting women. It was established in January 1992 under the provisions of the Indian Constitution, as defined in the 1990 National Commission for Women Act. The objective of the NCW is to represent the rights of women in India and to provide a voice for their issues and concerns. The subjects of their campaigns have included dowry, discussed politics, religion, equal representation for women in jobs, and the exploitation of women for labour. They have also police abuses against women. The commission regularly publishes a monthly newsletter, Rashtra Mahilain both Hindi and English.

**2. Reservation for Women in Local**

The 73rd Constitutional Amendment Acts passed in 1992 by Parliament guarantee 33% of the all out seats for women in totally chose workplaces in nearby bodies whether in provincial zones or metropolitan zones.

**The National Plan of Action for the Girl Child** for 1991-2000, is an extraordinarily figured activity plan by the Government of India to ensure and advance the Girl Child. This arrangement looks to forestall female feticide and child murder, dispose of sexual orientation segregation, give safe drinking water and grain close to homes, restore and shield young women from misuse, attack and misuse.

**National Policy for the Empowerment of girls , 2001**

The Department of girls & Child Development within the Ministry of Human Resource Development has prepared a "National Policy for the Empowerment of Women" within the year 2001.

The goal of this Policy is to cause the advancement, development and empowerment of women. The Policy are getting to be widely disseminated so on encourage active participation of all stakeholders for achieving its goals.

**The specific objectives of the policy are as follows**

1. Creation of an environment through positive economic and social policies for full development of girls to enable them to understand their full potential.
2. Creation of an environment for enjoyments of all human rights and fundamental freedom by women on equal basis with men altogether political, economic, social, cultural and civil spheres.
3. Providing equal access to participation and deciding of girls in social political and economic lifetime of the state .
4. Providing equal access to women to health care, quality education within the least levels, career and vocational guidance, employment, equal remuneration, occupational health and safety, Social Security and public life etc.
5. Strengthening legal systems aimed toward elimination of all sorts of discrimination against women.
6. Changing societal attitudes and community practices by active participation and involvement of both men and women.
7. Mainstreaming a gender perspective within the development process.
8. Elimination of discrimination and each one kinds of violence against women and thus the girl.
9. Building and strengthening partnerships with civil society, particularly women's organizations.

Various schemes of the Ministry are like Swashakti, Swayamsidha, STEP and Swawlamban enable economic empowerment. Working Women Hostels and Crèches provide support services. Swadhar and Short Stay Homes provide protection and rehabilitation to women in difficult circumstances.

The Ministry also supports autonomous bodies like National Commission, Central Social Welfare Board and Rashtriya Mahila Kosh which work

for the welfare and development of women. Economic sustenance of women through skill development, education and access to credit and marketing is also one of the areas where the Ministry has special focus.

The stalwarts who led India to its independence were aware that if the new India of their dreams was to become a reality and not remain only a figment of imagination, it would need social engineering on a massive scale, in respect of the backward and oppressed sections of the society and above all, its women Swami Vivekananda had aptly remarked: "Just as a bird could not fly with one wing only, a nation would not march forward if the women are left behind."

Being aware of the need of the time, the composers and establishing fathers of our 'sympathetic' Constitution joined certain consecrated beliefs as thorough rights for women to transform the theoretical goals into a solid structure, which would empower the upliftment of the status of women in the male: ruled closed-minded society.

The crucial question that arises for deliberation is: Have the women been able to reap the benefits provided for them under the Constitution of India? The answer, unfortunately, is not encouraging.

There is still a long way to go to achieve the goals enshrined in the Constitution. It is realized that despite the constitutional safeguard and the active judicial support towards the cause of women, changes in social attitudes and institutions cannot be brought about very rapidly. However, it is necessary to accelerate this process of change by deliberate and planned efforts so that the pernicious social evil of gender inequality is buried deep in its grave. Laws written in black and white are not enough to combat the evil. The role of Courts and judges assume greater importance and it is expected that the Courts would deal with cases relating to woman in a more realistic manner. A socially sensitive judge is indeed a better statutory armour in cases of crimes against women than the long clauses of penal provisions, containing complex exceptions and provisos.

Awakening of the collective consciousness is the need of the day. A problem as multifaceted as women's self: actualization is too important to be left to a single section of the society. This responsibility has to be shared by the State, community organizations, legislators who frame the laws and the judiciary which interprets the Constitution and other laws in order to give a fillip to the legal reform in the field of gender justice and to usher in the new dawn of freedom, dignity and opportunity for both the sexes equally.

#### Verification of hypothesis

The constitutional provisions has been efficient in protecting women's rights and empowerment of women.

#### Conclusion

Women empowerment can be viewed as a continuum of several interrelated and mutually reinforcing components among which awareness building is a basic one. Education is mainly responsible for making the women folk aware of their

rights and opportunities. Educated women can recognize the importance of these facilities and know how to seek it for themselves. In order to promote gender equality, education can be used as one of the important means of empowering women. For proper dissemination of knowledge and information of women's right both education and media should be used effectively. Moreover legislative alone cannot improve the status of women unless the women themselves grow conscious of their dignity and needs.

It is necessary to motivate women so that they can raise their voices against any kind of exploitation. Education as well as media should offer help to all people to raise the slogan; which should be the slogan of 21st century "Empowering women, Expanding awareness and Eradicating violence".

#### Suggestions

1. Building public awareness and support is crucial for the judicial activism to be successful.
2. The National Commission for Women and the National Human Rights Commission could be important allies in addressing violations of women's rights.
3. Judiciary should be more vigilant in protecting the rights of women
4. Judiciary should take stringent decision in punishing the offenders
5. Make more positive judgement in favour of women victims.

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