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LEGAL RIGHTS AND STATUS OF WOMEN IN THE INDIAN CONSTITUTION

Authored By - Srijan Kar

Abstract

The legal and constitutional rights of women are guaranteed under the Indian Constitution. It is considered that women gave birth to human civilisation and progress. They play a crucial part in our society. They are necessary for every family. The two categories of rights available to women in India are known as Sacred rights and Statutory rights. Sacred rights are those that are guaranteed by the constitution's numerous clauses. Therefore, statutory rights are those that are described in a variety of federal and state laws (statutes). The essential to a family is a woman, whether she is a daughter, wife, mother, grandma, or any other type of woman. Without women, the world is never truly complete. In order to regulate people's behaviour, the law establishes a set of rules. We will enter a life full with contradictions, Dr. B. R. Ambedkar said in his final speech to the parliament during the debate. Equalities and disparities will exist in politics, as well as in social and economic life. Women have always been regarded as a weaker group in society. They have been the victims of crimes like acid, throwing, rape, paedophilia, female fetish, dowry, domestic violence, and underage marriage. Only under the skin of her father and husband did she have the right to survive. laws made to provide women their rights and protect their lives from abuse in their families and cultures. The constitution not only upholds the equality of women but also grants the state the authority to promote gender equality. Our development laws, policies, strategies, and programmes all endeavour to advance women in a variety of professions within a democratic framework. They must therefore be protected and valued in society. They cannot have their importance in creating a family and a community minimised or degraded.

Introduction

Legally, a girl becomes a woman after having experienced her adolescence and childhood, therefore after going through those stages, a girl becomes a woman. The Indian government has passed laws to safeguard women from various forms of **abuse and crime**¹ and to grant them the same position as males in our society. Fundamental rights and obligations are provided to Indian people under the Constitution. These rights and duties apply to all citizens of this nation.

The Constitution of India² guarantees to all Indian women:

- 1) Equality (Article 14),
- 2) No discrimination by the State Authority (Article 15(1)),
- 3) Equality of opportunity (Article 16),
- 4) Equal pay for equal work in every term (Article 39(d)),

Additionally, it permits the state to take extra precautions for women and children (article 15(3)) and forbids actions that are demeaning to women's dignity (article 51(A)(e)). It also permits the provision of safe and humane working conditions and maternity care throughout the State (Article 42). Studies have demonstrated that in the early Vedic period and in antiquity, women held the same rank and power. However, the quality of women began to decrease around 500 B.C., and as a result, women's independence and rights declined with the Islamic invasion of Babur, the Mughal Empire, and Christianity. When child marriage and widow remarriage became illegal in several groups in India throughout the Middle Ages, the status of **Indian women in society**³ continued to worsen. In India's war for freedom, women played a role as well. With British authority, women's conditions started to get better. Indian women are currently actively participating in a wide range of fields, including education, sports, politics, the media, the arts and culture, services, science and technology, etc. The oldest prime minister in the world is Indira Gandhi, who served as India's leader for a total of 15

¹Report No. 37820, Crime, Violence, and Development: Trends, Costs, and Policy Options in the Caribbean, available at https://www.unodc.org/pdf/research/Cr_and_Vio_Car_E.pdf

² The Constitution of India, available at https://www.india.gov.in/sites/upload_files/npi/files/coi_part_full.pdf

³ PREETI NARULA, Role of Women in Society, available at <https://fairgaze.com/interested-article/role-of-womenin-society.htm>

years. Numerous initiatives and agreements in support of women are carried out by the Indian government.

LEGAL STATUS OF A WOMAN IN INDIA:

In India, women are given legal protection to ensure their participation in economic, social, and cultural life. These actions show the **Government of India's** ⁴efforts to safeguard the lives of women.

- 1) Dowry Prohibition Act 1961,
- 2) Maternity Benefit Act 1861, Births, Deaths & Marriages Registration Act 1886,
- 3) Medical Termination of Pregnancy Act 1971,
- 4) National Commission for Women Act 1990,
- 5) Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act 1999,
- 6) Protection of Women from Domestic Violence Act 2005,
- 7) Sexual Harassment of Women at Work Place (Prevention, Prohibition & Redressal) Act 2013,
- 8) Hindu Widows Remarriage Act 1856,
- 9) Muslim women (protection of rights on divorce) Act 1986,
- 10) Guardians and Wards Act of 1890,
- 11) Indian Penal Code 1860,
- 12) Christian Marriages Act, 1872, etc.

MAPPING THE VIOLATIONS OF WOMEN'S RIGHTS

- 1) Missing Women and Girls:

The phrase "missing women" has been used in several emerging nations when it was determined that women make up a smaller percentage of the population than men. In numerous Indian states, women and girls are going missing. The main factor contributing to his death was human trafficking. Girls who are trafficked experience severe exploitation and lack of basic necessities. In northern India, where the issue of gender imbalance is especially obvious, girls from low-income families are sold to males through middlemen. In addition to that, there have been instances of women going missing

⁴ SANDRA DAY O'CONNOR, The Legal Status of Women: The Journey toward Equality, available at <https://www.jstor.org/stable/1051513>.

from their marital residence. Their absence is mostly caused by the possibility of violent and criminal activities against women both within and outside the home.

2) Dowry Death:

The number of dowry-related murders of women in married homes has surged in India. Dowry disputes have grown to be a serious issue. The National Office of Criminal Records⁵ estimated that 8,233 newlywed women were killed in 2012 because they were being forced to pay dowry. It is illegal in the nation to receive or give a dowry. In India, the "Dowry Prohibition Act" has not been well implemented. We discover that neither the dowry officials nor they are compelled to preserve records of the gifts and receipts in the majority of states.

3) Domestic Violence:

Despite the Protection of Women from Domestic Violence Act of 2005, domestic violence has remained pervasive in India. It occurs when a woman is subjected to aggressive or illegal behaviour by her husband, her in-laws, her father, her brothers, or other family members. It encompasses a variety of things, such as verbal and physical abuse. Women endure domestic violence for a variety of reasons, including inability to adequately care for the family, financial difficulties, a desire to produce a male kid, and ignorance and illiteracy among women⁶. Challenges, unmet basic demands and expectations, health issues, and negative emotions like contempt and protest.

4) Child Marriage:

When girls under the age of 18 and boys under the age of 21, child marriage occurs. It is believed that underage marriage robs girls of their childhood. They struggle to enrol in school, pursue an education, participate in kid-friendly activities, and develop their talents. Additionally, it impairs the child's social, psychological, and emotional growth. Girls experience anxiety and worry when they become victims of domestic violence in their married home. In accordance with the 2006 Child Marriage Act, ladies must be at least 18 years old to get married, while boys must be at least 21.

⁵ See Table 5(A) Crime Head-wise Cases Registered under Crime against Women during 2011 - 2015 and Percentage Variation in 2015 over 2014, available at

<https://ncrb.gov.in/sites/default/files/Compendium/Compendium-15.11.16.pdf>.

⁶ All India Democratic Women's Association. Gender-Just Laws

5) Sexual Harassment at Workplace:

It is believed that the most detrimental issue impeding its development is the possibility of sexual harassment at work. In India, discrimination against women exists when it comes to pay and benefits for work. For both urban and rural locations, it is a fact that they are misused for job advancement and promotion⁷. Finding funding and resources to launch a firm can be particularly difficult for female entrepreneurs. The psychological attitudes of women are disturbed by workplace sexual harassment. Even though she is struggling financially and needs a job, she is compelled to leave her employment.

6) Rape:

The rape cases have increased in India, dramatically in the last ten years. Rape is usually caused by enmity, hostility, resentment, or other reasons.

7) Acid Attack:

According to a Thomas Reuters Foundation survey, India is the fourth-most hazardous country in the world for women to experience this heinous kind of violence and decadence⁸, regardless of their class, caste, creed, or religion. In India, women who defy a man's marriage proposal or divorce are targeted with acid assaults as retaliation. Acid is the quickest way to ruin a woman's life because it is affordable and easily accessible. Increase the frequency of acid assaults.

FUNDAMENTAL RIGHTS TO IMPROVE THE STATUS OF WOMEN:

The articles in Part III⁹ of the Constitution of India refer to fundamental rights aimed at improving the quality of women and providing them with equal opportunities, as indicated below:

1) Article 14 of the Constitution of India:

⁷ Why India Needs the Women's Reservation Bill, available at <https://www.oxfamindia.org/policybrief/whyindia-needs-women's-%20reservation-bill>.

⁸ BELINDA GOLDSMITH & MEKA BERESFORD, Exclusive: India Most Dangerous Country for Women with Sexual Violence Rife - Global Poll, available at https://www.reuters.com/article/us-women-dangerous-poll/exclusive-india-most-dangerous-country-for-women-with-sexual-violence-rife-global-pollidUSKBN1JM01X?utm_campaign=trueAnthem:+Trending+Content&utm_content=5b31dd8e04d30167db615d

⁹ Part 3 Constitution of India: Fundamental Rights, available at <https://www.latestlaws.com/bare-acts/centralacts-rules/coi-part-3-fundamental-rights/>.

In accordance with Article 14 of the Indian Constitution, women have equal protection rights and are accorded same rights under the laws of India's territorial jurisdiction. It demonstrates the need for treating everyone fairly under the same conditions, regardless of gender. The law must be applied equally and the state cannot discriminate against one person or another.

2) Article 15 of the Constitution of India:

The prohibition of discrimination is addressed in Article 15 of the Indian Constitution, which forbids the state from treating any citizen—including women—unfairly on the basis of their race, gender, religion, place of birth, or socioeconomic background. In terms of access to stores, hotels, restaurants, banks, infrastructure, public spaces, etc., it establishes that all citizens are entitled to the same rights.

3) Article 16 of the Constitution of India:

Women have equal opportunity in public work, including all citizens, under Article 16 of the Indian Constitution, regardless of their gender, colour, caste, ethnicity, religion, or religion of socio economic origin.

4) Article 17 of the Constitution of India:

Untouchability was outlawed in 1955 when the Untouchability (Criminal Offenses) Act was approved by the Parliament, in accordance with Article 17 of the Indian Constitution. The Untouchability (Criminal Offenses) Amendment Act of 1976 changed the law to make it stricter and get rid of society's untouchability.

5) Article 19 of the Constitution of India:

According to Article 19 of the Indian Constitution, all citizens, including women, have the freedom to speak their minds, to assemble in peace without weapons, to form unions or associations, to move freely throughout the nation, to live or settle in any location, and to practise any profession or run any lawful business at their discretion

6) Article 21 of the Constitution of India:

Anyone's life or personal freedom cannot be taken away from them in accordance with the legal process. Included in this are the rights to life, dignity, privacy, and other things. In addition, because it violates the self-respect and dignity of the victims, domestic violence against women is a violation

7) Article 24 of the Constitution of India:

The employment of boys, particularly girls, under the age of 14 in a factory, quarry, or other hazardous industry is prohibited by Article 24 of the Indian Constitution.

SPECIFIC LURE FOR WOMEN:

Reserve for Women in Local Self-Government:

A third of all seats in local authorities must be held by women, whether they reside in rural or metropolitan regions, according to the 73rd law modifying the Constitution, which was approved by Parliament in 1992.

National Action Plan for Girls:

The action plan's main objective is to safeguard girls' development and survival in order to give them a better future.

JUDICIAL APPROACH TO GENDER EQUALITY:

In the Supreme Court cases *Muthamma v. Union of India*¹⁰ and *Air India v. Nargesh Mirza*¹¹, which impose discriminatory terms of employment that permit employees to take time off before getting married and face denial, this is allowed. There must be marriage. pregnant women's right to work.

The Supreme Court ruled in *Vishaka v. State of Rajasthan*¹² that exposure of women to gender-based violence, including as sexual harassment at work, might gravely undermine worker equality. In order to ensure that women's working circumstances are equal and protected from sexual harassment, the Supreme Court has published rules. The Supreme Court of India heard *Vishaka*, a public interest class-action complaint, to stop sexual harassment of female employees in all workplaces by lone social workers and non-governmental organisations (NGOs). They stated that although the employees were aware of this, neither the legislative power nor the executive branch took any concrete preventive action. In order to uphold the fundamental rights of women guaranteed in the constitution,

¹⁰ (1979) 4 SCC 260.

¹¹ AIR 1981 SC 1829.

¹² AIR 1997 SC 3011.

the plaintiff therefore turned to the Supreme Court.

The courts have overturned discriminatory clauses that benefit males and disadvantage women in public employment cases¹³.

DPSP (DIRECTIVE PRINCIPLE OF STATE POLICY) AND WOMEN:

The direct guiding concept of state policy is that India is a democratic welfare state, as stated in the Indian Constitution of 1950. The guiding principles of state policy guarantee equal rights at work, equal compensation for comparable work, and respectable and dignified livelihoods for men and women, all of which are provided by this policy. The welfare and advancement of women are covered in Part IV of the Constitution, which also contains Articles 38, 39(a), (d), and (e), 42, 44, and 45. The right to an adequate means of subsistence for all citizens, men and women, shall be guaranteed by the state, according to Article 39(a). Regardless of fair food, this provision accords the same rights to all citizens. According to Article 39(d) of the Constitution, all three must pay men and women equally for equivalent labour. As a result, the state implements its policy within the parameters of its constitutional duty to ensure that men and women receive equal pay for equal work.

The notion of "equal work" is definitely a constitutional objective, but the supreme court has concluded in *Randhir Singh v. Union of India*¹⁴ that the Constitution does not enshrine it as a basic right. Article 39 (d), the equal pay for equal work principle, differs from these articles and can be applied effectively in cases of unequal pay caused by a lack of classification or an illogical classification of various types of equal pay, prior to preparing rules for similar jobs with the same employer. The Supreme Court ruled in the case of the current victim that, despite not being a fundamental right, the idea of "equal pay and equal effort" is indeed a constitutional objective that can be carried out through constitutional means under article 32 of the Constitution.

¹³ Public Employment Cases, available at

<https://indiankanoon.org/search/?formInput=public%20employment%20>.

¹⁴ GAUTAM BHATIA, Equal Pay for Equal Work: Statute and Constitution, available at

<https://indconlawphil.wordpress.com/2017/04/09/equal-pay-for-equal-work-statute-and-constitution/>

Closely, The Supreme Court declared in the case of State of Haryana v. Rajpal Sharma ¹⁵that instructors employed by private schools in the state of Haryana are entitled to the same pay and benefits as those employed by public schools. Even though the males are paid more, it is irrelevant if the sort of labour is different. But if the task is of the same nature, men and women should be paid equally and without prejudice.

WOMEN EMPOWERMENT SCHEMES¹⁶:

- 1) Beti Bachao Beti Padhao Scheme,
- 2) One Stop Centre Scheme,
- 3) Women Helpline Scheme,
- 4) UJJAWALA: A Comprehensive Scheme for Prevention of trafficking and Rescue, Rehabilitation and Re-integration of Victims of Trafficking and Commercial Sexual Exploitation,
- 5) Working Women Hostel,
- 6) Ministry approves new projects under Ujjawala Scheme and continues existing projects,
- 7) SWADHAR Greh (A Scheme for Women in Difficult Circumstances),
- 8) Support to Training and Employment Programme for Women (STEP),
- 9) NARI SHAKTI PURASKAR,
- 10) Awardees of Stree Shakti Puruskar, 2014 & Awardees of Nari Shakti Puruskar,
- 11) Awardees of Rajya Mahila Samman & Zila Mahila Samman,
- 12) Mahila police Volunteers,
- 13) Mahila E-Haat,
- 14) Mahila Shakti Kendras (MSK),
- 15) NIRBHAYA,

¹⁵ AIR 1985 SC 1263

¹⁶ Women Empowerment Schemes, available at <https://wcd.nic.in/schemes-listing/2405>.

CONCLUSION:

Although the Indian constitution guarantees women the same rights as men, powerful patriarchal traditions continue because of long-standing social norms that still apply to women today. The majority of Indian households view girls as a duty, and they teach them to feel inferior to both men and to other women. Women's rights are protected on a national level to secure the advancement of women through socioeconomic and educational possibilities, in order to fulfil the constitutionally mandated goals of equality and social justice for historical reasons. Through affirmative action in government, employment, and other sectors, they have changed in recent decades in your favour. Despite this, it has been common knowledge in newspapers and other media that crimes committed against women often result in severe consequences. Our society is still dominated by maleism. The primary cause of all this harm is illiteracy. Despite the evolution of education and other significant improvements in Indian society, certain modifications have been made and implemented in a variety of ways, but Indian women are still mostly in the dark. A woman experiences more difficulties in her life than a guy. Respect for women equates to respect for all of creation. The most cowardly person would abuse a woman. Women can work outside the home; they are not weak; instead, they are committed to raising their families. In some cases, they excel academically or professionally.

