

INDIAN CONSTITUTIONAL AND LEGISLATIVE PROVISIONS FOR WOMEN'S EMPOWERMENT

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ABSTRACT

A woman has the right to live in dignity, free of want and fear. Women's empowerment is also an essential strategy for achieving development and decreasing poverty. Women who are empowered contribute to the health and productivity of whole families and communities, as well as greater opportunities for the next generation. Women empowerment refers to empowering women so that they can make their own decisions. Women have suffered greatly at the hands of males over the years. They were considered nearly non-existent in previous ages. As if males had all the rights, including the ability to vote. Women were more aware of their power as time passed. The revolution for women's emancipation began there. The position of women in society may be used to assess the worth of a civilisation. The status into which women are born under the property system has a significant impact on how their lives develop. Women are held in high regard in traditional Indian society; the Vedas lionised women as the creator and revered her as a "Devi" or Goddess. Women played an active part, and as such, their enslavement and maltreatment were viewed as humiliating not just to the lady, but to the entire society. However, the status of women in modern Indian society has become a major source of worry. They are threatened, tormented, and abused. The allure of easy money has led to outrageous dowry demands. Brides who do not bring a sufficient dowry are hounded and burned down. Many even commit themselves to shield their parents from embarrassment. Some people want to remain alone, even becoming call girls and prostitutes. It is now feasible to determine the gender of an unborn kid. This has resulted in the practise of female feticide. Eve-teasing has grown so frequent that abduction and rape are regular occurrences. Minor females are not exempt. Working women are discouraged everywhere. Women are abused in police cells, and even so-called protected houses are not safe for them.

Despite rising levels of education, gender awareness, and pro-women legislation, progress has been slow, and violence against women is on the rise. The goal of this article is to learn about the constitutional and legal provisions in India for women's protection. Gender equality is a value contained in the Indian Constitution's Preamble, Fundamental Rights, Fundamental Duties, and Directive Principles. The Constitution not only guarantees women's equality, but also authorises the state to implement measures of positive discrimination in their favour. Our laws, development strategies, plans, and programmes have all attempted to progress women in many domains within the framework of a democratic democracy. India has also ratified a number of international agreements and human rights instruments committed to ensuring women's equal rights. The ratification of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1993 is one of the most important. While drafting the Indian Constitution, the Constitution architects were attentive to the challenges encountered by women and included explicit measures addressing them. The Indian Constitution stipulates that there would be no gender discrimination. The Indian Constitution has several legal safeguards for women's safety and empowerment, but the irony is that half of the population is unaware of their legal rights. of this article, we will look at the essential constitutional and legislative provisions of India for women's empowerment.

Keywords: legal requirements, Indian constitution, women's rights.

INTRODUCTION

"The status of a nation's women can tell you a lot about its state." This is a famous comment on women by Pt. Jawaharlal Nehru. The position of women reflects a country's social, economic, and mental well-being. Women have been recognised as a spiritual emblem in our texts. Nonetheless, they have been treated unfairly in comparison to males.

Dowry, the sati-system, child marriage, and female infanticide were all common social problems in the early periods. The rise of knowledge and self-consciousness among women has resulted in their advancement over time. Women are now empowered and achieving growth and success in every sector.

India is well-known for its rich and beautiful culture and traditions. In Indian tradition, women

are given the role of the goddess Lakshmi. However, based on recent crimes against women, it appears that women's safety and security are jeopardised. Crimes against women are committed every minute in India, as we can see. Women's position has declined from the ancient to the mediaeval periods, and this trend has persisted into the modern day. Every day, a single woman, a female child, a young girl, a mother, and women of all backgrounds are raped, molested, and abused. The streets, public transportation, and public areas, in particular, have become hunting grounds. Rape, dowry murders, sexual harassment at home or at work, kidnapping and abduction, cruelty by spouse, relatives, assault on a woman, child and sex, trafficking, attack, child marriages, and many more crimes are frequent against women. Though the Indian Constitution guarantees equal rights to dignity, equality, and freedom from gender discrimination, in practise, no one cares to implement such laws until and unless people's attitudes towards women change.

Women empowerment refers to empowering women so that they can make their own decisions. Women have suffered greatly at the hands of males over the years. They were considered nearly non-existent in previous ages. As though males possessed all rights, including the ability to vote. Women were more aware of their power as time passed. The revolution for women's emancipation began there. Because women were not permitted to make decisions for themselves, women's empowerment came as a breath of fresh air. It made girls aware of their rights and the need of forging their own path in society rather than relying on a guy.

WOMEN'S EMPOWERMENT IS REQUIRED

Almost every country, regardless of how progressive, has a history of mistreating women. In other words, women all over the world have been rebellious in order to achieve their current standing. While Western countries continue to make progress, third-world countries such as India lag behind in terms of women's empowerment. Women's empowerment is more important than ever in India. India is one of the countries where women are not safe. This is due to a variety of factors. For starters, women in India face honour murders. Their family believes it is justified to kill them if they bring dishonour to their family's heritage. Furthermore, the education and freedom

picture is quite backward in this case. Women are not permitted to seek higher education and are married off at a young age. Men continue to dominate women in some areas, as though it is the woman's responsibility to labour for him indefinitely. They do not allow them to walk outside or have any form of freedom. Furthermore, domestic violence is a serious issue in India. The guys beat up and mistreat their wives because they believe women are their property. Especially since women are frightened to speak up. Similarly, women who do work are paid less than their male colleagues. Paying someone less for the same effort because of their gender is just unjust. As a result, we can see how women's empowerment is an urgent requirement. We must empower these ladies to advocate for themselves and never be victims of injustice.

How Can We Empower Women?

Women can be empowered in a variety of ways. Individuals and the government must work together to make it happen. Girls' education must be made obligatory. Women, regardless of gender, must be given equal chances in all fields. Furthermore, they must be paid equally. We can empower women by putting an end to child marriage. Various programmes must be held to teach people how to fend for themselves in the event of a financial disaster. Most significantly, the humiliation of divorce and abuse must be abandoned. Because they are afraid of society, many women remain in violent marriages. Parents must educate their daughters that it is OK to return home divorced rather than in a casket.

Rights of Women in India

When discussing women's rights in India, we must include both constitutional and legal rights. The constitutional rights are those guaranteed by the different articles of the constitution. Legal rights are those that are enshrined in various laws (Acts) enacted by the Parliament and state legislatures. To be more explicit, let us look at the constitution and other legal rules concerning women.

CONSTITUTIONAL PROVISIONS

Women empowerment is the ability of women to make their own decisions for themselves and their dependents. Empowering women is liberating them from all societal and familial constraints, including their minds, thoughts, rights, and decisions. Its goal is to achieve gender equality in all aspects of

society. Women's empowerment is critical for the development of the family, society, and country. Women's rights are an inherent aspect of the notion of human dignity, which is protected by many clauses of the Indian Constitution. The Constitution should not be seen as a simple law, but as the mechanism through which laws are formed. The Constitution is a living, organic entity that, of all instruments, has the most claim to be built broadly and generously. While drafting the Indian Constitution, the Constitution architects were attentive to the challenges encountered by women and included explicit measures addressing them. Our Constitution is the fundamental constitution of a country with particular legal sanctity that establishes the structure and primary functions of a state's organs of government. It also states the principles that regulate the activity of these organs. Our Constitution is one of the most comprehensive in the world. Women's rights are an inherent aspect of the notion of human dignity, which is protected by many clauses of the Indian Constitution. Our founding fathers included several measures for women's empowerment. The Indian Constitution not only guarantees women equality, but also authorises the state to use positive discrimination measures in their favour in order to offset the accumulated socioeconomic, educational, and political disadvantages they suffer. Fundamental Rights, among other things, establish equality before the law and equal protection under the law; bans discrimination against any citizen on the basis of religion, race, caste, sex, or place of birth; and guarantees equal opportunity to all citizens in job affairs. Articles 14, 15, 15(3), 16, 39(a), 39(b), 39(c), and 42 of the Constitution are particularly significant in this respect.

The Indian Constitution and Gender Justice

One of the pillars of India's constitutional structure is the abolition of gender discrimination. In reality, the constitution enables the state to use positive discrimination measures in favour of women in order to offset the accumulated discrimination and deprecation that women endure. The Indian Constitution has done an outstanding job of guaranteeing gender justice in the country's ultimate legislation. The preamble of the Constitution guarantees, among other things, justice, social, economic, and political equality, equality of position and opportunity, and individual dignity. It recognises women as a distinct class and allows for

the passage of laws and reservations in their favour. Affirmative action in favour of women is expressly provided for in several parts of our Constitution. It outlaws all forms of discrimination against women and establishes the groundwork for women to have equal opportunities in all aspects of life, including education, employment, and participation. The commitment to gender equality is firmly established at the highest policy-making level in India's Constitution. A few key protections for women are briefly discussed below.

Fundamental rights

The natural right is the most common fundamental right. Part III of the Constitution, which includes Articles 12-35, is the core of the Constitution. Human Rights, which are the right of every man, woman, and child simply because they are human beings, have been declared enforceable in India as constitutional or fundamental rights.

Because the founders of the Constitution were aware of the uneven treatment and discrimination meted out to the fairer sex from time immemorial, they inserted some general as well as particular measures for the advancement of women's standing. Article 14 explains the right to equality, Article 15 prohibits discrimination against any citizen on the basis of gender, and Article 15 (3) empowers the state to make positive discrimination in favour of women and children. Article 16 guarantees equal opportunity in public employment. Art. 21 explains the right to live with dignity. Art. 23 explains the right to be free from exploitation.

"These fundamental rights represent the basic values cherished by the people of this country since Vedic times, and they are calculated to protect the dignity of the individual and create conditions in which every human being can develop his personality to the fullest extent," said Justice Bhagwati in *Maneka Gandhi v. Union of India*³.

Article 14: States that the state must not deny equality before the law or equal protection under the law.

Explain Article 14: The State must not deny to any individual equality before the law or equal protection under the law within the territory of India.

Article 15: Prohibits discrimination on the basis of gender against any citizen, while Article 15 (3) empowers the state to make positive discrimination in favour of women and children.

Article 15: Discrimination on the basis of religion, race, caste, gender, or place of birth is prohibited.

(1) The state must not discriminate against any citizen solely on the basis of religion, race, cast, sex, or place of birth, or any combination thereof.

(3) Nothing in this article limits the State's ability to provide specific provisions for women and children.

As a result, Article 15(1) forbids gender discrimination, whereas Article 15(3) relaxes the prohibition and allows the State to favourably discriminate in favour of women by making particular arrangements to improve their socioeconomic position and ensure political, economic, and social fairness. The State has invoked Article 15(3) in areas such as criminal law, service law, labour law, and so forth, and courts have maintained the constitutionality of these protected discriminatory measures.

In the absence of the right to live in dignity, gender equality becomes unattainable

Article 21: Life and personal liberty are protected. "No one shall be deprived of his life or personal liberty except in accordance with the legal procedure." In *Vishaka v. State of Rajasthan*, the Supreme Court established rules for the protection of working women against sexual harassment at work in the absence of law. "Gender equality includes protection from sexual harassment and the right to work with dignity, which is a universally recognised basic human right," the Court stated. This right's uniform minimal condition has gained universal respect. In the absence of domestic law occupying the field, the contents of international conventions and norms are significant for the purpose of interpreting the guarantee of gender equality, right to work with human dignity in articles 14, 15, 19(1)(g), and 21 of the Constitution, and the safeguards against sexual harassment implicit therein, and for the formulation of effective measures to combat the evil of sexual harassment of working women at all workplaces.

Article 23: bans human trafficking and forced labour; Article 23 of the Constitution expressly bans human trafficking. Human trafficking has existed in India for a long time in the form of prostitution and the sale and purchase of human beings.

LEGAL PROVISIONS

To meet the Constitutional mandate, the State has established a variety of legislative measures aimed

at ensuring equal rights, combating social discrimination, different types of violence and atrocities, and providing support services, particularly to working women. Although women may be victims of any crime, such as murder, robbery, or cheating, acts intended exclusively at women are referred to as crimes against women.

These are roughly divided into two types.

- The Offences Defined by the Indian Penal Code (IPC) Rape (IPC Section 376) Kidnapping and abduction for various purposes (Secs. 363-373) Homicide for Dowry, Dowry Deaths, or Dowry Attempts (IPC Sec. 302/304-B) Torture, both mental and physical (IPC Section 498-A) Molestation (IPC Section 354 Sexual Harassment (Section 509 of the IPC) Importation of females (up to the age of 21) (ii) The Special Laws (SLL)-identified Crimes Although not all laws are gender specific, the elements of legislation that have a substantial impact on women have been evaluated on a regular basis and amended to keep up with evolving requirements. Some legislation include unique measures to protect women and their interests.
- Act to Protect Women from Domestic Violence (2005) This Act protects women against any act/conduct/omission/commission that damages, injures, or has the potential to harm them as domestic abuse. This is a comprehensive law designed to protect women in India from all sorts of domestic abuse perpetrated by their husbands or family. It shields women against physical, sexual, emotional, verbal, psychological, and financial abuse.
- The Immoral Traffic (Prevention) Act of 1986 (PITA) modified the Immoral Traffic (Suppression) Act of 1956 (SITA). This Act is the main law exclusively for the goal of combating trafficking for commercial sexual exploitation, i.e. preventing and eventually prohibiting prostitution for women and girls in order to criminalise sex work. The Ministry of Women and Child Development introduced an amendment bill, the Immoral Traffic (Prevention) Amendment Bill, 2006, in 2006, which has yet to be passed.
- The Indecent portrayal of Women (Prohibition) Act (1986) forbids indecent portrayal of women in ads, publications, writings, paintings, figures, or any other medium.

- The Commission of Sati (Prevention) Act (1987) allows for more effective prevention of Sati practise or the voluntary or forced burning or burying alive of widows, as well as the prohibition of glorifying of this conduct through the celebration of any ritual.
- The Dowry Prohibition Act (1961) prevents women from paying or receiving dowry before or after marriage. Demanding dowry before, during, or after marriage is a crime under the terms of this Act.
- The Maternity Benefit Act (1961) safeguards women's work during pregnancy and entitles them to a 'maternity benefit' as well as some additional advantages.
- The Maternity Benefit (Amendment) Act of 2017 was approved as an amendment to the Maternity Benefit Act of 1961. The Act applies to contractual or consultant female employees, as well as women who are already on maternity leave at the time the Amendment Act takes effect.
- The Medical Termination of Pregnancy Act (1971) allows certified medical practitioners to terminate some pregnancies on humanitarian and medical grounds.
- The Medical Termination of Pregnancy Act of 1971 protects women against unneeded and forced abortions.
- The Pre-conception and Pre-Natal Diagnostic procedures (Prohibition of Sex Selection) Act (1994) bans sex selection before or after conception and the abuse of pre-natal diagnostic procedures for sex determination, which can lead to female foeticide.
- The Equal Remuneration Act (1976) requires equal remuneration for men and women workers performing the same or equivalent job. It also prohibits sex discrimination against women in employment and service situations.

The 11th Muslim Women (Protection of Rights on Divorce) Act (1986) safeguards the rights of Muslim women who have been divorced by or gained divorce from their spouses.

12. The Hindu Succession Act (1956) recognises women's same right to inherit parental property as males.

Then came the Hindu Succession (Amendment) Act of 2005, which granted daughters the opportunity to inherit family property alongside male relatives.

Recent Women's Empowerment Initiatives

In January 1992, the government established the National Commission for Women, a statutory body with the specific mandate to study and monitor all matters relating to the constitutional and legal safeguards provided for women, to review existing legislation and suggest amendments where necessary, and so on. The National Commission for Women has submitted numerous new measures in parliament over the previous few years to address a variety of societal issues. Some of the most notable enactments are included here.

- Beti Bachao Beti Padhao Programme
- One-Stop-Shop Programme
- Swadhar Greh (Women in Difficult Circumstances Scheme)
- Women's Support to Training and Employment Programme (STEP)
- MSKs (Mahila Shakti Kendras)
- Nirbhaya Fund.
- Mahila police Volunteers'
- Women's Helpline Programme
- Working Women's Hostel
- The fifth scheme is the Pradhan Mantri Matru Vandana Yojana.

CONCLUSION

As we all know, India is a male-dominated society in which males dominate in every sector and females are obliged to be responsible for solely family care and to live at home, among other constraints. Almost half of India's population is female, hence the country's entire development is dependent on the half population, which implies women, who are not empowered and are still confined by numerous societal taboos. In such circumstances, we cannot claim that our nation will be developed in the future until its half-population, i.e. women, is empowered. Since ancient times, the desire for women's empowerment has arisen as a result of gender inequality and male dominance in Indian society. Women are oppressed by their family members and society for a variety of causes. Male members of the family and society in India and other nations have targeted them for various forms of violence and discrimination. India is a place rich in customs, traditions, and practises that have evolved through generations. These conventions, traditions, and practises form part of our society's awareness. We honour and revere our moms, daughters, sisters, wives, friends, and other female deities. At the same time, we cannot disregard our society's patriarchal structure and

male superiority. Only by respecting or valuing women will the country's development needs be met. It requires the empowerment of the remaining half of the country's inhabitants in all aspects of life. Gender inequality is the fundamental societal issue in India, where women are gaining ground in a male-dominated society.

Women's empowerment must accelerate in this country in order to equalise the worth of both genders. Women's empowerment in all forms should be the nation's top goal. Inequalities between men and women in society cause a slew of issues that hamper the nation's progress. It is women's birthright to be treated equally with males in society. To truly empower women, each one must be informed of her or her family's legal rights. They must take constructive initiatives and participate in all activities rather than just domestic tasks and family obligations. They should be aware of everything that is going on in their neighbourhood and country. Women's empowerment has the potential to transform many aspects of society and the country. They are far superior to males in dealing with certain societal issues. They can better appreciate the negative consequences of overpopulation for their family and country. They are perfectly capable of managing the family and country's economic situations through smart family planning. In compared to men, women are capable of handling any impulsive aggression in the family or community. It is feasible to transform a male-dominated society into an equally dominated country with a prosperous economy by empowering women. Empowering women may readily assist to grow every member of the family with no extra

work. A woman is seen to be accountable for everything in the household, therefore she can better address any problems on her own. Women's empowerment would result in the empowerment of everyone. Women empowerment is the ability of women to make their own decisions for themselves and their dependents. Empowering women is liberating them from all societal and familial constraints, including their minds, thoughts, rights, and decisions. Its goal is to achieve gender equality in all aspects of society. Women's empowerment is critical for the development of the family, society, and country. Women's rights are an inherent aspect of the notion of human dignity, which is protected by many clauses of the Indian Constitution. A country's constitution is its foundational document. There are several clauses in our Constitution that pertain to women's empowerment. Our forefathers made positive and much-needed efforts in favour of Indian women in order to make them independent and socially powerful, and we can now observe a dramatic transformation in the position and image of Indian women.

The Department of Women and Child Development in India also performs admirably in this regard for the appropriate development of women and children. Women have held a prominent position in India since antiquity, but women have not been granted the freedom to engage in all fields. They must be strong, vigilant, and awake at all times in order to grow and develop. The development department's major goal is to empower women since an empowered woman with a kid ensures a bright future for any nation.

REFERENCES

1. Convention on Elimination of All Forms of Discrimination against Women (CEDAW) in, 1993.
2. Famous quote by Pt. Jawaharlal Nehru.
3. AIR 1978 SC 597.
4. 1981 AIR 1829, 1982 SCR (1) 438.
5. 1979 AIR 1868, 1980 SCR (1) 668.
6. (AIR 1997 SC 3011)
7. (1997 (8) SCC 114)
8. 1990 AIR 1412, 1990 SCR (2) 861