



WOMEN'S RIGHT AND THE INDIAN CONSTITUTION: A COMPREHENSIVE STUDY

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ABSTRACT

Gender equality is inscribed in the Indian Constitution's preamble, fundamental rights, fundamental duties, and commanding principles. Women's equality is guaranteed under the Constitution, which also allows the state to take anti-discriminatory measures against women. However, there is a significant gap between concept and reality in the field of women's human rights in India. Indian civilization is ruled by men, and men are always superior to women. Women in India are frequently subjected to prejudice, injustice, and humiliation. Despite the fact that women have greater rights than males in India, the status of women in India remains dire. The aim of this paper is to provide understanding about women's constitutional and legal rights in India.

KEYWORDS: Constitution of India, Fundamental rights, Gender Equality, Women.

INTRODUCTION

“Human rights are women's rights and women's rights are human rights, once and for all.”

- Hillary Clinton

Women have historically been denied, mistreated, discriminated, and used as a vulnerable segment in society, and this is a global phenomenon, and India is no exception. While it is true that racial, ethnic, and religious prejudice has claimed many victims throughout history, women, as members of a majority group, have suffered far more than members of these minority groups. Women in our country are confined to a secondary place in comparison to their male counterparts in all sectors of life, lagging far behind males in terms of economic, social, and political attainments, which is an irony of fate.

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The study of human society's social evolution reveals that in the old feudal society, women were always seen as second-class citizens. Remarkably, she was also seen as a symbol of the family's chastity and purity. However, in a conflict-torn culture, this facet of her nature made women the target and the victim. "In the Indian Constitution's Preamble, Fundamental Rights, Fundamental Duties, and Directive Principles, the principle of gender equality is incorporated and the Constitution not only guarantees women's equality, but also authorises the government to take affirmative discrimination measures in their favour".

Our laws, strategic initiatives, plans, and programmes have all attempted to advance "women in many domains within the framework of a democratic democracy". "India has also ratified a number of international agreements and human rights instruments that pledge to ensuring women's equality". "The ratification of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1993 is one of the most important".

The Indian Constitution not only guarantees women's equality, but also authorises the government to implement measures of positive discrimination in their favour in order to mitigate the accumulated socioeconomic, educational, and political disadvantages they experience. "Fundamental rights entail, among other things, ensuring equality before the law and equal protection under the law; prohibiting discrimination against any citizen on the basis of religion, race, caste, sex, or place of birth; and ensuring equal job opportunities for all people, the Articles 14, 15, 16, 39, 39A, 42, 51A, 243D, and 243T of the Indian Constitution are particularly relevant in this regard".

CONSTITUTIONAL PROVISIONS RELATING TO WOMEN IN INDIA

The establishment of an independent India with a codified Constitution guaranteeing significant rights and freedoms for women is a watershed moment in the advancement of women's status and position. Independence spawned a new awareness in our society about the importance of protecting and promoting human dignity for all people, regardless of their circumstances.

The Constitution's architects were fully aware of women's vulnerable position in a multi-cultural Indian society, and they recognised that gender equality was required to ensure human dignity. The Constitution's preamble encapsulates in solemn form all of the country's goals and objectives that it had fought for throughout the British government, and it expresses "what we had thought or dreamed for so long."

Preamble of the Constitution: In principle, the Constitution's preamble acknowledged sex equality. It ensures social, economic, and political justice for all people, regardless of gender; freedom of "thought, expression, religion, faith, and worship; and equality of status and opportunity" for all citizens. The preamble of India's Constitution opens with the words "WE THE PEOPLE OF INDIA.....," referring to "men and women of all castes, religions", and places of birth. When a constitution's preamble includes a reference to the people, it is reasonably claimed that an accompanying commitment to gender equality will inspire a broad and inclusive interpretation of this language. Its goal is to give every man and woman EQUALITY of position and opportunity. It also ensures an individual's DIGNITY, which includes the dignity of women.

Right to Life with Dignity: The right to life, as defined in Article 21, has been broadened to encompass the right to Life with Dignity. This provision was used to protect women's rights such as the right to divorce, the right to live a life free of violence, and the right to safe abortions.

Equality before Law: The general ideals of equality before the law and equal protection under the law are enshrined in Article 14.

“Article 15(1) and (2) prohibit the state from discriminating against any person solely on the basis of religion, race, caste, sex, place of birth, or any combination of these factors”.

“Article 15(3) allows the state to establish exceptional safeguards for the protection of women's and children's interests”.

“Article 15(4) empowers the government to make exceptional provisions to promote the interests and welfare of socially and educationally disadvantaged people”.

Equality of Opportunity: In cases relating to employment or appointment to any office under the State, Article 16 guarantees equal opportunity to all citizens.

Article 39 mandates the “state to direct its policies toward ensuring equal access to appropriate means of subsistence for men and women [Article 39(a)], as well as equal remuneration for equal work for men and women [Article 39(d)]”.

“Article 39A requires the state to promote justice on the basis of equal opportunity and to promote free legal assistance by appropriate laws or schemes or in any other means to ensure” that no citizen's right to justice is denied due to economic or other disadvantages.

Humane Conditions at Work: Article 42 requires the government to establish provisions for safeguarding fair and humane working conditions, as well as maternity leave.

Fundamental Duty: The Constitution's Article 51A outlines the fundamental responsibilities of all people. It states that all citizens have a responsibility to promote peace and repudiate actions that are demeaning to women's dignity.

Reservation of seats for Women in Panchayats and Municipalities: Articles 243D Clause (3) and 243T Clause (3) call for the “reservation of at least one-third of the total number of seats in Panchayats and Municipalities for women, who will be assigned to different Constituencies by rotation”.

According to Article 243D Clause (4) and Article 243T Clause (4), women must contain a minimum “one-third of the total number of chairperson officials in Panchayats and Municipalities at each level”.

Voting rights or Electoral law

- A minimum of one-third of the seats must be provided for women. In a Panchayat, such seats may be assigned to different constituencies via rotation.
- “The office of chairperson in the Panchayat at the village or other level shall be reserved for SCs, STs, and women in the manner provided by legislation by the state legislature”.
- Seats reserved for women in municipal councils.

INDIAN LEGAL PROVISION RELATING TO WOMEN

To implement the “Constitution's mission, the state has passed a number of laws aimed at ensuring equal rights, combating social discrimination and other forms of violence and atrocities, and providing support services, particularly to working women”. Women can be victims of a different crime, including murder, robbery, and cheating. 'Crime against Women' is a term used to describe crimes committed exclusively against women.

On the grounds of gender equality, here are few rights a woman holds in India.

- **Right to equal pay:** When it comes to salary, pay, or earnings, one cannot be discriminated against on the basis of sex, according to the Equal Remuneration Act's rules. Working women have the right to be paid equally to working males.
- **Right to dignity and decency:** In an event that the accused is a woman, any medical examination procedure on her must be performed by or in the presence of another woman.
- **Right against workplace harassment:** If a woman is subjected to any sort of sexual harassment at work, she can file a complaint under the Sexual Harassment of Women at Workplace Act. She has three months to file a “written complaint with an Internal Complaints Committee (ICC) at a branch office” under this act.
- **Right against Domestic violence:** “Domestic violence (including verbal, economic, emotional, and sexual)” by the spouse or relatives is protected by Section 498A of the Indian Penal Code for a wife or “a woman residing in a family like a mother or a sister”. The accused shall be sentenced to a term of non-bailable imprisonment of up to three years, as well as a fine.
- **Right to keep identity anonymous of Sexual assault victim:** “A woman who has been sexually harassed may record her statement alone before a district magistrate when the matter is under trial, or in the presence of a female police officer, to ensure that her privacy is respected”.
- **Right to get free legal aid-** Rape victims have the right to free legal aid or assistance from the Legal Services Authority, which is required to find a lawyer for her under the Legal Services Authorities Act.
- **Right not to be arrested at night:** Unless there is an extraordinary case on the orders of a first-class magistrate, a woman cannot be arrested after sunset and before morning. Furthermore, a

woman can only be interrogated by the police at her home in the presence of a female constable and family members or acquaintances, according to the rule.

- **Right to register virtual complaints:** “The law gives women the provision for filing virtual complaints via e-mail, or writing her complaint and sending it to a police station from a registered postal address”. “Further, the SHO sends a police constable to her place to record her complaint and this is in case a woman is not in a position to physically go to a police station and file a complaint”.
- **Right against Indecent Representation:** “Depiction of a woman's figure (her form or any body part) in any manner that is indecent, derogatory, or is likely to deprave, corrupt or injure the public morality or morals, is a punishable offence”.
- **Right against being stalked:** Under Section 354D of the Indian Penal Code an offender has to face legal consequences if he or she follows a woman, “tries to contact her to foster personal interaction despite a clear indication of disinterest, or monitors a woman's use of the internet, email, or any other form of electronic communication”.

CONCLUSION

It's a fact that women all over the world are likely to suffer in some way. We must step up our efforts to empower women and advance them through their human rights. Giving women equal rights and opportunities is our moral, social, and constitutional responsibility to assure growth. One of the most important components in achieving growth is the status and position of women in society.

Women must come together to accomplish their goals, as this is a cause that demands continual attention and leadership from all. Other crucial efforts to ensure women's rights include legal literacy and awareness activities. Paralegals should be trained to teach women about their rights and the issues of the twenty-first century for this reason.

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