

Constitutional And Legal Rights Of Women In India

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Received: 15 April 2025 Accepted & Reviewed: 25 April 2025, Published: 30 April 2025

Abstract

The position of women in India has witnessed considerable transformation since independence particularly in the realm of legal and constitutional rights. Over centuries women in India have oscillated between periods of relative freedom and marginalization. The Indian constitution through its progressive provision and a series of legislative reforms have aimed at dismantling the historic advantages faced by women. This research paper seeks to examine the evolution, scope and effectiveness of the legal and constitutional protection accorded to Indian women. It also explores the challenges faced by the women despite these rights and suggest strategies for better implementation and awareness. This paper concludes by offering practical recommendations to bridge the gap between legal norms and ground realities. This research aims to contribute to the ongoing efforts to promote equality and justice in India.

Keywords - Constitution, Women's rights, Equality, Legal protection, Empowerment, Gender Equality.

Introduction

The role and status of women in Indian society have been dynamic shaped by various socio- political and economic forces over centuries from the reversed position of women in the vedic era to their subjugation during the medieval period and their gradual reempowerment in the modern age, the journey has been tumultuous. After gaining independence in 1947, India adopted a constitution that enshrined the ideals of equality and justice, explicitly addressing the rights of women. Despite legal recognition, women in India continue to battle gender based disparities across domains such as education, employment etc.

India as a democratic republic, guarantees equality before the law and strives to ensure social, economic and political justice for all citizens. Women forming nearly half the population, have historically been marginalized recognizing this the framers of Indian constitution embeded several provision aimed at correcting historical injustice and empowering women. Over time the legislature and judiciary have also played a active roles in advancing women's rights, however implementation gaps and social barriers continue to impede progress.

Hypothesis-

1. Although the Constitution and legal framework of India provide strong protections for women, there exists a significant gap between the laws and their practical implementation.
2. Awareness and accessibility of legal rights among women are crucial for ensuring their empowerment and protection.
3. Judicial interventions and progressive legislation play a vital role in advancing women's rights and securing gender justice.
4. Legal provisions alone are insufficient to eliminate gender-based discrimination and violence; social transformation and attitudinal change are also essential.

Research Methodology-

Nature of the Study-

- This study is **descriptive**, **analytical**, and **doctrinal** in nature.

Sources of Data-

- **Primary Sources:**

- The Constitution of India
- Statutory laws related to women's rights (e.g., Domestic Violence Act, Dowry Prohibition Act)
- Judicial decisions (Supreme Court and High Courts)

- **Secondary Sources:**

- Scholarly articles, books, journals
- Reports by the National Commission for Women, Law Commission of India, and Ministry of Women & Child Development
- News reports and NGO publications

Legal Analysis-

- In-depth analysis of relevant constitutional provisions (Articles 14, 15, 21, etc.)
- Review of central laws enacted for women's protection
- Case law analysis to understand judicial interpretations of women's rights

Limitations of the Study

- The study is focused primarily on the legal and constitutional aspects and does not deeply engage with economic or sociological dimensions.
- The regional implementation differences across Indian states are not explored in full depth.

The Indian constitution framed in the spirit of justice and equality, establishes several rights aimed at creating a gender equal society. These provisions are enforceable by the judiciary and provide a legal framework to uplift women and secure their dignity and autonomy.

Constitutional Rights to Women**The Preamble**

The Preamble to the Constitution of India lays the philosophical foundation for the nation's legal systems. It guarantees justice, liberty, equality and fraternity. The preamble forms the basis for all other rights and protection embedded in the constitution.

Fundamental rights (Part III)

Art. 14 : Guarantees equality before law and equal protection of laws

Art. 15 (1) : Prohibits discrimination on the grounds of sex.

Art15(3): Permits the state to make special provision for women and children.

Art. 16 : Ensure equality of opportunity in public employment.

Art. 21: Interpreted to include the right to live with dignity, bodily integrity and reproductive choices.

Directive Principles of State Policy (Part IV)

These Principles though in justiciable, direct the state towards securing a welfare society.

Art..39(a) : Ensures that men and women equally have the right to an adequate means of livelihood.

Art. 39(b) : Promotes equal pay for equal work.

Art 42 : Mandates the state to ensure human working conditions and maternity reliefs.

Fundamental duties (Art. 51A)

Imposes a duty on every citizen to renounce practices derogatory to the dignity of women including child marriage, dowry and female infanticide.

Legal Rights to Women

Laws related to women are classified under two major categories

(A) Indian Penal code

(i) Rape (sec. 376 IPC) : A Rapist shall be punished with rigorous imprisonment of either description for a term which shall not be less than 7 years, but which may extend to imprisonment for life.

(ii) Kidnapping & Abduction for different purposes (sec. 363-373) : Any person who is abducting a minor for purpose of begging or kidnapping for prostitution shall be punished with imprisonment of either description for a term which may extend to 10 years and shall also be liable to fine.

(iii) Homicide for Dowry, Dowryand shall also be death or their attempts (Sec 302/304 B IPC) : Whoever commit dowry death shall be punished with imprisonment of either description for a term which may extend to imprisonment for dowry life.

(iv) Torture both mental and Physical (sec. 498 –A IPC) : Husband or relatives of husband of a women subject her to cruelty, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine.

(v) Molestation (Sec. 354 IPC) : Whoever assaults or uses criminal force to any women , intending to outrage or knowing it to be likely that he will there by outrage her modesty shall be punished with imprisonment of either description for a term which may extend to five years and shall also be liable to fine.

(vi) Sexual Harassment (Sec 509 IPC) : Whoever intending to insult the modesty of woman , utters any words etc shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine.

Special Laws:

(i) Dowry Prohibition act (1961) : This act prohibits the giving or receiving of dowry at or before or any time after the marriage from women.

(ii) Protection of Women from Domestic violence act 2005 : This act enacted to protect women from all forms of domestic violence. It provides protection of the wife or female live in partner from domestic violence from the husband or male live in partner or his relatives. This act includes to violence of any kind like physical, sexual, verbal, emotional etc.

(iii)The family court act (1954) : The family court act provides for the establishment of family for speedy settlement of family disputes. This act concludes relating to family matters like matrimonial reliefs, custody of children, maintenance for wife and children.

(iv)Hindu Marriage act (1955) : This act introduced monogamy and allowed divorce on certain specified grounds. It provided equal rights to Indian man and woman in respect of marriage and divorce.

(v) The Sexual Harassment of woman at workplace act (2013) : This act seeks to protect women from sexual harassment at their place of work and contribute to realization of their rights to gender equality, life and liberty and equality in working conditions everywhere.

(vi) Maternity benefit Act (1961) : This act regulate the employment of women in certain establishment for certain periods before and after child birth and provides for maternity benefits.

(vii) The Equal Remuneration Act (1976): This act provides for the payment of equal remuneration to both men and women workers for the same work. It prevents discrimination on the ground of sex. So working women have the right to draw an equal salary as compared to men.

(viii) The Protection of Woman from Domestic Violence Act 2005 : This act enacted to protect women from all forms of domestic violence. It provides protection to the wife or female live in partner from domestic violence from the husband or male live in partner or his relevance. This act includes to violence of any kind like physical, sexual, verbal, emotional.

Legal cases on Women's rights in India

1. Vishaka v. State of Rajasthan (1997) 6SCC 241

The supreme court laid down the Vishaka guidelines to prevent sexual harassment at workplaces interpreting Articles 14,15,19 and 21. This case filled the legislative vacuum until the enactment of the Sexual harassment of women at workplace (Prevention, Prohibition, and Redressal)Act 2013

2. Shayara Bano v. Union of India (2017) 9 SCC 1

The Supreme court declared instant triple talaq unconstitutional and arbitrary violating Art. 14 and 21. It led to the Muslim women Act 2019.

3. Laxmi vs Union of India, W.P. (crl.) No. 129 of 2006

A public interest litigation led to judicial A public interest litigation led to judicial directives for regulating acid sales and compensation for acid attack victims. This case prompted amendments in the IPC (sections 362 A and 362 B) and rehabilitation measures.

4. Joseph Shine v. Union of India, (2019) 3 SCC 39

This case struck down section 497 IPC (adultery law) as unconstitutional upholding gender equality and the right to personal liberty under Article 21

5 . Mukesh & Anr. V. State (NCT of Delhi), (2017) 6SCC 1 (Nirbhaya Case)

The Supreme court upheld the death penalty for the convicts in the 2012 Dehi gang rape case. This case led to the Criminal Law (Amendment) Act, 2013 which strengthened laws against rape and sexual violence.

6. Indian Young Lawyer Association v. state of Kerla , (2019) 11 SCC 1

The court ruled the ban on women's entry in to the Sabarimala temple unconstitutional , reinforcing women's right to equality (Art. 14) and religious freedom (Art. 25)

Challenges to Women Rights in India

The challenges to Women's Rights in India are deep rooted and multifaceted affecting nearly every aspect of their lives. Despite constitutional guarantees of equality and various laws aimed at protecting women they continue to face widespread discrimination and injustice. violence against women such as domestic abuse, sexual harassment, dowry related crimes remains a serious concern often going underreported due to social stigma and fear of retaliation.

Additionally the low representation of women in political and governance curtails their ability to influence policy making and drive gender sensitive reforms. the digital divide and cybercrime such as online harassment, stalking and doxxing pose new age challenges that are inadequately addressed a current laws. These multifaceted issues reveal that legal provisions alones are not sufficient there is a critical need for gender senitization, robust legal enforcement , institutional accountability to ensure the true empowerment and protection of women rights in India.

Recommendations-

1. Initiate widespread awareness programs, especially in rural and marginalized communities, to educate women about their constitutional and legal rights.
2. Train law enforcement officers, judges, and bureaucrats in gender sensitivity to handle women-related cases with empathy and efficiency.
3. Establish and expand fast-track courts to ensure timely resolution of crimes against women.
4. Make the legal process less intimidating and more accessible for women through legal aid clinics and paralegal volunteers.
5. Encourage a democratic and inclusive national dialogue on implementing a Uniform Civil Code to ensure gender justice across personal laws.
6. Amend discriminatory provisions in religious personal laws to align them with constitutional guarantees of equality and non-discrimination.
7. Strengthen 'One Stop Centres' in every district to provide legal, psychological, medical, and police assistance under one roof.
8. Involve local leaders, women's groups, and NGOs to foster community support for gender equality and legal empowerment.
9. Implement independent oversight bodies to monitor police response in cases of violence against women.
10. Include gender rights and constitutional values in school and university curricula to build a rights-aware society from a young age.

Conclusion- To strengthen Women's rights in India, better implementation of existing laws is crucial. Legal awareness must be improved through education and gender sensitization programs. Outdated law should be amended and stronger enforcement mechanisms should be established. Economical and Political participation of women should be encouraged through reservations and supportive scheme. State - level Women's commissions and better Victim support services including legal aid and rehabilitation are essential for ensuring justice and protection.

Indian Constitution and legal system offer strong protections for Women's rights but enforcement remains a major challenge. Despite progressive laws, deep rootedsocial norms and lack of awareness often prevent women from accessing justice. Bridging this gap requires not only legal reforms but also a shift in societal attitudes. Achieving true gender equality means translating rights on paper in to real world empowerment for every women in India.

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