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CONSTITUTIONAL AND LEGAL RIGHTS OF WOMEN IN INDIA

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Abstract

The rights of women in India can be classified into two categories, namely as constitutional rights and legal rights. The constitutional rights are given in the various provisions of the constitution. On the other hand, the legal rights are given in the various laws (acts) of the Parliament and the State Legislatures. The Constitution of India was written in an era when the status of Indian women was very poor and needed an urgent reform. In the society, Women were mentally and physically tortured. That is why many steps have been taken in favor of women in the constitution. The principle of gender equality is enshrined in the Indian Constitution in its Fundamental Duties, Fundamental Rights, Directive Principles and also preamble. The Constitution grants equality to women and also empowers the State to adopt measures of positive discrimination in favour of women. India is a democratic country so laws, development policies, plans and programmes have aimed at women's advancement in different fields. But women are being exploited in many cases in the society now. Violence against women has been a great threat to the rights of women. Most women are not completely mindful about their rights. So, this article will discuss the constitutional and legal rights of women in India and challenges to women rights in India.

Keywords: Women, Constitution, India, Rights, Legal.

Introduction

Women enjoyed equal status and rights during the early vedic period of ancient India. At that time women had the rights to education, even in marriage, they had complete freedom to select their own husband. But, in the later vedic period, especially with the advent of the manu samhita, the dignity of women was given a place in subordinate position to men. Women are despised in all spheres completely dependent on the male members of the family. The status of women did not improve much in the medieval period. Sati, jawhar, debdasi, child marriage, parda pratha etc were noticed in that period. In the modern era, women got some rights and freedoms through the efforts of some social reformers. But the overall improvement of women has taken place after independence. However, as the makers of the constitution of India were aware of the plight of women, the constitution of India includes special measures for the advancement equally in all aspects of society and move forward. The Constitution grants equality to women and also empowers the State to adopt measures of positive discrimination in favour of women. The government of India provides various rights for women which are crucial for women to get protected.

Constitutional Rights to women

- 1. Article 14:** This article ensures equality before the law or the equal protection of the laws within the territory of India. This very important provision provides equal legal protection to women against any women-based crime.
- 2. Article 15:** In this article, no one should create any sort of discrimination within the territory of India and as per article 15(3) the state has the authority to make any special provision for women.
- 3. Article 16:** This article ensures equal employment opportunity to every citizen of India. There should not be any discrimination in respect of employment opportunity under the State on the ground of sex.
- 4. Article 21:** This article deals with right to life has been expanded to include the right to Life with Dignity. This provision has been invoked to safeguard the rights of women such as right to divorce, to live a life free from violence and the right to safe abortions.
- 5. Article 39:** Article 39(a) of directive principles of state policy ensures and directs a state to secure for men and women equality right of adequate means of livelihood and article 39(d) ensures equal pay for equal work for both men and women.
- 6. Article 42:** Article 42 of constitution of India casts a duty on every employer to ensure just and humane conditions of work and for maternity relief. In reality the position and treatment of women in corporate offices is really bad and in fact they are exploited by their seniors and bosses. In this scenario the provisions of article 42 are very important and now it is the duty of employer to provide good working conditions to all the employees.
- 7. Article 51A:** Article 51A of the Constitution lays down fundamental duties of all citizens. It stipulates that all citizens have a duty to promote harmony and to renounce practices which are derogatory to the dignity of women.
- 8. Article 243:** Article 243 D (3) provide for reservation of not less than one third of total number of seats in Panchayats for women to be allotted by rotation to different Constituencies and Article 243 T (3) provide for reservation of not less than one third of total number of seats in Municipalities for women to be allotted by rotation to different Constituencies. Article 243 D (4) and Article 243 T



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(4) provide that not less than one third of the total number of officers of chairperson in the Panchayats and municipalities at each level to be reserved for women. This opportunity of being a part of the local level arbitration process has improved the social conditions of women in village areas.

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 seven years, but which may extend to imprisonment for life, and shall also be liable to fine.

(ii) **Kidnapping & Abduction for different purposes (Sec. 363-373):** any person who is abducting a minor for purpose of begging or kidnapping minor/women for prostitution or illicit intercourse, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

(iii) **Homicide for Dowry, Dowry Deaths or their attempts (Sec. 302/304-B IPC):** Whoever commits dowry death shall be punished with imprisonment of either description for a term which shall not be less than seven years, but which may extend to imprisonment for life.

(iv) **Torture, both mental and physical (Sec. 498-A IPC):** Husband or relative of husband of a women subjecting 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 thereby 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 a woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such gestures or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

B) Special Laws

(i) **The Protection of Women 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 relatives. This act includes to violence of any kind like physical, sexual, verbal, emotional.

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

(iii) **The family courts Act (1954):** The family courts act provides for the establishment of family courts 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) **The Sexual Harassment of Women 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.

(v) **The Medical Termination of Pregnancy Act (1971):** Intention of this act is reducing the incidence of illegal abortion and maternal mortality and morbidity. This act provides for the termination of certain pregnancies by registered medical practitioners on humanitarian and medical grounds.

(vi) **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 rights to draw an equal salary as compared to men.

(vii) **Maternity Benefit Act (1961):** This act regulates the employment of women in certain establishments for certain periods before and after child-birth and provides for maternity benefit.

(viii) **Legal Services Authorities Act (1987):** It provides for free legal services to Indian women.

(ix) **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.

(x) **Hindu Succession Act (1956):** This act recognizes the right of women to inherit parental property equally with men.

The other various laws which also contain certain rights and safeguards for women which includes Minimum Wages Act (1948), Employees State Insurance Act (1948), Employees' State Insurance Act (1948), Immoral Traffic (Prevention) Act (1956), Plantation Labour Act (1951), Bonded Labour System (Abolition) Act (1976), Muslim women (Protection of Rights on Divorce) Act (1986), Special Marriage Act (1954), Foreign Marriage Act (1969, Hindu Adoptions and Maintenance Act (1956).



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Challenges to women rights in India

There are some challenges that are plaguing the issues of women's rights in India.

1. Societal Norms

Many societies in India restrict women from leaving the house on the basis of their orthodox belief. Women in such societies are not allowed to go outside for education or employment and are forced to live a life of isolation and despair. Women living in such a situation become accustomed to being inferior to men and lose all their opportunities.

2. Pay disparity

According to a report in 2019, Indian women earn 19 per cent less than men. Women with equivalent qualification and experience in both the organized and unorganized are paid less than men. Women working for the same number of hours and doing the same work are paid less than men which implies discrimination powers between men and women.

3. Health problem

Most of the women in rural and poor families in India are suffering from malnutrition, high mortality rate and various medical problems and are not provided with adequate food which is essential for their mental and physical development. This is the reason that women's health is not given as much importance as men's due to prevailing gender bias in the society.

4. Female Infanticide

Female infanticide means identifying the gender of the foetus and aborting it when it is revealed to be a female. Female infanticide has led to a high male female sex ratio in India. According to census of 2011, the sex ratio in India is 940 females per 1000 of males.

5. Education

While the country has grown from leaps and bounds since independence where education is concerned. The gap between women and men is severe. While 82.14% of men are educated, only 65.46% of women are known to be literate in India. The gender bias is in higher education, specialized professional trainings which hit women very hard in employment and attaining top leadership in any field.

6. Child marriage

In most of rural and tribal areas of India, girls get married very soon. Because of child marriage they do not get enough time for their studies and self-reliance.

7. Economic dependence on men and lack of confidence

Only a few per cent of women in India are involved in earning. Most of the Indian women are economically dependent on men which hinders their empowerment. Indian society is a male-dominated society where women are given secondary importance in every aspect of their lives. Most of the people living below poverty line are women. In rural and backward communities of India, women are not given much freedom and liberty and they do not have rights to style their clothes, walk and talk. Women are given less exposure to the external environment.

8. Poverty

Poverty is considered the greatest threat to peace in the world, and eradication of poverty should be a national goal as important as the eradication of illiteracy. Due to this, women are exploited as domestic helps.

9. Crimes against women

The cases categorized as crimes against women include murder, rape, dowry death, suicide abetment, acid attack, kidnapping, domestic violence etc. According to NCRB, 405861 cases of crime against women were registered across the country in 2019. These crimes act as barriers to their empowerment and establishing equality in terms of gender.

Conclusion

Hillary Clinton said that human rights are women's rights and women's rights are human rights, once and for all. Swami Vivekananda said that there is no change for the welfare of the world unless the condition of women is improved, and it is not possible for a bird to fly on only one wing. Laws, development policies, plans and programmes have aimed at women's advancement in different fields. The Constitution of India guarantees that there shall be no discrimination on the ground of gender. There are many legal rights for women. But they are not absolutely free from some discrimination and harassment of society. There is a wide gap between the goals enunciated in the Constitution, policies, laws, plans, programmes and the situational reality of the status of women in India. The government as well as the society must have a vision so that women have full chance of self-choice making and taking an interest in political, social and financial existence with a feeling of equity. We know that when women move forward the family moves, the village moves and the nation moves. A proper awareness of the rights of women can ensure safety and protection of women.



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DOI: <http://ijmer.in.doi./2021/10.12.59>

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