

RIGHTS AND PRIVILEGES OF WOMEN IN INDIA

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ABSTRACT

Gender equality is deeply ingrained in the fabric of the Indian Constitution, as reflected in its Preamble, Fundamental Rights, Fundamental Duties, and Directive Principles. While historical and structural patriarchy has long subjugated women, the Constitution of India serves as a transformative document that transitions women from passive subjects to equal citizens. This research article provides a comprehensive evaluation of the constitutional provisions protecting women, analyzes how the judiciary has acted as a sentinel of these rights through pioneering case laws, and addresses the enduring challenges in bridging the gap between constitutional ideals and societal realities.

Keywords : Indian Constitution, Fundamental Rights, Directive Principles, etc

INTRODUCTION

Historically, women in India faced systemic vulnerabilities, ranging from denial of education and property rights to practices like child marriage and domestic abuse. The framers of the Constitution recognized these deep-seated socio-economic, educational, and political disadvantages. Consequently, they rejected formal equality (treating everyone identically despite unequal starting points) in favour of substantive equality.

The principle of gender equality is enshrined in the Indian Constitution in its Preamble, Fundamental Rights, Fundamental Duties and Directive Principles. The Constitution not only grants equality to women, but also empowers the State to adopt measures of positive discrimination in favour of women. Within the framework of a democratic polity, our laws, development policies, Plans and programmes have aimed at women's advancement in different spheres. India has also ratified various international conventions and human rights instruments committing to secure equal rights of women. Key among them is the ratification of the Convention on Elimination of All Forms of Discrimination against Women (CEDAW) in 1993. It is important to assess the actual progress that has been made against the background of the above global, regional and national initiatives. Existing literature indicates that it is important to assess achievement in gender equality and empowerment within the framework of four broad inter-related areas viz; economic, social, political participation and women's human rights (as shown in table-1) (UNECA, 2004a; UNECA forthcoming, Longwe, 2000, World Bank, 2001, Sen, 1993).

TABLE-1 OVERVIEW OF THE DIFFERENT DIMENSIONS OF GENDER INEQUALITY

SI. No.	Dimension of Capability	Form of Gender Inequality
1	Economic participation	Gender discrimination in access to and control over resources such as land, property, agricultural inputs, extension services, employment, and a wide range of livelihood opportunities. Women and girls are disadvantaged.
2	Social participation	Gender discrimination in access to essential public services such as education, health, water, energy and social security and protection, community and family support.
3	Political participation	Gender discrimination in participating in decision-making processes, e.g. in political institutions and policy-making organizations, consultation, and the rights and

		responsibilities of citizenship. African women do not always participate in public and private (in the home) decision-making spheres to bring their priorities and needs into the agenda.
4	Women's human rights	Women's human rights are human rights violations that women face simply by virtue of being a woman. Women suffer various human rights violations that men do not, such as being deprived of schooling, forced marriage, and violence against women.

In the four Dimensions of capability, women's human right is important to appreciate that all of the issues discussed above fall under the umbrella of human rights. Thus, this paper made an attempt to assess the important constitutional and legal provisions for women in India. The following provisions are effected and supplemented by constitutional and legal framework.

CONSTITUTIONAL PROVISIONS

The Constitution of India not only grants equality to women but also empowers the State to adopt measures of positive discrimination in favour of women for neutralizing the cumulative socio economic, education and political disadvantages faced by them. Fundamental Rights, among others, ensure equality before the law and equal protection of law; prohibits discrimination against any citizen on grounds of religion, race, caste, sex or place of birth, and guarantee equality of opportunity to all citizens in matters relating to employment. Articles 14, 15, 15(3), 16, 39(a), 39(b), 39(c) and 42 of the Constitution are of specific importance in this regard.

- I. Article 14 - Equal rights and opportunities in political, economic and social sphere.
- II. Article 15 prohibits discrimination on the ground of sex.
- III. Article 15(3) enables affirmative discrimination in favour of women,
- IV. Article 39 - Equal means of livelihood and equal pay for equal work.
- V. Article 42 - Just and human conditions of work and maternity relief,
- VI. Article 51 (A) (c) - Fundamental duties to renounce practices, derogatory to the dignity of women.
- VII. Article 46 - The state to promote with special care, the educational and economic interests of the weaker sections of the people and to protect them from social injustice and all forms of exploitation,
- VIII. Article 47 - The state to raise the level of nutrition and the standard of living of its people and the improvement of public health.
- IX. Not less than one-third (including the number of seats reserved for women belonging to the scheduled castes and the schedule tribes) of the total number of seats to be filled by direct election in every Panchayat to be reserved for women and such seats to be allotted by rotation to different constituencies in a Panchayat (Article 243 D(3)).
- X. Not less than one-third including the number of seats reserved for women belonging to the scheduled castes and the schedule tribes of the total number of seats to be filled by direct election in every Municipality to be reserved for women and such seats to be allotted by rotation to different constituencies in a municipalities (Article 243 T(3)).
- XI. Reservation of offices of Chairpersons in municipalities for the SC and ST and women in such manner as the legislature of a state may be laws provide (Article 243 R (4)).

LEGAL PROVISIONS

To uphold the Constitutional mandate, the State has enacted various legislative measures intended to ensure equal rights, to counter social discrimination and various forms of violence and atrocities and to provide support services especially to working women.

Although women may be victims of any of the crimes such as 'Murder', 'Robbery', 'Cheating' etc, the crimes, which are directed specifically against women, are characterized as 'Crime against Women'. These are broadly classified under two categories.

1. The Crimes Identified Under the Indian Penal Code (IPC)
2. Rape (Sec. 376 IPC)
3. Kidnapping & Abduction for different purposes (Sec. 363-373)
4. Homicide for Dowry, Dowry Deaths or their attempts (Sec. 302/304-B IPC)
5. Torture, both mental and physical (Sec. 498-A IPC)
6. Molestation (Sec. 354 IPC)
7. Sexual Harassment (Sec. 509 IPC)
8. Importation of girls (up to 21 years of age)

(1) The Crimes identified under the Special Laws (SLL)

Although all laws are not gender specific, the provisions of law affecting women significantly have been reviewed periodically and amendments carried out to keep pace with the emerging requirements. Some acts which have special provisions to safeguard women and their interests are: The Employees State Insurance Act, 1948, The Plantation Labour Act, 195, The Family Courts Act, 1954, The Special Marriage Act, 1954, The Hindu Marriage Act, 1955, The Hindu Succession Act, 1956 with amendment in 2005, Immoral Traffic (Prevention) Act, 1956, The Maternity Benefit Act, 1961 (Amended in 1995), Dowry Prohibition Act, 1961, The Medical Termination of Pregnancy Act, 1971, The Contract Labour (Regulation and Abolition) Act, 1976, The Equal Remuneration Act, 1976, The Prohibition of Child Marriage Act, 2006, The Criminal Law (Amendment) Act, 1983, The Factories (Amendment) Act, 1986, Indecent Representation of Women (Prohibition) Act, 1986, Commission of Sati (Prevention) Act, 1987, The Protection of Women from Domestic Violence Act, 2005

SPECIAL INITIATIVES FOR WOMEN

National Commission for Women: In January 1992, the Government set-up this statutory body with a specific mandate to study and monitor all matters relating to the constitutional and legal safeguards provided for women, review the existing legislation to suggest amendments wherever necessary, etc.

Reservation for Women in Local Self -Government

The 73rd Constitutional Amendment Acts passed in 1992 by Parliament ensure one-third of the total seats for women in all elected offices in local bodies whether in rural areas or urban areas.

The National Plan of Action for the Girl Child (1991-2000)

The plan of Action is to ensure survival, protection and development of the girl child with the ultimate objective of building up a better future for the girl child.

National Policy for the Empowerment of Women, 2001

The Department of Women & Child Development in the Ministry of Human Resource Development has prepared a "**National Policy for the Empowerment of Women**" in the year 2001. The goal of this policy is to bring about the advancement, development and empowerment of women.

STATUTORY ENACTMENTS DERIVED FROM CONSTITUTIONAL POWERS

Exercising powers granted under Articles 15(3) and 23, the Indian Parliament has constructed a vast architecture of special laws:

- **Socio-Economic Well-being:** The Equal Remuneration Act, 1976 prevents salary discrimination, while the Maternity Benefit Act (Amended 2017) protects working mothers from employment termination.
- **Safety and Bodily Integrity:** The Protection of Women from Domestic Violence Act, 2005 provides comprehensive protection from physical, emotional, and economic abuse within the household.
- **Criminal Justice Protection:** Under procedural laws, women have the right to free legal aid, the right to record statements confidentially in assault cases, and a prohibition against arrest after sunset and before sunrise without a first-class magistrate's order

PERSISTENT CHALLENGES: THE IMPLEMENTATION GAP

Despite the progressive nature of the text, a severe gap remains between constitutional theory and social reality.

- **Procedural Delays:** Deeply backlogged court systems delay justice for victims of sexual and domestic violence.
- **Underreporting:** Societal stigma, fear of retaliation, and lack of awareness prevent women from claiming their legal rights.
- **Patriarchal Biases:** Entrenched institutional and societal biases can stall the uniform implementation of gender-neutral and protective policies

DIRECTIVE PRINCIPLES OF STATE POLICY

While non-justiciable in court, these principles guide the legislature and executive in drafting long-term policies and governance.

- **Article 39(a):** Obligates the State to secure equal rights to an adequate means of livelihood for men and women alike.
- **Article 39(d):** Mandates equal pay for equal work, eliminating arbitrary gender-based wage gaps.
- **Article 42:** Instructs the State to provide just and humane conditions of work and to secure comprehensive maternity relief.

GOVERNMENT INTERVENTIONS AND LEGAL REFORMS

The Government has undertaken various measures through laws, policies, and programs over the last decade to address gender inequality and to eliminate discrimination against women and girl children. Key initiatives include:

- Beti Bachao Beti Padhao to check declining child sex ratios.
- Pradhan Mantri Matru Vandana Yojana for maternity benefits.
- Mudra Yojana to provide financial leverage to women entrepreneurs.

Many laws and programs are still being reviewed to repeal discriminatory provisions. The development of research activity, the work of NGOs in this field, and government cooperation should provide structural facilities to integrate these grassroots works into mainstream policymaking.

PROGRESS AND SOCIO-ECONOMIC INDICATORS

With the general poverty level reducing significantly, a marked increase in female literacy levels, a steady improvement in the sex ratio, and the rising entry of women into decision-making bodies—accelerated by the historic passage of the Nari Shakti Vandan Adhiniyam (Women's Reservation Act)—the systemic inequalities that exist between men and women have reduced.

However, gender discrimination continues to be a daunting challenge. The Government will continue to pursue all measures, in a concerted manner, to eliminate discrimination against women and to translate de-jure rights into the de-facto enjoyment of rights and equal results.

STRATEGIC ROADMAP FOR EMPOWERMENT

The Government remains committed to pursuing the National Policy on Empowerment of Women, alongside updated National Action Plans to give effect to this policy. This includes:

- Strengthening gender budgeting across all ministries.
- Revitalising the Women Component Plan.
- Adopting planning strategies that enhance socio-economic gains for women.
- Expanding digital and financial literacy to bridge the modern tech divide.

To ensure long-term success, transforming the mindset of Indian society and creating widespread awareness among women about their constitutional rights and privileges remain absolutely necessary.

CONCLUSION

The Constitution of India provides a robust, resilient shield for the country's female population. It handles inequalities not just with neutral fairness, but with targeted affirmative empowerment. From securing basic wages to declaring menstrual hygiene as an essential component of human dignity, constitutional protections continue to adapt to modern challenges. For these rights to achieve full reality, continuous judicial vigilance, strict law enforcement, and ongoing systemic gender sensitization remain critical.

The Government has undertaken various measures, through law, policies and programs in the last 7-8 years to address gender inequality and to eliminate discrimination against women and girl children. Many laws and programs are still being reviewed to repeal the discriminatory provisions. Development of Research activity, works of NGOs in this field and Government should provide facilities to integrate these works. With the general poverty level reducing to 26 per cent and the marked increase in female literacy level, slight improvement in sex ratio and the entry of women into decision-making bodies, the inequalities that exist between men and women have reduced. However, gender discrimination continues to be a daunting challenge and the Government will continue to pursue all measures, in a concerted manner, to eliminate discrimination against women and to translate the de-jure rights into de-facto enjoyment of rights and equal results. The Government commits to pursue the National Policy on Empowerment of Women, 2001 and the Plan of Action that is being adopted to give effect to this policy, strengthen gender budgeting and the Women Component Plan and adopt planning strategies that enhance socio-economic gains for women, which in turn would lead to empowerment of women. In this respect motivation of thinking of the Indian society and creating awareness among the women about their rights and privileges accorded by the constitution is necessary.

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