



Constitutional Safeguards for Women in India: A Doctrinal Analysis of Rights, Remedies, and Judicial Enforcement

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Abstract

This seminar delves into the exploration of the foundational principles enshrined in the Indian Constitution, with a foundational focus on the Right to Equality, Prohibition of Discrimination, and Equal Opportunity. It analyses the significance of the principles in order to safeguard the rights and dignity of the people, irrespective of their gender, caste, religion, or economic background. The Right to Life and Personal Liberty is critically examined, with an immense emphasis on its broad implications on personal freedoms, security, equal income and the protection against any unjust bias.

The seminar also addresses key socio-legal issues such as Maternity Rights, ensuring women's rights during pregnancy and childbirth, and how these are integral to achieving true equality in the society and workforce as a whole. Women Reservation Act highlights its role in the increase of female political representation and promoting gender equality in decision-making processes.

Moreover, the event will examine social evils like Dowry and Female Infanticide, analysing the legal measures and cultural shifts needed to eradicate these practices that violate the fundamental rights of women. The seminar will explore legislative frameworks, their impact, and the ongoing challenges in creating an equitable society.

By critically engaging with these interconnected issues, the topic aims to achieve comprehensive understanding of how law and social change intersect to promote the rights of women as a marginalized group, enrich our knowledge and pique our curiosity regarding such issues.

Keywords: Women, Right to Equality, Prohibition of Discrimination, Equal Opportunity, Maternity Rights, Women Reservation, Dowry, Female Infanticide

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I. Introduction¹

Women's rights and privileges have been at the core of social, political, and economic discussions worldwide. Over centuries, societies have evolved to recognize the importance of gender equality, leading to the establishment of fundamental rights and privileges for women. These rights are essential to ensuring fairness, dignity, and equal opportunities in all aspects of life.

Women's rights refer to the freedoms and entitlements that promote gender equality and protect women from discrimination and oppression. These rights encompass a multitude of domains, including education, employment, political participation, health care, and protection from violence.

These Privileges and Fundamental Rights catering towards women specifically originated from the various historical inequalities and oppressions faced by women. Hence, these emerged due to the need for empowerment of women, as a result of society's natural bias towards the other sex. These privileges exist to even out the uneven playground so that both men and women may compete at a fair chance, without inhibiting one another. Therefore, the upliftment of women does not necessarily take away resources from any other. Sometimes, we, as a society, often hold the misconception that the laws hold a bias towards women, however the privileges does not take away from men but create opportunities for women.

¹ Ministry of Statistics and Programme Implementation (MOSPI), Rights and Privileges of Women in India, available at: https://mospi.gov.in/sites/default/files/reports_and_publication/cso_social_statistics_division/Rights.doc

As the incomparable philosopher Swami Vivekananda once said, "In India, there are two great evils. Trampling on the women, and grinding the poor through caste discrimination."² He acknowledged the parity and discrimination faced by women and people of the lower castes and dedicated his whole life to uplift them.

Women's fundamental rights and privileges are not a competition with men's rights. They are essential steps toward a balanced and progressive world where both men and women benefit. True equality uplifts everyone, fostering a society that values fairness, dignity, and shared success.

II. Fundamental Rights With Respect To Women

Fundamental Right is the basic entitlements and freedom granted by a country to each and every citizen so that they may exist as a decent and respectable human being. They are granted these rights as granted by the Constitution of their respected country. In India, we have such, in the form of The Constitution of India.

Women's Fundamental Rights are the essential freedoms and rights guaranteed to women by legal, constitutional, and international frameworks to promote equality, dignity, and non-discrimination. These rights are intended to eradicate gender inequities and allow women to fully participate in society. The rights are as follows:

2.1 Equality before Law

According to Article 14 of the Constitution of India, "The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India." This foundational article prohibits discrimination by the state against any person, thereby, laying the groundwork for a just and equitable society.

In Sabarimala Temple Entry case (2018)³, the Supreme Court ruled that the prohibition of women of menstruating age from entering the Sabarimala temple was discriminatory and thus, violated Article 14, further affirming women's right to equality, even in matters of religious practice.

2.2 Prohibition of Discrimination

According to Article 15 of the Constitution of India, "(1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

(2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to-

(a) access to shops, public restaurants, hotels and places of public entertainment; or
(b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.

(3) Nothing in this article shall prevent the State from making any special provision for women and children."

Regarding women, Article 15(1) states that the state shall not discriminate against any citizen simply on the basis of gender. This reiterates that state laws, policies, programmes, and actions must provide equal chances and protections to both men and women, thereby promoting gender equality.

Recognizing historical and social disadvantages faced by women and children, Article 15(3) empowers the state to make special provisions for their benefit. This clause serves as an exception to the general rule of non-discrimination, allowing for affirmative action and protective measures aimed at uplifting these groups.

For example, the Supreme Court said in the V. Revathi v. Union of India⁴ case that the particular provisions for women under Article 15(3) acknowledge the historical disadvantages of women and the need for supportive measures to guarantee equal standing in society.

2.3 Equal Opportunity

According to Article 16(1) of the Constitution of India, "There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State." It further elaborated in Article 16(2) that, "No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State."

²Vivekananda International Foundation, Nurturing the Divine: Swami Vivekananda's Vision for Women and Womanhood *available at:* <https://www.vifindia.org/article/2024/january/12/Nurturing-the-Divine-Swami-Vivekananda-s-Vision-for-Women-and-Womanhood>

³Sabarimala Temple Entry, Supreme Court Observer

⁴SCC

For example, the Delhi High Court highlighted the constitutional requirement for gender equality in government occupations when it decided in the case of *Walter Alfred Baid v. Union of India and Others* that discrimination in public employment based only on sex violates Article 16(2).

2.4 Right to Life and Personal Liberty

According to Article 21 of the Constitution of India, “No person shall be deprived of his life or personal liberty except according to procedure established by law. Under this Article, Women are granted the

- Right to live with Dignity
- Right to Privacy
- Right to Autonomy and Reproductive Rights
- Protection against Sexual Harassment
- Right to Health and Medical care
- Protection from Honor crimes and Domestic Violence

The Supreme Court acknowledged that sexual harassment at work is a violation of women's rights under Articles 14, 19, and 21 in the historic *Vishaka v. State of Rajasthan* case. The Court created rules to stop and deal with this kind of harassment, stressing how important it is for women to work in a safe atmosphere.

There has also been an instance of spike of Honor killing in Haryana, resulting to three deaths just within the month of May,2024. “Conviction rates are poor,” says Maqsood Ahmed, the Superintendent of Police, “as witnesses turn hostile in court and families and even communities band together to protect the accused.”⁵

2.5 Securing Adequate means of Livelihood

According to Article 39 of the Constitution of India, “The State shall, in particular, direct its policy towards securing (a) that the citizens, men and women equally, have the right to an adequate means of livelihood.”

2.6 Equal Pay for Equal Work

According to Article 39 of the Constitution of India, “The State shall, in particular, direct its policy towards securing (d) that there is equal pay for equal work for both men and women.”

2.7 Maternity Leave

According to Article 42 of the Constitution of India, “The State shall make provision for securing just and humane conditions of work and for maternity relief.”

In *Municipal Corporation of Delhi v. Female Workers* (2000), the Supreme Court stressed that denying maternity benefits is against the spirit of Article 42 when it decided that both permanent and contractual female employees are entitled to them.

In *Anshu Rani v. State of Uttar Pradesh* (2019), with accordance with the goals of Article 42, the Allahabad High Court ordered the state government to provide all female employees, regardless of their job position, with 180 days of paid maternity leave.

III. Legal Statutes For Women

In addition to the Fundamental Rights ambit within The Constitution of India, the legislative body also enacted various provisions in order to safeguard the rights of women and to ensure equality between all citizens. Some are given as follows:

3.1 Women Reservation Act, 2023

The Constitution (106th Amendment) Act, 2023, often known as the Women's Reservation Act, is a historic law in India that aims to increase the representation of women in legislative bodies. This act, which was signed into law on September 28, 2023, with President Droupadi Murmu's approval, allocates one-third (33%) of all seats in the National Capital Territory of Delhi's Legislative Assembly, state legislative assemblies, and the Lok Sabha, the lower house of Parliament, to women.⁶

Key Provisions:

- The reservation applies to seats reserved for Scheduled Tribes and Scheduled Castes.

⁵Namita Bhandare, Hindustan Times, Dying for love: The shame of modern India

⁶Library of Congress, India: Parliament Enacts ‘Women’s Reservation Bill’

- The reservation will be mandatory for 15 years from commencement.
- The Act will come into effect after Census Publication, following the commencement of the act.

The Women's Reservation Act represents a significant step towards gender equality in Indian politics. By ensuring that women occupy a large share of legislative seats, the act hopes to offer varied viewpoints to policy-making, promote gender-sensitive legislation, and empower women across the nation.

3.2 The Dowry Prohibition Act, 1961

The Dowry Prohibition Act of 1961 is an important Indian law that prohibits the practice of dowry, which entails the gift or receiving of property, products, or money by either party to a marriage, the parents, or anyone else that is associated with the marriage.

Key Provisions:

1. Penalty for Giving or Taking Dowry (Section 3): Any person who gives, takes, or abets the giving or taking of dowry can be punished with:
 - Imprisonment for a term not less than five years; and
 - A fine not less than fifteen thousand rupees or the amount of the value of such dowry, whichever is more.
2. Penalty for Demanding Dowry (Section 4): Anyone who directly or indirectly demands dowry from the parents, relatives, or guardians of a bride or bridegroom can face:
 - Imprisonment for a term between six months and two years; and
 - A fine up to ten thousand rupees.

Despite the harsh rules, the practice of dowry continues in many parts of India. Critics claim that the Act has been unsuccessful due to societal acceptance of dowry, a lack of information, and insufficient enforcement tools. There have been requests for more comprehensive attempts to abolish this practice, such as educational and societal reforms.

In March, 2025, the Supreme Court revoked bail for a father-in-law and mother-in-law in a dowry death case, emphasising that giving bail despite proof of direct involvement damages public trust in the judiciary. The Court emphasised the need for closer judicial scrutiny in cases where young women die in dubious circumstances soon after marriage⁷.

3.3 Female Infanticide Act, 1870

Female infanticide, the intentional killing of newborn female children, is a prevalent issue in India due to socio-economic and cultural issues, including a desire for male heirs, dowry rituals, and economic hardships. To combat this behaviour, numerous legislative measures have been implemented over time.

Female Infanticide Prevention Act (1870), passed during British colonial control, sought to reduce the widespread practice of female infanticide in areas such as Oudh, the North-Western Provinces, and Punjab. It authorised the colonial authority to gather data on births and deaths, particularly of female infants, and penalised anyone found guilty of infanticide.

Other Initiatives:

Beyond legislation, the Indian government has also launched several initiatives to combat female infanticide and improve the status of the girl child:

- **Girl Child Protection Scheme (1991):** Financial incentives were provided to families to encourage the upbringing of female children.
- **Baby Cradle Scheme (1992):** Allows families to anonymously give up their female children for adoption in order to prevent infanticide and prevent social discrimination.
- **Beti Bachao, Beti Padhao (Save the Daughter, Educate the Daughter) (2015):** Aims to alleviate the falling child sex ratio⁸ while also encouraging females' education and empowerment.

IV. Importance Of Women's Rights

Women's rights are fundamental human rights that encompass the freedoms and entitlements of women and girls in various aspects of life, including social, economic, political, and cultural domains. These rights are critical to attaining gender equality and ensuring that women live empowered and meaningful lives as given below:

⁷Livelaw News Network

⁸BIO Web of Conference, Analysis of the Skewed Sex Ratio and Female Foeticide in India

4.1 Historical Inequalities

Historically, Indian women have endured institutional discrimination, including denial of formal education and economic possibilities. Traditional customs such as sati (the self-immolation of widows), child marriage, and limitations on widow remarriage demonstrate deeply ingrained gender biases. Although improvements have been implemented, the legacy of past behaviours continues to shape public perceptions.

4.2 Empowerment & Participation

Women's representation in India's political scene has always been limited. While the Indian Constitution outlaws gender discrimination, cultural biases have kept men in positions of power. Increasing women's involvement in governance is critical for developing policies that address gender issues and promote inclusive development.

Gender inequality has reduced women's access to economic resources and opportunities. Women's economic empowerment not only improves their own well-being, but it also adds to overall economic growth. Addressing impediments such as unequal pay, inadequate credit availability, and workplace discrimination is critical to establishing economic equality.

4.3 Gender Equality

Gender equality is included in the Indian Constitution, which prohibits discrimination based on sex. Ensuring that these constitutional demands are properly implemented necessitates ongoing efforts to align legal frameworks with ground realities and close gaps between law and practice.

4.4 Social Factors

Gender stereotypes and prejudice have persisted due to deeply ingrained patriarchal standards. Educational and awareness campaigns aiming at addressing these conventions are critical for building a culture of equality and respect. Encouraging community debates and encouraging positive role models can help with this shift.

4.5 Legal Frameworks

Legal frameworks have a crucial role in raising knowledge and comprehension of fundamental rights, especially for women. By setting defined legal norms and rights, these frameworks act as both educational aids and enforcement mechanisms.

Legal frameworks codify rights and protections, allowing individuals to seek recourse when their rights are violated. This not only empowers women to claim their rights, but also promotes public awareness of the legal options for resolving concerns.

The passage and reform of laws relating to women's rights frequently sparks public debate and educational activities. For example, legislation improvements aimed at gender equality might spark awareness campaigns that challenge traditional conventions and promote understanding of women's rights.

Legal frameworks can drive cultural change by formally recognising and defending women's rights. This legal acknowledgement can gradually change cultural beliefs and behaviours, creating an atmosphere in which women's rights are valued and supported.

V. Conclusion

Historical inequality, cultural biases, and ingrained patriarchal traditions have all contributed to substantial hurdles in India's road towards gender equality. Women have experienced systemic discrimination, including limited access to education, economic opportunity, and political participation. Traditional traditions like sati, child marriage, and limitations on widow remarriage have traditionally marginalised women, creating a legacy that continues to shape societal beliefs today.

Efforts to empower women and encourage their active engagement in all aspects of society are critical to promoting inclusive development. Increasing women's representation in governance is critical for developing policies that address gender issues and promote equitable progress. Economic empowerment, accomplished by removing barriers such as unequal pay and employment discrimination, benefits women individually while also contributing considerably to the nation's economic success.

The Indian Constitution enshrines the principle of gender equality, prohibiting discrimination based on sex. However, translating these constitutional guarantees into reality requires continuous efforts to align legal frameworks with societal practices, ensuring that laws are effectively implemented and upheld.

Gender equality is included in the Indian Constitution, which prohibits sex discrimination. However, putting these constitutional rights into action necessitates ongoing efforts to link legal frameworks with society practices, ensuring that laws are successfully implemented and enforced.

Strong legal frameworks play an important role in developing awareness and comprehension of fundamental rights. These frameworks empower women to express their rights by codifying protections and establishing redress processes, while also raising public knowledge of legal alternatives for addressing grievances. The introduction and reform of legislation pertaining to women's rights frequently spark public debate and educational activities, furthering the ideas of gender equality within society. Gender equality is included in the Indian Constitution, which prohibits sex discrimination. However, putting these constitutional rights into action necessitates ongoing efforts to link legal frameworks with society practices, ensuring that laws are successfully implemented and enforced.

In conclusion, achieving gender equality in India necessitates a multidimensional approach that addresses past injustices, empowers women economically and politically, questions social norms, and increases legal protections. By building on these efforts, India may progress towards a more egalitarian and inclusive society in which women's rights are recognised, respected, and protected.

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