

GENDER EQUALITY AND WOMEN'S RIGHTS IN INDIA: A LEGAL EXAMINATION OF CONSTITUTIONAL PROVISIONS

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Abstract

Gender equality and the safeguarding of women's rights are essential for achieving justice, decency, and democracy in any community. The Indian Constitution demonstrates a profound dedication to these principles by including many sections that guarantee equal treatment, safeguard against discrimination, and advocate for affirmative action for women. This paper offers an exhaustive legal examination of constitutional provisions that protect and promote gender equality in India. The study examines pivotal Articles, including Article 14, which ensures equality before the law; Article 15, which forbids discrimination based on sex while enabling the State to implement special measures for women; and Article 16, which guarantees equality of opportunity in public employment. Furthermore, Article 21 is scrutinised for its function in safeguarding the right to life and personal liberty, which the judiciary has construed to encompass dignity, reproductive rights, and protection from violence. The document assesses the Directive Principles of State Policy, including Articles 39(a), 39(d), and 42, which direct the State in formulating gender-equitable policies concerning livelihood, equal remuneration, and working conditions. The study further examines significant judicial rulings that have broadened the scope of these constitutional protections, consequently strengthening women's rights in domains such as safeguarding against sexual harassment, access to abortion, property rights, and the decriminalisation of adultery. Notwithstanding these legislative protections, the document recognises the disparity between constitutional principles and society reality, attributable to patriarchal frameworks, socio-economic disparities, and deficiencies in execution. The study concludes that although the Indian Constitution offers a strong framework for the legal protection and advancement of women's rights, achieving gender equality necessitates ongoing institutional reforms, judicial oversight, public awareness, and cultural change.

Keywords: Gender Equality, Women's Rights, Indian Constitution, Article 14, Discrimination, Judicial Interpretation, Social Justice

Introduction

India, characterized by its extensive and varied culture, history, and geopolitical structure, has experienced intricate gender relations. The rights of women and gender equality have been crucial issue in India's progression towards a just and equitable society. Despite achieving independence' women were dissuaded from pursuing many endeavours and were perceived primarily as homemakers. Notwithstanding the nation's veneration of multiple deities, this from of inequality endured. Despite considerable progress in gender equality since independence, cultural attitudes towards this issue remain insufficient in several domains. Inequality and discrimination stem from individuals' beliefs and behavior .Gender imbalance impacts all individuals, encompassing children. Women, transgender individual , and men. Gender equality is a fundamental right; nonetheless, disparities persist in access to opportunities and decision making authority between women and men. Women's empowerment is an essential component in achieving gender equality. Ensuring women have equal opportunities and securing their rights promotes gender equality and other developmental goals. The Constitution o India ratified in 1950, established for foundation for a democratic government that explicitly acknowledges the significance of women's equal rights. Notwithstanding these constitutional guarantees, the struggle for gender equality persists, driven by societal norm , patriarchal behavior , and institutional impediments that hinder women's complete realization of their rights. The Indian Constitution is an extensive document that encapsulates the aspirations and the goal of its residents, establishing the framework for governance along with the fundamental rights and responsibilities of the populace. The Constitution of India has various articles that establish a strong framework for promoting gender equality and empowering women. Thos article seeks to deliver a comprehensive legal evaluation of women's rights and gender equality in India, emphasizing constitutional guarantees, legislative frameworks, judicial interpretations, and the persistent issue that obstruct the full relisation of gender justice. This article will analyses the legal, political and social aspects of women's right to access the effectiveness of India's Constitutionsal obligations and the impact of laws on achieving gender equality.

Historical Context of Women's Rights in India

The historical narrative of women in India can be categorized into three distinct phases: the initial phase commenced in the mid 19th century, marked by reformists advocating for women's rights through educational and customary reforms; the subsequent phase spanned from 1915 to Indian independence, during which Mahatma Gandhi integrated women's movements into the Quit India movement, leading into the emergence of independent women's organizations. The third phase, post independence, has concentrated on ensuring equitable treatment of women at home following marriage, in the workplace, and in their entitlement to political equality. Women have significantly contributed to Indian culture throughout history as intellectuals, warriors, and political leaders. Nevertheless, the emergence of feudalism, colonialism and the entrenchment of patriarchy led to a deterioration of women's rights. The establishment of strong social hierarchies, such as the caste system, restricted women's autonomy by relegating them to domestic responsibilities and imposing practices like a child marriage, dowry, and purdah (veiling). By the nineteenth century, numerous reform organizations had arisen, spearheaded by figures such as Raja Ram Mohan Roy and Ishwar Chandra Vidyasagar, advocating for the abolition of practices like sati(the self-immolation of widows), the promotion of girls' education, and the reform of marital laws. These reformers established the foundation for the legislative modifications that would follow independence.

The Indian Constitution : A Guiding Light for Women's Rights

Post-independence, the architects of thr Indian Constitution recognized women's disparities and endeavoured to embed gender equality into the constitutional structure. The Indian Constitution, enacted in 1950, provides specific rights designed to promote and protect women's equality and empowerment. The Preamble, Fundamental Rights, Fundamental Duties, and Directive Principles of the Indian Constitution collectively embody the principle of gender equality. The Constitution ensure women's equality and empowers the state to enact affirmative action measures for their benefit. Our legislation, development strategies, plans and programs have all aimed to enhance women's progress across various sectors within a democratic framework. India has ratified various international treaties and human rights instruments that commit to protecting women's equal rights. The ratification of the Convention on the Elimination of All Forms of DiscriminationAgainst Women (CEDAW) in 1993 was particularly significant.

The Preamble of the Indian Constitution designates India as a "sovereign, socialist, secular, and democratic republic," committed to providing "justice, social, economic, and political" as well as "equality of status and opportunity" for all its citizens. The expansive guarantee of equality is crucial for understanding the constitutional framework for women's rights. The Constitution guarantees certain essential rights that are directly pertinent to women's rights.

Article 14: Right to Equality- Article 14 ensures that all citizens, irrespective of gender, are afforded equality before the law and equal legal protection. This article lays the foundation for gender equality, guaranteeing that women get equal treatment under the law.

Article 15: Prohibition of Discrimination- Article 15(1) explicitly forbids discrimination based on religion, race, caste, gender, or place of birth. Article 15(3) is a crucial provision that permits the state to implement specific measures for women and children, acknowledging the significance of affirmative action in addressing historical injustices.

Article 16: Equality of Opportunity- Article 16 ensures equality of opportunity in public employment, guaranteeing women equal access to employment opportunities.

Article 21: Right to Life and Personal Liberty- While Article 21 does not explicitly reference women, judicial interpretations have broadened its scope to encompass the right to live with dignity, significantly impacting women's rights, including safeguards against sexual harassment, trafficking, and violence.

The Directive Principle of State Policy(DPSP) – DPSP are not enforceable in judicial proceedings but function as fundamental guidelines for the state in formulating policies and legislation. Numerous stipulations in the DPSP promote gender equality: Article 39(a) : The state is obligated to guarantee that both men and women possess an equal right to sufficient means of sustenance. Article 39(d) stipulates that men and women shall receive equivalent remuneration for equivalent work. Article 42: Mandates the state to ensure satisfactory and humane working conditions, together with maternity leave, acknowledging the significance of safeguarding women’s health and rights in the workplace.

Article 51A(e)- It delineates that every citizen has a fundamental duty to abstain from actions that undermine women’s dignity. This phrase stresses the importance of individuals in creating a gender-just society.

Article 42 and The Maternity Benefit Act, 1961- The Maternity Benefit Act 1961, enacted pursuant to Article 42, emphasizes the state’s dedication to provide adequate and humane working conditions and maternity leave for women. This provision demonstrates the Constitution’s emphasis on women’s health and welfare in the workplace.

The Constitution recognizes the importance of women’s participation in the democratic process and local governance by establishing provisions for reserved seats for women in Panchayats and Municipalities. Articles 243-D (3), 243-D (4), and 243-T (4) relate to reserves for local governing bodies. These regulations mandate that women shall occupy one-third of the total seats in each Panchayat and Municipality, to be filled through direct election. Furthermore, women will be assigned one-third of the total chairperson seats in Panchayats and Municipalities across all levels. These strategies guarantee women’s representation in local government, facilitating their involvement in decision-making and the solving of community issues.

Legal Structure for Women’s Rights

In addition to constitutional protections, many legislative measures have been enacted to address gender discrimination and safeguard women’s rights. In India, women’s safeguarded by legislation pertaining to family issues, criminal offences, employment circumstances, and property rights. This section of the essay will examine Indian legislation that safeguards women.

The Dowry Prohibition Act, 1961 – The primary objective of the Act was to eliminate the practice of dowry in India. It entirely forbade the provision and acceptance of dowries. It also seeks to safeguard women who desire to marry but are hindered by exorbitant dowry demands from the prospective groom’s family. Nonetheless, numerous dowry cases persist, and the enforcement of this rule has proven exceedingly challenging due to the nation’s vast population and the reluctance to register charges out of fear.

The Protection of Women from Domestic Violence Act, 2005:It is a crucial legislative initiative in India aimed at protecting women who have suffered domestic violence. Husbands who harass, assault, or abuse women within their residences face significant legal repercussions. The legislation offers protection orders, residency stipulations, and financial compensation to ensure safety and well-being. This extensive legislation provides civil remedies for women who have experienced domestic violence. Victims are granted protective orders, residency rights, and financial assistance.

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013: It addresses the issue of sexual harassment of women in the workplace. It creates a legislative framework to prohibit harassment and safeguard women, leading to a secure and equitable workplace devoid of sexual harassment and abuse. The Act requires the establishment of internal committees and the implementations of the POSH policy to address complaints and resolve issues promptly. This Act, established in accordance with the recommendations of the Vishaka ruling, provides a framework for women to report and obtain redress for workplace sexual harassment. To resolve issues, organizations must establish Internal Complaint Committees (ICCs).

The Medical Treatment of Pregnancy Act, 1971: This Act regulates abortion in India. This statute permits a woman to terminate her pregnancy after 20 weeks if it is necessary to preserve her life, poses a risk to her physical or medical health, or if the pregnancy resulted from rape.

The Maternity Benefit Act, 1961 (Amended in 2017): Employed women have challenges in maintaining employment during childbirth and the prenatal trimester. Consequently, the Maternity Benefits Act of 1961 was enacted. The Act stipulates that mothers are required to take at least 12 weeks of maternity leave. The maximum was raised to 26 weeks in the 2017 amendment. This Act grants women the entitlement to paid maternity leave and safeguards their work during pregnancy. The 2017 amendment expanded maternity leave to 26 week, representing a significant advancement in mother health.

The Hindu Succession Act of 1956: This Act revised in 2005, provided equal inheritance rights to females, hence equating women’s property rights with those of males. This policy guaranteed equitable treatment of men and women regarding property inheritance.

The Equal Remuneration Act of 1976 (ERA): It instituted gender- neutral and equality-focused law requiring equal pay for men and women engaged in the same or comparable labour, so ensuring equal benefits and economic possibilities in the workplace.

The Prohibition of Child Marriage Act, 2006: It aims to prevent coerced weddings involving minors, therefore safeguarding their rights. It seeks to ensure that girls may develop, receive an education, and make informed choices on their lives and marriages, so safeguarding their health and well-being. Nonetheless, customs and traditions render the implementation of this legislation unfeasible in numerous regions of the country.

The Indecent Representation of Women (Prohibition) Act, 1986: This Act prohibits indecent depictions of women across all mediums, including print, media, and advertising. It aims to uphold women's dignity and propriety while promoting respect for them.

The National Commission for Women Act, 1990 (NCW): It resulted in the establishment of the National Commission for Women (NCW). The primary objective is to safeguard and advance women's rights in India. The NCW vigorously confronts gender-based discrimination, violence against women, and other infringements of women's rights.

Judicial Interpretation and Gender Equity

The courts are chiefly tasked with adjudicating issues through constitutional interpretation and upholding gender equality in their decisions. Courts have the authority to annul law restrictions that promote gender discrimination, including inequitable property inheritance rights. The Indian court has significantly contributed to the advancement of women's rights through progressive interpretations of constitutional provisions. Numerous pivotal rulings have broadened the parameters of gender equality and women's rights.

Vishaka vs. State of Rajasthan (1997) : Subsequently to the Supreme Court's pivotal ruling in this case, the Sexual Harassment of Women at Workplace Act of 2013 was enacted, instituting standards for the prevention of sexual harassment in professional environments. The situation commenced when Banwari Devi, a social worker engaged in a program aimed at preventing child marriages, intervened to thwart a child marriage inside a prominent Gujjar family. Notwithstanding grievances lodged against her, Banwari Devi excelled; yet the Gujjar were resolute in seeking vengeance. She was violently gang-raped by Ramakant Gujjar and five accomplices in the presence of her husband. She subsequently attempted to report it to the police, but was met with prolonged apathy. Following her breakthrough, she endured increased abuse and humiliation. Owing to insufficient evidence, the trial court acquitted the accused; nonetheless, Banwari Devi and an ally appealed to the Supreme Court, leading to a landmark ruling. The Supreme Court was charged with examining the widespread gender inequality in Indian society, manifesting as violence against women, including rape and sexual harassment in the workplace. In examining the issue, the Supreme Court needed to ascertain if it was willing to adopt intricate regulations to handle it. The Court established Vishaka Guidelines to mitigate sexual harassment in the workplace.

The Court concluded that sexual harassment inflicts moral degradation on victims and represents a blatant infringement of their basic rights as enshrined in Article 14, 19 and 21. The Court asserted that a framework of guidelines is necessary to appropriately resolve the issue. The Union of India, via the Solicitor General, endorsed the guidelines and committed to formulating a women's policy aimed at safeguarding women's rights and providing a secure environment for their advancement across various domains of life.

The Court defines sexual harassment as encompassing any physical touch or action, insulting remarks or misconduct, the exhibition of pornography, and solicitations for sexual favours of any kind.

It was determined that workplace sexual harassment must be reported, documented, and communicated. All instances of harassment will be addressed appropriately, perhaps resulting in disciplinary measures and criminal prosecution. Workplaces must establish a robust structure for the quick and effective management of complaints.

It is advisable to establish a complaints committee chaired by a female, with a majority of female members. Additionally, the involvement of a third party, such as a non-governmental organization, is suggested to mitigate any potential influence from senior management.

Moreover, concrete measures must be implemented to enhance knowledge in the workplace regarding sexual harassment, encompassing its definition and the appropriate channels for reporting incidents of harassment.

The Parliament resumed its functions and enacted the Sexual Harassment at Workplace (Prevention, Prohibition and Redressal) Act, 2013 – seventeen years subsequent to the issuance of the Vishaka Guidelines.

ShayaraBano vs. Union of India (2017) : The Supreme Court of the United States determined that the practice of instant triple talaq, or talaq-e-biddat, is unconstitutional. This ruling signifies a pivotal advancement in attaining gender justice for Muslim women. The final verdict was delivered by the Supreme Court on August 22, 2017. The bench comprised Chief Justice Jagdish Singh Khehar, Justice Abdul Nazeer, Justice Rohinton Nariman, Justice U.U. Lalit, and Justice Kurian Joseph, totaling five justices. A three-to-two majority of the Supreme Court determined that the practice of triple talaq contravened the Constitution. Justice Rohinton Nariman, Justice U.U. Lalit, and Justice Kurian Joseph rendered the majority opinion. The court's majority concluded that the practice of Triple Talaq is not safeguarded by the exception specified in Article 25 of the Constitution. Moreover, the court concluded that the behavior in question is not an essential element of the Islamic faith. This practice was deemed arbitrary and contrary to the core teachings of the Quran and the fundamental principles of Shariat, leading to the argument that it cannot be safeguarded under the principle of fundamental rights. Justice Kurian Joseph, in his concurring opinion, stated, "what is detrimental in the Quran cannot be beneficial in Shariat, and what is adverse in theology is also adverse in law." This assertion was made in concurrence with the preceding statement. The Supreme Court concluded that "this form of Talaq is manifestly arbitrary, allowing a Muslim man to dissolve the marital bond capriciously and whimsically, without any effort at reconciliation". Consequently, this specific

type of talaq must be regarded as a violation of the fundamental right enshrined in Article 14 of the Constitution of the Republic of India. The Muslim Personal (Shariat) Application Act, 1937 must be rendered null and void in as much as it acknowledges and enforces triple talaq. The Act aims to acknowledge and enforce triple talaq, which is encompassed by the term “laws in force” in Article 13(1) of the Constitution. The Supreme Court of the United States also directed the government to study the court’s ruling and to implement legislation regulating the practice of divorce among Muslims. The dissenting opinion, held by Chief Justice J.S. Khehar and Justice Abdul Nazeer, asserted that although the practice of triple talaq is objectionable, the judiciary lacks the jurisdiction to abolish it; rather, it is the prerogative of Parliament to legislate on the matter.

Joseph Shine vs. Union of India (2018) : The Supreme Court annulled Section 497 of the Indian Penal Code, which criminalized adultery. The ruling recognized that the laws saw women as the property of their husbands, so deeming it unconstitutional. In December 2017, Joseph Shine submitted a petition challenging the constitutional validity of Section 497. A three- judge panel, chaired by former Chief Justice Dipak Mishra, has referred this matter to a five-judge constitutional bench comprising Chief Justice Dipak Mishra and Justice R.F. Nariman, A.M. Khanwilkar, D.Y. Chandrachud, and Indu Malhotra. The court observed that the law is based on particular societal assumptions. The court has annulled the Act in four distinct opinions, asserting that a husband cannot exert control over his wife. The ruling held that Section 497 is obsolete and constitutionally invalid, as it infringes upon a woman’s autonomy, dignity, and privacy. This is considered a violation of her right to life and personal liberty by promoting a notion of marriage that compromises authentic equality. The implementation of penal code penalties that embody a gender-based perspective on the relationship between men and women undermines equality. Sexual autonomy is under the domain of personal liberty as outlined in Article 21 of the Constitution of India. In a relationship, the expectation one has for the other are crucial. Respect for sexual autonomy is attained solely when both partners regard one another with equality and dignity. Adultery is no longer deemed a criminal offence; a crime constitutes an act against society, while adultery is a private issue. Adultery is not a criminal offence, as it would violate the deep privacy intrinsic to marriage. Adultery can be considered a civil infraction and serves as a valid ground for divorce. A husband is not the sovereign of his wife- The verdict underscores that women should no longer be seen as the possessions of their husbands or fathers. They hold equal societal significance and should be granted every opportunity to articulate their perspective. Section 497 is arbitrary. The ruling stated that the stipulations of section 497 are capricious. A husband may consent to his wife engaging in an extramarital affair with another person. Consequently, this provision fails to protect the ‘sanctity of marriage’. This law protects the husband’s property rights concerning his wife. This rule forbids the wife from filing a petition against her spouse. This part does not include any stipulation regarding a married man having an affair with unmarried ladies.

Obstacles to Gender Equality in India

Notwithstanding the constitutional and legal framework endorsing women’s rights, the pursuit of gender equality in India is beset with challenges

Social and Cultural Obstacles- Entrenched patriarchy, caste discrimination, and conventional gender roles persist in obstructing the attainment of genuine gender equality.

Economic Disparities- Women in India frequently encounter salary inequities, restricted access to education, and limited employment possibilities, particularly in rural regions.

Violence against women- Despite legal safeguards, violence against women, encompassing domestic violence, sexual assault, and trafficking, persists unabated.

Implementation Gaps- Although laws are in place to safeguard women, ineffective enforcement, protracted judicial procedures, and societal shame frequently hinder women’s pursuit of justice.

The Path Ahead

Achieving gender equality in India requires more than just progressive legislation—it demands a transformation in societal attitudes and a concerted effort to ensure that the rights enshrined in the Constitution bring real, meaningful change to women’s lives across the country. The gap between legal rights and their practical implementation must be bridged through a multi-pronged strategy.

Promoting Awareness

Awareness is the first step toward empowerment. Educating communities about women’s rights and promoting gender equality from a young age are essential for changing entrenched mindsets. Equally important is expanding access to quality education for girls, especially in rural and marginalized communities. An informed and educated population lays the foundation for a society that respects and upholds gender equality.

Enhancing Law Enforcement

Even the most progressive laws are ineffective if not properly enforced. Strengthening the implementation of laws that protect women from violence and discrimination is crucial. This includes establishing accountability mechanisms within

the legal system and offering regular gender sensitization training for police and judicial officials. Women must feel safe and confident in seeking justice, knowing that their complaints will be taken seriously and addressed swiftly.

Economic Empowerment

True equality is impossible without economic independence. Promoting women's entrepreneurship, vocational training, and financial literacy can help women break out of the cycle of economic dependence. Government and private sector initiatives that support women-led businesses and ensure equal access to credit and resources are critical. Economic empowerment not only improves individual lives but also contributes to broader social and economic development.

Political Representation

To ensure women's voices are heard where decisions are made, their representation in political and administrative bodies must be increased. More women in leadership roles can help bring attention to gender-specific issues and lead to more inclusive policies. Reserving seats in local governance and encouraging political participation through training and support networks are effective steps toward this goal.

The Constitution of India provides a strong legal framework to promote gender equality and protect women's rights. However, realizing these rights in everyday life requires continuous efforts to confront and overcome persistent social, cultural, and economic barriers. Legislative reforms must be supported by a proactive judiciary and energized grassroots movements. Together, these forces can push the country toward a future where women enjoy not just equal rights on paper, but equal opportunities and freedoms in practice. The path ahead is challenging, but not insurmountable. With sustained efforts from all sectors—government, civil society, and individuals—India can move closer to a more just and equitable society where every woman is empowered to live with dignity, security, and independence.

Conclusion

Gender equality and the protection of women's rights are not merely aspirational goals in India—they are constitutionally mandated imperatives. The Indian Constitution, supported by a broad spectrum of legislation and fortified through judicial activism, provides a comprehensive framework to combat gender-based injustices. However, the realisation of these rights remains an ongoing challenge, influenced by deep-rooted patriarchal norms, socio-economic disparities, and implementation deficits. To bridge the gap between legal ideals and societal realities, an integrated approach is essential—one that combines legal enforcement with educational outreach, economic empowerment, and systemic reform. As India continues to evolve as a democratic nation, the quest for gender justice must remain central to its legal and developmental agenda. Only through sustained commitment and collective action can the vision of a just and equal society for all genders be truly achieved.

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