

A study on the constitutional provisions for the protection of women

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Abstract: In male-dominated Indian society, women are never seen as equals and males are always seen as superior. Injustice, shame, and prejudice against women are commonplace in India. In India, women are frequently denied their basic right to dignity, leaving aside the issue of gender equality. In India, the majority of women are unaware of their legal rights, and occasionally such rights are not given the proper protection. Even though women have made an equal contribution to the nation's progress as their male counterparts, they are prevented from realizing their full potential due to a variety of obstacles. The Preamble, Fundamental Rights, Fundamental Duties, and Directive Principles of the Indian Constitution all uphold the idea of gender equality, which includes the protection of women.

Key words: Fundamental Rights, Women's Rights, Gender Equality, Directive Principles of state policy, Dignity, Equality, Freedom.

Introduction

The Constitution not only guarantees women's equality but also grants the State the power to implement certain policies that benefit women. However, there is a significant gap between theory and reality when it comes to women's rights in India. Constitutional rights and legal rights are the two areas under which women's rights in India fall. The rights guaranteed by the Constitution are those found in its many clauses.

Methodology: The study at hand is based on secondary data obtained from a variety of publications, journals, conferences, and webpages.

Constitutional safeguards for Women:

Numerous clauses have been added to the constitution to guarantee women's self-respect and dignity. The Indian Constitution was drafted by Dr. B. R. Ambedkar, who stated that women's legal and social rights should be protected. Women are given special protection under The Indian Constitution's Articles 14, 15(1), 15(3), 16, 39(a), 39(d), 42, 51(A) (e), & 243.

1. Article 14: The Indian Constitution's Article 14 guarantees equality before the law. This is a crucial clause that gives women the same legal protection against crimes against women. This clause also makes it possible for other laws and regulations to be passed in order to guarantee the defence and upholding of women's legal rights in India.

2. Article 15: The Indian Constitution, specifically Article 15(1), Discrimination within the country on the basis of race, caste, gender, religion, or place of birth is illegal. The Constitution's Article 15(3) gives the State the authority to pass laws that specifically benefit women and children.

3. Article 16: Every Indian national is entitled to Equal employment opportunities as guaranteed by the Article, and Bans prejudice on the basis of ethnicity, social status, gender, descent, religion, of birth, residency, or any combination of these in relation to employment opportunities under the State.

Article 23 – Right against human trafficking and prohibition of exploitation: Women have endured centuries of physical, psychological, and sexual abuse as well as exploitation, humiliation, and harassment in all spheres of life. In order to prevent exploitation of women, Article 23(1) of the Indian Constitution forbids the trafficking of human beings and the use of beggars and other like forms of forced labour. "Traffic in human beings" involves the sale and purchase of people as slaves as well as the illicit trade of women and minors for unethical or unjustifiable reasons. The Parliament passed the Immoral Traffic (Prevention) Act, 1956 in order to put an end to the pervasive social evil of prostitution and to give this article effect.

This Act establishes an important responsibility on the governing body to undertake all necessary steps to eradicate these immoral practices while also protecting individuals, men and women alike, against private conduct as well as state action.

Furthermore, the Directive Principles outlined in Chapter IV of the Indian Constitution advocate for the principles of equality, social justice, and empowerment, although they are non-justiciable and cannot be legally enforced or used to claim rights in any court of law. The Constitution has provisions which empowers women in sections other than Parts III and IV. These clauses guarantee that men and women have equal rights when it comes to voting, as guaranteed by the Constitution.

Article 39: Directive Principles of State Policy Article 39(a) guarantees and instructs a State to implement policies that safeguard men and women's equal rights to a sufficient standard of living, whereas Article 39(d) guarantees equal compensation for equal work done by men and women.

Article 42: Every employer is required by Article 42 of the Indian Constitution to provide leave for new mothers and as well as to provide just and healthy working conditions.

Article 51(A)(e): According to Article 51(A)(e), it is the duty of every Indian to uphold the dignity of women and to encourage unity and brotherhood among all Indians, regardless of their cultural and geographical differences. The Constitution has special provisions for the reserving of seat for women in Panchayats and Municipalities in recognition of the significance of women's participation in local governance and the democratic process.

Articles 243-D(3), 243-D(4), 243-T(3) and 243-T(4):

Reservations Made with Local Organizations, These articles stipulate that in each Panchayat and Municipality, one-third of the seats must be reserved for women and filled through direct election. Furthermore, women will be granted the right to hold one-third of the chairperson positions in Panchayats and Municipality at all levels. These clauses guarantee the presence of women in local government, giving them the ability to participate in decision-making and take up matters that concern their communities.

The Indian Constitution has a number of provisions specifically designed to protect women and promote gender equality in all areas of life. These laws are known as constitutional provisions for women in India. These regulations aim to safeguard women against discrimination, advance their welfare, and guarantee their equal involvement in the social, political, and economic domains.

The Indian constitution's provisions for women were created to confront and correct historical prejudice against women. These policies seek to guarantee women's full involvement in all facets of life while also acknowledging the crucial role they play in the development of a just and equitable society.

India pledges to provide a legal and societal framework that supports gender equality by enshrining rights and safeguards for women in the Constitution. This dedication aims to acknowledge the different contributions that women make to the advancement of society in addition to promoting justice.

By empowering women, defending their rights, and allowing them to lead lives with equality and dignity, the provisions aim to advance national development and preserve democratic principles. India's dedication to achieving gender parity and women's empowerment is reflected in the guaranteed rights for women in the country's constitution. The Constitution establishes a thorough framework for furthering women's rights and interests by assuring inclusion in local governance, fostering economic justice, and safeguarding fundamental rights. To realize the ideal of a community in which women are able to thrive with respect, equity, and freedom outlined in the constitution, collaboration between the State, civic society, and people is essential.

Role of Judiciary

The Indian Constitution has shielded women from injustice through the judiciary. The basic liberties of women have always been elevated by the Indian Constitution.

Gender inequality is pervasive in India, with the judiciary playing a significant role in promoting gender equity and women's empowerment in nearly every aspect of society. Through its court rulings, the Indian judiciary has demonstrated that discrimination towards women will not be accepted at all and has assisted women in obtaining what is rightfully theirs.

The judiciary's job is to uphold and interpret the provisions outlined in the constitution. Providing justice to the harmed is the primary goal of legislation. The legislative branch holds the responsibility for formulating legislation, and the judiciary division is required to carry them out in a way that upholds the values of equality, justice, and moral rectitude.

and allows for the administration of justice to everyone. The judiciary reviews every clause before putting it into effect where it is most appropriate for the advancement of society.

Indian airlines had implemented certain policies that were deemed to be in breach of Article 14 of the Indian Constitution in the instance of *Air India Etc v Nergesh Meerza* (AIR1981SC1829). According to the clause, air hostesses would not be allowed to marry for the first four years after starting work, would lose their positions if they got pregnant, and would retire at age 35 unless the managing director decided to extend their employment beyond that point.

The Supreme Court ruled that an expulsion of employment due to a first pregnancy breaches Article 14, and that the managing director's job extension also goes against the equality principle established by Article 14, since this clause places unchecked power in the hands of one individual.

The Dharwad District PWD Employees Association case (AIR1990 SC 883) resulted in a ruling by the court that stated that gender discrimination is prohibited and that workers should receive fair compensation based on their job performance. Additionally, the Indian Constitution's Article 39(d) guarantees equal consideration for individuals of all genders engaged in identical or comparable tasks, and Article 16 guarantees equal opportunities for all citizens in matters of employment.

In the *Shah Bano Begum* case (AIR 1985 SC945), the Indian Supreme Court ordered the parliament to create a uniform civil code pertaining to a The duty of a Muslim husband to offer financial support to his Former spouse if she cannot support personally post iddat period. The court held all husbands, regardless of faith, will be subject to Section 125 of the legal code of the Criminal Procedure, 1973, which mandates the husband to provide for his former wife.

The Supreme Court's decision in the case of *Vishaka v. State of Rajasthan* (AIR 1997 S.C.3011) that the sexual misconduct of working women violates their rights to life, personal liberty, and gender equality. It is the responsibility of the employer and other responsible parties at places of employment or other institutions to stop or discourage acts of sexual misconduct and to set up the necessary procedures for bringing charges against such actions.

Working from Delhi domestically Forum for Women V. Indian Union (AIR 1995 SCC14) - According to the Supreme Court, in order to guarantee rape victims receive justice, plans for rehabilitation and compensation should be formulated by the national commission for women. It has also been suggested that the establishment of a criminal injury compensation board is required under the directive principle included in Article 38(1), regardless of the outcome of the conviction.

Conclusion

Women's discrimination and violence are social problems that must always be eradicated. A country's court must take the initiative and define the law in a way that upholds the equality principle. In order to improve the status of women within our nation and to change all the rules that prevent them from having full access to the possibilities and freedoms of choice in life, constitutional measures must be undertaken. Governments must implement policies, plans, money, and programs aimed at empowering women socially, economically, and educationally. The mentality of society needs to be changed, and this requires initiative.

Despite the Indian Constitution's guarantee of equal treatment for women of status and opportunity, discrimination against them still exists in some form.

Due to its deep ingrained traditions in Indian society, discrimination against women persists to this day. The main reason for this discrimination against women is that the most of them lack knowledge of their legal entitlements and equity that the Indian Constitution and legal system guarantee them. Since half of the Indian nation is constituted by women, Empowered women should strive to raise awareness among others of their entitlements and their place in society.

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