

Women Lawyers' Emancipation in India: Constitutional Provisions

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Abstract

There may be no gender discrimination, according to the Indian Constitution. In spite of the fact that the Indian Constitution has numerous legislative provisions for the safety and empowerment of women, it is ironic that only half of the public is aware of these rights. In this essay, we'll go over the crucial legal regulations for India's legal profession that empower women lawyers. Family and societal empowerment for women also involves individual empowerment. An essential component of empowering women includes including them in decision-making, earning, sharing basic necessities, and commanding respect for them. Women's empowerment is a trendy term in India these days, even among vastly disparate national and legal systems. The Indian Constitution states that discrimination on the basis of gender is prohibited. The Indian Constitution has many legislative protections for women's empowerment and safety, but the paradox is that only 50% of people are aware of these rights. The key legal provisions for women's empowerment in India will be covered in the following article.

Keywords: Women, lawyers, legal profession, empowerment, constitution, information

INTRODUCTION

The study of the law is useful in a variety of points of view. It qualifies a Woman to be useful to herself, to her neighbours and to the public...

—Thomas Jefferson

“You can tell the condition of a nation by looking at the status of its women”

— Pt. Jawaharlal Nehru

The Indian Constitution guarantees them equal rights to equality, dignity, and freedom from gender discrimination. Indian women are constantly dealing with a wide range of issues, including forced prostitution, acid attacks, rape, sexual harassment, and dowry murders. In contemporary India, customs like Sati, Jauhar, and Devadasi, among others, have been outlawed and are essentially extinct. In isolated areas of India, there are still few occurrences of these customs. In certain areas, Indian women continue to observe the purdah. Even though it's against the law in India today, child marriage is nevertheless prevalent in rural areas.

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Women as an important part of society also need access to information. “For female lawyers, it becomes more important because generally, they are way behind their male counterparts in the legal profession. As women are the foundation of any society, the information needs of women should be of major concern” (Olorunda, 2004). Women are excelling and performing well in almost all

professions and the same is true for the legal profession. But to compete with their male colleagues in this male dominant profession they need equal access to legal information. Baker (2011) pointed out that “to perform well in families and societies the women need a sufficient amount of information”. “Women lawyers will not achieve any of their goals without excellence in their craft. But a large number of other factors wield tremendous influence. Understanding and then addressing these factors is a key part of cracking the code. Another key aspect of cracking the code includes the need for women to take ownership of their own career success” (Paula A. Patton, 2005).

India's female population currently makes up a full complement of participants in fields like science and technology, education, sports, politics, journalism, art and culture, and the service industry. Having held the position for a total of fifteen years, Indira Gandhi holds the record for the longest tenure of any female prime minister in history. First female judge of the Indian Supreme Court, Ms. Fathima Beevi (1989) First female president of India, Mrs. Pratibha Devisingh Patil, served as first female judge of the Odisha High Court, and first female lawyer, Cornelia Sorabji, represented Sanju Panda and Savitri Bai Phule, First Women Teacher in India.

The Indian Constitution not only guarantees equality for women but also grants the state the power to establish positive discrimination policies that benefit women, thereby counteracting the accumulated social, educational, and political disadvantages that women face. Not only do fundamental rights prohibit discrimination against any person on the basis of race, religion, caste, sex, or place of birth, but they also provide equal treatment under the law and equal chances for employment. Particular significance in this respect can be found in Articles 14, 15, 15(3), 16, 39(a), 39(b), 39(c), and 42 of the Constitution.

CONSTITUTION OF INDIA AND WOMEN EMPOWERMENT

Equal rights for men and women were a priority for our founding fathers and the authors of the Indian constitution. The Indian Constitution is among the world's best documents pertaining to equality. It contains provisions that particularly and generally protect gender equality. The Constitution's several clauses protect women's rights by equating them with men in terms of society, politics, and the economy. A variety of general and specific protections, offered by the Preamble, the Fundamental Rights, the DPSPs, and other constitutional provisions, ensure the protection of women's human rights. Prologue: Individual dignity, equality of status and opportunity, and social, economic, and political justice are guaranteed by the Preamble to the Indian Constitution. It so accords equal treatment to men and women. Fundamental Rights: The Women's Empowerment Policy is deeply rooted in the constitutionally guaranteed fundamental rights. For instance:

Article 14 is guaranteed by Equality before law for women

Article 15(1) Discrimination on the basis of sex is expressly forbidden.

Article 15(3) Affirmative action in favour of women is authorized.

Article 16 guarantees equal opportunities to all citizens for employment or appointment to any office.

These rights can be defended in court because they are fundamental rights, and the government must uphold them. State policy's guiding principles: It is the responsibility of the government to implement these principles when enacting laws or developing any policy, as they contain significant provisions pertaining to women's empowerment. These are necessary for government even though they cannot be justified in court. A few of these are:

According to Article 39(a), the state must focus its policies on ensuring that both men and women have an equal right to a sufficient standard of living.

Article 39(d), Equal compensation for equal work is required for both men and women under.

According to Article 42, the government must provide for maternity leave and fair and decent working conditions.

Fundamental Duties

Part IV-A of the Constitution contains fundamental duties, which are good obligations for the Indian people to uphold. Additionally, it has a duty pertaining to women's rights:

Article 51 (A)(e) of the Indian Constitution requires all citizens to uphold the dignity of women and to work toward fostering harmony and a sense of fraternity among all Indians.

Additional Constitutional Provision

Women were granted a significant political right with the 73rd and 74th Constitutional Amendments of 1993, marking a turning point in the advancement of women's empowerment in India. Women now hold 33.33 percent of the seats in various local government elections, including panchayat, block, and municipal elections, thanks to this reform. It is clear from this that these constitutional provisions greatly empower women, and the state has an obligation to take these principles into consideration when making policy decisions and passing legislation.

Laws Related to Women are Classified Under two Major Categories

Indian Penal code

1. *Rape (Sec. 376 IPC)*: An individual found guilty of rape risks a minimum seven-year sentence of harsh imprisonment, with the possibility of a life sentence, and a fine.
2. *Kidnapping and Abduction for Different Purposes (Sec. 361-373)*: A person who kidnaps a minor for the purpose of begging or abducts a minor or woman for prostitution or illicit sex faces a term of imprisonment of up to ten years in addition to a fine.
3. *Homicide for Dowry, Dowry Deaths or their attempts (Sec. 302/304-B IPC)*: When a woman dies within seven years of marriage from burns, physical harm, or other unusual circumstances and it is demonstrated that she was cruelly or harassed by her husband or in-laws prior to her passing, either because of or in relation to a dowry demand, the death is referred to as a "dowry death." Anyone found guilty of dowry death faces a minimum sentence of seven years in jail and a maximum sentence of life imprisonment.
4. *Torture, both mental and physical (Sec. 498-A IPC)*: A husband or family member of a woman who has been the victim of cruelty may be punished with either type of imprisonment for a maximum term of three years, as well as a fine.
 - i. *Molestation (Sec. 354 IPC)*: Anyone who assaults or uses unlawful force against a woman knowing that she will likely reveal her modesty or with the purpose to provoke her shall be penalised with a fine and a period of imprisonment of any type that can last up to five years.
 - ii. *Sexual Harassment (Sec. 509 IPC)*: Penalties include either type of imprisonment for a maximum term of three years, as well as a fine, for anyone who intentionally offends a woman's modesty by speaking, moving, or displaying an object with the intention that the woman will see it, or by disturbing her privacy.
 - iii. *Special Law*: While gender does not constitute a determining factor in any law, the provisions that impact women have undergone frequent reviews and revisions to keep up with evolving requirements. Acts with specific provisions to protect women and their interests include the following:
 - *The Dowry Prohibition Act of 1961* prohibits asking for, giving, or accepting a dowry "as consideration for their marriage," with the term "dowry" meaning a gift that is required or provided before a marriage.
 - *The Immoral Traffic (Suppression) Act (SITA) (1956)* is the primary law dealing with the status of sex workers. This regulation permits prostitutes to operate in private, but prohibits them from lawfully requesting clients in public. Illegal is organized prostitution, which includes pimping, brothels, and prostitution rings.
 - *The Protection of Women from Domestic Violence Act 2005*: In an effort to protect women from domestic abuse, the Indian Parliament established the Protection of Women from Domestic Violence Act in 2005. Mostly intended to provide protection the wife or other female live-in partner.

- *The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressed) Act, 2013* in an effort to shield women from sexual harassment at work, India passed the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressed) Act, 2013.
- *The 1954 Family Courts Act* The Family Court is the name given to the court that was created to make decisions on issues pertaining to family law, such as maintenance for the wife and children, child custody, and matrimonial relief.
- *The 1954 Special Marriage Act* Independent of the religion or creed practiced by either partner, the Act of the Parliament of India was passed to establish a unique type of marriage for all Indian citizens living abroad as well as those who live in India.
- *The Marriage Laws (Amendment) Bill, 2010* To saw the introduction in Parliament of amendments to the Hindu Marriage Act, 1955, and the Special Marriage Act, 1954, to facilitate divorce on the grounds of irretrievable collapse of marriage. The bill amends Section 13-B to read, "Upon receipt of a petition," in place of the previous phrase, "not earlier than six months."
- *The Maternity Benefit Act, 1961 (Amended in 1995)* Section 8 of the Act is interpreted as follows: Bonus payment for medical care. (1) If the employer does not provide free prenatal care or postnatal care, any woman eligible for maternity benefits under this Act also has the right to receive a medical bonus of one thousand rupees from her employer.
- *Medical Termination of Pregnancy (MTP) Act in 1971* The Indian Parliament passed with the goal of lowering the prevalence of unlawful abortions and the resulting rates of maternal death and morbidity. The MTP Act was revised in 1975 and 2002 before being into force on April 1, 1972.
- *The Equal Remuneration Act, 1976* to ensure that men and women workers get equal compensation and to prohibit discrimination against women in the workplace on the basis of gender, as well as for things related or related to it.

Regulating and Preventing Misuse of Pre-Conception & Pre-Natal Diagnostic Techniques Act of 1994 The 2013 Act on Preventing and Protecting Women from Sexual Harassment at Work. The laws listed above, along with a number of others, give women a sense of security and empowerment in addition to giving them specific legal rights.

Apart from the above mentioned legal and constitutional provisions the Government of India has set up *few special initiatives* for the protection and empowerment of women.

- National Commission for Women
- Reservation for Women in Local Self –Government
- The National Plan of Action for the Girl Child
- National Policy for the Empowerment of Women, 2001
- National Policy for the Empowerment of Women

GOVERNMENT POLICIES AND SCHEMES FOR WOMEN EMPOWERMENT

Although there are government programs in place to support women in their goals, whatever advancement and empowerment that women have seen is primarily the result of their own labour and difficulties. In the year 2001, the Government of India launched a ***National Policy for Empowerment of Women***. The following are the policy's particular goals: fostering an atmosphere through social and economic policies that support women's complete growth and help them reach their full potential. Creating the framework necessary to enable women to exercise equal participation with men in all spheres of society, including political, economic, social, cultural, and civic, as well as to enjoy all human rights and fundamental freedoms.

The Constitution guarantees women equal rights to health care, excellent education at all levels, career and vocational advice, employment, equal pay, occupational health and safety, social security, and other opportunities.

- Enhancing the legal frameworks to ensure that discrimination against women is eradicated in all its manifestations.
- Changing communal norms and societal attitudes through men and women's active involvement and participation
- Including a gender viewpoint from the outset in the development process
- The abolition of all types of violence and prejudice against women and girls.
- Establishing and enhancing collaborations with civil society, especially women's associations.

“The Ministry of Women and Child Development is the nodal agency for all matters pertaining to welfare, development and empowerment of women. It has evolved schemes and programmes for their benefit. These schemes are spread across a very wide spectrum such as women’s need for shelter, security, safety, legal aid, justice, information, maternal health, food, nutrition etc., as well as their need for economic sustenance through skill development, education and access to credit and marketing. Various schemes of the Ministry are like Swashakti, Swayamsidha, STEP and Swawlamban enable economic empowerment. Working Women Hostels and Crèches provide support services. Swadhar and Short Stay Homes provide protection and rehabilitation to women in difficult circumstances. The Ministry also supports autonomous bodies like National Commission, Central Social Welfare Board and Rashtriya Mahila Kosh which work for the welfare and development of women. Economic sustenance of women through skill development, education and access to credit and marketing is also one of the areas where the Ministry has special focus”. (Gattaiah, 2018, 2345)

CONCLUSION

The status of women in Indian culture has been a topic of discussion, as this study concludes. In principle, they have been accorded a significant place in society, but in practice, things have never quite lined up with the ideal. Reforms require time; only revolutions bring about changes quickly. There's this one in particular that will also need some care. Though it may seem difficult at first, women's empowerment is actually quite simple when looked at inch by inch. All that is required is a determined effort directed toward the proper goal, which is the emancipation of women from all evil. The story of women in the legal field is easy to tell. The proportion of women who graduated from law school was low, until very recently, attorneys, and any profession requiring labour in the legal field, however loosely defined. In these countries, modifying the prerequisites for becoming a lawyer included amending the legal system, either through new legislation or common law development.

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