

## CONSTITUTIONAL AND LEGAL PROVISIONS FOR WOMEN IN INDIA

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### ABSTRACT

There is a loud talk on good governance, and India has no exception. Unfortunately, at the other hand today women's position is not good as the cumulative socio-economic, educational and political disadvantages are faced by them. This poses a huge challenge for the country to provide a good government to a common man. Legal protection system for its citizens is the part of good government. (Arora Ramesh, Sogani Meena, 144) Right from conceptualization of its constitution, Indian law makers have been at the task of formulating laws and acts to protect equality before sex and gender. Here we present an outline of the main constitutional and legal protection provision and system in India

**KEYWORDS:** Women's, Legal Provision, IPC

### INTRODUCTION

#### Constitutional Provisions

In India, the principle of gender equality is enshrined in the Constitution since its implementation was started; i.e. January 26, 1950. Our Constitution guarantees to all women the fundamental right to equality under which they get equal voting rights and equal right to political participation. Our Constitution is firmly grounded in the principles of liberty, fraternity, equality and justice, and accordingly contains a number of provisions for the empowerment of women. The Constitution of India not only grants equality to women but also empowers them. It also guides the State to adopt measures of positive discrimination in favour of women. Articles 14, 15, 15(3), 16, 39(a), 39(b), 39(c), 42, 46, 47, 51(A) (e), 243 D(3), 243 D (4), 243 T (3), 243 T (4) of the Constitution (Bharatache Sanvidhan, 5,6,17, 18, 19, 91, 92, 93) are of specific importance in this regard.

- **Article 14:** It gives assurance for Equality before law for women. no law is discriminatory under this article.
- **Article 15 (i):** Under this article the State does not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.
- **Article 15 (3):** The State under this article make any special provision in favour of **women** and children.
- **Article 16:** This ensures Equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.
- **Article 39 (a):** The State has to direct its policy towards securing for men and **women** equally the right to an adequate means of livelihood under this article.
- **Article 39 (d):** Under this article the State is obliged to pay equal pay for equal work for both men and **women**.

- **Article 39 A:** The State should promote justice, on a basis of equal opportunity and to provide free legal aid by suitable legislation or scheme or in any other way to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.
- **Article 42:** The State shall make a provision for securing just and humane conditions of work and for maternity relief under this article.
- **Article 46:** The State has 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 under this article.
- **Article 47:** This article gives assurance for nutrition and the standard of living of its people by the State.
- **Article 51 (A) (e):** This article promotes harmony and the spirit of common brotherhood amongst all the people of India and to renounce practices derogatory to the dignity of **women**.
- **Article 243 D (3):** Not less than one-third (including the number of seats reserved for **women** belonging to the Scheduled Castes and the Scheduled 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** by this article.
- **Article 243 D (4):** Nearly one- third of the total number of offices of Chairpersons in the **Panchayats** at each level to be reserved for **women** under this article.
- **Article 243 T (3):** Nearly one-third (including the number of seats reserved for **women** belonging to the Scheduled Castes and the Scheduled 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 Municipality.
- **Article 243 T (4):** Reservation of offices of Chairpersons in **Municipalities** for the Scheduled Castes, the Scheduled Tribes and **women** in such manner as the legislature of a State may by law provide will be given.

Fundamental Rights, Duties and Directive Principles 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. It establishes and guarantees the right to be elected, freedom of speech, freedom to assemble and form associations, and vote. These Constitutional provisions attempt to remove gender inequalities by banning discrimination based on sex, prohibiting human trafficking and forced labor, and reserving elected positions for women. Article 243 is very significant in changing the role of women in Indian politics.

## LEGAL PROVISIONS

In India, a woman is looked upon with different views. Somewhere she is called 'Devi' - but exactly is not treated. She is not expected to be a Devi but to be treated as a human only. Of course, the Constitution and Laws are mandatory accordingly. 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.

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.

### **Indian Penal Code (IPC)**

Under IPC some sections provide support for women status and services. Rape (Sec. 376), Kidnapping & Abduction for different purposes ( Sec. 363-373), Homicide for Dowry, Dowry Deaths or their attempts (Sec. 302/304-B), Torture, both mental and physical (Sec. 498-A), Molestation (Sec. 354), Sexual Harassment (Sec. 509), Importation of girls (up to 21 years of age). To overcome issues of discrimination and violence, IPC has focused on the of Indian women. Empowerment is tied to the support of family and improved status within the household, which is undermined by the threat of domestic and sexual violence. Socio-economic conditions, such as poverty and illiteracy, prevent the entrance of women into running for public office, and even voting.

### **The Special Laws**

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:

- **Laws before Independence**

- The Indian Evidence Act, 1872
- The Indian Christian Marriage Act, 1872 (15 of 1872)
- The Married Women's Property Act, 1874 (3 of 1874)
- The Guardians and Wards Act, 1890
- The Workmen's Compensation Act, 1923
- The Trade Unions Act 1926
- The Child Marriage Restraint Act, 1929 (19 of 1929)
- The Payments of Wages Act, 1936
- The Payments of Wages (Procedure) Act, 1937
- The Muslim Personal Law (Shariat) Application Act, 1937
- Employers Liabilities Act 1938

- **Laws after Independence**

- The Minimum Wages Act, 1948
- The Factories Act, 1948
- The Employees State Insurance Act, 1948
- The Minimum Wages Act, 1950

- The Plantation Labour Act, 1951
- The Family Courts Act, 1954
- The Special Marriage Act, 1954
- The Hindu Marriage Act, 1955
- The Protection of Civil Rights Act 1955
- The Hindu Succession Act, 1956 (Amendment in 2005)
- Immoral Traffic (Prevention) Act, 1956
- The Maternity Benefit Act, 1961 (Amended in 1995)
- Dowry Prohibition Act, 1961
- The Beedi & Cigar Workers (Conditions of Employment) Act, 1966
- The Indian Divorce Act, 1969 (4 of 1969)
- The Medical Termination of Pregnancy Act, 1971
- The Contract Labour (Regulation and Abolition) Act, 1976
- The Equal Remuneration Act, 1976
- The Criminal Law (Amendment) Act, 1983
- The Family Courts Act, 1984
- The Factories (Amendment) Act, 1986. Indecent Representation of Women (Prohibition) Act, 1986
- The Muslim women Protection of Rights on Dowry Act 1986
- Commission of Sati (Prevention) Act, 1987
- The Pre-Natal Diagnostic Techniques (Regulation and Prevention of misuse) Act 1994
- The Protection of Women from Domestic Violence Act, 2005
- The Prohibition of Child Marriage Act, 2006

### **SPECIAL STEPS TOWARDS WOMEN EMPOWERMENT**

Though constitutional provisions and acts are made for woman empowerment and development, the safeguards to look after the purpose are necessary. The following initiatives are taken in this regard:

#### **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. it works at national as well as state level.

**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.

**Reservation for Women in Local Self -Government**

The 73<sup>rd</sup> 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.(Goel S.L., Rajneesh Shalini, 2009)

These are the special Constitutional, legal and mechanic initiatives taken for woman empowerment in India. The conditions are changed and improved. There are number of organizations are institutions run by women to eradicate there backwardness. (Srivastav Sudharani, 280) Constitution enforces for equality, Laws stress on improvement and machineries for development.

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5. All the Laws as given above

