

Legal and Constitutional Rights Of Women

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ABSTRACT

***"Human rights are women's rights and women's rights are human rights, once and for all."
- Hillary Clinton***

The Indian Constitution has embodied within itself grounds for gender equality. The Fundamental Rights, Fundamental Duties and Directive Principles together work towards shaping policies and putting safeguards not just for women empowerment in India but also protection. Protection of Women's Human Rights by the Constitution of India The constitution of India confers special rights upon women. The constitution makers were well aware of the subordinate and backward position of women in the society. They made some efforts for uplift of women in our society. The state is directed to provide for maternity relief to female workers under Article 42 of the Constitution, whereas Article 51-A declares it as a fundamental duty of every Indian citizen to renounce practices to respect the dignity of women. Indian Parliament has passed the Protection of Human Rights Act, 1993 for the proper implementation of Article 51-A. Indian Parliament over the years have taken significant steps for through legislations to achieve the goal of empowering the women in India. The significant among them are the Equal Remuneration Act, the Prevention of Immoral Traffic Act, the Sati (Widow Burning the rights of) Prevention Act, and the Dowry Prohibition Act etc. Apart from these, the 73rd and 74th Constitution (Amendment) Acts¹⁴ provided for 33% reservation for women in both panchayat and Nagarpalika institutions as well as for the positions of chairpersons of these bodies. These two amendments removed the bottlenecks from the paths of women empowerment at the local level. In fact it has been found that the Karnataka sends maximum number of women to the PRIs followed by Kerala and Manipur. In order to facilitate equal participation of women at the national and state level politics, the bill providing for 33% reservation of seats for women in national and States legislatures has been introduced in Parliament¹⁵. Besides this, the government in India have enacted a variety of laws like Dowry Prohibition Act, Sati prevention

Act etc to guarantee the rights of the women. Apart from this, in India, National Commission for Women had been established in 1990 to look into the women's problem. NCW have engaged them to deal with the cases relating to the violation of women's rights. They have pressurised the government to pass stricter laws to deal with the rape cases, domestic violence and to create a separate criminal code for the women etc.

Women's Rights under Indian Constitution

Under the constitution women are provided with the following fundamental rights:

#1. Article 21

Article 21 states as follows: "No person except according to the procedure established by law shall be deprived of his life or personal liberty. Fundamental right under Article 21 of the object personal liberty except according to the procedure established by law is to prevent encroachment on and loss of life." - Anyone, including women, can seek protection under this.

#2. Article 15(1)

The Article 15(1) states as follows: This Article guarantees Right to Equality, "The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth."

#3. Article 19

The Article 19 states as follows: This gives the citizens (which include both women, men and third gender) the Right to Freedom, which among other things guarantees freedom of speech and expression, freedom of movement, freedom of practising trade and profession etc.

#4. Article 32

Article 32 states as follows: This Article gives the right to us to seek constitutional remedies through the Supreme Court of India for violation of Fundamental Rights mainly.

#5. Article 15(3)

According to Article 15(3) - State can make any special provision for women and children without any hurdles or obligations.

#6. Article 16(2)

According to Article 16(2), No citizen on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated in respect of employment or office under the State.

#7. Article 23(1)

The Article 23(1) prohibits the practice of human trafficking in India.

#8. Article 39(a)

As per Article 39(a) men & women have the right to an adequate means to livelihood.

#9. Constitutional Laws for women related to Panchayats & Municipality

- As per Article 243D(3) Not less than one third of the total number of seats to be filled by direct election in every Panchayat shall be reserved for women.
- As per Article 243-D(4) One-third of the total number of offices of chairpersons in the Panchayats at each level shall be reserved for women
- As per Article 243-T(3) One-third of the total number of seats to be filled by direct election in every Municipality shall be reserved for women
- As per Article 243-T(4) offices of chairpersons in the Municipalities shall be reserved for women in such manner as the State Legislature may provide

Along with constitutional safeguards, there are further rights that women have guaranteed under the law.

#10. Equal Remuneration Act, 1976 (Women have a right to equal pay)

According to provisions under the Equal Remuneration Act, one cannot be discriminated on the basis of sex when it comes to salary or wages. Working women have the right to draw an equal salary.

#11. Sexual Harassment Of Women At Workplace Act, 2013 (Women have a right against harassment at work)

The enactment of the Sexual Harassment of Women at Workplace Act gives you the right to file a complaint against sexual harassment. The law enables a sexually harassed woman employee can put in a written complaint to an Internal Complaints Committee (ICC) at a branch office within a period of 3 months as per the Sexual Harassment Act. This complaint further is taken up by the Local Complaints Committee (LCC) at a district level, ensuring investigations start regarding the same if proper action has not been taken against the employer. The complaint can also be filed by any of the woman's legal heirs on her behalf or any other person who has written permission given by her to make the complaint.

#12. Protection of Women from Domestic Violence Act (2005) (Women have a right against domestic violence)

The act primarily looks to protect a wife, a female live-in partner or a woman living in a household like a mother or a sister from domestic violence at the hands of a husband, male live-in partner or relatives. She or anybody on her behalf can file a complaint.

Section 498 states that whoever, being the husband or the relative of the husband of a woman, subjects her to cruelty, shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine. The complaint registered against an offender makes it a non-bailable one, ensuring a woman's safety and provide protection from domestic abuse. The acts of violence are not limited to physical brutality, but also other forms of abuse like verbal, economic, emotional and sexual.

#13. Women have a right to anonymity for sexual assault victims

Victims of sexual assault have a right to anonymity. To ensure that her privacy is protected, a woman who has been sexually assaulted may record her statement alone before the district magistrate when the case is under trial, or in the presence of a female police officer.

#14. Legal Services Authorities Act (1987) (Women have a right to free legal aid)

All-female rape victims have the right to free legal aid, under the Legal Services Authorities Act. It is mandatory for the Station House Officer (SHO) to inform the Legal Services Authority, who arranges for the lawyer.

#15. Code of Criminal Procedure (1973) (Women have right not to be arrested at night)

A woman cannot be arrested after sunset and before sunrise, except in an exceptional case on the orders of a first class magistrate. Further, the law states, "The police can interrogate a woman at her residence in the presence of a woman constable and family members or friends". A woman can also not be detained at night at the police station without legal permission.

#16. Women have a right to register their complaint virtually

If a woman is not in a position to physically go to a police station and file a complaint, there is a provision for virtual complaints where she can lodge a complaint via e-mail or write her complaint and send to a police station from a registered postal address. This provision leads to the SHO (Station House Officer) sending police to the complaint's place to record her.

#17. Indecent Representation of Women (Prohibition) Act (1986)

The depiction in any manner of the figure of a woman; her form or body or any part in such way as to have the effect of being indecent, or derogatory to, or denigrating women, or is likely to deprave, corrupt or injure the public morality or morals", is a punishable offense.

#18. Women have a right against being stalked

Section 354D of the IPC and legal action can be taken against an offender. It has been considered as a legal offense. Stalking has been defined by the law as, "To follow a woman and contact, or attempt to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or monitor the use by a woman of the internet, email or any other form of electronic communication."

#19. The provision of zero FIR

The ruling by the Supreme Court mentioned that a woman who is a victim can register her complaint at any police station under the Zero FIR ruling. The Zero FIR is an FIR that can be filed at any police station irrespective of the location where the incident occurred or a specific jurisdiction it comes under. So once that FIR is lodged and investigation and filling are done with a magistrate, it can be moved to the Police Station in whose jurisdiction the case falls under. This ruling was passed to save time that would impact a victim and also lead to an offender getting away scot-free.

Conclusion

Though the position of women has developed in the last four decades, however still they are struggling to maintain their freedom and dignity. Presently Indian women are suffering from the toughest time physically and mentally, mainly due to unawareness and lack of information on legal and constitutional woman rights in India. The Constitution provides many protection women rights such as Protective discrimination in favour of women, Right of women against exploitation, Rights of women under directives, Right to freedom of women and political representations of women.

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