



# Constitutional And Other Legal Rights For Women In India

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**ABSTRACT:** A girl, a wife, a mother, a grandmother, and an overall woman is a key to a family. The world can never be beautiful without a woman. Women's empowerment is a fundamental human right, essential for achieving gender equality and social justice. Nowadays women have faced so many problems, some of the most common crimes are rape, dowry, sexual harassment, kidnapping, cruelty by husbands, and relatives, assault on women, and sex trafficking. Law is the set of rules imposed to govern the behavior of people. The Indian government is being made to secure the lives of women from the violence, harassment, and dowry of their families and societies and so many initiative programs and various legislation contain several rights and safeguards for women. The rights of women in India can be classified into two or three categories: constitutional rights or provisions, legal rights, and special rights. The constitutional rights are given in the various provisions for women empowerment of the Indian constitution and the legal rights for women are given in the various laws or acts of the parliament and the state legislature. On the other hand, the Indian government is adopting various national policies and plans for women's empowerment. Further India is a democratic country so laws, development policies, plans, and programs are aimed at women's advancement in different fields.

**KEYWORDS:** India, women's rights, Constitutional rights, legal rights, women empowerment, harassment, dowry.

**INTRODUCTION:** Women are the icon of love, care, calmness, and passion. Women are emotionally stronger than men. Many examples have shown that women can regulate a country better than men. So, women have not been treated properly by men. In the ancient Rigvedic period, women were equal to men besides women were treated with respect and dignity. But in the later period, the position of women in the socio-political and economic fields deteriorated. In modern times, on the one hand in the incidents like exploitation, operation, torture discrimination, rape, sexual harassment bride torture death for dowry, women trafficking etc. are increasing. On the other hand, women are president, prime minister, chief minister, speaker, justice, central minister, opposition leader, governor, etc. Have adorned many important posts. In the post-colonial period, the constitution of independent India adopted various provisions for women. Along with the right to equality and freedom, women's right to education, property, rights to constitutional redress, security against exploitation, and various social oppressions are recognized.

In India, the constitution makers while drafting the constitution were very much sensitive to the problems faced by the women and made specific provisions to them. The beginning line of our preamble says that " We the people of India give to ourselves the constitution". The Indian preamble also contains equality, dignity, and opportunity for all citizens. The government of India has formed various laws to give equal status to women and has protected their lives from various acts of violence and crime. The Indian constitution not only speaks of women's equality but also empowers the State to adopt positive roles so that women do not face social, economic, political, and discriminatory adversities in the ongoing period. The rights of women in India can be discussed by categorizing them as constitutional rights, legal rights, and special rights.

### Constitutional Rights and Provisions for Women:

The constitution of India enshrines several rights and provisions to promote gender equality, empower women, and protect their rights. These provision aims to address historical inequality and ensure equal opportunities for women in various aspects of life, including education, employment, politics, and social justice. Our constitution lays special emphasis on the protection and well-being of women and weaker sections of society. The Indian constitution recognizes women's rights as an essential aspect of building a just and equitable society.

The constitutional rights of women mentioned in the Indian Constitution are discussed below:

1. Every person within the territory of India has the right to equality before the law and equal protection of the law (**Art.14**).
2. The State is not to discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth, and equal treatment and opportunities for all Indian citizens, regardless of their background or identity (**Art.15**).
3. The State to make any special provision or laws in favor of women and children, without being considered discriminatory (**Art. 15/c**).
4. There shall be equality of opportunity for all citizens irrespective of cast, religion place of birth in matters of employment or appointment to any office under the State (**Article 16/b**).
5. No person shall be deprived of his life and personal liberty (**Art.21**). This provision has been evoked to safeguard the rights of women such as the right to divorce, and the right to safe abortions. It should be noted that the rights granted under articles 20 and 21 cannot be suspended even during an emergency.
6. **21/A** article was inserted by the 86th Constitutional Amendment Act, 2002, and came into effect on April 1, 2010. It makes education a fundamental right for children (including girls) in the age group of 6 to 14 years, and the state is responsible for providing free and compulsory education to all children in this age group.
7. Traffic in human beings and forced labor are prohibited (**Art.23/a**).
8. The states to secure for men and women equally the right to an adequate means of livelihood (**Art.39/a**).
9. The states ensure equal pay for equal work for men and women (**Art. 39/d**).
10. The State to make provision for securing just and humane conditions of work and for maternity relief (**Art.42**).
11. The State shall promote with special care the educational and economic interests of the weaker sections of the people and shall protect them from social injustice and all forms of exploitation. Also, the state will be responsible for implementing policies and programs to achieve these objectives, ensuring a more equitable society (**Art.46**).
12. The State, as its primary duty, shall try to raise the standard of living of people and their level of nutrition and to improve public health (**Art.47**).
13. To promote harmony and unity among all the people of India irrespective of religion, language, or region and to treat everyone with dignity and respect, especially give up practices derogatory to the dignity of women (**Art.51A/e**).
14. Not less than one-third of the total number of seats to be filled by direct election in every anchayat hall be reserved for women and such seats may be allotted by rotation to different constituencies in a Panchayat (**Art.243 D/3**).
15. The offices of Chairpersons in the panchayats at each level shall be reserved for women in such manner as the state legislature may, by law, provide (**Art. 243D/4**).
16. Not less than one-third of the total number of seats to be filled by direct election in every Municipality to be reserved for women and such seats may be allotted by rotation to different constituencies in a municipality (**Art.243 T/3**).
17. The offices of chairpersons in the municipality shall be reserved for women in such manner as the state legislature may, by law, provide (**Art.243T/4**).
18. **Article 300 (A)** grants women the freedom to own property, ensuring their right to own and possess assets.

### The Crime Identify for Women Under The Indian Penal Code (IPC):

**Indian Penal Code, 1860** is a major statutory penal law in India. IPC provides definitions and punishments for offenses. However, the victim always has the right to make a complaint against the offense committed against him or her. There are certain provisions in the code that deal with crime against women. Such as:

1. **Rape (Sec.376)**. A rapist shall be punished with imprisonment of either description for a term which shall not be less than 7 years, but which may extend to imprisonment for life.

**2. Dowry, Harassment, Homicide for Dowry, Dowry Death (Sec.302/304.b).** Section 302 Dowry Prohibition Act defines “dowry” as any cash, jewelry, valuables, or property that the husband or his family members demand from any woman or bride’s parents at the time of marriage and after marriage. Whoever commits dowry death shall be punished with imprisonment of either description for a term which shall not be less than 7 years, but which may extend to imprisonment for life.

**3. Bigamy (Sec.494).** Bigamy is an offence under IPC. In case, marriage is solemnized by the spouse during the lifetime of his /her partner, then the offender shall be punished with imprisonment extendable up to seven years or with a fine.

**4. Torture, both Mental and Physical (Sec.498/A).** Section 498/A is a cognizable, non-bailable, and non-compoundable offense and the wife or her relatives can file a complaint. Cruelty or abuse of such women by her husband or husband's relative shall be punishable with imprisonment for a term which may extend to 3 years and may also be fined with imprisonment.

**5. Molestation (Sec.354).** Section 354 of IPC is defined as “whoever assaults or uses criminal force to any woman, intending to outrage her or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to 2 years, with a fine or with both.”

**6. Kidnapping and Abduction for different purposes (Sec.363-373).** This provision for punishment of kidnapping is given under section 363 which says whoever kidnaps any person from India or lawful guardianship, shall be punished with imprisonment of either description for a term which may extend to 7 years, or with fine or with both.

**7. Sexual Harassment (Sec.509).** Whoever intends to insult the modesty of women, utters any word, shows pornography, makes sexually colored remarks, any other unwelcome physical, verbal, or nonverbal conduct of a sexual nature, makes any sound or gesture or any object shall be punished with imprisonment of either description for a term which may extend to 3 years, or with fine or with both.

**8. Voyeurism (Sec.354).** Some together or someone is watching or capturing an image of a woman engaged in a private act and any person who commits such offence is liable for punishment for imprisonment extendable up to 3 years or with a fine.

**9 Indecent Representation of Women (Sec.292):** The section prohibits publishing or distributing indecent materials depicting women. If one or two accused do the same then, the first conviction: is imprisonment of up to 3 years and/or a fine of Rs. 2,000 rupees, and the second or subsequent conviction: is imprisonment of up to 5 years and/or fine of Rs. 10,000 rupees.

#### **Various Legislation Contained Several Rights and Safeguards for Women :**

**i. The Hindu Marriage Act, 1955.** This act has reformed the Hindu law of marriage. It applies to all Hindus, Sikhs, and Buddhists. This act introduced monogamy and allowed divorce on specified grounds. The act confers equal status upon all Indian males and females. The prescribed age for marriage of the bridegroom is 21 years, and the bride is 18 years.

**ii. The Dowry Prohibition Act,1961.** The Dowry Prohibition Act, 1961 was enacted by the Indian Government with the object of prohibiting the evil practice of giving or taking dowry. The act prohibits not only the actual receiving of dowry but also such demands made either before, after, or in connection with marriage.

**iii. The Family Court Act,1984.** This act provides for the establishment of family courts for speedy settlement of family-related disputes matters. The Family Courts Act deals with matters relating to divorce, and matrimonial relief, including nullity of marriage, adoption, custody of children, maintenance for wife and children, property disputes, and any other family related.

**iv. The Prohibition Child Married Act,2006.** This Act was enacted by the Indian Government. It forbids child marriages and protects and provides assistance to the victims of child marriage. This act is armed with enabling provisions to prohibit child marriage, protect and provide relief to victims, and enhance punishment for those who abet, promote, or solemnize such marriage.

#### **Special Protection for Women Under the Labour Laws:**

The constitution of India mandates that women must be treated equally and prohibits discrimination against women in all areas, including education, skill development, reservation for women in educational institutions, and the employment in public sector. The constitution also safeguards the dignity of women workers and ensures that they are provided a safe working environment free of sexual harassment. Recently a special law has been enacted to protect women against sexual harassment in the workplace and other crimes against women.

**v. Maternity Benefits Act, 1961.** This act is legislation in India that provides benefits to pregnant women and new mothers and provides maternity benefits. This act provides maternity leave (26 weeks of paid and introduced work from-home-option), medical bonus (Rs, 20,000 rupees medical bonus for each child), nursing breaks ( two nursing breaks of 30 minutes each during working hours), protection from dismissal( no dismissal or discharge during maternity leave) and health and safety (employer must provide health and safety measures for pregnant women).

**vi. The Equal Remuneration Act, 1976.** In this act, every employer is under a legal obligation to pay the same wages or remuneration for men and women if they perform the same work and the same environment. Also, this act provides recruitment, promotion, training, and transfer for men and women workers and the prevention of discrimination on the grounds of sex, caste, class, and religion against women in the matter of employment.

**vii. The Sexual Harassment at Workplace Act( Prevention, prohibition and Redressal) Act, 2013.** This act was enacted by the Indian parliament in 2013, to protect women from sexual harassment in the workplace and to provide a safe and conducive working environment. Sexual Harassment Act or Prevention, Prohibition and Redressal Act (POSH) has identified some issues as sexual harassment. For example (a) physical contact and advances (b) demand or request for sexual favors (c) showing pornography (d) making sexually colored remarks (e) any other unwelcome physical, verbal, or non-verbal conduct of a sexual nature.

#### **Women's Health and Safety:**

**viii. Medical Termination of Pregnancy Act, 1971 (MTP).** The Indian Penal Code, which was enacted more than one and half centuries ago, based on British Law, contained certain provisions regarding termination of pregnancy. At this time abortion was criminalized under section 312 of the Indian penal code, except in cases where necessary to save the woman's life. The Medical Termination of Pregnancy Act was passed by the Indian Parliament in April 1971 to permit legalizing abortions. A mother's right to preserve her health is superior to the right of an unborn child. In September 2021, the Medical Termination of Pregnancy (Amendment) Act of 2021 came into force, extending the upper gestational limit for abortion from 20 to 24 weeks. This act clearly states the conditions under which a pregnancy can be aborted. The women who are qualified to conduct the abortion and the place of implementation. There are some conditions for abortion:-

- a. Women facing the birth of a potentially handicapped.
- b. Pregnancies that are a result of failure in sterilization.
- C. Pregnancy in unmarried girls under the age of eighteen with the consent of a guardian.
- d. A great risk to women's health

Apart from the above laws, many other laws are continuously playing an important role in the protection, empowerment, and rights of women. Such as the Plantation Labor Act(1951), Legal Service Act (1987), Immoral Traffic Prevention Act(1956), Mines Act (1952), Factories Act(1948), Dissolution of Muslim Marriage Act (1939), Beedi and Cigar Workers Act (1966), Protection of Women from Domestic Violence Act (2005), Sexual Offenses Against Children( POSCO Act, 2012).

#### **Few special initiatives for the protection and empowerment of Indian women.**

**The National Commission for Women Act, 1990 (Act of Parliament).** The National Commission for Women was set up as a statutory body in January 1992 under the National Commission for Women Act, 1990, the government of India to review the constitutional and legal safeguards for women, recommend remedial legislative measures, facilitate redressal of grievances and advice the government on all policy matters affecting women. The objectives of the National Commission for Women are to represent the rights of women in India and to provide a voice for their issues and concerns. The subjects of their campaigns have included dowry, politics, religion equal representation for women in jobs or other government services, and the exploitation of women for labor.

**National Plan of Action for the Girl Child (1991-2000).** Many schemes and policies have been introduced by the Indian government, to provide various privileges and benefits to Indian women (for example, Balika Samridhi Yojana,-in 1997, the national nutritional policy in 1993, Beti Bachao Beti Padhao in 2015, the new-born action plan, 2014. Etc.) One such plan of action, formulated by the Indian government is the national plan of action for the girl child. It was specially formed to protect and promote the girl child in various fields. This plan seeks to prevent female feticide and infanticide, eliminate gender discrimination, provide safe drinking water and fodder near homes, rehabilitate and protect girls from exploitation rape, and abuse, bad touch, force, assault.

**National Policy for the Empowerment of Women, 2001.** The goal of this policy is to bring about the advancement, development, justice decision-making, and empowerment of women. The policy will be widely disseminated to encourage the active participation of all stakeholders in achieving its goal.

**Conclusion:** In Indian society, women are backward in various aspects of their development, the Indian government has adopted various approaches to make them make their own decisions. It is not sufficient to give constitutional and other legislative protection to women but what is required to be done is to give her dignity in society and at home, promote education and awareness, and also women should be given equal opportunity to participate in politics like men, encourage women's participation in politics and own decision making improve access to healthcare and reproductive rights. Apart from the above, there are many other things through which women can be empowered and developed. Such as education and skill development, economic independence, digital empowerment, mentorship and role models, social and cultural change, policy and legal reforms, and safety and security for women. However, a woman does not need to be given recognition in law but needs recognition with dignity in society. If we can see from the past to the present there is a drastic change in the lives of women, now women with their household work contribute to the earnings of their families and the country's economy. The conclusion emphasizes the need for a comparative approach to women's empowerment, safety, and security, involving legal reforms, policy changes, and social mobilization to ensure that women can exercise their rights and reach their full potential.

"All nation have attained greatness by paying proper respect to women that country and that nation which do not respect women have never become great, nor will ever be in the future." (Swami Vivekananda)

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