

Chapter 19

Step Towards Social Equilibrium - Liberalization Of Women

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Introduction

The Indian Constitution enshrines Gender equality in its Preamble, Fundamental Rights, Fundamental Duties and Directive Principles. The Constitution also empowers the State to adopt measures of positive discrimination in favor of women. Our laws, development policies, plans, rules and programs have aimed at women's advancement in different spheres. Despite these privileges, there still exists a setback in the development of their position. Until the effective enforcement of existing law, this state cannot be changed in India.

Position Of Women Before Independence

In the pre-independence period, the status of women inside the nation was in a denied state. The significant reason for this was, there was pervasiveness of male strength. Because of this, the condition of women was undermined. The real responsibilities of women were committed towards the execution of family duties and they were not permitted to take part in anything in which they were interested, nor were they permitted to express their thoughts and perspective. They were overpowered by the acts of polygamy, sati, forced marriage, and female infanticide. Upgrades came to fruition in their conditions with the coming laws authorized for their welfare.

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The position of women in India, before the country attained independence, experienced numerous problems and challenges. With the prevalence of Male dominance, there were constraints imposed upon women in terms of many aspects, these include, acquisition of education, work opportunities, forced child marriage, etc. The status of women in pre-independent India was primarily dependent upon their upbringing and the society in which they lived. Before independence, there were women, who mastered skills and abilities and fought for their rights. Women also struggled for the achievement of independence against British rule. Whereas, there have been women, belonging to a lower caste and socio-economically backward sections of the society, who did not enjoy equal rights and opportunities and their living conditions were not adequate. They were dependent upon the Male members and were required to follow the rules and norms implemented by them.

Constitutional Provisions for Women In India

The Indian Constitution has embodied the grounds for gender equality²²². The Fundamental Rights, Fundamental Duties and Directive Principles together, work towards shaping policies, rules and putting safeguards not just for women empowerment in India but also for protection.

²²³*Constitutional Provisions*

The Constitution of India accredits the State to adopt measures for neutralizing socio-economic disadvantages faced by women through positive discrimination in favor of them. Fundamental Rights ensure equality before the law and equal protection of the law. It prohibits discrimination against any citizen on grounds of religion, race, caste, sex etc. and guarantee equality of opportunity to all citizens in matters relating to employment.

- Articles 14, 15, 15(3), 16, 39(a), 39(b), 39(c) and 42 of the Constitution are of specific importance in this regard.
- Constitutional Privileges
- Equality before law for women (Article 14)
- The State not to discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them (Article 15 (i))
- The State to make any special provision in favor of women and children (Article 15 (3))

²²² [grounds for gender equality](#)

²²³ M.P.Jain, *Indian Constitutional Law*.

- Equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State (Article 16)
- ²²⁴ The State to direct its policy towards securing for men and women equally the right to an adequate means of livelihood (Article 39(a)); and equal pay for equal work for both men and women (Article 39(d))
- To 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 because of economic or other disabilities (Article 39 A)
- The State to make provision for securing just and humane conditions of work and for maternity relief (Article 42)
- The State 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 (Article 46)
- The State to raise the level of nutrition and the standard of living of its people (Article 47)
- To promote harmony and the spirit of common brotherhood amongst all the people of India and to renounce practices derogatory to the dignity of women (Article 51(A) (e)).

Right To Equal Pay

According to the Equal Remuneration Act, no one could be discriminated against based on gender when it comes to salary or wages. Working women²²⁵ have the right to an equal salary.

Right To Dignity And Decency

Any medical examination procedure on an accused woman must be performed by or in the presence of another woman.

Right Against Harassment At Work

The enactment of the Sexual Harassment of Women at Workplace Act gives the right to file a complaint against sexual harassment. A sexually affected woman employee can make her complaints to an Internal Complaints Committee (ICC) at a branch office within 3 months as per the Sexual Harassment Act. The committee will proceed with further inquiry.

²²⁴ H.M.Seervai, *Constitutional Law of India*.

²²⁵ <https://sheroes.com/articles/why-women-should-work/NDE5>

Right Against Domestic Violence

The act protects women from domestic violence at the hands of the opposite gender or their relatives. The complaint can be filed by her or anybody on her behalf.

²²⁶Section 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 protection from domestic abuse.

Right To Anonymity For Sexual Assault Victims

Women who are victims of sexual assault have a right to anonymity. To confirm 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.

Right To Free Legal Aid

All-female rape victims have the right to free legal aid, under the Legal Services Authorities Act. They can get their justice through this service.

Right Not To Be Arrested At Night

A woman cannot be arrested after sunsets and before sunrises. Also, police can interrogate a woman at her residence only in the presence of a woman constable and family members or friends. A woman cannot be detained at night at the police station without legal permission.

Right To Register Their Complaint Virtually

If a woman cannot physically go to a police station and lodge a complaint, there is a provision for virtual complaints where she can lodge a complaint via e-mail or write her complaint and send it to a police station from a registered postal address. The police department will take up such a complaint and start their investigation.

Right Against Indecent Representation

Women are protected from indecent representation. Law states that ‘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.’

²²⁶ Ratanlal and Dhirajlal; *The Indian Penal Code*.

Right Against Being Stalked

²²⁷Section 354D of the IPC and legal action can be taken against an offender. It is a legal offense. The law defines Stalking 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."

The Provision Of Zero Fir

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.

(2) Other acts that provide special provisions to safeguard women and their interests are;

- (i) The Family Courts Act, 1954
- (ii) The Special Marriage Act, 1954
- (iii) The Hindu Marriage Act, 1955
- (iv) The Hindu Succession Act, 1956 with an amendment in 2005
- (v) Immoral Traffic (Prevention) Act, 1956
- (vi) The Maternity Benefit Act, 1961 (Amended in 1995)
- (vii) Dowry Prohibition Act, 1961
- (viii) The Medical Termination of Pregnancy Act, 1971
- (ix) The Contract Labour (Regulation and Abolition) Act, 1976
- (x) The Equal Remuneration Act, 1976
- (xi) The Prohibition of Child Marriage Act, 2006
- (xii) The Criminal Law (Amendment) Act, 1983
- (xiii) Indecent Representation of Women (Prohibition) Act, 1986
- (xiv) Commission of Sati (Prevention) Act, 1987
- (xv) The Protection of Women from Domestic Violence Act, 2005.

²²⁷ Ratanlal and Dhirajlal: *The Indian Penal Code*.

Injustice Against Women Rape

Women are regularly the victims of assault, which is generally executed by men known to them. The pace of reporting, prosecution, and convictions for assault fluctuates impressively in various domains and reflects somewhat the general public's frames of mind to such crimes.²²⁸ It is considered the most underreported brutal crime. Following an assault, an unfortunate casualty may confront brutality or dangers of savagery from the attacker, and, in numerous societies, from the injured individual's own family and relatives. Threatening or terrorizing of the injured individual might be executed by the rapist or by companions and relatives of the rapist, as a method for keeping the exploited people from announcing the assault, of rebuffing them for revealing it, or of constraining them to pull back the grievance; or it might be executed by the relatives of the unfortunate casualty as a discipline for "bringing disgrace" to the family. This is particularly the situation in societies where female virginity is profoundly esteemed and thought about compulsory before marriage; in outrageous cases, assault unfortunate casualties are murdered in honor killings. Exploited people may likewise be constrained by their families to wed the attacker to reestablish the family's "respect".

Marital Rape

The marital or spousal assault was once generally overlooked or disregarded by law and is presently broadly thought about unsuitable brutality against women and disavowed by universal shows and progressively condemned. All things considered, in numerous nations, spousal assault either stay lawful or are unlawful yet generally endured and acknowledged as a spouse's right. The criminalization of spousal assault is later, having happened during a previous couple of decades. The relation between some religions and marital rape is controversial.

Domestic Violence and Dowry Death

Women are bound to be misled by somebody that they get physically involved with, normally called "intimate partner violence" (IPV). Cases of IPV tend not to be accounted for to police and along these lines; numerous specialists think that it's difficult to assess the genuine extent of the problem. Though this type of brutality is regularly considered as an issue inside the setting of hetero connections, it additionally happens in lesbian

²²⁸ Bahl, Taur; Syed, M. H. (2003). *Encyclopedia of the Muslim world*. New Delhi: Anmol Publications.

relationships, girl mother connections, flat mate connections and other residential connections including two women.²²⁹ Viciousness against women in lesbian connections is about as regular as brutality against ladies in hetero relationships.

Women are considerably more likely than men to be killed by a personal accomplice. An UN report arranged from various investigations directed in any event 71 nations observed abusive behavior at home against women to be most common in Ethiopia. An examination by Pan American Health Organization led in 12 Latin American nations found the most astounding predominance of abusive behavior at home against women to be in Bolivia.

Dowry deaths are deaths of married women who are killed or headed to suicide by ceaseless provocation and torment by their spouses and in-laws over a debate about their share, making women's homes the most hazardous spot for them to be. Most settlement deaths happen when the young women, unfit to tolerate the badgering and torment, end it all. The majority of these suicides are by hanging, harming or by flame. Some of the time the lady is killed by setting her ablaze by her significant other or in-laws; this is known as "bride consuming", and is once in a while camouflaged as suicide or mishap. Death by consuming of Indian women has been all the more regularly ascribed to endowment conflicts. In settlement death, the groom's family is the culprit of homicide or suicide.

Cyber Bullying

Cyber bullying might be a state of terrorizing using electronic states of contact. In the 21st century, cyber bullying has wound up dynamically normal, especially among youths in Western countries. On 24 September 2015, the United Nations Broad Commission released a report that asserted that almost 75% percent of women online have encountered bullying and threats of violence, something different known as digital violence²³⁰. Sexist talk is dominating on the web, and the open discussion about over sex-based attacks has extended basically, heading to calls for a course of action interventions and unrivaled responses by social frameworks like Facebook and Twitter.

²²⁹ Girshick, Lori B. (December 2002). "No sugar, no spice: reflections on research on woman-to-woman sexual violence". [Violence Against Women](#).

²³⁰ "[cyber violence report press release](#)". UN Women. Retrieved 3 April 2016

Acid Throwing

Acid throwing, likewise called acid assault, or vitriol, is characterized as the demonstration of tossing corrosive onto the body of an individual "to harm or deform [them] out of a desire for revenge". The most widely recognized kinds of corrosive utilized in these assaults are sulfuric, nitric, or hydrochloric acid. Perpetrators of these assaults toss corrosive at their unfortunate casualties, more often than not at their faces, consuming them, and harming skin tissue, regularly uncovering and now and then dissolving the bones. The long haul results of these assaults incorporate visual deficiency and changeless scarring of the face and body²³¹. Women and young women are the exploited people in 75-80% of cases. Acid assaults are frequently associated with household questions, including endowment debates, and refusal of a recommendation for marriage, or lewd gestures. Such assaults are regular in South Asia, in nations, for example, Bangladesh, Pakistan, India and in Southeast Asia, particularly in Cambodia.

Honor Killing

Honor killings are regularly a consequence of firmly sexist perspectives towards women, and the situation of women in the public eye. In these generally male-overwhelmed social orders, women are reliant first on their dad and after that on their better half, whom they are required to comply. Women are seen as property and not as people with their organization. In that capacity, they should submit to male specialist figures in the family – the inability to do as such can bring about extraordinary savagery as a discipline. Brutality is viewed as a method for guaranteeing consistency and forestalling rebellion. According to Shahid Khan, an educator at the Aga Khan University in Pakistan, "Women are viewed as the property of the guys in their family independent of their group, ethnic, or religious gathering. The proprietor of the property has the privilege to choose its destiny. The idea of possession has transformed women into aware which can be traded, purchased and sold". In such societies, women are not permitted to assume responsibility for their bodies and sexuality: these are the property of the guys of the family, the father (and other male relatives) who must guarantee virginity until marriage; and after that the spouse to whom his significant other's sexuality is subjected – a woman must not undermine the proprietorship privileges of her gatekeeper by taking part in pre-marriage sex or infidelity.

²³¹ Bahl, Taur; Syed, M. H. (2003). *Encyclopedia of the Muslim world*. New Delhi: Anmol Publications.

Female Genital Mutilation

Female genital mutilation (FGM) is defined by the World Health Organization²³² (WHO) as "all procedures that involve partial or total removal of the external female genitalia, or other injuries to the female genital organs for non-medical reasons." As per some nearby specialists, it is accepted that FGM is connected to social rituals and traditions.²³³ It is viewed as a conventional practice that keeps on occurring in various networks/nations of Africa and the Middle East, incorporating into spots where it is prohibited by national enactment. Elderly women in the community are usually the ones carrying out this procedure. The procedure is usually done with a blade or knife, on girls aged anywhere between six and 10--the idea is to "get it over with" before they hit puberty.

Conclusion

Today as we are in the 21st century, we are still unfit to flaunt a general public where there is absolute sexual orientation correspondence or sexual orientation value. Up to this point, the topic of sex correspondence or sexual orientation value is only a subject of hypothetical exchange. Things are evolving yet rather gradually. For women strengthening we would like to recommend that education is the best weapon for battling against unfairness. The absence of education is the base of all abuse, viciousness, and persecution. Our government makes laws for women, attempt to actualize it yet additionally take the consideration that every single woman in our general public ought to be taught. Lawful attention to women's rights is an additional vital and generally significant thing that women should deal with their rights. In the expression of Prof. Harold Laski - "Internal vigilance is the price of liberty and not a particular doctrine or rule of law". We should build up a system that helps individuals all the more effectively report digital violations, share proof in a reliable way with law implementation.

That system ought to be automated; the victims should be made aware of what has happened to them; direct them to help; and encourage the sharing of the crime, and the crime doers come across government organizations and law implementation. Loopholes in criminal enactment, the poor requirement of criminal laws and guidelines, absence of appropriate limit in the criminal equity framework, discriminating nature prevalent in the society should be put to an end by taking the needed measures. Awareness programs

²³² [World Health Organization](#)

²³³ Shell-Duncan, Bettina (June 2008). "From health to human rights: female genital cutting and the politics of intervention". [American Anthropologist](#). [Wiley](#).

regarding protection and privileges available to women should be spread in all areas. The society should also be made aware of existing programs like 'Men Can Stop Rape.' Punishments for any offense made against women should be strengthened and enforced accordingly. No criminal, who has the guilt of having committed a crime, should escape from JUSTICE.