



Legal provisions for Gender Equality in India

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Abstract

Gender equality is a cornerstone of social justice and sustainable development. In India, despite constitutional guarantees and progressive legal frameworks, women continue to face systemic barriers to equality. This article examines the legal provisions aimed at addressing gender inequality, focusing on their evolution and impact. It highlights the role of the Indian Constitution, specially its Fundamental Rights and Directive Principles of State Policy, in fostering gender equality. Additionally, it explores the Viksit Bharat initiatives, a holistic government effort to empower women through enhanced access to education, healthcare, and economic opportunities. By analyzing these provisions and programs, the article underscores the importance of a multifaceted approach to achieving gender equality in India.

Keywords: Gender Equality, women rights, women empowerment

Introduction

India, a country with a rich cultural heritage and a diverse population, has long grappled with the issue of gender inequality, with women often facing significant barriers to achieving their full potential. However, over the years, the Indian government has enacted various legal provisions to address this imbalance and promote women's empowerment and gender equality. The Viksit Bharat initiatives, a comprehensive set of programs launched by the Government of India, aim to address the multifaceted challenges of gender inequality and women's empowerment. These initiatives focus on improving access to education, healthcare, and economic opportunities for women, as well as strengthening the implementation of laws and policies for their protection. By addressing these critical issues through a holistic approach, the Viksit Bharat initiatives have the potential to accelerate the progress towards gender equality and women's empowerment in India.

The Indian Constitution, adopted in 1950, is a testament to the country's commitment to ensuring equal rights for all its citizens, irrespective of gender. The Constitution's Fundamental Rights guarantee equality before the law and prohibit discrimination on the grounds of sex¹. Additionally, the Directive Principles of State Policy mandate the state to secure equal rights and opportunities for men and women in the political, economic, and social spheres.

Gender equality under the Indian Constitution is enshrined in the Fundamental Rights, which guarantee equality of opportunity in employment and appointment to office². The Constitution also prohibits discrimination

¹ Singh, J. (2000). Indian Democracy and Empowerment of Women. In J. Singh, Indian Journal of Public Administration (Vol. 4-6, Issue 4, p. 617). SA_GE Publishing. <https://doi.org/10.1177/0019556120000403>

² Singh, J. (2000). Indian Democracy and Empowerment of Women. In J. Singh, Indian Journal of Public

on the basis of gender, and the government has implemented various policies and programs to ensure equal rights and opportunities for women.

One such initiative is the Panchayati Raj System, which mandates a 33% reservation for women in local government institutions, enabling them to participate in decision-making processes at the grassroots level. This has been a significant stride towards women's political empowerment, as it has opened up new avenues for them to exercise their democratic rights and contribute to the development of their communities.

One area where significant progress has been made is in the political representation of women in India. The 73rd and 74th Constitutional Amendments in 1993 mandated that one-third of all seats in local government bodies be reserved for women, a move that has increased the participation of women in the decision-making process at the grassroots level.

However, at the national level, the representation of women in the Indian Parliament remains low, with women accounting for only 14% of the members of the Lok Sabha (lower house) in the 2019 general elections.³ This disparity highlights the need for further measures to ensure equal representation of women in the higher echelons of power.

Furthermore, the government has introduced various other legal provisions to promote gender equality, such as the Equal Remuneration Act, which ensures equal pay for equal work, and the Sexual Harassment of Women at Workplace Act, which aims to protect women from sexual harassment in the workplace, the Maternity Benefit Act, which provides for paid maternity leave, and the Protection of Women from Domestic Violence Act, which aims to protect women from domestic abuse and many other women-centric laws have been passed under the umbrella of Article 15(3) of Indian Constitution.⁴

Despite these legal safeguards, however, gender-based discrimination and social evils such as female foeticide, female infanticide, and domestic violence continue to persist in Indian society⁵. The patriarchal mind-set and deeply ingrained gender biases still pose significant challenges to women's empowerment and gender equality.

The Gender Gap Index, a global measure of gender disparity, ranked India 135th out of 146 countries in 2022, indicating the considerable work that remains to be done to achieve true gender parity.

Legislation for Women's Empowerment

Over the years, the Indian government has enacted various laws and policies to address the concerns of women and promote their empowerment and for establishing gender Equality in line with Article 15(3) of Indian Constitution. Few of the notable legislations are discussed here under:

Labour law protections for women in India

To address the issues of women in the workforce, the Indian government has enacted various labor laws that provide specific protections and benefits for female employees. These include the Maternity Benefit Act, which guarantees paid leave and other benefits for women during pregnancy and childbirth, and the Equal Remuneration Act, which mandates equal pay for equal work for men and women.

Administration (Vol. 46, Issue 4, p. 6_17). SA_GE Publishing. <https://doi.org/10.1177/0019556120000403>

³ Nayee_m, N., & Bhat, J. A. (2022). R_epresentation of women in Indian politics. *Journal of Psychology and Political Science*, 21, 19–25. <https://doi.org/10.55529/jpps.21.19.25>

⁴ Singh, J. (2000). Indian Democracy and Empowerment of Women. In J. Singh, *Indian Journal of Public*

Administration (Vol. 46, Issue 4, p. 617). SAGE Publishing. <https://doi.org/10.1177/0019556120000403> ⁵ Kumari, S., & Siotra, V. (2023). Indian females in the twenty-first century: how they have fared? An analysis using geospatial techniques. In S. Kumari & V. Siotra, *GeoJournal* (Vol. 88, Issue 4, p. 4279). Springer Science+Business Media. <https://doi.org/10.1007/s10708-023-10865-y>

However, the implementation of these laws has been uneven, and women continue to face discrimination in the workplace, with a significant gender wage gap and limited opportunities for advancement.⁵

Sexual Harassment at workplace

A comprehensive law designed to shield women from sexual harassment at work the POSH Act of 2013. The Act gives a definition of sexual harassment, describes the obligations of employers, and offers a complaint resolution process. Enacted to give the Vishakha guidelines a legislative backing, the law has been a crucial step in addressing a longstanding issue that has plagued working women in India.

However, as with other laws, the challenge lies in the effective implementation of this Act, with many workplaces still lacking proper grievance redressal mechanisms and awareness about the law. Additionally the law ignores the un-organized sector and domestic workers from its purview.

While the legal framework for empowerment of women and equality of gender in India is comprehensive, the effective implementation of these laws remains a challenge.

Despite the progressive legislation, the reality for many Indian women remains one of persistent inequality and marginalization. Deeply entrenched patriarchal norms and structures continue to limit women's access to education, healthcare, and economic opportunities⁷.

Marital Laws and gender equality in India

In India, the complex interplay between personal laws, based on religion, and the secular laws of the country has also posed challenges for the advancement of women's rights. Personal laws, which govern matters such as marriage, divorce, and inheritance, often perpetuate traditional gender roles and discriminatory practices against women.⁸

There have been ongoing efforts to harmonize personal laws with the principles of gender equality enshrined in the Constitution, but progress has been slow and uneven.

⁷ Khullar, S. (2012). Panchayati Raj Institutions in India. In S. Khullar, SSRN Electronic Journal. RELX Group (Netherlands). <https://doi.org/10.2139/ssrn.2161522>

⁸ Neely, C. L. (2008). Book Review: Gangoli, G. (2007). Indian Fe_minisms: Law, Patriarchies, and Violence in India. London: Ashgate Publishing. das Dasgupta, S. (Ed.). (2007). Body Evidence: Intimate Violence Against South Asian Women in America. New Brunswick, NJ: Rutgers University Press. In C. L. Neely, Violence Against Women (Vol. 14, Issue 4, p. 496). SAGE Publishing. <https://doi.org/10.1177/1077801208315107>

Dowry Protection Act

The practice of dowry, the exchange of monetary gifts and valuables from the bride's family to the groom's family upon marriage, has been a longstanding tradition in Indian society. However, this practice has also been a source of immense hardship and even violence against women, as evidenced by the phenomenon of "dowry death," where women are killed or driven to suicide due to insufficient dowry payments.⁶

⁵ ibid

⁶ Mohanty, M. K., Panigrahi, M. K., Mo_hanty, S., & Das, S. K. (2004). Victimologic study of female homicide. In M. K. Mohanty, M. K. Panigrahi, S. Mohanty, & S. K. Das, Legal Medicine (Vol. 6, Issue 3, p. 151). Elsevier BV

The Dowry Prohibition Act of 1961 was enacted in India to address this issue, making the demand for dowry a criminal offense punishable by imprisonment and fines.⁷ Despite this legislation, dowry-related violence and deaths continue to be a significant problem, with an estimated 8,000 to 10,000 dowry deaths occurring each year in India.¹¹

The causes of dowry-related violence and death are multifaceted, rooted in the patriarchal structure of Indian society and the persistence of gender inequality.⁸

Historically, dowry may not have had the prevalent negative connotations as a social evil, although it has frequently been mentioned in stories or tales. This practice was designed to make it easier for newlyweds to begin their lives comfortably.¹³

However, the dowry system has also been a source of immense hardship and violence against women, particularly in cases where the groom or his family are not satisfied with the dowry provided.⁹ Newspapers report every other day that a young woman has been burned to death, tortured, or humiliated by her husband or in-laws, usually for the dowry or for a variety of other reasons like sexual jealousy or suspicions of adultery.¹⁰

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The burden of proof in these cases is often placed on the accused, who must prove that they made no demand for dowry, which can be an extremely difficult task¹²¹³. The persistence of dowry-related violence and death highlights the deep-rooted nature of gender inequality and patriarchal structures in Indian society, which continue to place women at risk of harm and exploitation.¹⁴

Domestic Violence Act

The Protection of Women from Domestic Violence Act of 2005 is a significant legislation that recognizes various forms of domestic abuse and provides legal recourse for victims.¹⁹ Domestic violence is a pervasive and deeply entrenched issue in India, with far-reaching consequences for individuals, families, and the broader societal fabric.

⁷ Saeed, B. (2021). Caste and Gender in Arundhati Roy's *The God of Small Things*. In B. Saeed, *Govara zanistîn mirovayetî ya-zankoya Zaxo* (Vol. 9, Issue 4, p. 1011). <https://doi.org/10.26436/hjuoz.2021.9.4.769> ¹¹ Babu, G. R., & Babu, B. V. (2011). Dowry deaths: a neglected public health issue in India. In G. R. Babu & B. V. Babu, *International Health* (Vol. 3, Issue 1, p. 35). Oxford University Press. <https://doi.org/10.1016/j.inhe.2010.12.002>

⁸ Saeed, B. (2021). Caste and Gender in Arundhati Roy's *The God of Small Things*. In B. Saeed, *Govara zanistîn mirovayetî ya-zankoya Zaxo* (Vol. 9, Issue 4, p. 1011). <https://doi.org/10.26436/hjuoz.2021.9.4.769> ¹³ Babu, G. R., & Babu, B. V. (2011). Dowry deaths: a neglected public health issue in India. In G. R. Babu & B. V. Babu, *International Health* (Vol. 3, Issue 1, p. 35). Oxford University Press. <https://doi.org/10.1016/j.inhe.2010.12.002>

⁹ Mohanty, M. K., Panigrahi, M. K., Mohanty, S., & Das, S. K. (2004). Victimologic study of female homicide. In M. K. Mohanty, M. K. Panigrahi, S. Mohanty, & S. K. Das, *Legal Medicine* (Vol. 6, Issue 3, p. 151). Elsevier BV.

¹⁰ Kumar, V., & Tripathi, C. B. (2004). Burnt Wives: A study of homicides. In V. Kumar & C. B. Tripathi, *Medicine Science and the Law* (Vol. 44, Issue 1, p. 55). SAGE Publishing. <https://doi.org/10.1258/rsmmsl.44.1.55>

¹¹ ibid

¹² Mohanty, M. K., Panigrahi, M. K., Mohanty, S., & Das, S. K. (2004). Victimologic study of female homicide. In M. K. Mohanty, M. K. Panigrahi, S. Mohanty, & S. K. Das, *Legal Medicine* (Vol. 6, Issue 3, p. 151). Elsevier BV.

¹⁴ Saeed, B. (2021). Caste and Gender in Arundhati Roy's *The God of Small Things*. In B. Saeed, *Govara zanistîn mirovayetî ya-zankoya Zaxo* (Vol. 9, Issue 4, p. 1011). <https://doi.org/10.26436/hjuoz.2021.9.4.769> ¹⁹ Mukherjee, I., & Sen, S. (2006). The Changing Status of Women in India - The Challenges Ahead. In I. Mukherjee & S. Sen, *SSRN Electronic Journal*. RELX Group (Net Herlands). <https://doi.org/10.2139/ssrn.920326>

The prevalence of domestic violence is rooted in a complex web of structural inequalities, including those inherent in religious, caste, and traditional male-dominated hierarchies.¹⁵ Violence against women, in all its forms, is a global public health and human rights crisis that transcends national borders, age, religion, ethnicity, and geographic regions.¹⁶

Within the Indian context, domestic violence, defined as violence against women by their husbands or intimate partners, is one of the most common and widespread forms of violence experienced by women. Societal attitudes that condone domestic violence and discriminatory gender norms, which emphasize male authority and control, are highly predictive of the perpetration and victimization of domestic violence.¹⁷ The National Crime Records Bureau data provides a sobering snapshot of the scale and nature of this issue in India.

According to the NCRB data, the occurrence of crimes against women in India has shown a steady increase over the years, with a 31.9% rise in reported cases from 2019 to 2020.^{18,19} This alarming trend speaks to the need for a comprehensive and multifaceted approach to addressing domestic violence, one that tackles the underlying sociocultural and structural drivers.²⁰

The police response to domestic violence in India has also been an area of concern, with many victims facing challenges in accessing justice and protection. The criminal justice system often falls short in providing adequate remedies for victims, such as protection against being thrown out of their homes or immediate support for their needs during the trial process.²¹

To combat domestic violence effectively, there must be a concerted effort to eliminate the structural inequalities that perpetuate this issue. This would involve addressing the deep-rooted gender norms, challenging the traditional male hierarchy, and empowering women within the social, economic, and political spheres. Furthermore, the implementation of robust legal frameworks, such as the Domestic Violence Act of 2005, must be accompanied by a strong commitment from law enforcement agencies and the judiciary must make sure victims are given the required assistance and protection.²²

Ultimately, addressing domestic violence in India requires a comprehensive, multifaceted approach that addresses the complex interplay of sociocultural, economic, and legal factors.

Advancing Women's Rights Through Judiciary

Apart from the government's actions, the Indian judiciary has also played a significant role in advancing women's rights, uplifting women, and achieving the idea of gender equality in a patriarchal society like ours. Few of the notable judgments are discussed here under:

¹⁵ Dalal, K., & Lindqvist, K. (2010). A National Study of the Prevalence and Correlates of Domestic Violence Among Women in India. In K. Dalal & K. Lindqvist, *Asia Pacific Journal of Public Health* (Vol. 24, Issue 2, p. 265). SAGE Publishing.

¹⁶ Ibid

¹⁷ Sardinha, L., & Nájera, H. (2018). Attitudes towards domestic violence in 49 low- and middle-income countries: A gendered analysis of prevalence and country-level correlates. In L. Sardinha & H. Nájera, *PLoS ONE* (Vol. 13, Issue 10). Public Library of Science. <https://doi.org/10.1371/journal.pone.0206101>

¹⁸ Dalal, K., & Lindqvist, K. (2010). A National Study of the Prevalence and Correlates of Domestic Violence Among Women in India. In K. Dalal & K. Lindqvist, *Asia Pacific Journal of Public Health* (Vol. 24, Issue 2, p.

¹⁹). SAGE Publishing.

²⁰ Kethineni, S. (2001). Female homicide offenders in India. In S. Kethineni, *International Journal of Comparative and Applied Criminal Justice* (Vol. 25, Issue 1, p. 1). Taylor & Francis. <https://doi.org/10.1080/01924036.2001.9678661>

²¹ Mahajan, P. (2011). Critical Analysis of Domestic Violence Act, 2005. In P. Mahajan, *SSRN Electronic Journal*. RELX Group (Netherlands). <https://doi.org/10.2139/ssrn.1840628>

²² Mitra, A. (2019). Policing Violence against Women: The Indian Scenario. In A. Mitra, *Monatsschrift für Kriminologie und Strafrechtsreform* (Vol. 102, Issue 3, p. 217). Carl Heymanns Verlag. <https://doi.org/10.1515/mks-2019-2019>

One notable case that highlights the challenges in implementing gender equality laws in India is the landmark *Vishaka vs. State of Rajasthan*²³ case of 1997. This case led to the Supreme Court issuing guidelines to prevent and address sexual harassment of women in the workplace. However, the implementation of these guidelines has been uneven, with many women still facing barriers in reporting and seeking redressal for harassment.

Then for Dowry death cases in *Raja Lal Singh vs. State of Jharkhand*²⁴ and *Paniben vs. State of Gujarat*²⁵ the lower courts often fail to properly apply the laws and provide justice to the victims.²⁶

Further, the long-standing issue of gender discrimination in personal laws, such as those governing marriage, divorce, and inheritance, has been a significant obstacle in advancing women's rights.

Maintenance rights of divorced women were first majorly addressed in *Mohd. Ahmed Khan vs. Shah Bano Begum*²⁷ Case, but its impact was later diluted by the enactment of the Muslim Women Act, 1986, which limited the scope of the Supreme Court's ruling.

But in further case of *Daniel Latifi vs. Union of India*²⁸, the Supreme Court ruled that the Act could not be used to deprive Muslim women of their right to maintenance.

These cases highlight the complex interplay between secular laws, personal laws, and societal attitudes, which often act as impediments to the realization of gender equality in India.

Along with maintenance of divorced women, maintenance of children born out of wedlock was addressed in case *Dimple Gupta vs. Rajiv Gupta*³³ where the Supreme Court ruled that such children are entitled to maintenance from their fathers.

These cases demonstrate the important role that the judiciary has played in interpreting and upholding the principles of gender equality, even in the face of resistance from regressive social norms and practices.

One such regressive norm was addressed in the case of *Indian young lawyers' Association vs State of Kerala*³⁴ where the Supreme Court ruled that the exclusion of women of menstruating age from the Sabarimala temple was unconstitutional and a violation of their fundamental rights.

However, the implementation of this judgment remains contested, with ongoing protests and resistance from certain sections of society.

Similarly, the court took a revolutionary step for LGBTQ sub section of society in *Navtej Singh Johar v Union of India*³⁵ by decriminalizing same-sex relations.

These case laws highlight the critical role of the judiciary in safeguarding the constitutional rights of women and other marginalized groups, even in the face of deeply entrenched social biases and cultural practices. The case of *Supriyo@Supriya Chakraborty vs. Union of India Ors*³⁶ questioned the Special Marriage Act of 1954's Section 4's constitutionality. The petitioners contended that this clause violates their fundamental rights to equality, non-discrimination, privacy, and dignity by restricting marriage to heterosexual partnerships. As a result, the Supreme Court has yet to recognize the disputed right to marry.

²³ (1997) 6 SCC 241

²⁴ 2007 (5) SCC 131

²⁵ AIR 1992 SC 1817

²⁶ Kumari, S., & Siotra, V. (2023). Indian females in the twenty-first century: how they have fared? An analysis using geospatial techniques. In S. Kumari & V. Siotra, *GeoJournal* (Vol. 88, Issue 4, p. 4279). Springer Science+Business Media. <https://doi.org/10.1007/s10708-023-10865-y>

²⁷ AIR 1985 SC 945

²⁸ AIR 2001 SC 3958

The Indian Constitution guarantees equality and non-discrimination under Articles 14, 15, and 16, providing a robust legal foundation for women's empowerment and gender equality.

³³ 2007 (10) SCC 753

³⁴ 2017 INSC 1040

³⁵ 2017 9 SCC 1

³⁶ Writ Petition (civil) No. 1011 of 2022, Supreme Court of India, Judgement Passed on 17th October 2023

However, the effective implementation of these constitutional provisions and other laws remains a significant challenge, as evidenced by the various case laws discussed. The government's Viksit Bharat initiatives aim to address this challenge by adopting a multidimensional approach that targets education, healthcare, economic opportunities, and the enforcement of laws. The judiciary has played a crucial role in interpreting and upholding the principles of gender equality, even in the face of resistance from regressive social norms and practices.

Government Actions towards uplifting Women:

Since India gained its independence, the government has taken a number of actions and passed a number of policies to empower and promote equality for women. Important government actions are covered below:

National Commission for women:

In 1992, the National Commission for Women was created as a statutory agency to protect Indian women's legal rights and privileges. The Commission has been crucial in promoting women's rights, keeping an eye on how laws are being applied, and giving women a forum to express their complaints.

However, the effectiveness of the Commission has been limited by various factors, including inadequate resources, lack of enforcement powers, and the persistent challenges of genderbased discrimination and violence.

National Policies and Schemes:

Several National Policies for empowerment of women and their upliftment have been launched by the Indian Government in 1976, 1977&78, 2001, 2016.

Apart from it, Government of India has implemented several schemes for women in different departments such as Rural Development, Education, Labour, Health, Science and Technology, Women and Child Development etc. some of the notable schemes are Beti Bachao Beti

Padhao²⁹, Rajiv Gandhi Scheme for Empowerment of Adolescent Girls (RGSEAG) – SABLA, Rashtriya Mahila Kosh (National Credit Fund for Women), Ujjwala Scheme, Women Safety Division, Sexual Harassment Electronic-Box Portal etc.

Weaknesses in the system

The ineffective implementation of laws and policies is often due to a combination of factors, including:

- Lack of awareness among women about their rights and available legal remedies
- Insufficient resources and capacity within the justice system to effectively address gender-based crimes
- Persistent social stigma and victim-blaming attitudes that discourage women from seeking help

²⁹ S_ingh, J. (2000). Indian Democracy and Empowerment of Women. In J. Singh, Indian Journal of Public Administration (Vol. 46, Issue 4, p. 617). SAGE Publishing. <https://doi.org/10.1177/0019556120000403>

- Inadequate coordination and cooperation between different government agencies and civil society organizations working on women's issues.

Addressing the challenges

Achieving true gender equality in India will require a multifaceted approach that addresses the deep-rooted social, cultural, and economic barriers faced by women. This will involve:

- Strengthening the enforcement of existing laws and policies to ensure their effective implementation
- Promoting gender-sensitization and awareness campaigns to challenge patriarchal mind-sets and norms
- Investing in the education and economic empowerment of women, particularly in rural and marginalized communities
- Increasing the representation of women in decision-making positions at all levels of government and in the private sector

By taking a comprehensive and sustained approach, India can work towards realizing the vision of a more equitable and just society for all its citizens, regardless of gender.³⁰ **Conclusion**

The Indian government's efforts to enact legal provisions for women's empowerment and gender equality are commendable, but the successful implementation of these laws remains a significant challenge. Addressing deeply rooted societal biases, ensuring effective enforcement of laws, and promoting women's participation in decision-making processes are crucial steps in the ongoing journey towards achieving gender equality in India.³¹

The patriarchal mindset, deeply entrenched social norms, and the complex interplay of personal laws and secular laws continue to hinder the realization of true gender parity in the country.

It is pertinent to state that, India has made significant strides in enacting legal provisions for women's empowerment and gender equality, much remains to be done to translate these laws into meaningful change on the ground.

In recent years, women have become increasingly sensitized about their rights and have made significant strides in various spheres, including education, employment, and political participation.³² Yet, the journey towards true gender parity remains arduous, and the Indian government must continue to strengthen its efforts to address the underlying social and cultural norms that perpetuate gender inequality. While these legal provisions have been instrumental in promoting women's empowerment and gender equality, there is still much work to be done.

³⁰ Senthil, N., Vajiram, J., & Nirmala, V. (2023). The misuse of law by Women in India -Constitutionality of Gender Bias. In N. Senthil, J. Vajiram, & V. Nirmala., arXiv (Cornell University). Cornell University. <https://doi.org/10.48550/arxiv.2307.14651>

³¹ Mukherjee, I., & Sen, S. (2006). The Changing Status of Women in India - The Challenges Ahead. In I. Mukherjee & S. Sen, SSRN Electronic Journal. RELX Group (Netherlands). <https://doi.org/10.2139/ssrn.920326>

³² Kumari, S., & Siotra, V. (2023). Indian females in the twenty-first century: how they have fared? An analysis using geospatial techniques. In S. Kumari & V. Siotra, GeoJournal (Vol. 88, Issue 4, p. 4279). Springer Science+Business Media. <https://doi.org/10.1007/s10708-023-10865-y>