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Women's safety in India: Constitutional provision and legal framework

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Abstract

Women's safety in India is not just about safeguarding against isolated incidents. It is also linked to equality, personal liberty, dignity, personal and social participation. The paper looks at some of the constitutional safeguards such as Article 14, 15, 21 and 23 and reviews laws on domestic violence, dowry, sexual harassment in the workplace and oGences against women. Protection of Women from Domestic Violence Act, 2005; Dowry Prohibition Act, 1961; Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013; and Bharatiya Nyaya Sanhita, 2023 are discussed. A doctrinal and descriptive method is used and both the protections recognised in law and the potential problems arising from the exercise of the rights will be explored. Some of these challenges include lack of understanding of legal options, pressure not to report abuse, delays, insuGicient support and unequal enforcement. It maintains that laws would be most eGective if there is legal services, institutions that respond, procedures that are timely, and public awareness.

Abstract Keywords: Women's safety, Constitutional Law, Gender Equality, Fundamental rights, Violence against women, Legal remedies, India.

Introduction

The right to live, to learn, to earn a livelihood, to travel and to participate in public life without fear is a vital indicator of equality in reality. Violence and harassment may take place at home, at work, at school, in public spaces or online. Domestic abuse, relationships involving dowry money, sexual oGences, traGicking, stalking, acid attacks and digital intimidation can have an instant impact and long-term impacts on confidence, independence, mobility, and opportunity. Women's safety is therefore a legal, social issue, rather than just a matter of individual security.

Important principles for addressing these concerns are provided by the Constitution of India. Article 14 states that everyone is equal before the law and enjoys equal protection of the law. Article 15(3) states that the State can make special provisions for women and children, Article 15 forbids discrimination on enumerated grounds including sex. The Rights to life and personal liberty are protected under Article 21 and courts have interpreted it in the context of a life with dignity. Article 23 bans traGicking in persons, forced labour. Together, these provisions oGer a constitutional framework to contest discrimination and exploitation and to formulate measures to safeguard women's rights. (Constitution of India, arts. 14, 15, 21 and 23.)

These constitutional obligations are expressed more specifically in legislation. The

Protection of Women from Domestic Violence Act, 2005 provides civil remedies and protective measures in situations covered by the Act. Dowry Prohibition Act, 1961 deals with the issue of dowry. Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 provides a mechanism of prevention and redressal of sexual harassment in the workplace. Criminal-law provisions with respect to oGences against women are contained in the Bharatiya Nyaya Sanhita, 2023, which came into eGect on 1st July 2024. The application and scope of each law should be verified from the text of the law and any relevant rules or judgments.

The legal response has also been influenced by judicial decisions. Prior to the enactment of the 2013 workplace-harassment statute, the Supreme Court in Vishaka v. State of Rajasthan, (1997) 6 SCC 241, gave guidelines to combat sexual harassment at work. The case is significant in that it shows how constitutional principles are being applied to fill a gap in specific legislation. It also illustrates how developing protection by court can aGect future statutory protection.

The recognition of the right in law does not necessarily ensure the right may be exercised. A woman may not come forward to report abuse for a variety of reasons, such as social stigma, fear of retaliation, financial dependence, family pressure, or fear of being blamed. Getting legal support, safe housing, counselling, and other help might also not be equal. The lack of responses and delays of the institutions can diminish the role of confidence in the justice system. The barriers should be looked at in conjunction with the language of the laws, as is the capacity to access remedies that will allow for eGective legal protection.

This paper focuses on some constitutional provisions and legislation on women safety in India, the judicial decisions and the challenges to implementation. The main thrust of its argument is that a robust legal framework is not enough. Public awareness, readily available support services, responsible institutions, equitable investigation, and timely remedies are also elements of protection. The following measures can contribute to the realization in everyday life of the constitutional values of equality, dignity and liberty.

Literature Review 1.Constitutional status: fundamental rights, DPSPs and fundamental duties

The Indian constitution provides various protections to ensure women's equality, dignity and safety.

Fundamental rights, mention in part III, protect women against discrimination and exploitation. Articles 14 ,15, 16 ,19,21 and ensure equality, freedom, personal liberty and protection from exploitation.

Directive principles of State policy (DPSPs) are included in part IV. Although they cannot be directly enforced by courts, they guide the government in making laws. Articles 39(a), 39(d), 39(e) and 42 focus on equal opportunities, equal pay, worker's health and maternity relief.
Fundamental duties, mention in part IVA, remind citizens of their responsibilities. Article 51A(e) encourages citizens to respect women's dignity and give a practices that discriminate against them.

Additionally, Articles 243D and 243T provide reservation for women in Panchayat and Municipalities, encouraging their participation in political decision-making.

Together, these provisions establish a constitution foundation for women's equality, dignity and protection in India.

2. Analysis of Relevant Constitutional Provisions

2.1 Article 14 – Equality Before the Law

Article 14 is one of the basic principles of the Indian Constitution. It guarantees equal treatment before the law to every person, irrespective of gender or social background. For women, this provision offers protection against unfair treatment and supports their right to equal opportunities. However, protecting women should not mean restricting their freedom. In Anuj Garg v. Hotel Association of India (2007), the Supreme Court observed that laws introduced in the name of women's safety should not prevent them from choosing their profession. At the same time, separate laws are needed to deal with discrimination and violence by private individuals. [1, 2] 2.2 Article 15(1) – Prohibition of Discrimination

Article 15(1) prohibits the State from discriminating against citizens on grounds such as sex, religion, caste and place of birth. It helps protect women's equal access to education, public facilities and government opportunities. In Vishaka v. State of Rajasthan (1997), the Supreme Court recognised that sexual harassment at the workplace violates women's fundamental rights to equality. However,

constitutional protection alone cannot address every form of discrimination, particularly within private households and workplaces. This makes effective laws and their proper implementation equally important. [1, 2, 3] 2.3 Article 15(3) – Special Provisions for Women and Children

Article 15(3) allows the government to introduce special provisions for women and children to address their existing social disadvantages. It provides constitutional support for welfare schemes, maternity benefits and educational opportunities. In Government of Andhra Pradesh v. P.B. Vijayakumar (1995), the Supreme Court upheld reservations for women in public employment. Such measures are important because equal treatment alone may not be enough to overcome long-standing inequalities. However, these provisions should encourage women's independence and provide them with better opportunities. [1, 4]

2.4 Article 16 – Equality of Opportunity in Public Employment

Article 16 guarantees equal opportunities to all citizens in matters of public employment. It means that women should not face discrimination in government jobs, recruitment or promotions simply because of their gender. In Anuj Garg v. Hotel Association of India (2007), the Supreme Court also highlighted that traditional beliefs about women's safety should not become a reason to restrict their employment opportunities. While Article 16 protects equality in government services, similar protection in private employment depends on labour laws and workplace regulations. [1, 2]

2.5 Article 19 – Protection of Essential Freedoms

Article 19 provides important freedoms, including the freedom of speech and expression, movement, residence and the right to practise any profession. These freedoms allow women to express their views, travel independently and choose their careers. However, harassment and unsafe public spaces often make it difficult for women to enjoy these rights in everyday life. In Vishaka v. State of Rajasthan (1997), the Supreme Court connected workplace safety with women's right to work. Therefore, protecting these freedoms also requires creating an environment where women can exercise them without fear. [1, 2, 3]

2.6 Article 21 – Right to Life and Personal Liberty

Article 21 protects every person's right to life and personal liberty. The Supreme Court has interpreted this right broadly, including the right to live with dignity, privacy and personal freedom. In Suchita Srivastava v. Chandigarh Administration (2009), the Court recognised that reproductive choices are an important part of a woman's personal liberty. Violence, sexual assault and other forms of abuse directly threaten these rights. However, constitutional protection becomes meaningful only when women receive timely police assistance, proper medical care and access to justice. [1, 5, 6]

2.7 Article 23 – Prohibition of Human Trafficking and Forced Labour

Article 23 prohibits human trafficking, forced labour and similar forms of exploitation. This provision is particularly important for women and children, who are often vulnerable to trafficking and forced work. In People's Union for Democratic Rights v. Union of India (1982), the Supreme Court clarified that the protection against forced labour also applies to exploitation by private individuals. However, preventing such practices requires more than legal restrictions. Proper investigations, protection of victims and rehabilitation are equally necessary. [1, 7]

2.8 Article 39(a) – Adequate Means of Livelihood

Financial independence plays an important role in women's safety and freedom. Women who depend entirely on others financially may find it difficult to leave abusive situations or make independent decisions. Article 39(a), under the Directive Principles of State Policy, directs the State to ensure that men and women have equal opportunities to earn an adequate livelihood. In Olga Telis v. Bombay Municipal Corporation (1985), the Supreme Court recognised livelihood as an important part of the right to life under Article 21. However, achieving this goal requires better employment opportunities and effective government policies. [1, 8]

2.9 Article 39(d) – Equal Pay for Equal Work

Article 39(d) directs the State to ensure equal pay for equal work for both men and women. Despite women's growing participation in different sectors, differences in wages remain a concern. In Randhir Singh v. Union of India (1982), the Supreme Court recognised the principle of equal pay for equal work as a constitutional goal. This provision supports fair treatment of women in employment. However, wage inequality continues to be difficult to address, particularly in informal and agricultural sectors where proper monitoring is often lacking. [1, 9]

2.10 Article 39(e) – Protection of Workers' Health

Article 39(e)focuses on protecting the health and strength of workers and preventing economic conditions from forcing people into unsuitable work. For women, it highlights the importance of safe working conditions and protection from physical and economic exploitation. In Municipal Corporation of Delhi v. Female Workers (Muster Roll) (2000), the Supreme Court recognised the importance of protecting the rights and welfare of women workers. However, proper workplace inspections and enforcement of labour laws remain necessary to ensure that these protections reach all women. [1, 10]

2.11 Article 42 – Humane Working Conditions and Maternity Relief

Article 42 directs the State to provide humane working conditions and maternity relief. It recognises that pregnancy and childbirth should not become reasons for women to lose their employment or face unfair treatment. In Municipal Corporation of Delhi v. Female Workers (Muster Roll) (2000), the Supreme Court extended maternity benefits to women working on a daily-wage basis. This judgment highlighted that maternity protection should not be limited only to permanent employees. Despite this, many women, particularly those working in the unorganised sector, still face difficulties in receiving these benefits. [1, 10] **2.12 Article 51A(e) – Fundamental Duty to Respect Women's Dignity**

Women's safety is not only the responsibility of the government; society also has an important role to play. Article 51A(e) makes it a fundamental duty of every citizen to promote harmony and give up practices that are disrespectful to the dignity of women. It encourages people to reject social problems such as dowry, domestic violence and harassment. Although fundamental duties cannot generally be directly enforced through courts, they help promote awareness and responsible behaviour. Their effectiveness largely depends on education and changes in social attitudes. [1, 11]

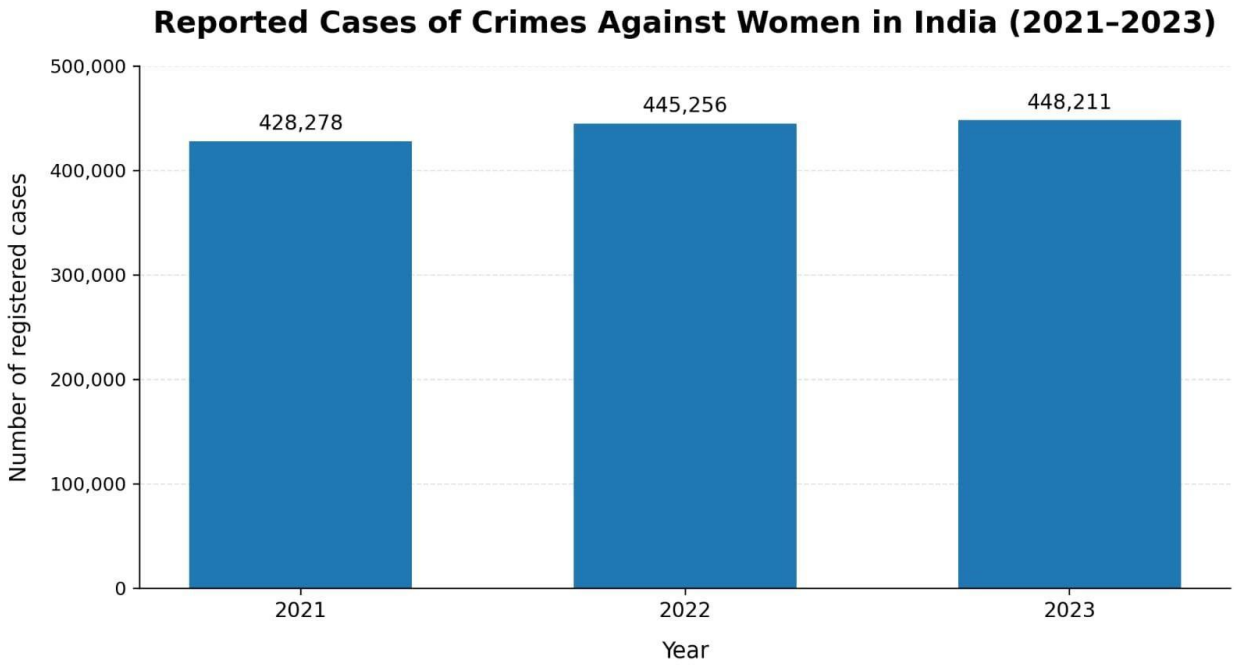
2.13 Article 243D – Reservation for Women in Panchayats

Women's participation in decision-making is an important part of achieving equality. Article 243D, introduced through the 73rd Constitutional Amendment, provides for at least onethird reservation of

seats and chairperson positions for women in Panchayati Raj institutions. This gives women an opportunity to participate in local governance and raise concerns related to sanitation, healthcare, education and community safety. However, in some areas, social pressure and interference by male family members, commonly referred to as sarpanch pati, continue to affect women's independent participation in local administration.

3. Statistical Context: Reported Crimes Against Women

Despite various laws and constitutional protections, crimes against women continue to be a serious issue in India. According to the National Crime Records Bureau (NCRB), 4,28,278 cases were reported in 2021, 4,45,256 in 2022, and 4,48,211 in 2023. [X] While these figures show a steady rise in reported cases over the three years, they do not reflect the complete reality, as many incidents still go unreported. This upward trend could be the result of greater legal awareness and more women coming forward to file complaints, or an actual increase in crimes. Therefore, official crime statistics alone cannot determine whether women's safety on the ground has truly improved or declined.



Source: National Crime Records Bureau (NCRB).

3. Conclusion

The Indian Constitution has given women equal rights - the right to study, to work, and to live life on their own terms. On paper, all of this looks complete. But these rights only have real meaning when they are actually followed in daily life.Even today, in many places, women still have to fight for basic respect and safety. So just making laws is not enough. What matters is how honestly those laws are implemented. Every woman deserves to live without fear and without discrimination. Only then can we truly say that the Constitution is equal for everyone.

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