

## WOMEN EMPOWERMENT: A STUDY ON INDIAN CONSTITUTION

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Paper Received On: 21 OCT 2021

Peer Reviewed On: 31 OCT 2021

Published On: 1 NOV 2021

### Abstract

*Women empowerment has become a burning issue in whole world. But few years back the status of women in comparison to men was very inferior and no one talking about the equality between the men and women. Gradually peoples are now demanding for equal rights, opportunities and status of women as equal with men not more than men. So, every country needs to focus on this issue regarding women's equality and have some legal provision which benefit them. Some countries during constitution making have some legal provisions regarding them along with that we need other legal reservations and opportunities for women empowerment. In this article the writer focused on the empowerment of women in India. The writer focused on the concept of empowerment and women empowerment. What are the legal provisions in the Indian Constitution for the empowerment of women? what are the constitutional provisions for women empowerment? what are the schemes for women empowerment? Finally, the writer focusses on the barriers in the path of women empowerment and some possible suggestions.*

**Key Words:** - Empowerment, Constitution, Legal



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## Introduction

Democracies all over the world have always responded to the inequalities in the society by enacting legislation and incorporating equality clauses in their Constitutions. Countries like India, the United States of America and post-apartheid South Africa, among others, have responded to such inequalities in a major way. At the outset, it must be mentioned that the enactment of such legislation and even amendments to respective Constitutions were not an easy task for the proponents of equality. Each of these countries have therefore, had a

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tumultuous history in the conceptualizing, developing and finally legislating basic tenets of equality into the broader structures of their respective Constitutions. It is necessary that individuals should have an appreciation and knowledge of the development of the law governing equality. The history of struggles that societies went through for bringing inequality, not only as a socially accepted norm but also as a legally binding and enforceable order, has to be understood as a prerequisite to any such attempt, which would further expand and broaden the furtherance of equality in all facets of life.

The concept of women's empowerment broadly refers to a process that increases women's "options, choices, control and power" through women's own agency. Women's empowerment is recognized as a right in itself as well as a transformative tool with a multiplier effect for achieving progress in all other areas of social and economic development. It is well established that women's empowerment plays a pivotal role in attaining gender equality, poverty reduction and other internationally agreed development goals. Women's empowerment leads to a transformation of the structural factors, social determinants and unequal power relations that underpin widespread and persistent gender inequalities that result in women's unequal access to opportunities and resources across all areas of political, economic, social and cultural life. As women's empowerment is a context-specific, dynamic process with diverse intersecting variables, it remains a latent and unobservable phenomenon. The central question of this paper is how women are empowering through the context of Indian Constitution.

### **Focus of the Study**

1. To Understand the theoretical perspective on women empowerment
2. To study the role of Indian constitution on Women Empowerment
3. To identify the hinderances in the path of women empowerment
4. To find out possible solutions regarding the problems

### **Review of Literature**

Narayan, D. (2007) in this article "Empowerment: A Missing Dimension of Human Development", the author made an effort to assess the empowerment of women in various countries and places by using self- evaluated approaches at a tiered level of intensity and rights in ten stages, where at lowermost of the hierarchy were people who were totally weak and without rights and at the top were people who had a lot of power and rights. This study makes an innovative analysis of the empowerment of women.

Barkat, (2008) in this article “Empowering Women: A key to Human Development”, speaking about the current situation of females in Bangladesh, argued that despite the fact that females as mothers are held in great esteem at the level of Individual, there was not much Understanding of empowerment of women as a factor for the spread of awareness and building of capacity which helps in more involvement in the process of decision and autonomy over her life.

Luttrell, C. and Quiroz, S. (2009) in their article, the author “Understanding and Operationalizing Empowerment”, presents an overview of different definitions and conceptual approaches to empowerment. It was introduced for the Swiss Agency for Development and Cooperation (SDC) after the publication of an independent estimation of SDC empowerment approaches in its development programming.

Shariff, A. (2009) in the article “Gender Empowerment in India: Concepts and Measurement”, proposed a specific measure for the strengthening of gender in India considering the explicit conditions of the generalized way of life in the nation. The author used unique reason and methods to study which is different from the government of India and mixed with the UNDP ideas but if it carries feeble information then it valueless. He identified six causes for which data collected from the research work and also from administrative documents. The measures are “education, labour interest rate, decision-making strength of female ability to make purchases for daily family requirements and support in carrying out their own social insurance. This is an obligation for constant resources and financial balances), reproduction and care (ability to choose a modern contraceptive technique and to ensure that their own children completed with each critical repeat of vaccinations) and political participation (exercising franchise in parliamentary election and participation in panchayat committees)”. Using these measurements, he constructed the GEI for the major states of India.

### **Method of Analysis**

This paper is basically descriptive and analytical in nature. In this paper an attempt has been taken to analyze the empowerment of women in India. It also focused on the legal provisions and constitutional provisions for the gender equality and women empowerment. The data used in it is purely from secondary sources according to the need of this study.

### **The Concept of Empowerment**

Empowerment is the process of increasing the authority and responsibility of individuals or groups to make choices and to transform those choices in to desired actions and

outcomes. ‘Empowerment is not a technocratic goal—it is a wholesale political commitment. Achieving it requires a long-term process in which all cultural, social, political and economic norms undergo fundamental change. It also requires an entirely new way of thinking—in which the stereotyping of women and men no longer limits their choices, but gives way to a new philosophy that regards all people as essential agents of change that views development as a process of enlarging the choice of both sexes, just not one.

### **Women Empowerment**

Women Empowerment refers to increasing the spiritual, political, social educational, gender or economics strength of individuals and communities of women. The World bank says, ‘Empowerment is the process of increasing the capacity of individuals or groups to make choices and to transform those choices into desired actions and outcomes.’ Empowerment means women must exercise full participation in decision-making process in all walks of life, and full participation with men in all walks of life, and fully participating with men in finding equitable and practical solutions to issues in family and in society. Apart from this empowerment includes women right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence. Equal relationships between women and men in matters of sexual relations and reproduction including full respect for the integrity of the person, require mutual respect, consent and shared responsibility for sexual behaviour and its consequences.

### **Various Facets of Women Empowerment**

**Social Women Empowerment-** A critical aspect of social empowerment of women is the promotion of gender equality. Gender equality implies a society in which women and men enjoy the same opportunities, outcomes, rights and obligations in all spheres of life.

**Educational Women Empowerment-** It means empowering women with the knowledge, skills, and self-confidence necessary to participate fully in the development process. It means making women aware of their rights and developing a confidence to claim them.

**Economic and Occupational empowerment-** It implies a better quality of material life through sustainable livelihoods owned and managed by women. It means reducing their financial dependence on their male counterparts by making them a significant part of the human resource.

**Legal Women- Empowerment** It suggests the provision of an effective legal structure which is supportive of women empowerment. It means addressing the gaps between what the law prescribes and what actually occurs.

**Political Women- Empowerment** It means the existence of a political system favoring the participation in and control by the women of the political decision-making process and in governance.

### **Constitutional Provisions for Women Empowerment**

There are different provisions for women empowerment in Indian constitution which are explained below

#### **Preamble**

The Preamble to the constitution is the essence of the constitution and reflects the ideas of the makers of the constitution. The Preamble begins with the words 'We, the people of India', specifying that everyone is equal irrespective of gender, caste, creed, etc. Further, the preamble ensures the social, political and economic justice for all thus aiming at equality of opportunity and status.

#### **Fundamental Rights**

Part III of the Constitution (Art. 12-35) is heart of the Constitution. The framers of the Constitution were conscious of the unequal treatment and discrimination meted out to the women from time immemorial and hence included various provisions for the upliftment of the status of women.

14- The state guarantees equality before law and equal protection of law within the territory of India.

15- Prohibits any discrimination against any citizen based on religion, race, cast, sex, or place of birth or any of them. Art. 15(3) further authorises the state to make positive discrimination in favour of women and children in order to better their social condition and provide political, economic and social justice.

16- Provides for equal opportunities to every citizen in the matters of employment and appointment in any office under the state prohibiting any discrimination only on the grounds only of religion, race, cast, sex, descent, place of birth, residence or any of them. Constitution implicitly provides equal opportunities for women however the courts have held that Art. 16 only provides with de jure equality and not de facto equality. There is a significant gap in constitutional rights on paper and in practice.

21- Gender equality emanates from the right to life and liberty which is guaranteed under Art. 21. The SC in *Vishaka v. State of Rajasthan* [5] framed the guidelines relating to sexual harassment of women at workplace. The ratio decidendi was to ensure the right to work with dignity under Art. 14, 15, 19(1)(g) and 21 of the Constitution.

23- Prohibits trafficking in human beings and forced labour and indulging in any such act is made a punishable offence. In India, prostitution and purchasing & selling of human beings has been prevalent for a long time. The SC, in *Gaurav Jain v. Union of India* [6] highlighted the socio-economic plights of the women in prostitution and issued guidelines to prevent engaging of women in various forms of prostitution.

#### Directive Principles of State Policy

Directive Principles of State Policy are contained in Part IV of the Constitution. They are not enforceable in any court of law, but they are essential in the governance of the country as they provide for the welfare of the people, including women. Fundamental Rights correspond to individual rights while the Directive Principles of State Policy pertain to social needs.

Art.39- Lays down certain principles to be followed by the state. Art. 39(a) directs the state to formulate policy to ensure right to adequate livelihood to its citizens (both men and women).

Art. 39(b) directs the state to make equal pay for equal work for both men and women. In pursuance to this the state passed The Equal Remuneration Act, 1976. Art. 39(e) makes specific directions to the state to not exploit health and strength of its workers (both male and female)

Art,42- Directs the state to ensure just and humane conditions at work and for maternity relief. The state has implemented this directive in various legislations like Factories Act, Maternity Relief Act etc.

Art.44- Directs the state to implement Uniform Civil Code (UCC) throughout India. It is particularly aimed at rendering gender justice. Even though, no efforts have been made to introduce Uniform Civil Code in India, but the judiciary has recognised the necessity of having uniform laws in the cases of marriage, succession, adoption, divorce etc.

#### Fundamental Duties

Parts IV-A which consists of Art. 51A was added to the constitution by the 42nd Amendment, 1976. This Article specifies a code of eleven fundamental duties to be performed

by citizens. The Art. 51A(e) clearly lays down that it's a duty of every citizen of India to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religion, linguistic, regional or sectional diversities; to renounce practices derogatory to the dignity of women”

243D and 243T: Reservation of seats

The Art. clearly lays down that not less than 1/3rd of the total seats shall be reserved for women belonging to the SCs or STs. Further not less than 1/3rd of the total seats (including the ones for SCs and STs) would be reserved for women in every Panchayat and Municipal level election. Under the 73<sup>rd</sup> and 74<sup>th</sup> constitutional amendment Act.

### **Legal Provisions**

The legislative acts which are available in India to protect women's rights against harassment. These acts are like a boon to women at large to protect their dignity in society. Please have a look: Dowry Prohibition Act 1961, The Protection of Women from Domestic Violence Act 2005, The Commission Of Sati (Prevention) Act 1987, The Immoral Traffic Prevention Act 1956, Civil Procedure Code 1973, Indian Penal Code 1960, Hindu Marriage Act 1955, Child Marriage Restraint Act 1929, The Medical Termination of Pregnancy Act 1971, National Commission of Women Act 1990, The Minimum Wages Act 1948, Bonded Labor System Abolition Act 1976, The Special Marriage Act 1954, Foreign Marriage Act 1969, Indian Divorce Act 1969, The Indecent Representation of Women Prohibition Act 1986, Guardians & Wards Act, 1869 and Equal Remuneration Act, 1976.

### **Schemes For Women Empowerment**

Beti Bachao Beti Padhao Scheme 2015- To prevent gender-biased sex selective elimination. To ensure survival & protection of the girl child. To ensure education and participation of the girl child.

One-Stop Centre Scheme 2015-To provide support and assistance to women affected by violence, both in private and public spaces. To Facilitate/Assist in filing First Information Report (FIR/NCR). To provide psycho-social support and counselling to women/girl.

Women Helpline Scheme 2016-To provide toll-free 24-hours telecom service to women affected by violence. To facilitate crisis and non-crisis intervention through referral to the appropriate agencies such as police/Hospitals/Ambulance services/District Legal Service Authority (DLSA)/Protection Officer (PO)/OSC. To provide information about the appropriate

support services, government schemes, and programs available to the woman affected by violence, in her particular situation within the local area in which she resides or is employed.

**UJJAWALA 2016**-To prevent the trafficking of women and children for commercial sexual exploitation. To facilitate the rescue of victims from the place of their exploitation and place them in safe custody. To provide rehabilitation services with both immediate and long-term to the victims by providing basic amenities/needs such as shelter, food, clothing, medical treatment including counselling, legal aid and guidance, and vocational training.

**Working Women Hostel 1972-73** -To promote the availability of safe and conveniently located accommodation for working women. To provide accommodation to children of working women, up to the age of 18 years for girls and up to the age of 5 years for boys.

**SWADHAR Greh 2018**-To cater to the primary need for shelter, food, clothing, medical treatment, and care of women in distress. To provide women with legal aid and guidance.

**Support to Training and Employment Programme for Women (STEP)1986-87**- To provide skills that give employability to women. To benefit women in the age group of 16 and above in the country.

**NIRBHAY 2012** -To facilitate safety and security for women at various levels. To ensure strict privacy and confidentiality of women's identity and information. Provision for real-time intervention as far as possible.

**Mahila Shakti Kendras (MSK) 2017**-To create an environment for women where they have access to healthcare, quality, education, guidance, employment, etc. To facilitate these opportunities at the block and district level in the country.

**Mahila E-Haat 2016**-To facilitate entrepreneurship opportunities online for women. To educate women on various aspects of online selling and helping them establish their venture.

**Nari Shakti Puraskar2016**-To strengthen the place of women in society. To facilitate institutions that work towards the progress and development of women in society.

### **Barriers in the Path of Women Empowerment**

The following are some of the barriers in the path of Women Empowerment

#### **Illiteracy**

Women's illiteracy stands in the way of women's employment in business and commerce, agriculture and industries, both traditional and modern. The proportion of women students has increased steadily after independence and mostly in the last decade. The literacy rate of women has gone up from 8.86 per cent in 1951 to 29.75 per cent to 54.16 per cent in



2001. The 2011 Census report indicates that literacy among women is only 65.46 percent it is virtually disheartening to observe that the literacy rate of women in India is even much lower to national average i.e., 74.04. Enrolment of women in higher education has grown since 1995. But these figures are not satisfactory when compared with the enrolment figures of boys. The main hindrance in the women education in India is rural residence, low caste, low economic standing combined with the traditional attitude towards women education as a whole. The growth of women's education in rural areas is very slow. More over education is also not available to all equally. Gender inequality is reinforced in education which is proved by the fact that the literacy rate for the women is only 65.46% against 82.14% of men as per 2011 Census. The rate of school drop outs is also found to be comparatively higher in case of women. This higher rate of illiteracy of women is undoubtedly attributing for women dependence on men and to play a subordinate role. The lack of education is the root cause for women's exploitation and negligence

#### Economic Backwardness

Women constitute only 29% of the workforce but forms majority of the destitute in the country. There has been a failure in transforming the available women base into human resource. This, in turn, has hampered not only the economic development of women but also of the country as a whole.

#### Unaware of their legal status

Women are generally not aware of the provisions related to the improvement of their own position. Even if they know about some of the provisions related to their rights of succession, marriage, or family, they do not desire to invoke them. Traditional dominance of the authority of the male parents, husband, and other elder members of the family often restricts the enjoyment of their legal rights by the women. The materialization of these problems still depends largely upon the attitudinal changes in society.

#### Inequality

Women equality is not universal Women's equality in terms of education, employment, and power is still an individual rather than a universal achievement. The majority of our women are still content to accept an inferior status. This is by and large due to the fact that, although legally women have equal rights with men, there are not enough jobs for women and working women are not adequately protected from exploitation. The problem essentially is rooted in gender disparity in India. Gender disparity manifests itself in various forms, the most obvious

being the trend of continuously declining female ratio in the population in the last few decades. Social stereotyping and violence at the domestic and societal levels are some of the other manifestations. Discrimination against girl children, adolescent girls and women persists in parts of the country. The gender disparity can be understood that it exists by looking at the sex ratio in India which stands at 933.

#### Implementation Gaps

Through all these years, the attention is only on developing and devising new schemes, policies and programmes and have paid less attention to the proper monitoring system and implementation short-sightedness, for e.g. despite the presence of The Pre-Natal Diagnostic Technologies Act and various health programmes like Janani Suraksha Yojana and National Rural Health Mission (NHRM), our country has a skewed sex ratio and a high maternal mortality rate (MMR).

#### Loopholes in the legal structure

Although there are a number of laws to protect women against all sorts of violence yet there has been the significant increase in the episodes of rapes, extortions, acid, attacks etc. This is due to delay in legal procedures and the presence of several loopholes in the functioning of a judicial system.

#### Lack of Political Will

The still- pending Women's Reservation Bill underscores the lack of political will to empower women politically. The male dominance prevails in the politics of India and women are forced to remain mute spectators.

#### Health and Safety

The health and safety concerns of women are paramount for the wellbeing of a country, and are important factors in gauging the empowerment of women in a country. However, there are alarming concerns where maternal healthcare is concerned. While there are several programs that have been set into motion by the Government and several NGOs in the country, there is still a wide gap that exists between those under protection and those not. Poverty and illiteracy add to these complications with local quacks giving ineffective and downright harmful remedies to problems that women have. The empowerment of women begins with a guarantee of their health and safety.

## Possible Suggestions

After all these discussion on women empowerment and provisions in our constitution we come to the result that after all these steps taken by the government there still need to focus on the problem behind the gap between theory and practice. I have something in my mind to eradicate the gap like;

- Women should be allowed to work and should be provided enough safety and support to work
- Women should have access to resources, rights and entitlements.
- Empowerment possible only when the economic and social status of women improved.
- Step should take to improve the health status of women
- Awareness programmes need to organized for creating awareness among women special focus on weaker section in society
- Government should focus on the proper implementation of the policies

## Conclusion

The women play a strategic role in the society and in the economy. The status of women in India is not even in all the times. In ancient period, they enjoyed equal status with men, in the medieval period, the position of Indian women deteriorated. During British rule and after independence many efforts are being made for improving the status of women in India. The government of India, by passing timely and essential Acts and implementing rules and regulations trying to empower and strengthen the women. No doubt, the government of India has many weapons to fight for women empowerment, the prompt and strict implementation is quite essential. Unless the Acts, Policies, Rules, Regulations, etc., are strictly implemented the idea of women empowerment remains unachieved. Hence, the efforts of the government are still inadequate and the process of empowering women in India is long way to go.

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