

GENDER LAWS IN INDIA - FROM THEN TO NOW: HOW HAVE GENDER LAWS CHANGED IN INDIA

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ABSTRACT

Progress and clear roles in Indian society cannot remain the norm. We examine how the gender equality debate in India has evolved over time. This article discusses various aspects of women and gender laws, including their historical background, their progressive development and implementation, and the obstacles and gaps that remain to be overcome.

Keywords: Women, Laws, Gender, Patriarchy.

INTRODUCTION

“The day will come when men will recognize woman as his peer, not only at the fireside but in councils of the nations. Then and not until then, will there be the perfect comradeship, the ideal union between sexes that shall result in the highest development of the race.” – Susan B. Anthony (American social reformer and women’s right activists).¹ Indians have long tacitly accepted the current state of society due to the patriarchy rooted in our ideology and laws. Even in the most progressive families, girls too have far fewer rights than boys, whether in entertainment, education, choosing a partner, or inheriting property. Once girls reach the age of consent, they are expected to participate in household work – primarily the unpaid, unpaid work they have to do throughout their lives. recognized work.

This unequal distribution of resources and opportunities persists into adulthood, with significant pay gaps and blind sexism on a daily basis. Likewise, men who see their mothers do all the household chores naturally expect the same from their wives and daughters. Gender inequality and violence have never been so widely condemned in India. The alarming rise in crimes against women, particularly after the December 2012 gang rape in New Delhi, has sparked widespread protests and calls for change across the country.

The case, seen by many as a historic moment in India's fight for women's rights, also prompted several reforms to the criminal justice system, including tougher laws and

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¹ Anita Rai, *The Essential Women*, Chapter 7, (2005)

provisions to speed up sentencing. In modern times, women's participation in the public sphere has increased. More and more Indian women are entering the workforce in business, banking, commerce, international forums, and transnational careers like advertising and fashion and have proven themselves as legislators, civil servants, judges, lawyers, doctors, engineers, accountants, and many more. strong legislation and legislation to be strong stakeholders in nation-building. The government, headed by Prime Minister Narendra Modi ji has been instrumental in empowering women in India by enacting a series of laws and legal reforms centered on women in India.

POLITICAL AND HISTORICAL BACKGROUND OF GENDER LAWS IN INDIA

Social, cultural, and political movements have had a major impact on ending gender inequality and securing women's rights. History shows that societies have changed gradually over time, with social reform movements instilling in us the principles of freedom and equality. Over time, with the end of monarchy and feudalism and the rise of political democracy, the international community policymakers have recognized the need for a more egalitarian society to protect women's rights. In ancient times, evidence of mother goddess worship can be found in the Indus Valley civilization of India.

This shows the importance of women as mothers. It is believed that at the time of the Rigveda, the status of women was respected and the status of women was recognized, especially during religious ceremonies. The education of young girls was considered an important prerequisite for marriage. The dowry system was not widespread. The status of women deteriorated over time. The medieval period was ruled by Muslim rulers. With the entry of Muslims into India, the social activities of Indian women were restricted. They were not allowed to participate in public or religious activities on an equal footing with men. Female infanticide, Sati, child marriage, Purdah or zenana (female segregation), Jauhar, and child marriage were all introduced. During this period, the practice of dowry was common.

The empowerment and advancement of women began during the British Raj in India. Despite the initial reluctance of the British to interfere with the social and religious practices of different religious groups, some social reformers such as Raja Ram Mohan Roy, Eshwar Chandra Vidyasagar, and Jyotiba Phule fought for women's rights and education while trying to end society. bad customs. Their constant struggle forced the British government to ban Sati (widow burning), allow widows to remarry, ban child marriage, and reduce female illiteracy.

While the struggle for nationalism changed the legal landscape for women's rights during the colonial period, India's post-colonial period was characterized by sweeping changes such as globalization, neoliberal policies, and rapid technological development. This has increased women's participation in the public sphere. Indian women are more involved than ever in business, international platforms, and multinational careers such as advertising and fashion and have better opportunities thanks to the free movement of women, goods, capital, and ideas.

IMPORTANT FEATURES OF GENDER LAWS IN INDIA

In terms of gender equality, the Indian constitution has made it more accessible to women. Equality between men and women is mentioned in the preamble of the Constitution, the fundamental rights, the fundamental duties, and the orientations of the policy of the State. The Indian constitution not only guarantees the empowerment of women but also encourages the state to take numerous steps to equalize and empower women. The Constitution is the supreme law of the land. Articles 14 and 15 protect the rights of women by guaranteeing equality and non-discrimination against Indians, including discrimination based on sex. Article 16 provides equal opportunities in public employment, regardless of sex. It also includes a provision for the state to take positive measures towards women, such as granting them seats and positions in government jobs.

The 73rd and 74th Amendments to the Indian constitution ensure that seats in rural and urban local offices are reserved for women to give them greater political voice and autonomy. Article 39 provides for equal pay for men and women for equal work. Article 39 provides for equal pay for equal work between men and women. Article 51A ensures the dignity of women by obliging every citizen of the country to abstain from acts detrimental to their dignity. Various gender laws in the country attempt to address practices that limit women's participation in society. These practices are rooted in centuries of social mores and traditions that view women as inferior to men and exploit them throughout their lives.

Women are exploited at home, outdoors, and in the workplace. They do not receive adequate education and health care. Therefore, gender equality legislation in India seeks to include provisions aimed at addressing these important socio-political issues. These are the most notable aspects of gender legislation in India.

SOCIO-LEGAL STATUS OF WOMEN IN MODERN INDIA

Since independence, the provisions of the Indian Constitution, women-centered legislation, social welfare initiatives, policies, and practices (aimed at improving the socio-legal status -of women's economic) have empowered women and freed them from being victims of injustice and crime. In addition to constitutional provisions, laws have been enacted to redress various injustices against women, including dowry laws (Dowry Prohibition Act, 1961), domestic violence laws (Dowry Act, 1961), and violent families. Protection of Women from Domestic Violence Act, 2005), Sexual Harassment in the Workplace (Prevention, Prevention, and Remedy) Act on Sexual Harassment of Women in the Workplace, 2013) and Immoral Trafficking (Prevention of Immoral Trafficking Act, 1956), only name -in a few. Section 498A of the Indian Penal Code was added for the prevention of ill-treatment of women (1860). Similarly, strict criminal provisions are included in ICC Section 326A to prevent acid attacks. The Factory Act was amended to provide better working conditions.

The Equal Pay Act of 1976 guarantees equal pay for men and women for work of equal value and corrects discrimination based on sex. The Maternity Protection Act of 1961 also guaranteed wages and employment for women before and after childbirth. The Hindu Marriage Act of 1955 prohibits polygamy and contains special provisions for divorce. Daughters were given property rights under the Hindu Succession Act of 1956. The Adoption and Assistance Act of 1956 assists wives, widows, minors, and parents in need, with a focus on women. A number of social protection initiatives, policies, and approaches have also been implemented to reduce gender inequalities. However, these comprehensive social and legal reforms did not significantly improve the status of women. Mao Bao, for example, is still very popular. Cases of marital rape and domestic violence go largely unreported. This requires changing social structures and empowering women through education.

GENDER LAWS: JUDICIAL AND LEGISLATIVE INTERVENTIONS

Several articles of the Indian Constitution and a slew of legislation and various judicial pronouncements in India advocate the cause of gender equality and women's empowerment. Some of the judgments that helped evolve the gender laws are-

“Respect for the reputation of women in the society shows the basic civility of a civilized society. No member of society can afford to conceive the idea that he can create a hollow in the honor of a woman. Such thinking is not only lamentable but also deplorable. It is an

assault on the individuality and inherent dignity of a woman with the mindset that she should be elegantly servile to men". This was laid out by the Hon'ble Supreme Court in the State of Madhya Pradesh v. Babulal².

Courts have repeatedly upheld the admission of women to schools and colleges such as in Padmaraj Samarendra Vs. Bihar (1978) where the retention of girls in medical schools was considered discriminatory, but the court ruled in favor of the reserve. The decision was taken under article 15 subclause 3, of the Indian constitution, which gives the state the right to protect women and children when it deems it necessary.

In Vishaka and Ors v Rajasthan and Ors, the Supreme Court made one of the strongest decisions in the prevention of sexual abuse in the workplace (1997). Vishakha and a women's rights group have taken legal action after a social worker in Rajasthan was gang-raped for protesting child marriage. The same case led to the most important "Vishaka Guidelines", which identified sexual harassment in the workplace and provided guidelines to address it. The decision was taken in accordance with numerous international conventions promoting gender equality, the right to work, and human dignity. Articles 14, 15, 19, and 21 of our Constitution also guarantee these rights.

These guidelines are considered a milestone in the advancement of women.

In Anuj Garg et al v Hotel Association of India and Ors. (2008) 3 SCC 1, the Supreme Court held that the ban on women working in liquor stores was discriminatory, Sections 14, 15, 19, and 21 of the Constitution. The Supreme Court also stated that with the advent of the modern state, new models of security must be developed. It was suggested that there could be a framework where the cost of security at facilities would be shared between the state and employers.

The government has made a lot of effort recently through recent policy reforms to make gender equality desirable and caring enough to cover all relevant issues. In 2001, the National Women Empowerment Policy was launched to promote, develop and empower women. The policy has been widely disseminated to encourage the active participation of all stakeholders in achieving the stated objectives. The government has launched several programs in recent years to achieve and promote these goals.

² AIR 2008 SC 582

From 1986 to 1987, the Ministry of Women and Child Development implemented the Women's Training and Employment Support Program as a central sector program. The STEP program is designed to provide women with job skills and the skills and abilities needed to enable women to own businesses or be self-employed. The program is designed to benefit women aged 16 and over in the country. Rashtriya Mahila Kosh (National Women's Credit Fund) was established in 1993 to provide credit to low-income women in India. In this regard, government investment in vocational training through programs such as Deen Dayal Upadhyaya Grameen Kaushalya Yojana is commendable.

More recently, in March 2016, the Ministry of Women and Child Development also launched a bilingual portal "Mahila E-Haat". It is a unique online direct-selling platform that uses technology to help women entrepreneurs. This exclusive portal is the first in the country to provide a marketing platform exclusively for women. It aims to promote financial inclusion and economic empowerment of women. The judiciary and the legislature have thus recognized the plight of women and the injustices they face in various fields and have attempted to address these issues by developing guidelines. Guidelines and policies and issuance of directives to governments. As a result, women-focused legislation was drafted.

CONCLUSION

Following the coming into force of the Penal Code Amendment Act 2013 and the POSH Act, several other amendments to the law have been made for the welfare, safety, and interest of women and for purposes based on discrimination, which is one of the cornerstones of the Indian Constitution. The Indian judiciary has taken many creative decisions to ensure that these provisions are not just words on paper. This includes making room for women in the workplace, including in educational institutions. The Andhra Pradesh High Court in *Government of Andhra Pradesh v Vijayakumar* (1995) allowed the continued employment of women in the civil service, thus extending the scope of Article 15 (3) to cover all aspects, including government activity. It was a powerful affirmation of substantive equality, and it was adopted despite claims that it contradicted meritocracy.

The Supreme Court also extended the scope of this article to interpret Article 125 of the Code of Criminal Procedure, which regulates the maintenance of wives, children, and parents. The Supreme Court interpreted the section as applicable in *Rohtash Singh v Divorced Women's Maintenance Rights*. Ramendry Hill (2000) recognizes that women become destitute after

divorce. The Supreme Court's protectionist stance is perhaps best summed up in *Sanaboina Satyanarayana Vs. Government of Andhra Pradesh* (2003), the Court said: "It is no exaggeration to say that cases of violence against women and children, especially women, such as dowry death rape, domestic violence, bride burning, harassment, brutality, vulgarity, and indecency Not only are ethical behaviors rampant, but they are growing at an alarming rate, stigmatizing society, culture, and governance in a country where, ironically, the problem of abuse and mistreatment of women seems to have become an almost global phenomenon. 'state."

As we have seen, the Supreme Court has taken various initiatives and in some cases given instructions to the government, but effective enforcement of these laws is necessary. Many Indian women are t face many challenges including poverty, female abortion, sexual harassment, and lack of education and job training. The 2018 Global Gender Gap Index released by the World Economic Forum (WEF) ranked India 108th out of 149 countries. A lot more has to be done to ensure that women in India have equal rights at par with men and that Indian citizenship is inclusive rather than exclusive.

