



## Study of Constitutional Rights of Women in India

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**Abstract :** Women's rights are entitlements and freedoms claimed for women and girls of all ages in many societies. In some places these rights are institutionalized or supported by law, local custom, and behavior, whereas in others they may be ignored or suppressed. Today, given the fact that the number of women in India far outnumbers the total population of many countries, one would expect the Indian woman to be a socially strong and empowered class. Despite the principles of gender equality being enshrined in our constitution and despite the state being empowered to adopt measures of positive discrimination in their favour, women of India continue to bear the brunt of societal discrimination.

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Women in ancient India enjoyed equal status and rights with men in all fields of life; they were educated; they married at a mature age and were probably free to choose their husbands. During the medieval period, the Indian woman's position in the society deteriorated. During the British rule many reformers fought for the social and economic upliftment of the women. Traditions such as Sati, Jauhar and Devadasis were banned. Today, whether it is health, education, mortality rate or any other development parameter, women of India are on very weak footing. Despite efforts to raise the social status of women for more than a century, India still ranks 118 among 177 nations on gender equity.

### Constitutional Rights of Women in India

#### *Fundamental rights*

- Article 14 says that the government shall not deny to any person equality before law or the equal protection of the laws. The Constitution of India guarantees equality of sexes and in fact grants special favours to women. The principle of equal protection does not mean that every law must have a universal application for all persons, who are not by nature, circumstance or attainments (knowledge, virtue or money) in the same position as others. Varying needs of different classes of persons require separate treatment and a law enacted with this object in view is not considered being violative of equal protection. The



constitution however, does not stand for absolute equality. The state may classify persons for the purpose of legislation. But the classification should be on the reasonable basis. Hence, equal protection has reference to the person who has same nature, attainment, qualification or circumstances.

- Article 15 declares that government shall not discriminate against any citizen on the ground of sex. Article 15 Prohibition of discrimination on the grounds of religion, race, caste, sex or place of birth describes: The state shall not discriminate against any citizen on ground only of religion, to race, caste, sex, and place of birth or any of them. No citizen shall , on the ground only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to: Access to shops, public restaurants, hotels, and place of public entertainment; or the use of wells , tanks , bathing ghats and places of public resort maintained wholly or partly out of state or dedicated to use of the general public Article 15 (3) makes a special provision enabling the State to make affirmative discriminations in favour of women. Moreover, the government can pass special laws in favour of women. Under 93rd Constitutional Amendment Act, this clause conferred on the state the power to make any special provision by law for the advancement of any socially and educationally backward class or for the schedule caste or the scheduled tribes in so far as such special provisions relate to their admission to educational institution including private educational institutions, whether aided or unaided by the state, other than the minority educational institutions.
- Article 16 guarantees that no citizen shall be discriminated against in matters of public employment on the grounds of sex religion, caste, creed, sex, descent, place of birth, residence. There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the state. No citizen shall, on the grounds only of religion, caste, creed, sex, descent, place of birth, residence, or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the state. Nothing in this article shall prevent parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office under the government of, or any local, or other authority with Article 16 guarantees that no citizen shall be discriminated against in matters of public employment on the grounds



of sex. There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the state. No citizen shall, on the grounds only of religion, caste, creed, sex, descent, place of birth, residence, or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the state. Nothing in this article shall prevent parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office under the government of , or any local, or other authority within a state or an union territory, any requirement as to reside within that state or union territory prior to such employment or appointment. In this article nothing shall prevent the state from making any provision of reservation in matter of promotion to any class or classes of posts in the service under the state in favour of schedule caste and schedule tribe which, in the opinion of the state, are not adequately represented in the services under the state.

- Article 21, constitution is giving protection of life and Personal liberty of the individual. Constitution guarantees that no person shall be deprived of his life or personal liberty. “Except according to procedure established by law”. Through 86th amendment act, 2002, the right to education was provided for the Indian citizen. For the purpose a new article in part –III was inserted and two articles in part IV were amended. The newly inserted article 21A declared that “the state shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the state may by law, determine. Article 21, if read literally, is a colorless and would be satisfied, the moment it is establish by the state that there is a law which provides a procedure which has been followed by the impugned action. But the expression ‘procedure establish by law’ in article has been judicially construed as meaning a procedure which is reasonable, fair and just.
- Article 22. Protection against arrest and detention in certain cases: No person who is asserted shall be detained in custody without being informed as soon as may be, of the grounds for such arrest nor shall he be detained the right to consult, and to be defended by a legal practitioner of his choice. Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty four hours of such arrest excluding the time necessary for the journey from the place or arrest



to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate. These fundamental Rights are particularly important from the perspective of human rights of women. As the fundamental rights are justifiable, an aggrieved person can seek redressal through writ petitions. These fundamental rights are particularly important from the perspective of human rights of women. As the fundamental rights are just able, an aggrieved person can seek redressal through writ petition.

### ***Rights Against Exploitation***

- Article 23 prohibition of traffic in human beings and forced labour: Traffic in human beings and beggar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law. Article 23 prohibition of traffic in human beings and forced labour: Traffic in human beings and beggar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law. Nothing in this article shall prevent the state from imposing compulsory service for any public purposes, and in imposing such services the state shall not make any discrimination on the grounds only of religion, race, caste, creed or any of them.
- Article 24 prohibition of employment of children in factories, etc. –no below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment. Exploitation under article 23 and 24 means utilization of a person for one's own ends. It is opposed to the basic concept of our constitution, as well as to the dignity of the individual which our constitution, guarantees in its preamble. It not only violates the preamble of our constitution, but is also opposed to the directive principles of state policy contained under article 39, for the object of promoting economic equality.

### ***Cultural And Educational Rights***

- Article 29: protection of interests of minorities: Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same No citizen shall be denied admission into



any educational institution maintained by the state or receiving aid out of state on ground only of religion, race, caste, language or any of them.

- Article 30 right of minority to establish and administer educational institutions: All minorities, whether based on religion or languages, shall have the right to establish and administer educational institutions of their choices. The state shall not, in granting aid to educational institutional institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language. All these are fundamental rights. Therefore, a woman can go to the court if one is subjected to any discrimination. When we talk about constitutional rights of women in India, we mainly pertain to those areas where discrimination is done against women and special laws formulated to fight those bigotries. The most important issues stand as those pertaining to marriage, children, abortion, crimes against women, and inheritance.
- Under the Directive Principle of the State Policy (DPSP) Article 39-A. Equal justice and free legal Aid: The State shall secure that the operation of the legal system promotes justice, on a bases of equal opportunity, and shall in particular provide free legal aid by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason economic or other disabilities.
- Article 42 directs the State to make provision for ensuring just and humane conditions of work and maternity relief. Above all, the Constitution imposes a fundamental duty on every citizen through Articles 15 (A) (e) to renounce the practices derogatory to the dignity of women.

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