

# A STUDY ON THE PROVISIONS PROVIDED FOR WOMEN RIGHTS IN CONSTITUTION OF INDIA

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**Abstract:** Women have equal contribution for the social and economical development around the globe. The rights for women with safety are properly prescribed in the Indian constitution. The provisions of constitution help in the empowerment of women, special protection, safety at workplace, right to freedom and equality, protection against domestic violence, divorce, dowry etc. The present study have discussed about various special privilege for women under Articles 14, 15, 15(3), 16, 39(a), 39(b), 39(c) and 42. The present article will provide a concise overview on the provisions for women in Indian constitution. The Study also concluded about the special protection provision in the constitution.

**Keywords -** Constitution, Women rights, Empowerment, Domestic Violence.

## I. INTRODUCTION

Rights are very important factor of the constitution because it helps to strengthen the community, especially in case of women and weaker sections of Indian community (Billava, & Nayak, 2016). All the living beings have individual rights for their life and development. It was seen in most of the countries that the condition of women is under privilege because proper rights are not available for them. It was well known that half population of India or world i. e. WOMEN, played a crucial role to develop and structured the community. In Indian system women's are placed at the top due their historical contribution and wisdom. Women play an important role in family, society as a mother, sister and wife for moral and ethical development. Since historical time, women are supposed to be a thing of luxury and use. She was not availed enough rights for her choice by the male dominated system. It was observed in most of the nations that all time the rights of women were encroached by the dominated male, which was also due to the gender inequality (Safa, 2005). Inequality, in the terms of employments, rights, chances and educations have already been existed in the Indian society. The development and growth of a nation depends on the every factors either society, education, industries etc., if all the citizens availed equal opportunities. In this concern, to provide equal chances to the women in every field, various movements were organized by the leaders of the society. The main aim of these movements were to empower the women and provide special chances for their growth and protection in all the sections such as politics, employments, rights, finance, society etc. Indian constitution provides special privilege to women for their empowerment. The women empowerment is important because it provides special rights to women in every domain of the society (Moghadam and Senftova, 2005). If we go through with the Indian constitution, various provisions are available for women rights but in actually women are not aware for their available rights. Indian constitution is one of the biggest written constitutional documents all over the world, having the vast diversity of provisions for women rights (Mitra, 2017). The Indian constitution was structured on the basis of equal rights and duties for all the residents of India (Jayal, 2012). The Indian constitution have provisions for equal rights along with some special provisions for women rights without any kind of partiality on the basis of sex, caste, religion, colour or race (Atrey, 2018). The main aim of present study is to observe the provisions of Indian constitution for women rights.

In Indian constitution, article 14 provides provision to women for equal rights. According to the constitution, all women have the right of equality and protection in all over the region as per the law. Article 15 has a provision for free movement for all women throughout the country. Under article 15 (3), state have provisions to make special law for the safety and empowerment of women. Article 16 provides equal employment opportunity for all women in all the areas. To eliminate discrimination of women equality, so many provisions have been enacted for example- 33% seats are reserved in all municipal corporations and panchayats. It is supposed to be a big step towards empowering the women (Krishnaraj, 2018). The study is carried out as follows-

## II. PROVISIONS IN INDIAN CONSTITUTION FOR WOMEN:-

There are some provisions mentioned in the Indian constitution which provide equality to all the citizens (Nussbaum, 2012). This equality among all citizens are mentioned under the article 14, which is also included in the preamble of Indian constitution (Khaitan, 2019). The concept of this article 14 is already included in all the written constitutions such as United state of America, Britain etc (Lester, 2011). Under this article it is said that all shall treated equally and all legal provisions will be same for all. According to professor Dicey rule of law shall be applicable on all the persons, there is no matter who is he or she, either a bagger or a rich person. This article 14 also stated that all persons have to adhere this common law and no one treated specially on the basis of birth, sex and hereditary (Orth et. al., 1998).

The article 15 also provides provisions only for Indian citizens for their rights and it is mentioned that there will be no discrimination with citizens on the basis of race, religion, cast, sex, place of birth or any of them (Singhvi, 2009). The state of children

and women were very concerning in the past, and the special provisions to be needed as per the special physical condition of women (Kadam, 2012). So this article 15 provides freedom to the state to make special provisions for women as well as children. The 3<sup>rd</sup> part of Article 15 provides power to the state to make any special provision for women and children. Under this part of article state can be establish education institutes for children and women (Hart, 2013).

The article 16 provides equal opportunities for all citizens (equal to all women and men) for employment in any office under the state government. The part 2 of article 16 provides equal rights to all the citizens without any discrimination for employment under the state on the basis of race, religion, cast, sex, and place of birth or any of them. It does not mean that any person has the right of employment without essential qualification or conditions set by the state.

For Example Case Air India Vs Nargis Mirza, in this there was discrimination in the rules for female employee and male employee. A female employee will be relieved, if she got married or have pregnancy before the age of 35 and after the age of 35, if she neither married nor pregnant, the further employment will be continued after the permission of management but in case of male employee the upper age limit for retirement is 45. So, the honorable court ordered to Air India that these conditions for female employees are against the law and violating the article 14, 15 and 16. This is completely encroachment of right to equality prescribed in Indian Constitution (Mohapatra, 2017).

The article 21 of Indian constitution provides provision of protection of life and personal liberty. According to this article no person shall interfere of any one's life or personal liberty which is also acceptable according to the procedure established by law (Nath, 2013). Article 19 (2) provides personal protection and secrecy to the female victim (such as rape, kidnapping and abduction) from public domain. For example case Maharashtra state Vs Madhukar Narayan, in this case hon'ble supreme court made a decision that a characterless women also have the right of privacy and no one interfere in the privacy of women (Chandpuri, & Tyagi, 2013).

The article 38 (1) of Indian constitution provides provision to state for establishment of equal justice to all and no discrimination will be on the basis of socially, economically and politically. They are also prescribed in the directive principles of state policy which is already included in the preamble of the Indian constitution (Nandihal, 2011).

The article 39 of Indian constitution provides provision to state to ensure the equal pay for both male and female employees (Viswanathan & Shah, 2016).

The article 46 provides provision to state to make the policy which provides equal rights of opportunities to the weaker sections of society either male or female. Under this article, education for should be ensured by the state (Bonoli, 2005).

The article 47 provides provision to state to make the policy which helps in the up scaling the standard of living of all citizens (Padmanabhan, 2015).

### **III. SPECIAL PROVISIONS IN INDIAN CONSTITUTION FOR WOMEN:**

The Special provision prescribed in the Indian constitution to protect the rights of women as well as to empower them. This special provision specially mentioned for women or girls, some of them are as follows-

1. Article 15 (3) provides the provision to state to make policies or law in favour of women and children, especially for reservation policies, education and employment (Mitra, 2012).
2. Article 42 provides provisions to the female employees for maternity leave without any deduction (Misra, & Sreekumar, 2021).
3. Article 243D provides provision of reservation for women belonging to the schedule cast and schedule tribe in panchayats. Under the clause 1, it is prescribed that not less than one third of total no of seats shall be reserved for women belonging to the schedule cast and schedule tribe and these seats shall be filled by direct election in every panchayat. This article also provides further provisions that not less than one third of the total no of officer (chairpersons) shall be reserved for women belonging to schedule cast and schedule tribe.
4. Article 32 of Indian constitution provides provisions to Hon'ble Supreme Court to take the special decisions to protect the fundamental rights as mentioned in the constitution (Karpagavalli, 2019). For example case Vishkha Vs Rajasthan State, in this case hon'ble supreme court give a decision for the protection of fundamental rights and to protect sexual harassment of working women. In this case, a non- government organization named Vishkha filed a Public Interest Litigation (PIL) to the supreme court for protection of women. It was informed to the court that in Rajasthan state a social women worker was gang raped and for the protection of fundamentals rights of women as prescribed under article 14, 19 and 21, hon'ble supreme court suggested following guide principles -
  1. All the employers of private and public areas have to take suitable steps for women to prevent the sexual harassment at work place. They have to ensure the prevention of following activities at the workplace-
    - a. Proposal of physical relationships, sexual abusing, showing porn materials, request for sexual relationships and move further without consents.
    - b. All the organizations (Government or Private sector) should include the sexual harassment preventive measures strictly in the behavioral rules and disciplines. The suitable punishment should be given to the convicted person.
    - c. All the private organization should implement the Industrial Employment (standing orders) act 1946 for the prevention of such practices.
    - d. All the employers should ensure all the facility for women to work, rest and health. The safety and care of women employee should also be ensured by the employer and organization.
  2. If a similar behavior reported in a organization, the in charge of organization should take the necessary action as per the Indian penal Code.
  3. The organization should have a provision or option of transfer for harassed women or convicted person.

#### IV. ACTS AND PROVISIONS FOR THE SAFETY AND EMPOWERMENT OF WOMEN:-

There were some acts and provisions enacted for the safety and empowerment of women:-

- I. The Employees State Insurance Act, 1948
- II. The Plantation Labour Act, 1951
- III. The Family Courts Act, 1954
- IV. The Special Marriage Act, 1954
- V. The Hindu Marriage Act, 1955
- VI. The Hindu Succession Act, 1956 (Amendment was done in 2005)
- VII. Immoral Traffic (Prevention) Act, 1956
- VIII. The Maternity Benefit Act, 1961 (Amendment was done in 1995)
- IX. Dowry Prohibition Act, 1961
- X. The Medical Termination of Pregnancy Act, 1971
- XI. The Contract Labour Act, 1976
- XII. The Equal Remuneration Act, 1976
- XIII. The Prohibition of Child Marriage Act, 2006
- XIV. The Criminal Law (Amendment) Act, 1983
- XV. The Factories (Amendment) Act, 1986
- XVI. Indecent Representation of Women (Prohibition) Act, 1986
- XVII. Commission of Sati (Prevention) Act, 1987
- XVIII. The Protection of Women from Domestic Violence Act, 2005

#### V. SPECIAL INITIATIVES FOR WOMEN EMPOWERMENT:-

The government of India has implemented various organizations and commissions for the women empowerment, which are worked independently without partiality. Some of these government policies are as follows:-

#### VI. NATIONAL COMMISSION FOR WOMEN EMPOWERMENT

This is the premier and major national level organization of India, which worked for the protection of women and also promotes her status from discriminations. In January 1992, the Government established this independent organization with a specific responsibility to verify and examine all matters in the nation relating to the constitutional and legal rights of women. They also have the right to review and suggest the amendments in the rules and legislation for women.

#### VII. DOMESTIC VIOLENCE ACT, 2005 (FOR PROTECTION OF WOMEN):-

The protection of women is the initial phase of women empowerment. Domestic violence is broadly spread over the Indian society, however to protect women from domestic violence **Domestic Violence Act, 2005** was enacted by the government of India. This act provides power to the court to pass protection orders for women protection from domestic violence. This act also provide secure working atmosphere at working place from physical and sexual abusing. According to draft of this act a Protection officer and NGO's should be appointed to provide medical and legal assistance to the women. Under this Act the offence is considered as non-bailable offence punishment with imprisonment which may be extended to the one year and with fine extended up to 20,000/- or both (Dams et. Al., 2008). Unlawful dowry demands to the women or her relatives also considered under this Act.

#### VIII. CIVIL AND POLITICAL RIGHTS (Joseph & Castan, 2013):-

The provisions of civil and political rights are mentioned in article 2-21 of universal declaration, which are acceptable by whole world. Some of the articles are described below-

- Right to live and protection mentioned in article-3.
- Right to equality and protection in front of law without discrimination mentioned in article- 7.
- Right to nationality mentioned in article- 15
- Right to religious freedom is mentioned in article-18.
- Right to speech and freedom is mentioned in article- 19

#### XI. Economic and social rights (Young, 2012) -

The provisions of economic and social rights are mentioned in article 22-27 of universal declaration, which are acceptable by whole world. These articles are described below-

- Right to social protection mentioned in article-22
- Right to free choice of employment, to just and favorable conditions of work and to protection against unemployment is mentioned in article- 23
- Right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay is mentioned in article- 24
- Right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control is mentioned in article- 25
- Right to education without any discrimination is mentioned in article- 26
- Right to freely participate in the cultural life of the community and its benefits is mentioned in article- 27.

#### IX. DISCRIMINATIONS OF WOMEN RIGHTS (Peroni & Timmer, 2013) -

The universal declaration have conceptualized the no discrimination in human rights, which is also included the sex based discrimination but the discrimination with females are all time reported. For the first time in 1946, to resolve the issues related to women, women commission was established. In 7th November 1967, the convention of women commission has accepted the declaration of end of discrimination of women (declaration on the elimination of discrimination against women). It is accepted on



18th December 1979, the convention on the elimination of all the forms of discrimination against women. This convention enacted in 1981 and up to 2011 187 nations were in the favour of this convention.

The discrimination against women is defined as the discrimination with women on the basis of sex. Article 1 of convention, defined the discrimination of women on the basis of sex. Under the Part 3, the convention has provisions to avoid the discrimination of women related to the education (article 10), employment (article 11), healthcare (article 12), economic and social life (article 13), equality before law (article 15), women in rural area (article 14) and marriage and family relation (article 16).

#### X. DISCUSSION AND CONCLUSION:

Indian society has wide acceptance with the equal rights & safety for women (Ganguly, 2020). The provisions of Indian constitution along with the time to time essential amendments are providing safety, security and confidence to the women (Singh, 2024). The present study is focused to investigate the major rights for Indian women and it was concluded that Indian constitution provided some special provisions to empower the women (Purty, 2018). On the basis of previous reports, it was observed that all the women rights and safety provisions unable to enact the crimes against the women due to delayed court and decision process (Hasselbacher, 2009)

#### XI. ACKNOWLEDGMENT

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