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## WOMEN'S RIGHTS AND LEGAL REFORMS IN INDIA: AN OVERVIEW

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### Abstract

Women's rights have been a significant subject of legal reform and social progress in India. Over the years, legislative and judicial measures have been taken to ensure gender equality, protection from discrimination, and the empowerment of women in various spheres. India has diverse personal laws governing marriage and family matters, depending on religious affiliations. The Indian Constitution lays the foundation for gender equality. Legal protections for women against violence exist at national and international levels. To safeguard their rights and ensure justice, many countries have specific laws addressing domestic violence, sexual harassment, human trafficking, and other forms of abuse. India has made significant progress in advancing women's rights through legal reforms. However, challenges remain in the effective implementation of these laws due to social norms, lack of awareness, and enforcement gaps. Many women still face discrimination, violence, and economic inequality despite legal protections. To ensure real change, there is a need for stronger enforcement, awareness campaigns, and gender-sensitive policies.

**Keywords:** Women's rights, Constitutional and legal provisions, gender equality, gender justice, women empowerment

### Introduction

Women's rights have been a significant subject of legal reform and social progress in India. Over the years, legislative and judicial measures have been taken to ensure gender equality, protection from discrimination, and the empowerment of women in various spheres. India's legal framework is shaped by constitutional mandates and its obligations under international agreements like the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), has played a crucial role in shaping women's rights. This article explores key legal reforms related to women's rights in India, focusing on marriage,

family law, employment, political representation, and protection from violence.

### Constitutional and Legal Provisions

The Indian Constitution lays the foundation for gender equality. Several provisions explicitly safeguard women's rights:

Article 14: Guarantees fairness under the law and equal legal protection.

Article 15(1): Bars discrimination on the basis of religion, race, caste, sex, or place of birth.

Article 15(3): Permits the state to implement special measures for women and children.

Article 16: Guarantees equal opportunity in public employment.

Article 42: Mandates the provision of just and humane conditions of work and maternity relief<sup>119</sup>.

These provisions form the basis for legal reforms aimed at ensuring women's rights in various domains.

### Legal Reforms in Marriage and Family Law

India has diverse personal laws governing marriage and family matters, depending on religious affiliations. However, several legal reforms have addressed gender inequality in these laws.

*Shayara Bano v. Union of India* (2017)<sup>120</sup>: The Supreme Court ruled that instant triple talaq is unconstitutional, representing a major advancement in gender justice. The majority opinion stated that triple talaq does not fall under the exemption provided by Article 25 of the Indian Constitution.

### Rights of Women After Divorce

**Right to Property:** A woman retains ownership of her *streedhan* (property gifted to her before, during, or after marriage). The Supreme Court, in *Krishna Bhattacharjee v. Sarathi Choudhury* (2016)<sup>121</sup>, determined that a husband's or in-laws' possession of a woman's *stridhan* constitutes an ongoing offense under the Protection of Women from Domestic Violence Act, 2005 (PWDVA)<sup>122</sup>. The Court held that a woman remains an aggrieved person even after judicial separation and can seek legal remedies for economic abuse. This judgment reinforced women's rights to their *stridhan*, ensuring they can claim it regardless of time lapse.

### Legal Protections Against Violence

Legal protections for women against violence exist at national and international levels. To safeguard their rights and ensure justice, many countries have specific laws addressing domestic violence, sexual harassment, human trafficking, and other forms of abuse. Global frameworks such as CEDAW and the Declaration on the Elimination of Violence Against Women strengthen these safeguards. Additionally, legal provisions often include measures such as restraining orders, support services, and stricter penalties for offenders. Governments and organizations continue to work towards strengthening these laws to ensure women's safety and empowerment.

**The Protection of Women from Domestic Violence Act, 2005:** Offers legal recourse for women experiencing domestic violence, including protection orders, residence orders, and monetary relief.

**The Dowry Prohibition Act, 1961<sup>123</sup>:** Prohibits both giving and receiving dowry, seeking to prevent dowry-related harm and fatalities.

### Sexual Harassment and Workplace Protections

*Vishakha v. State of Rajasthan* (1997)<sup>124</sup>: This case exposed workplace sexual harassment, prompting legal reforms like The Vishakha Guidelines and the 2013 Act on Prevention, Prohibition, and Redressal of Sexual Harassment of Women at the Workplace. However, eliminating harassment requires societal change, including removing victim stigma and fostering a safer, more respectful work environment for women.

**The Maternity Benefit (Amendment) Act, 2017<sup>125</sup>:** This act enhances protections for working women in India. It increased paid maternity leave from 12 to 26 weeks for women in establishments with 10 or more employees. The law also introduced work-from-home options,

<sup>119</sup> The Constitution of India, Article 14, 15(1), 15(3), 16, 42

<sup>120</sup> *Shayara Bano v. Union of India*, (2017) 9 SCC 1, MANU/1031/2017

<sup>121</sup> *Krishna Bhattacharjee v. Sarathi Choudhury* (2016) 2 SCC 705, MANU/SC/1272/2015

<sup>122</sup> Protection of Women from Domestic Violence Act, No. 43, Acts of Parliament, 2005 (India)

<sup>123</sup> The Dowry Prohibition Act, No. 28, Acts of Parliament, 1961 (India)

<sup>124</sup> *Vishakha v. State of Rajasthan* (1997) 6 SCC 241, MANU/SC/2147/1997

<sup>125</sup> Maternity Benefit (Amendment) Act, No. 6, Acts of Parliament, 2017 (India)



crèche facilities for organizations with 50 or more employees, and made it mandatory to inform women about maternity benefits at the time of joining. For women with two or more children, the leave remains 12 weeks. The amendment aims to support maternal health and encourage women's participation in the workforce while balancing family responsibilities.

### Women's Rights in Property and Inheritance

Hindu Succession Act, 1956 (Amendment 2005)<sup>126</sup>: The amendment significantly strengthened women's property and inheritance rights in India. It granted daughters equal rights as sons in ancestral property, regardless of their marital status.

Key Provisions of Hindu Succession Act, 1956 (Amendment 2005):

1. Equal Coparcenary Rights – Daughters became coparceners (joint legal heirs) in Hindu Undivided Family (HUF) property, just like sons.
2. Retrospective Application – The law applies even if the father passed away before September 9, 2005, ensuring daughters' rights in ancestral property.
3. Marital Status Irrelevant – Married daughters have the same inheritance rights as unmarried daughters.
4. Widows' Rights Strengthened – Widows receive a share in their husband's property, ensuring financial security. However, disparities remain in inheritance rights under other personal laws, particularly in Muslim and Christian laws.

Several states have enacted laws to ensure women's equal rights to agricultural land. For example, Karnataka and Maharashtra have amended state laws to allow women to inherit agricultural land on par with men.

### Political Representation and Women's Empowerment

The 73rd and 74th Constitutional Amendments (1992): These Amendments marked a significant step toward women's empowerment by ensuring their political representation in local governance. These amendments mandated one-third reservation for women in Panchayati Raj Institutions (PRIs) and Urban Local Bodies (ULBs), enabling them to participate in decision-making processes. This initiative increased women's visibility in politics, enhanced their leadership roles, and contributed to gender equality in governance. However, challenges like patriarchal resistance, lack of awareness, and socio-economic barriers remain. Despite these hurdles, the amendments have been instrumental in promoting women's active involvement in democracy and grassroots governance.

### Gaps and Challenges in Implementation

Despite progressive legal reforms, significant challenges persist:

1. Limited Awareness and Enforcement: A significant number of women, particularly in rural regions, are unaware of their legal entitlements.
2. Legal Contradictions: Inconsistent provisions in marriage and rape laws undermine protections for women. For instance, marital rape is still not criminalized in India.
3. Social and Cultural Barriers: Deep-seated patriarchal norms often hinder effective implementation of women-centric laws.
4. Judicial Delays: Lengthy legal proceedings discourage women from seeking justice.

### Recommendations for Strengthening Women's Rights

Here are some key recommendations to strengthen women's rights:

1. Legal Reforms – Enforce stricter laws against gender-based violence, workplace discrimination, and unequal pay.

<sup>126</sup> The Hindu Succession (Amendment) Act, No. 39, Acts of Parliament 2005 (India)

2. Political Representation – Implement reservation policies to ensure greater participation of women in decision-making roles.

3. Economic Empowerment – Promote financial inclusion, equal wages, and entrepreneurship opportunities for women.

4. Education and Awareness – Ensure access to quality education and awareness programs on gender rights.

5. Healthcare Access – Improve reproductive health services and maternal care facilities.

6. Support Systems – Establish helplines, legal aid, and shelters for women facing violence or abuse.

7. Technology for Safety – Use digital tools for women's safety, such as tracking apps and online complaint systems.

8. Stronger Law Enforcement – Train police and judicial bodies to handle gender-related cases sensitively and effectively.

### Conclusion

India has made significant progress in advancing women's rights through legal reforms. Laws such as The 2005 Amendment to the Hindu Succession Act, the Protection of Women from Domestic Violence Act, 2005, and the Women's Reservation Bill, 2023 have strengthened women's position in areas like inheritance, protection from violence, and political participation. These reforms have played a crucial role in empowering women and promoting gender equality.

However, challenges remain in the effective implementation of these laws due to social norms, lack of awareness, and enforcement gaps. Many women still face discrimination, violence, and economic inequality despite legal protections. To ensure real change, there is a need for stronger enforcement, awareness campaigns, and gender-sensitive policies. Education, economic independence, and societal support are equally essential in achieving women's empowerment. A holistic

approach, combining legal measures with social transformation, is necessary for ensuring justice, safety, and equal opportunities for all women in India.