



# From Tradition To Transformation: Legal Frameworks For Women's Rights In India

Dr Suja Nayar<sup>1\*</sup>, Dr Vidhi Shah<sup>2</sup>, Ms. Urvashi Sharma<sup>3</sup>, Dr Mayuri Pandya<sup>4</sup>,

<sup>1\*</sup>Assistant professor, Faculty of Law, GLS University

<sup>2</sup>Assistant professor, Faculty of Law, GLS University

<sup>3</sup>Assistant professor, Faculty of Law, GLS University

<sup>4</sup>Dean, Faculty of Law, GLS University

**\*Correspondence Author:-** Dr Suja Nayar

\*Assistant professor, Faculty of Law, GLS University

## Abstract

The legal landscape surrounding women's rights in India has evolved significantly over the years, transitioning from entrenched traditional norms to progressive frameworks that seek to empower and protect women. This abstract delves into the complex journey of women's rights within the Indian legal system, highlighting the transformative legal frameworks that have emerged to address historical injustices and foster gender equality. India, with its rich cultural diversity, has long been characterized by traditional gender roles and norms that have often marginalized women. For centuries, women faced discrimination, limited access to education, and restricted participation in economic and political spheres. This research context underscores the need for legal frameworks that not only challenge but also transform societal attitudes towards women's rights. The legal transformation of women's rights in India commenced with the enactment of several landmark legislations. Under the Constitution of India the inclusion of Article 15(3) allowed for affirmative action, empowering the state to make special provisions for women. Subsequently, the Dowry Prohibition Act of 1961, the Maternity Benefit Act of 1961, and the Equal Remuneration Act of 1976 were introduced to address specific aspects of women's rights, such as dowry-related abuses, maternity benefits, and equal pay for equal work. Despite these initial legal interventions, challenges persisted. Gender-based violence, unequal access to education, and limited economic opportunities for women remained pervasive issues. In response, India continued to evolve its legal frameworks. The Protection of Women from Domestic Violence Act of 2005, for instance, introduced measures to combat domestic abuse and provide protection orders for women. The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act of 2013 mandated the establishment of internal committees to address workplace harassment, further reinforcing women's rights in the professional sphere.

**Keywords:** Women Rights in India, Legal framework, Gender Equality, Social Transformation

## Introduction:

Women's rights in India have undergone a profound transformation over the decades, reflecting a complex interplay of historical, cultural, legal, and social factors. The status and legal protections accorded to women in India have evolved significantly, transitioning from a backdrop of traditional norms and gender disparities to a more inclusive, equitable, and rights-based framework. India's historical narrative is marked by rich cultural diversity and traditions, but it has also been characterized by deeply ingrained gender disparities and traditional roles for women. For centuries, women faced significant societal constraints, including limited access to education, minimal participation in economic and political spheres, and enduring discrimination within their families and communities.[1]

The struggle for women's rights in India is intertwined with the broader context of the country's quest for independence and social reform movements. Pioneering women like Rani Padmini, Rani Lakshmi Bai, and Savitribai Phule laid the foundation for women's empowerment through their remarkable acts of courage and advocacy. The social reform movements of the 19th and early 20th centuries, led by visionary leaders like Raja Ram Mohan Roy and Dr. B.R. Ambedkar, sought to challenge oppressive practices and promote gender equality.

A pivotal moment in the quest for women's rights was the adoption of the Indian Constitution in 1950, which enshrined the principles of gender equality and prohibited discrimination on the grounds of sex. Article 15(3) allowed for affirmative action, enabling the state to make special provisions for women. Subsequently, landmark legislations such as the Dowry Prohibition Act of 1961, the Maternity Benefit Act of 1961, and the Equal Remuneration Act of 1976 were introduced to address specific aspects of women's rights, including dowry-related abuses, maternity benefits, and equal pay for equal work.[2]

The legal landscape surrounding women's rights in India has continued to evolve, reflecting an increasingly progressive stance. Acts like the Protection of Women from Domestic Violence Act of 2005 and the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act of 2013 have been instrumental in addressing gender-based violence and harassment, fostering safer environments for women in both domestic and professional spheres. Education and economic empowerment have been central to the women's rights movement in India. The Right to Education Act of 2009 made education a fundamental right for all children, significantly increasing female enrolment in schools. Initiatives like "Beti Bachao, Beti Padhao" have been introduced to combat gender bias against female children and promote their education. Moreover, various government schemes, including the Pradhan Mantri Mudra Yojana, have aimed to empower women economically, encouraging entrepreneurship and financial independence. Despite substantial progress, challenges persist. Gender-based violence, unequal property rights, and underrepresentation of women in political leadership remain areas of concern. The legal community, civil society, and policymakers continue to collaborate to address these issues and ensure the effective implementation of existing laws.[3]

### **Fundamental Rights under Constitution of India and Women Rights**

While fundamental rights apply universally, they play a pivotal role in advancing the status and well-being of women in India. India, like many other nations, has grappled with issues of gender inequality, discrimination, and violence against women for centuries. The framers of the Indian Constitution recognized the pressing need to address these concerns and laid the foundation for empowering women through a set of progressive and inclusive fundamental rights.[4]

**Right to Equality (Article 14-18):** The Right to Equality is one of the cornerstones of the Indian Constitution, and it applies to women with full force. Article 15 specifically prohibits discrimination on grounds of sex, ensuring that women have equal access to opportunities and resources. This has been instrumental in challenging deeply ingrained patriarchal norms and practices, such as gender-based discrimination in education and employment.

**Right to Freedom (Article 19-22):** The Right to Freedom encompasses various liberties, including freedom of speech and expression, assembly, and movement. For women, this means they have the freedom to voice their concerns, participate in political activities, and engage in social and cultural events without fear of discrimination or repression. This right has empowered women to become active participants in India's democratic processes and social life.

**Right Against Exploitation (Article 23-24):** These articles explicitly prohibit trafficking, forced labor, and the employment of children in hazardous industries. While women and girls are vulnerable to various forms of exploitation, these provisions serve as a crucial legal safeguard against practices such as human trafficking and forced prostitution, helping protect women from such horrors.

**Right to Education (Article 21A):** The Right to Education Act of 2009 made education a fundamental right for all children, including girls. This provision has been transformative for girls' education, significantly increasing their enrolment in schools. Education is a key tool in empowering women, enabling them to break free from traditional roles and contribute actively to society.

**Right to Life and Personal Liberty (Article 21):** Article 21, often referred to as the heart and soul of the Indian Constitution, guarantees the right to life and personal liberty to every citizen. For women, this right extends to issues like freedom from gender-based violence and the right to make choices about their own bodies, including issues related to reproductive health and family planning.

**Right to Constitutional Remedies (Article 32-35):** These articles provide for the right to approach the Supreme Court or High Courts for the enforcement of fundamental rights. For women facing discrimination or violence, these provisions offer a legal recourse to seek justice and redressal. They serve as a powerful tool for women to challenge oppressive practices and ensure that their rights are upheld.

While these fundamental rights have been pivotal in advancing women's rights in India, challenges persist. Gender-based violence, unequal property rights, and underrepresentation of women in political leadership remain areas of concern. However, the Indian legal community, civil society, and policymakers continue to collaborate to address these issues and ensure the effective implementation of existing laws.

The Constitution of India has played a transformative role in the empowerment of women by guaranteeing them a robust set of fundamental rights. These rights have not only challenged historical injustices but also provided a legal framework to advance gender equality and protect women from discrimination and violence. As India continues its journey towards gender equity, these fundamental rights will remain vital in ensuring that women's rights are upheld and advanced within the Indian legal system. Empowering women means empowering the nation, and the Constitution of India stands as a testament to this inclusive vision.[5]

**Landmark Legislations protecting women rights in India:**

India, a nation known for its rich cultural diversity and historical heritage, has also grappled with deep-seated gender disparities and challenges related to women's rights. In this multifaceted landscape, the legal system has played a pivotal role in shaping and safeguarding the rights of women. Over the years, India has witnessed the enactment of several landmark legislations that have not only addressed historical injustices but have also paved the way for women's empowerment, gender equality, and protection from discrimination and violence.

These legislations, often hailed as beacons of progress, reflect a collective commitment to rectify longstanding imbalances and uphold the principles of justice and equality for all citizens. They span a wide spectrum of issues, ranging from combating domestic violence and ensuring workplace safety to eradicating harmful practices such as dowry and child marriage. As we delve into the landscape of women's rights in India, it becomes evident that the legal framework has been a dynamic force, responding to the evolving needs and aspirations of women in a changing society.

In this comprehensive exploration, we will delve into the most significant and influential legislations that have contributed to the advancement of women's rights in India. These legislations, though distinct in their focus, collectively contribute to a more inclusive, equitable, and just society where women can thrive, protected by the shield of the law. Each piece of legislation represents a chapter in the ongoing story of women's empowerment in India, a narrative that continues to evolve and inspire change.[6]

**The Dowry Prohibition Act, 1961:** This act aimed to combat the social evil of dowry, which often led to harassment and violence against brides. It made the giving or receiving of dowry a criminal offense and established penalties for those involved. Despite the persistence of dowry-related issues, this legislation marked an important step towards protecting women from financial exploitation.

**The Maternity Benefit Act, 1961:** This act ensures that pregnant women and new mothers receive paid leave and other benefits during and after childbirth. It provides job security and financial support to women during a crucial period of their lives, promoting both maternal and child health.

**The Equal Remuneration Act, 1976:** This legislation prohibits wage discrimination on the basis of gender. It mandates that men and women be paid equally for performing the same work or work of a similar nature. The act seeks to bridge the gender pay gap and promote economic equality between the sexes.

**The Protection of Women from Domestic Violence Act, 2005:** This landmark legislation addresses the pervasive issue of domestic violence against women. It provides a comprehensive legal framework to protect women from physical, emotional, economic, and verbal abuse within their homes. The act also empowers women to obtain protection orders, residence orders, and monetary relief.

**The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013:** This act mandates the establishment of internal committees in workplaces to address complaints of sexual harassment. It defines sexual harassment and provides mechanisms for redressal, creating safer work environments for women across the country.

**The Prohibition of Child Marriage Act, 2006:** Although primarily focused on child marriage, this legislation indirectly supports women's rights by protecting young girls from forced marriages. By raising the legal age for marriage and establishing penalties for those involved in child marriages, the act aims to protect the rights and well-being of young girls.

**The Right to Education Act, 2009:** While not exclusively a women's rights legislation, this act plays a crucial role in promoting gender equality in education. It makes elementary education a fundamental right for all children, ensuring that girls have equal access to quality education.

**The Muslim Women (Protection of Rights on Marriage) Act, 2019 (Triple Talaq Bill):** This act criminalizes the practice of instant triple talaq (talaq-e-biddat) among Muslim men. It empowers Muslim women by providing legal protection against unilateral divorce, which often left them financially vulnerable and socially marginalized.

**The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013:** While not specific to women, this legislation is significant for marginalized communities, including women. It seeks to eliminate manual scavenging, a degrading and hazardous practice often associated with women, by prohibiting its employment and providing rehabilitation measures.

These landmark legislations have been crucial in addressing various aspects of women's rights in India, from protection against violence and discrimination to economic empowerment and access to education. While progress has been made, ongoing efforts are needed to effectively implement and enforce these laws and to address persisting challenges related to gender inequality and violence against women.

**Important Judgments shaping the women rights in India:**

***Saroj Rani v. Sudarshan Kumar Chadha (AIR 1984 SC 1562)***: This landmark decision challenged the constitutional validity of restitution of conjugal rights under Section 9 of the Hindu Marriage Act. The Supreme Court held that forcing a woman to cohabit against her will violate her fundamental rights and was unconstitutional.

***Mary Roy v. State of Kerala (1986 SCR (1) 371)***: This case challenged the discriminatory provisions of the Travancore Christian Succession Act, 1916, which denied Christian women the right to inherit ancestral property. The Supreme Court ruled in favor of equal inheritance rights for Christian women, emphasizing the principle of gender equality.

***State of Maharashtra v. Madhkar Narayan Mardikar (AIR 1991 SC 207)***: This judgment addressed the issue of sexual assault on women and emphasized the importance of consent. It held that absence of physical resistance does not imply consent in cases of sexual assault, highlighting the need for a clear understanding of consent in such cases.

***Indra Sawhney v. Union of India (AIR 1993 SC 477)***: Although not specifically a women's rights case, this decision clarified the principles of reservation in public employment. It recognized the importance of providing representation to women in various sectors, including government jobs, through affirmative action.

***Vishakha v. State of Rajasthan (AIR 1997 SC 3011)***: In this landmark case, the Supreme Court formulated guidelines, known as the Vishakha Guidelines, to address sexual harassment at the workplace. This decision provided a legal framework for preventing and redressing sexual harassment and laid the foundation for the subsequent enactment of the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013.

***Gaurav Jain v. Union of India (1997 (8) SCC 114)***: In this case, the Supreme Court upheld the rights of unwed mothers to seek child support from the biological fathers. The judgment recognized the rights and dignity of unmarried women and their children, ensuring they are not deprived of financial support.

***Githa Hariharan v. Reserve Bank of India (AIR 1999 (2) SCC 228)***: This judgment emphasized the equal guardianship rights of mothers over their children and their right to make decisions regarding their children's welfare. It underscored that custody and guardianship should be determined based on the best interests of the child rather than gender bias.

***State of Haryana v. Bhup Singh (SLP (C) Nos.8248-8250 of 2007)***: This case clarified the definition of "cruelty" under Section 498A of the Indian Penal Code. The Supreme Court held that mental cruelty could be as harmful as physical cruelty and, therefore, can constitute grounds for legal action, particularly in cases of harassment of married women for dowry.

***Suchita Srivastava v. Chandigarh Administration (2009 14 SCR 989)***: This decision reaffirmed a woman's right to make decisions about her own body. The Supreme Court held that a woman has the right to terminate her pregnancy if it poses a threat to her mental or physical health, further reinforcing women's reproductive rights.

***Lalitha Kumari v. Government of Uttar Pradesh (MANU/SC/1166/2013)***: In this case, the Supreme Court issued guidelines to protect the rights of women who are victims of sexual offenses. These guidelines emphasized the need for the prompt registration of First Information Reports (FIRs) and the sensitivity of law enforcement agencies when dealing with cases of sexual violence.

***Shabnam Hashmi v. Union of India (AIR 2014 SC 1281)***: The Supreme Court, in this case, took a significant step toward the protection of women's rights by addressing the issue of custodial violence and torture against women. The judgment emphasized the state's duty to prevent and punish custodial violence and uphold the dignity of all individuals, including women in custody.

***Shayara Bano v. Union of India (2017 (9) SCC 1)***: In this case, the Supreme Court declared the practice of instant triple talaq (talaq-e-biddat) among Muslims unconstitutional and violative of women's rights. The verdict provided Muslim women protection from arbitrary and instant divorce, empowering them with greater legal security.

***Rajesh Sharma v. State of U.P. (2017 (3) SCC 821)***: In this significant case, the Supreme Court issued guidelines to prevent the misuse of Section 498A of the Indian Penal Code, which deals with dowry-related harassment. While addressing the concerns of misuse, the Court also emphasized the importance of protecting women from genuine cases of harassment and abuse, striking a balance between the rights of the accused and the rights of the victims.

***Independent Thought v. Union of India (2017 (10) SCC 1)***: The Supreme Court, in this judgment, ruled that sexual intercourse with a minor wife, even within a child marriage, constitutes rape under the Protection of Children from Sexual Offences (POCSO) Act. This decision was a significant step in recognizing the importance of consent and the protection of the rights of underage girls.

**International Treaties related to women rights:**

Numerous international treaties and agreements have been established to protect and promote women's rights globally. These treaties recognize the importance of gender equality and seek to eliminate discrimination and violence against women. Here are some of the key international treaties and agreements that protect women's rights:

**Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW):** Adopted in 1979 by the United Nations General Assembly, CEDAW is often referred to as the international bill of rights for women. It addresses various aspects of gender discrimination and calls for the elimination of discrimination against women in political, economic, social, cultural, and family life. CEDAW obliges signatory countries to take measures to ensure gender equality and report on their progress periodically.

**Beijing Declaration and Platform for Action:** Adopted at the Fourth World Conference on Women in 1995, the Beijing Declaration and Platform for Action is a comprehensive framework for advancing women's rights. It focuses on 12 critical areas of concern, including women's economic empowerment, education, and violence against women, providing a roadmap for gender equality and women's empowerment.

**Declaration on the Elimination of Violence Against Women:** This declaration, adopted by the United Nations General Assembly in 1993, defines and condemns violence against women, both in the public and private spheres. It calls on states to take measures to prevent and address violence against women, including legal reforms, support services, and public awareness campaigns.

**International Covenant on Civil and Political Rights (ICCPR):** While not specific to women's rights, ICCPR, adopted in 1966, recognizes the principle of non-discrimination and ensures that all individuals, regardless of gender, have the right to life, liberty, and security of person. It also guarantees equal protection under the law.

**International Covenant on Economic, Social, and Cultural Rights (ICESCR):** Like ICCPR, ICESCR, adopted in 1966, does not focus exclusively on women's rights but recognizes the right to work, education, and an adequate standard of living, all of which are essential for advancing gender equality and women's empowerment.

**Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol):**

This protocol supplements the United Nations Convention against Transnational Organized Crime and specifically addresses human trafficking, with a focus on women and children. It requires signatory countries to take measures to prevent trafficking, protect victims, and prosecute traffickers.

**Convention on Consent to Marriage, Minimum Age for Marriage, and Registration of Marriages:** This convention, adopted in 1962, establishes the minimum age for marriage, which is essential for protecting girls from child marriage. It recognizes the importance of free and informed consent in marriage.

**Conclusion:**

In a world where gender equality remains an elusive goal, international treaties and agreements emerge as beacons of hope, guiding humanity towards a future where women's rights are unequivocally protected and respected. These instruments of change represent a global commitment to dismantling patriarchal norms, eradicating discrimination, and combating violence against women. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Beijing Declaration and Platform for Action, and the Declaration on the Elimination of Violence Against Women stand as monumental landmarks in the quest for gender equality.[7]

These agreements transcend borders, cultures, and ideologies, affirming the universality of women's rights. They hold governments accountable for upholding the principles of justice, equality, and dignity, compelling nations to take tangible steps towards gender parity. From education to economic empowerment, political participation to reproductive rights, these treaties advocate for a comprehensive approach to women's well-being.

Yet, their mere existence is not enough. The true power lies in their implementation, in the concrete actions that transform legal frameworks into lived realities. Governments, civil society, and individuals must work collaboratively to ensure that these treaties are not confined to paper but become living, breathing documents that shape a world where women thrive without fear of discrimination or violence. The path to gender equality is illuminated by these international agreements, but it is the collective will and sustained effort of societies worldwide that will finally pave the way to a world where women's rights are not just protected but celebrated, where equality becomes the norm, and where justice prevails for all, irrespective of gender. These treaties remind us that the fight for women's rights is not a battle to be won but a journey of unwavering commitment, one that holds the promise of a brighter, more equitable future for all.[8]

In the journey from tradition to transformation, the evolution of legal frameworks for women's rights in India stands as a testament to the nation's unwavering commitment to justice, equality, and the empowerment of its women. The legal landscape has transitioned from a backdrop of deep-rooted patriarchal norms to a vibrant canvas painted with progressive

laws and landmark judgments. These legal strides have not merely enshrined rights on paper but have triggered a seismic shift in societal attitudes. The Constitution of India, with its promise of equality, was the foundation upon which subsequent legislations were built, ensuring that women across the nation are granted equal status and opportunity.

From the Dowry Prohibition Act of 1961 to the Protection of Women from Domestic Violence Act of 2005, and from the Right to Education Act of 2009 to the recent criminalization of instant triple talaq, these legal frameworks have addressed myriad facets of women's rights, from education and economic empowerment to protection from violence and discrimination. However, the journey is far from complete. Challenges persist, demanding continued commitment to implementation and enforcement. The path from tradition to transformation is not linear but a continuous spiral, as societal change is a journey that transcends generations. It is in this ongoing struggle that the true power of these legal frameworks lies – they are the beacons guiding India towards a future where women stand as equals, where tradition bows to the inevitability of transformation, and where justice reigns supreme, illuminating the lives of all its citizens, irrespective of gender.

**References:**

1. Vedantham Srinivasan, (1999). Legal Rights of Women in the changing society. (1999) 3 LW (JS) 65
2. Richa Kumar, (2022). An Overview of Women Rights in the workplace in India. JCLJ (2022) 1962
3. Padmza Mohan Bain, (2022). The inherent rights of Tribal Women. JCLJ (2022) 1458
4. Versha Sharma, (2002). Constitutional Provisions Relating to Women and International Instruments on Rights of Women. 16-17 ALJ (2001-02) 171.
5. Mrs. Justice Prabha Sridevan, (2004). Women's Access to Justice in the World. (2004) 3 LW (JS) 73.
6. Mohd. Ashraf and Sajid Hamid, (2017). Violence Against Women in India: Challenges and Remedies. 24 ALJ (2016-17) 57
7. Sixth Nair, (2023). Horizontal Application of Fundamental Rights : Benign or Misconceived? CALJ (2023) 76
8. Shobhana Nelasco, (2010). Status of Women in India (Deep & Deep Publications Pvt. Ltd.).