

# BREAKING BARRIERS: LEGAL PATHS TO WOMEN'S EMPOWERMENT IN INDIA

**Dr. Rekha Pahuja**

Associate Professor  
S.S. Maniyar Law College,  
Jalgaon  
Email id: rekhapahuja29@gmail.com

## INTRODUCTION

Women's empowerment means providing women with the strength, opportunities, and resources they need to make independent decisions about their lives. It is a process that helps to achieve equality and fairness for women in all spheres of life—social, political, and economic. In India, women have made significant progress, but there is still much to be done to achieve full empowerment.

## MEANING

Women empowerment refers to empowering women by:

- Granting them equal rights and opportunities.
- Encouraging them to be independent and make their own choices.
- Ensuring women have equal access to education, employment, healthcare, and other resources.
- Protecting women from violence, discrimination, and abuse.

The goal of women empowerment is to remove societal barriers that limit women's potential, and to create a society where women can lead a life of dignity and respect, free from oppression.

### Necessity of Women empowerment:

Women make up half of the population, and their empowerment is crucial for the progress of any country. When women are empowered:

- **Economic Growth:** Empowered women contribute to the economy, both in formal and informal sectors, boosting productivity and innovation.
- **Healthier Families:** Women make significant decisions about family health, nutrition, and welfare. Empowered women are more likely to ensure better education and health for their children.
- **Social Progress:** Empowered women actively participate in social, political, and economic affairs. This leads to better decision-making and improved policies for the welfare of society.
- **Gender Equality:** Empowerment challenges traditional gender roles and promotes a more balanced, fair society.

### Constitutional and Legislative Framework for Women Empowerment:

India's Constitution envisions equality and justice for all citizens, and several provisions specifically safeguard women's rights:

- **Article 14:** Guarantees equality before the law and equal protection of laws.
- **Article 15:** Prohibits discrimination on grounds of religion, race, caste, sex, or place of birth. This ensures that women cannot be discriminated against in any form.
- **Article 21:** The right to life and personal liberty, which includes the right to live with dignity and be free from violence, exploitation, or abuse.
- **Article 42:** This article directs the State to secure just and humane conditions of work and maternity benefits for women, ensuring that women have equal access to decent work environments.
- **Article 51A(e):** Every citizen has a fundamental duty to promote harmony and the spirit of common brotherhood among all people, which includes the importance of gender equality.

These constitutional provisions lay the foundation for various laws and policies aimed at ensuring the protection and empowerment of women in India.

#### 1. The Pre-Conception and Pre-Natal Diagnostic Techniques (PCPNDT) Act :

It was enacted in India in 1994 to prevent the misuse of prenatal diagnostic techniques, primarily to curb sex-selective abortion. The law prohibits sex determination of a fetus, aiming to combat the growing problem of female feticide. It regulates the use of diagnostic techniques such as ultrasound, amniocentesis, and chorionic

villus sampling, ensuring they are only used for valid medical purposes like detecting genetic disorders, congenital abnormalities, or pregnancy-related complications.

The PCPNDT Act mandates the registration of clinics and centers offering prenatal diagnostic services, with stringent penalties for those who violate its provisions. Offenses under the act include conducting sex determination tests, sex-based abortion, and improper maintenance of records. The law also emphasizes public awareness and education to prevent the cultural bias that leads to gender discrimination. Enforcement of the act is crucial to its success, involving continuous monitoring and the prosecution of those found in violation.

**2. The Protection of Women from Domestic Violence Act, 2005:**

- This law is designed to protect women from domestic violence in the form of physical, sexual, emotional, and economic abuse. It allows women to seek protection orders, residence orders, and maintenance from the abuser.

- It also provides for the appointment of protection officers and the creation of domestic violence shelters.

**3. The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013:**

- This law mandates that every workplace establish a committee to address complaints of sexual harassment.

- It also empowers women to seek justice through a formal complaint process, ensuring that workplaces are free from harassment.

**4. The Dowry Prohibition Act, 1961:**

- This law prohibits the giving or receiving of dowry in marriage, which is a social evil leading to violence and exploitation of women. It makes dowry-related demands and harassment an offense punishable by law.

- It is critical in curbing dowry deaths and dowry-related abuses.

**5. The Prohibition of Child Marriage Act, 2006:**

- This law criminalizes the practice of child marriage and makes it illegal for individuals to marry before the legal age of 18 for women and 21 for men.

- It aims to protect girls from early marriage, which often results in physical, psychological, and social harm.

**6. Maternity Benefit Act, 1961 (Amended in 2017):**

- This law grants women the right to maternity leave, providing paid leave for a period of 26 weeks after childbirth.

- It also includes provisions for creche facilities at the workplace for women employees.

**7. The National Commission for Women Act, 1990:**

- This law led to the creation of the National Commission for Women (NCW), which is tasked with protecting and promoting the rights of women in India.

- The NCW monitors and investigates complaints related to women's welfare and advises the government on policies for women's empowerment.

**8. The Equal Remuneration Act, 1976:**

- This law ensures that women and men receive equal pay for equal work, addressing gender-based wage discrimination in the workplace.

- It aims to provide women with the financial independence and equality they deserve in employment.

**9. The Immoral Traffic (Prevention) Act, 1956:**

- This law aims to combat trafficking and sexual exploitation of women and children. It criminalizes prostitution and related activities.

- It provides for the rehabilitation of women who have been trafficked or forced into prostitution.

**10. The Family Courts Act, 1984:**

- This law establishes family courts to resolve issues related to marriage, divorce, child custody, maintenance, and property rights in a more sensitive and timely manner.

- Family courts often provide a more accessible and supportive environment for women seeking justice.

**11. The Hindu Succession (Amendment) Act, 2005:**

- This law amended the Hindu Succession Act, allowing daughters to inherit property equally with sons. Before this amendment, only male heirs could inherit ancestral property.

- The law was a significant step toward ensuring gender equality in property rights.

**12. The Protection of Children from Sexual Offences (POCSO) Act, 2012:**

- Though primarily aimed at protecting children from sexual offenses, the POCSO Act also provides legal recourse to young women who may be victims of sexual abuse.

- It establishes strict penalties for sexual crimes against minors, ensuring that child victims receive justice and support.
- 13. **The Juvenile Justice (Care and Protection of Children) Act, 2015:**
  - This law provides care and protection to children, including those who are victims of exploitation and abuse, such as child labor and sexual abuse.
  - The law emphasizes rehabilitation and social reintegration for children, ensuring a safer environment for young girls.
- 14. **The Muslim Women (Protection of Rights on Divorce) Act, 1986:**
  - This law was enacted after the Shah Bano case (1985) to provide Muslim women with the right to maintenance after divorce. It mandates that a divorced woman is entitled to maintenance for a period of three months after divorce, and in some cases, beyond that.
  - The law has been the subject of much debate and reform, especially concerning the rights of Muslim women in divorce proceedings.
- 15. **The Women's Reservation Bill (Proposed):**
  - Although not yet passed into law, the Women's Reservation Bill seeks to reserve 33% of seats in the Lok Sabha (Lower House of Parliament) and State Legislative Assemblies for women.
  - This is aimed at increasing female participation in politics and decision-making processes at the national and state levels.
- 16. **The Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill (Proposed):**
  - This bill, when passed, will criminalize trafficking for sexual exploitation and forced labor.
  - It focuses on the rescue, protection, and rehabilitation of victims of trafficking, including women and children.

#### Judicial Approach:

In addition to the laws mentioned, several landmark cases have contributed to the protection and empowerment of women in India:

1. **Vishaka v. State of Rajasthan (1997):**
  - This case set the precedent for the **Sexual Harassment of Women at Workplace Act, 2013**, and established the Vishaka Guidelines. It mandated the creation of policies and internal complaints mechanisms to protect women from sexual harassment at work.
2. **Shah Bano Case (1985):**
  - In this case, the Supreme Court upheld the right of Muslim women to receive maintenance after divorce. This led to the Muslim Women (Protection of Rights on Divorce) Act, 1986, but the case sparked a nationwide debate about women's rights in marriage and divorce.
3. **Nirbhaya Case (2012):**
  - The brutal gang rape and murder of a young woman in Delhi led to widespread protests and reforms in the law on sexual violence. The **Criminal Law (Amendment) Act, 2013**, was passed, which made provisions for harsher punishments for sexual violence, including the death penalty in some cases.
4. **Mary Roy v. State of Kerala (1986):**
  - The Supreme Court ruled that women in Kerala, regardless of their religion, have the right to inherit property from their father, even if their family follows Christian personal law, thus ensuring gender equality in inheritance.
5. **B. K. Pavitra v. Union of India (2017):**
  - This case was pivotal in addressing the issue of female judges in the judiciary. The Supreme Court laid down guidelines to ensure that women have an equal representation in the judiciary, especially in the appointment of judges.

#### CONCLUSION

Thus, it can be said that India has a robust framework of laws and policies aimed at empowering women and protecting their rights. The legal system continues to evolve, responding to the needs of women in various sectors education, employment, politics, and personal safety. However, it is not enough to have laws in place. Effective implementation, awareness, and societal change are key to ensuring that women are genuinely empowered and treated as equals in all spheres of life.

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