Gender Equality in Indian Constitution

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ABSTRACT
A concept of gender equality which empowers women lies in Indian constitution and this concept reflects in its preamble itself where a principal of social justice has been mentioned. Indian women have got many rights which ensures them a safe life, some of them are constitutional and some are statutory. Constitutional safeguards are present in different parts of constitution. We can easily understand that why these safeguards are present in constitution at a broad level when we know that B.R. Ambedkar was one the main person in drafting committee who gave a perfect shape to Indian constitution. His support for women can be guessed easily by his statement which he had quoted in one seminar, “I measure the progress of a community by the degree of progress women have achieved”. These safeguards are actually their rights which government has to ensure them. All constitutional safeguards can be divided into 5 major parts
1. Right to equality.
2. Right to equal opportunity.
3. Right to an adequate means of livelihood.
4. Right to get humane condition of work.
5. Right to get reservation in local bodies.
Some of above are present in the chapter of “Fundamental rights” and some of them are in “Directive principles”. A study based on national level data was taken up to enquire into the statutory safeguards for Indian women. The study findings indicate that these safeguards provide Indian women to live life, to live a safe life and to live a life with pride.
The category of “To live life” includes these parliamentary laws
1. Pre-conception and pre-natal diagnostic techniques(Prohibition of sex selection) 1994
2. Commission of sati (Prevention) Act 1987
The category “To live safe life” includes
2. Immoral traffic (Prevention Act) 1956
3. Sexual harassment of women at workplace (Prevention, Prohibition Act) 2013
4. The crime identified like rape, kidnapping and abduction, molestation and other crimes under the Indian penal code 1861
The category “To live life with pride” includes
1. The equal remuneration Act 1976
2. The employee state insurance Act 1948
3. The maternity benefit Act 1961
There are other parliamentary safeguards also which empower Indian women and actually they all were need of hour and have come into existence due to unavoidable situation. They all are result of women movement, judicial activism and government sensitivity. All these findings throw a clear light upon the long chain of efforts and work of government as well as of members of constitution committee towards ensuring a “Safe Life” to a woman in India.

Keywords: (Women empowerment, Right to live, Parliamentary safeguards, Judicial activism, Gender equality)

Introduction
B.R. Ambedkar, one of the most important persons of drafting committee of Indian constitution once said, “I measure the progress of a community by the degree of progress women have achieved”. He was a great supporter of women education, women empowerment and women rights and this attitude reflects in Indian constitution. When we take a look on Indian constitution we easily find many articles here which ensures women safety and empower them with equal rights, even the first page of constitution where “Preamble” favors gender equality and ensures social justice to the people of India. B.R. Ambedkar and other members of drafting committee of constitution have observed the power of Indian women, they had been eye-witnessed of the participation of Indian women at the large level at the time of Indian freedom struggle, Aruna Asaf Ali, Sucheta Kripalani, Durga Bai Deshmukh and others are great example of it. That’s is why they have given a series of rights to women to shine in all over the world.
As time has been passed out new situations, new problems have been arrived in front of Indian government related to women safety as well as related to gender issue. At the same time Indian women were growing day by day by getting education, they were becoming more ambitious more objective-oriented and more alert towards their rights so as this result many movement related to gender issue and women empowerment had taken place. Indian government understood the need of hour, the demand of women and the problems of gender issue and they solved all these problems by providing women statutory safeguards. Many acts have been passed in parliament for ensuring women safety and ensuring gender equality in the country. Even this process is still going on. A report of High Level Committee on the Status of Women In India says that we still need to work a lot in developing a plan for ensuring gender friendly public space which includes workplace, transport, toilets within two years.

Constitutional Safeguards FOR Indian Women
Safeguards for women are present in Indian constitution in different parts of it. Fundamental rights and Directive principles are full of women rights with a variety of range. These rights can be divided in 5 major parts as-

1) Right to equality
Article 14 and 15 gives a surety of quality to women. Article 14 says “Everyone is equal before law” that means men and women are equal before law. Article 15 has a deep meaning it includes
1. The state shall not discriminate against any citizen on grounds of only of religion , race, caste, sex, place of birth or any of them.
2. No citizen shall on grounds only of religion, race, caste, sex, place of birth or any of them be subject to any disability, liability, restriction or condition with regards to - access to shops, public restaurants, hotels and places of public entertainment.
- The use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of the state funds or dedicated to the use of the general public.
3. Nothing in this article shall prevent the state from making any special provision for women and children.
Where article 14 gives right to equality, article 15 gives a right of affirmative discrimination to state, state can make some special provisions for women. For implementing article 15(3) many states in India has made many special rules for the betterment of women.

2) Right to equal opportunity
Article 16 provides “Equality of opportunity for all citizens in matter relating to employment or appointment to any office under the state”. State has to ensure equal employment opportunity to every citizen of India. Now in present era we can see that women in India are emerging in each sector either in conventional or in professional. Recently we got our first Indian women pilot in Indian Nevy, it shows that women have same capacity as men only opportunity should be there to prove. Some years ago there was a report of expert group on “Equal Opportunity Commission”, this report was prepared by the expert members of India ministry of minority. They had recommended a commission for ensuring equal opportunity for everyone in the country so that we can remove inequalities in income from India.

Equal opportunity should be present in each area of employment as-
1. Equal opportunity for accessing to the job
2. Equal opportunity for the promotion in job
3. Equal opportunity for evolution of performance
4. Equal opportunity for getting reward
Right to equal opportunity is somewhere related to right to work, one of main human rights, which gives same opportunity to work to each citizen.

3) Right to adequate means of livelihood
Article 39(a) orders the state to direct its policy towards securing for men and women equally the right to an adequate means of livelihood.
Article 39(d) orders equal pay for equal work for both men and women.
Article 39(A) orders state to promote justice on a basis of equal opportunity and to provide free legal aid by suitable legislation or scheme or in any other way to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.
4) Right to humane condition of work
   Article 42 caste a duty on every employer to ensure just and humane condition of work and orders every employer to give maternity benefits to women. This article mainly focuses to provide good working conditions to all the employees and if employee is woman so she would get help in case of pregnancy. This fundamental right gives protection against unlawful behavior of employer. It ensures to work with dignity at workplace. This right has a broad meaning which includes-
   1. The right to dignified working condition
   2. The right to work that is freely chosen or accepted
   3. The right to adequate remuneration
   4. The right to a limited workday and remunerated period of rest
   5. The right to equal pay for work of equal value
   6. The right to equal treatment
   7. The right to safe and hygienic working conditions

5) The right to get reservation in Local Bodies
   Article 243 section D provides Indian women a right to get reservation in local bodies of India. This section says, "Not less than one third of the total number of seats shall be reserved for women belonging to SC and ST and the offices of chairpersons in the panchayat at the village or any other level shall be reserved for SC, ST and women in such manner as the legislative of a state may, by law provide. This right is very useful for Indian women as it provides them a right to participate in politics. Many of Indian women are successfully taking advantage of this right. In the recent years we could see many examples of women sarpanchs who are developing their villages by taking direct participation in politics. A study of planning commission on “Empowerment of women through participation in Panchayati Raj Institution” says that this right has been proved a powerful weapon for women to keep pace with men in the field of politics. Arti Devi who is sarpanch in Ganjam district in Orissa, she has introduced the benefits of public distribution system to her village and started a awareness campaign related to literacy. It shows that this article has become a medium to do good for the development of country, in this way Women are also contributing in the growth of country.

Statutory safeguards for women in India
To develop statutory safeguards was the need of hour and result of those movements which were favoring women empowerment. With the new prospective in 21st century new problems have also arrived. Here government not only has to ensure women safety at home from domestic violence but also from harassment which occurs at workplace. Many laws and acts have been passed in parliament ensuring women safety at each level. These safeguards can be divided into 3 major groups as-

1. Safeguards which provide "Right to Live"
   Indian government has made many rules for providing them a “Life”. It is very shameful for whole country that a girl child has to hard work to come out in outer world as they are killed in womb itself. If we see gender globe then we will find that in India still there is a gap in gender. Indian states such as Haryana, Daman and Diu and Rajasthan are still lagging behind in gender equality. There are three parliamentary acts which ensures a life for women in India means no one has right to take life of any woman here. First and foremost act is
   - The Medical Termination of Pregnancy Act 1971, according to this act no one can take life of any child by abortion as it is common to abort a baby girl if parents don’t want a baby girl. In this act abortion has been mentioned a criminal act, in some exceptional cases this act provides abortion to be performed by a registered medical practitioner in a government hospital, such cases involves a risk to the life of women and substantial risk to the baby after birth.
   - Commission of Sati (Prevention) Act 1987, according to this act no one can force a woman to burn herself in burial ceremony of her husband. This act provide more effective prevention of the commission of sati. Act says that whosoever does any act for the glorification of sati shall be punishable with imprisonment. District Magistrate has to prevent this system in his district. The state government may, if it is satisfied that in any temple or other structure which has been in existence for not less than 20 years, any form of worships or the performance of any ceremony is carried on with a view to perpetuate the honor of or to preserve the memory of, any person in respect of whom sati has been committed, by order the removal of such temple or structure.
   - Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act 1994, this act prohibits sex selection. This act prohibits the use of all techniques for the purpose...
of sex selection, which would also includes the new chromosomes separation techniques. It also prohibits the advertisement of any technique used for sex selection as well as those used for sex determination and it also imposes prohibition on the sale of ultrasound machine to persons not registered in this act.

2. **Safeguards which provide "Right to Safe Life"**

   Many years ago life of women was difficult in India also. After getting birth they had to bear a lot of taunts of people to survive life. For ensuring them a safe life Indian government has passed many acts which provides them security in her house as well as in workplace. Now we can say that Indian women are safe in and out of their house. Acts are below

   a. **Immoral Traffic Act 1956**, according to this act trafficking and sexual exploitation of women for commercial purpose is come under criminal act.

   b. **National Commission for Women Act 1992**, for giving Indian women a proper platform where they can put their views their safety, where they can ask for help, where they can get their rights, a statutory body was set up named "National Commission For Women in 1992 under National Commission for Women Act 1990. The purpose behind setting up a statutory body were .To review the constitutional and legal safeguards for women To recommend remedial legislative measures To facilitate grievance To advice the government on all policy matters affecting women. National commission for women has expressed its vision clearly on its website where it says"The Indian women of today culturally rooted, globally oriented, healthy. Educated, self reliant, secure in her home and safe outside with access to all the rights of a citizen with opportunity to contribute in all walks of life. National commission for women is working with five major ways. It focuses on economic empowerment of women so that Indian women can live independently. Women are career oriented in 21st century in whole world. Indian women should also keep pace with them. It focuses on political empowerment so that Indian women can be aware regarding their rights. It focuses on prevention of violence and discrimination against women. It focuses on prevention of indecent representation of women. It focuses on amelioration of conditions of disadvantaged women

   c. National commission for women has organized many events recently for betterment of women as a national seminar on " NRI marriages issue" was organized at broad level ,many people from different background participated there. A national consultation on "Realizing Rights of Women Farmers : Developing A Roadmap For Action". In last month commission has organized an interactive meeting with state commissions for women.

   d. Apart from seminars, consultation, Workshop , commission organizes some review meetings to review all policies and safeguards for women. A review of child care for central government employees was set up by commission recently.

   e. National commission for women act also says that each state has to ensure the safety of women and they have to set a proper commission for women , many Indian states have set up State commission for women and they are also following the steps of National commission.

   f. **Domestic Violence (Prevention) Act 2005**, this act provides for the first time in Indian law a definition of "Domestic Violence" which says it includes not only physical violence but also verbal, emotional, sexual and economic abuse. Preamble of this act says, "An act to provide for more effective protection of the rights of women guaranteed under the constitution who are victims of violence of any kind occurring within the family". This act includes actual abuse or the threat of abuse that is physical, sexual, or verbal, harassment by way of unlawful dowry demand to the women. One of the main features of the act is to secure women right regarding housing. The act provides for the woman to reside in the matrimonial or shared household whether or not she has any title or right in the household. Act appoints a protection officer and NGOs to provide assistance to the women such as medical aid, legal aid or safe shelter. The victim can apply for any of the relief recognized under this law. The victim can also file a general case against culprit under Indian Penal Code. This act is helping women a lot specially housewives who used to tolerate a lot of abuses of their husbands and in laws.

   g. **The Sexual Harassment Of Women At Workplace Act 2013**, this is a legislative act that seeks to protect women from harassment at workplace. This statute superseded the vishakha guidelines for prevention of sexual harassment introduced by the Supreme Court of India. According to PIB, government of India ""This act will ensure that women are protected against sexual harassment at all workplace be it in public or private. This will contribute to realization of their right to gender equality, life and liberty and equality in working condition, everywhere. The sense of security at
the workplace will improve. The participation of women in work will increase and it will be resulting better economic and inclusive growth". It orders all employers where 10 or more than 10 workers are working to set up an internal complaints committee. Under the act which also covers students in schools and colleges as well as patients in hospitals, employers and local authorities will have to set up grievance committee to investigate all complaints and if employer does not do this will be punished. It also provides safeguards against false or malicious charges. Government can order an officer to inspect workplace and records related to sexual harassment in any organization. The act requires employer to conduct education and sensitization programs and develop policies against harassment. One thing very important related to act that complaint committee has powers of civil courts for gathering evidence.

3. Safeguards which provide "Right TO Live With Pride"
Indian government has done lot of work in this sector also. Everyone wants to live a safe life with pride. There are many acts which ensures gender equality so that women may also keep pace with men and can do better in each field as men are doing. Those acts are

- **The Family Court Act 1984**, Committee on the status of women in 1975 recommended that all matters concerning the "Family" should be dealt separately. The immediate reason for setting up of family courts was the mounting pressure from several women association. Cases related to marriage, family and divorce were increasing day by day and a forum for speedy settlement was required. The law commission in its 59th report in 1974 had also stressed on a separate court for family related issue. However the need to establish the family courts was first emphasized by the late Durgabai Deshmukh. She had a tour to Chaina in 1953 where she saw the working of family courts. All these efforts came to true when Indian government had passed "The Family Court Act 1984". At the time of passing this act the parliamentary committee on empowerment of women said that this type of courts should be set up in every district of India so that issue related to women would be solved easily and rapidly so that women may live happily and safely. The family court act, 1984 however does not define "family" but matter related to women, child, divorce, maintenance, adoption would come in it. In India first family court was established in the state of Rajasthan in 1985. These types are special courts are really very helpful for women as they give speedy justice to them and of course a forum where they can get help. National Commission For Women has given some suggestion for the betterment of family courts in its national report. Some suggestions are here-

1. Mechanism of the family courts must develop systems and process with the help of civil society.
2. Family courts should align themselves with women organizations for guidance in matters related to gender issue.
3. Marriage counselors should be given training and should not be changed frequently
4. Judges and other court staff members must be gender sensitized.
5. Family courts can also take help of NGOs in the settlement of disputes.
6. There should be an informal atmosphere in the family courts and these courts should not be like any other civil courts.
7. To bring uniformity in the rules of family courts all over the country a drafting committee may be set up to draft the rules.
8. These courts should get more rights and more freedom so that they can provide to women more help. These suggestions are valuable and with the implementation of all these suggestion we can make family courts more reliable and more powerful as these family courts are a efficient weapon for Indian women to get heard and to get helped. This type of family courts should be set up in every part of country so that each women could get a powerful and legal platform where she can put her views and share her problems.

- **The Indecent Representation OF Women (Prohibition) Act 1986**, This act prohibits indecent representation of women through advertisements or in publications, writings, paintings, figures, film or in any other manner or matter. This act says that no person shall produce or cause to be produced, sell, let to hire, distribute, circulate or send by post, pamphlet, painting, film, writing, photographs indecent representation of women. This section also applies to any ancient monument within the meaning of the ancient monument and to any temple or on any car or the conveyance of idols or any religious purpose.
The Maternity Benefits Act, 1961, this act aims at regulating employment of women employees all over the country. The act provides 12 weeks as the maximum period for which any working women shall be entitled to maternity benefits. She can avail this benefit as 6 weeks up to and including the day of her delivery. The act applies to every factory, mine, plantation, every shop or establishment where 10 or more employees are present. This act clearly says that any woman employed whether directly or through any agency is eligible to claim maternity benefit. A women looking forward to maternity benefits could ask the employer to give her light work for a month, Such request should be made at least 10 weeks before the day of her expected delivery and at that time she needs to provide a certificate confirming her pregnancy, she needs to give a written notice to the employer about 7 weeks before the date of her delivery regarding her absence period pre and post delivery. Cash Benefits which she may get as
- a. Leave with average pay for 6 weeks before and 6 weeks after the delivery
- b. Medical bonus of at least 1000 rupees.
- c. In case of miscarriage 6 weeks leave with average pay from the date of miscarriage.
Non-Cash Benefits which she may get as
- a. Light work for 10 weeks
- b. Two nursing breaks in the course of her daily work until the child attain age of 15 months
- c. In case of operation, leave with wages for 12 weeks
- d. Pregnant women discharged or dismissed may still claim maternity benefit from the employer. If employer fails to ensure maternity benefits to his women employees , he will be punishable.
- Employees State Insurance Act 1948, this act provides health care and cash benefit payment in sickness , maternity and other situations. This act applies to all non-seasonal factories run with to employees or more than it. Social insurance are here which it provides
  a. Medical Benefits
  b. Sickness Benefits
  c. Maternity Benefits
  d. Disablement Benefits
  e. Dependants Benefits
  f. Funeral Expanses
This act provides a social security to women at the time of their pregnancy.
- The Married Women Property Act 1874, This act clearly says that the wages and earnings of any married women acquired or gained by her after passing this act in any employment, occupation or trade and also money or other property acquired by her through any artistic or scientific skill and all savings shall be deemed to be her separated property. In such way a wife has a right to own the property of her.

Conclusion
Muhammad Ali Jinnah once said "There are two powers in the world, one is the sword and other is the pen. There is a great competition between the two. There is a third power stronger than both that of women” How true lines are these, Women are really very strong and they are showing their capabilities in each sector of life but still a safe atmosphere is needed for them in many places so that they can shine ever. Safeguards I in Public toilets, safeguards in local trains, safeguards in streets, safeguards at night is still required. Some statutory acts are required to save women at public places so that they should feel safe at night and at midnight also. There should not be any gender gap in any job or in any sector. A concept of gender equality will be proved when gender globe will be balanced with equal number of men and women. Government action with public support is required to fulfill this dream.

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