

Women Centric Legislations and Legal Reforms Since 2014 in India

“The day will come when men will recognize woman as his peer, not only at the fireside but in councils of the nations. Then and not until then, will there be the perfect comradeship, the ideal union between sexes that shall result in the highest development of the race.” – Susan B. Anthony (American social reformer and women’s right activists)

Equal rights and right against discrimination guaranteed under the Indian Constitution for every Indian Women have been effectuated and facilitated through legislations. Legislation based on equality are pivotal in transforming the values of society, its working mechanics and perceptions, access to education, healthcare and justice for women, who form half the population of the nation.

The modern era has seen expansion of women’s participation in the public sphere. More and more Indian women have taken up their positions in the workforce and are engaged in business enterprises, banking, trade, international forums, multi-national careers like advertising and fashion, and have proved their mantle with aplomb as legislators, bureaucrats, judges, lawyers, doctors, engineers, accountants etc. Women seek powerful laws and legislations to be able to contribute as strong stakeholders in nation building.

The government under strong leadership of Prime Minister, Sh. Narendra Modi ji has been instrumental in strengthening the stature of Indian women by bringing a series of women centric legislations and legal reforms in India since 2014. Following are the significant leaps of the current government in legal reforms for women:

The Maternity Benefit (Amendment) Act, 2017 (Maternity Amendment)

The government achieved a remarkable milestones in 2017 by amending the Maternity Benefit Act, 1961 (“Maternity Act”). This Maternity Amendment extends paid maternity leave for women employees with less than two surviving children, from previously twelve (12) weeks to now twenty-six (26) weeks. A maximum of eight (8) weeks can be taken before the expected delivery date and the remaining after childbirth. Women expecting their third child were also provided with the right to take twelve (12) weeks of paid maternity leave—six (6) weeks before

childbirth and six after. These provisions enable the mothers to get time to recuperate before joining back to work.

The amendment has very well catered to the maternal instincts of adopting (adopting child less than the age of 3 months) and commissioning mothers (adopting surrogacy for child birth), to take twelve (12) weeks of maternity leave from the date of receiving the child. There are provisions for work from home after completing twenty-six (26) weeks of leave subject to their work profiles and the employer's consent. The Maternity Amendment also mandates establishments employing 50 or more employees to have a crèche which is required to have prescribed facilities and amenities. Women employees have a right to visit the crèche four times a day, including during their rest interval. The crèche facility shall allow the mother to care for child even at work.

The Criminal Law Amendment Act, 2018

The Government has taken a firm stance on making anti rape laws more stringent by leveling the Criminal Law Amendment Act, 2018 in response to barbaric incidents of rape against girl child.

Through the Amendment of 2018, firstly the quantum of punishment has been increased from a minimum of seven years to a minimum of ten years under section 376(1), Indian Penal Code, 1860 (hereinafter called IPC). Secondly, punishment for rape on a woman less than sixteen years of age has been added by the amendment. The quantum of punishment in this case is rigorous imprisonment of a minimum twenty years which may extend to life imprisonment. Thirdly, punishment for rape on a woman less than twelve years of age has also been added by the amendment. The punishment in such cases is defined as a minimum twenty years rigorous imprisonment which may extend to imprisonment for life. The offender in such cases can also be punished with death penalty under section 376 AB, IPC. Moreover, Section 376DA and 376DB have been added by the amendment which deals with punishment for gang rape on a woman less than sixteen years and twelve years respectively. The punishment in such cases has to be invariably imprisonment of life. However, for gang rape on a woman less than twelve years of age death penalty can also be awarded.

It is for the first time that death penalty has been introduced for the offence of rape considering the gravity of the offence and government's conscious attempt to pose increased punishment as a deterrent for such heinous crimes against women and young girls.

The Criminal Procedure Code, 1973 has been amended to provide for speedy trial and investigation. The amendment has mandated that investigation has to mandatorily be completed within two months and the appeal in rape cases has to be disposed within six months.

Muslim Women (Protection of Rights on Marriage) Act, 2019

The Government and the apex court of India have always been dedicated to protect the rights of married Muslim women and ensure gender equality by making provision for justice for Muslim women who become homeless and destitute overnight due to practice of 'triple talaq' or 'talaq-e-biddat' or 'instant talaq' for a very long time.

In view of the Supreme Court judgment in the case of Shayara Bano and others V. Union of India and others declaring 'Triple Talaq' as unconstitutional, the government of India legislated Muslim Women (Protection of Rights on Marriage) Act, 2019, declaring practice of 'triple talaq' as void and illegal i.e. not enforceable in law and prevent divorce by practice of 'triple talaq' or 'talaq-e-biddat' by their husbands.

The act makes declaration of talaq, a cognizable offence, attracting up to three years' imprisonment with a fine. The offence will be cognizable if information of commission of offence is given to police officer by married Muslim woman upon whom talaq is pronounced or by any person related to her by blood/marriage. The act makes the offence compoundable with permission of Magistrate at the instance of the married Muslim woman upon whom talaq is pronounced. There are provisions for payment of subsistence allowance (to be determined by magistrate) to married Muslim women against whom talaq has been declared and dependent children. Moreover, it entitles Muslim woman against whom such talaq has been declared to seek custody of her minor children.

This legislation is a celebrated endeavor of the Government of India with the aim to banish the practice of 'triple talaq', which is against the spirit of constitution and most importantly is unjust and inhuman.

Increased Take Home Pay for Women in Formal Sector

The Finance Ministry in the Budget of 2018 announced to incentivize employment of more women in the formal sector and to enable higher take-home wages, amendments in the

Employees Provident Fund and Miscellaneous Provisions Act, 1952 was made to reduce women employees' contribution to 8% for first three years of their employment against existing rate of 12% or 10% with no change in employers' contribution.

The government of India has taken big steps in reforming laws to ensure welfare, security, benefit of women and facilitate women friendly work environment with the aim to eliminate gender-based discrimination, one of the fundamentals of the Constitution of India.