



Indian Constitution and Women

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ABSTRACT

The Indian Constitution is among the most progressive legal frameworks in the world, guaranteeing equality, liberty, and justice for all citizens. Yet, despite constitutional promises, Indian women continue to face multiple socio-economic and cultural barriers. This paper explores how the Indian Constitution envisions gender equality, the rights and safeguards it offers to women, judicial interpretations that have strengthened women's position and the persistent challenges in achieving substantive equality. Drawing from recent amendments, Supreme Court rulings, and gender development data, the article highlights both progress and gaps, concluding with policy recommendations to realize the constitutional dream of gender justice.

1. Introduction:

The Constitution of India, adopted on January 26, 1950, is a landmark in human history for embedding equality and justice as core democratic values. It provides a comprehensive framework for promoting gender equality and protecting women from historical oppression. India's struggle for independence was closely linked to social reform movements advocating women's empowerment, and the framers of the Constitution were deeply influenced by these ideals.

However, more than seven decades after independence, the gap between constitutional ideals and the lived realities of Indian women remains wide. Despite legal guarantees, women still face discrimination in political representation, employment, property rights, and access to justice. According to the National Family Health Survey-5 (NFHS-5, 2021), only 32% of Indian women participate in formal employment, and gender-based violence remains prevalent.



This article examines constitutional provisions and their implementation concerning women's rights, highlighting the progress achieved through judicial activism and legislative reform while identifying continuing challenges in realizing gender justice.

2. Constitutional Philosophy and Gender Equality

The Preamble of the Indian Constitution declares India to be a sovereign, socialist, secular, and democratic republic committed to securing justice, liberty, equality, and fraternity for all its citizens. The term “equality” is foundational and extends to political, social, and economic dimensions.

2.1 Fundamental Rights

Part III of the Constitution enshrines several rights that directly or indirectly benefit women:

- Article 14 guarantees equality before law and equal protection of laws.
- Article 15(1) prohibits discrimination on the grounds of sex.
- Article 15(3) empowers the State to make special provisions for women and children.
- Article 16 assures equality of opportunity in public employment.
- Article 19(1) (a) ensures freedom of speech, vital for women's participation in public discourse.
- Article 21, interpreted broadly, guarantees the right to life with dignity—a foundation for women's rights to bodily autonomy and safety.

The framers, led by Dr. B.R. Ambedkar, recognized that formal equality would not suffice to redress centuries of social and economic subjugation. Hence, protective discrimination—through Article 15(3)—was introduced as a tool for affirmative action.

3. Directive Principles of State Policy and Women's Welfare

Part IV of the Constitution directs the State to ensure social and economic justice. Although not enforceable by courts, these principles are fundamental to governance.

- Article 39(a) directs the State to ensure that citizens, men and women equally, have the right to adequate means of livelihood.
- Article 39(d) ensures equal pay for equal work.
- Article 42 mandates humane working conditions and maternity relief.
- Article 44, the Uniform Civil Code (UCC), though controversial, aims to ensure gender-neutral personal laws.



Through welfare legislation—such as the Maternity Benefit Act (1961) and the Equal Remuneration Act (1976)—the State has sought to implement these directives.

4. Reservation and Political Empowerment

Political participation is a cornerstone of equality. Initially, the Constitution did not provide for political reservation for women. However, through the 73rd and 74th Constitutional Amendments (1992-93), one-third of seats in Panchayath Raj Institutions and Urban Local Bodies were reserved for women.

This reservation policy has transformed grassroots politics, with over 1.4 million elected women representatives now active in local governance (Ministry of Panchayath Raj, 2023). Several states, such as Bihar, Odisha, and Kerala, have extended this to 50%.

At the national level, the Women's Reservation Bill (Constitution 106th Amendment Act, 2023) reserves 33% of seats in the Lok Sabha and State Assemblies—a major milestone in political empowerment. Though its implementation awaits the next census and delimitation exercise, it marks a constitutional recognition of the need for gender parity in decision-making.

5. Judicial Interpretation and Feminist Jurisprudence

The Indian judiciary has played a transformative role in expanding women's constitutional rights. Through creative interpretation of fundamental rights, the Supreme Court has developed a robust jurisprudence of gender justice.

5.1 Key Judgments

- *Air India v. Nargesh Meerza* (1981): The Court struck down discriminatory service conditions for air hostesses, affirming equality in employment.
- *Vishaka v. State of Rajasthan* (1997): Recognized sexual harassment at the workplace as a violation of fundamental rights under Articles 14, 15, 19, and 21, leading to the Vishaka Guidelines and later the POSH Act (2013).
- *Mary Roy v. State of Kerala* (1986): Ensured equal inheritance rights for Christian women.
- *Shayara Bano v. Union of India* (2017): Declared instant triple talaq unconstitutional, a landmark for Muslim women's rights.
- *Joseph Shine v. Union of India* (2018): Decriminalized adultery, recognizing women's autonomy.
- *Navtej Singh Johar v. Union of India* (2018): Though primarily about LGBTQ+ rights, it reaffirmed equality and dignity principles essential to gender justice.



- *Union of India v. Lt. Cdr. Annie Nagaraja (2020)*: Granted permanent commission to women in the armed forces, emphasizing substantive equality.

These judgments illustrate the evolving feminist jurisprudence in India, where courts act as instruments of social reform.

6. Legislative and Policy Framework

India's legal landscape has progressively adapted to align with constitutional ideals. Notable laws promoting women's rights include:

- The Dowry Prohibition Act (1961)
- The Protection of Women from Domestic Violence Act (2005)
- The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act (2013)
- The Prohibition of Child Marriage Act (2006)
- The Maternity Benefit (Amendment) Act (2017) extending paid maternity leave to 26 weeks.
- Criminal Law (Amendment) Acts (2013 & 2018) introducing stricter penalties for sexual assault and recognizing new offences.
- Government initiatives like *Beti Bachao Beti Padhao*, *Mahila E-Haat*, and *Mission Shakti (2023)* complement these legal measures by promoting education, entrepreneurship, and safety for women.

7. Persistent Challenges and Gender Gaps

Despite constitutional guarantees, deep-rooted patriarchy continues to constrain women's full empowerment.

7.1 Economic Inequality

Women's labor participation has stagnated. According to World Bank data (2024), female labor force participation in India was only 28%, compared to 77% for men. Wage disparities remain high, particularly in informal sectors.

7.2 Violence and Safety

The National Crime Records Bureau (NCRB, 2023) reported over 4.5 lakh crimes against women, with domestic violence and sexual assault as leading categories. Implementation of protective laws remains weak.



7.3 Political and Institutional Barriers

Even with local-level reservation, women's representation in Parliament was 14.9% in 2024, far below the global average of 26%. The pending implementation of the 33% reservation in legislatures is a critical next step.

7.4 Personal Laws and Gender Bias

Religious personal laws continue to perpetuate inequality in matters of marriage, divorce, and inheritance. The debate over a Uniform Civil Code remains polarized, balancing gender justice with religious freedom.

7.5 Intersectional Discrimination

Women from Scheduled Castes, Scheduled Tribes, and minority communities face multiple marginalizations. Gender justice must therefore intersect with caste, class, and regional equity.

8. Recent Developments (2020-2025)

Recent reforms and judicial pronouncements continue to shape women's constitutional rights:

- Supreme Court (2023) allowed women to appear for the National Defence Academy (NDA) examination, breaking another gender barrier.
- Mission Shakti (2023) consolidated women's safety schemes under one platform.
- Digital India initiatives expanded women's financial inclusion through Jan Dhan and UPI access.
- Criminal Law (2024 draft reforms) proposes gender-neutral sexual offence terminology to ensure inclusivity.

These steps signal on-going progress but highlight the need for robust implementation.

9. Comparative and Global Perspective

India's constitutional vision aligns with global commitments such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979), which India ratified in 1993, and the UN Sustainable Development Goal 5 on gender equality.

While India's constitutional and legal frameworks are progressive, the Global Gender Gap Report (World Economic Forum, 2024) ranked India 129th out of 146 countries, indicating a substantial implementation deficit.



10. Conclusion and Recommendations

The Indian Constitution stands as a moral and legal charter for women's equality. Its Preamble, Fundamental Rights, and Directive Principles provide a strong foundation for gender justice. Yet, the persistence of gender disparity exposes the limits of legal reform without social transformation.

To fulfil the constitutional promise, India must prioritize:

- Effective implementation of existing gender laws through accountability mechanisms.
- Judicial and police sensitization on gender issues.
- Economic empowerment through equal pay and skill development programs.
- Uniform Civil Code discussions grounded in gender justice, not majoritarianism.
- Political empowerment by expediting the implementation of the Women's Reservation Act.
- Education and awareness to dismantle patriarchal norms.

A gender-just India will emerge only when constitutional values move beyond legal texts into everyday social reality.

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