

2

Women's Rights: From Silence to Substantive Equality - An Indian and Global Perspective

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Abstract

Women's rights constitute an integral part of the broader framework of human rights and are indispensable to the realization of equality, justice, and sustainable development. Although significant progress has been achieved through constitutional guarantees, legislative reforms, judicial interventions, and international human rights instruments, women across the world continue to experience structural inequalities in social, economic, political, and cultural spheres. The persistence of gender-based violence, unequal access to education and employment, discriminatory social practices, wage disparities, underrepresentation in decision-making processes, and emerging challenges such as cyber harassment and digital exclusion highlight the continuing gap between formal legal recognition and substantive equality. Against this backdrop, this chapter critically examines the evolution of women's rights from historical, constitutional, and international perspectives, with particular emphasis on the Indian legal framework. It traces the transformation of women's rights from social reform movements to their recognition as enforceable human rights under international law and the Constitution of India. The chapter further analyses the constitutional provisions, statutory safeguards, and landmark judicial pronouncements that have significantly expanded the scope of gender justice in India. In addition, it explores contemporary challenges affecting women's empowerment, including economic inequality, intersectional discrimination, workplace safety, reproductive autonomy, and technological developments. It argues that meaningful realization of women's rights requires more than legislative enactments; it demands effective implementation, institutional accountability, gender-sensitive governance, and sustained social transformation. It concludes that women's empowerment should not be viewed merely as a constitutional aspiration or policy objective but as a fundamental prerequisite for democratic governance, inclusive development, and the protection of human dignity. Achieving substantive equality therefore requires a collaborative commitment from the State, judiciary, civil society, and citizens to ensure that

every woman can exercise her rights with dignity, autonomy, and equal opportunity.

Keywords: Women's Rights, Gender Equality, Human Rights, Constitutional Law, Women's Empowerment.

Introduction

The recognition of women's rights represents one of the most significant achievements in the evolution of modern constitutionalism and human rights. While women have contributed to every sphere of human civilisation, their participation has historically been constrained by social customs, patriarchal institutions, and legal systems that denied them equal status and opportunities. For centuries, women across societies encountered discrimination in matters relating to education, property, employment, political participation, inheritance, and personal autonomy. The movement for women's rights therefore emerged not as a demand for special privileges, but as a struggle to secure equal recognition of the inherent dignity and freedoms that belong to every individual.

The twentieth century marked a decisive turning point in this journey. The adoption of international human rights instruments, the emergence of democratic constitutionalism, and the growing participation of women in public life fundamentally reshaped the discourse surrounding gender equality. In India, the Constitution laid a robust foundation by guaranteeing equality before the law, prohibiting discrimination on the ground of sex, and empowering the State to adopt affirmative measures for women. Over the decades, legislative reforms and judicial interpretation have further strengthened these constitutional guarantees by addressing issues such as workplace discrimination, domestic violence, reproductive autonomy, inheritance, and political participation.

Yet, despite these advances, the lived experiences of many women continue to reflect persistent structural inequalities. Violence against women, economic exclusion, unequal access to resources, underrepresentation in decision-making institutions, and emerging challenges such as cyber harassment and digital discrimination illustrate the gap between legal rights and their effective realization. The contemporary discourse has therefore shifted from the idea of formal equality towards the broader concept of substantive equality, which seeks to dismantle the social and institutional barriers that prevent women from enjoying equal opportunities in practice.

Against this backdrop, this chapter examines women's rights from historical, international, constitutional, and legal perspectives. It seeks to demonstrate that the protection of women's rights is not only a matter of legal reform but also a continuing

process of social transformation aimed at ensuring dignity, autonomy, equality, and justice for every woman.

Understanding Women's Rights

Women's rights constitute an integral part of the broader framework of human rights and encompass the legal, political, economic, social, and cultural entitlements necessary for women to live with dignity and equality. The modern understanding of women's rights rejects the traditional perception of women as passive beneficiaries of welfare measures and instead recognises them as autonomous rights-holders entitled to participate equally in every sphere of public and private life. Accordingly, women's rights extend beyond protection from discrimination and include affirmative conditions that enable women to exercise meaningful choices concerning education, employment, health, property, political participation, family life, and personal autonomy.

The evolution of this concept reflects a significant shift in legal philosophy. Earlier approaches focused primarily on ensuring identical treatment for men and women under the law, a principle commonly described as formal equality. Although indispensable, formal equality often failed to address the historical disadvantages and structural barriers that limited women's ability to enjoy equal opportunities. Consequently, contemporary constitutional and international jurisprudence increasingly embraces the principle of substantive equality, which recognises that equal treatment may sometimes require differential measures designed to eliminate entrenched inequalities. Protective labour legislation, maternity benefits, reservations in representative institutions, and special measures for women's safety are therefore understood not as departures from equality but as instruments for achieving genuine equality.

The scope of women's rights has also expanded considerably in response to changing social realities. In addition to traditional concerns relating to education, employment, inheritance, and political representation, contemporary discussions increasingly encompass issues such as reproductive rights, workplace dignity, digital inclusion, financial independence, environmental justice, and protection against online violence. The growing recognition of intersectionality has further enriched this discourse by acknowledging that women's experiences of discrimination are often shaped by overlapping factors such as caste, class, disability, religion, ethnicity, age, and geographical location. Consequently, an inclusive understanding of women's rights requires legal and policy frameworks that respond to these multiple and interconnected forms of disadvantage while promoting substantive equality in all spheres of life.

- **Historical Evolution of Women's Rights**

The evolution of women's rights is neither linear nor uniform; rather, it reflects a complex interplay of social, cultural, political, and economic transformations across different civilizations and historical periods. Throughout history, the status of women has oscillated between relative autonomy and systemic subordination, shaped by prevailing ideologies, religious interpretations, customary practices, and institutional structures. The contemporary discourse on women's rights, therefore, cannot be understood without tracing its historical foundations, which reveal both the progress achieved and the persistent challenges that continue to influence gender relations.

Historical evidence suggests that women occupied a more respected position in several ancient societies than is commonly perceived. In the Indian context, the early Vedic period is often regarded as a phase during which women enjoyed considerable social and intellectual freedom. Literary sources indicate that women such as Gargi Vachaknavi and Maitreyi participated in philosophical debates and were recognised for their scholarship. Women were permitted to receive education, participate in religious ceremonies, and exercise certain proprietary rights through the institution of *stridhana*. Marriage, in many instances, was viewed as a partnership rather than a relationship of absolute subordination. Similar examples can also be found in ancient Egypt, where women possessed legal capacity to own property, inherit wealth, and engage in commercial transactions. These historical experiences demonstrate that gender inequality was neither universal nor immutable.

The global evolution of women's rights followed a similar trajectory, although through different historical experiences. The industrial revolution drew increasing numbers of women into the workforce but also exposed exploitative labour conditions, unequal wages, and lack of legal protections. These circumstances gave rise to organised women's movements advocating equal pay, voting rights, improved working conditions, and access to education. The suffrage movement in Europe and North America emerged as one of the defining political struggles of the late nineteenth and early twentieth centuries, eventually leading to the extension of voting rights to women in several democratic countries. Simultaneously, the two World Wars transformed traditional gender roles by demonstrating women's indispensable contributions to industry, healthcare, administration, and public service. These developments accelerated demands for legal equality and greater political representation.

The adoption of the Constitution of India in 1950 marked the culmination of these historical struggles within the Indian context. Unlike several Western democracies, where women's political rights evolved gradually over decades, independent India recognised women as equal citizens from the inception of the Republic by guaranteeing universal adult franchise and incorporating comprehensive constitutional protections against gender discrimination. This constitutional vision

reflected the understanding that democracy could not be meaningful without the equal participation of women in social, political, and economic life. Since then, the discourse on women's rights has continued to evolve through legislative reforms, judicial interpretation, and international human rights developments, shifting from the pursuit of formal equality towards the broader objective of substantive equality. The historical journey of women's rights thus illustrates that gender justice is not a static legal achievement but a continuing process of social transformation, requiring sustained commitment from the State, civil society, and the community at large.

- **International Framework for the Protection of Women's Rights**

The recognition of women's rights as an integral component of human rights is one of the most significant developments in contemporary international law. Although concerns relating to gender equality had been raised through various reform movements during the nineteenth and early twentieth centuries, it was only after the devastation of the Second World War that the international community began to systematically acknowledge the need for a universal framework to protect the rights and dignity of women. The establishment of the United Nations in 1945 marked the beginning of a new era in which gender equality was recognised not merely as a domestic concern of individual States but as a matter of international responsibility and global justice.

The Charter of the United Nations laid the normative foundation for this transformation by reaffirming faith in the equal rights of men and women and by committing Member States to promote universal respect for human rights and fundamental freedoms without discrimination. Although the Charter did not specifically enumerate women's rights, it established the principle of equality as a cornerstone of the post-war international legal order. This commitment was further strengthened by the adoption of the Universal Declaration of Human Rights (UDHR) in 1948, which proclaimed that all human beings are born free and equal in dignity and rights. The Declaration affirmed that every individual is entitled to the rights and freedoms contained therein without distinction of any kind, including sex. Its provisions relating to equality before the law, freedom from discrimination, equal remuneration, education, participation in public affairs, and equal rights within marriage provided the conceptual foundation upon which subsequent international instruments concerning women's rights were built. Although the UDHR is not legally binding, its principles have profoundly influenced constitutional jurisprudence, treaty law, and customary international law across the world.

The international framework has continued to evolve in response to emerging global challenges. The **2030 Agenda for Sustainable Development**, adopted by the United Nations in 2015, recognises gender equality as both an independent objective and a prerequisite for achieving sustainable development. Sustainable Development Goal 5 specifically calls for the elimination of all forms of discrimination and violence

against women and girls, equal participation in leadership and decision-making, recognition of unpaid care work, universal access to reproductive healthcare, and equal rights to economic resources and property. Unlike earlier international commitments that primarily emphasised legal reforms, the Sustainable Development Goals adopt a multidimensional approach by integrating gender equality with poverty reduction, quality education, health, environmental sustainability, and inclusive economic growth. This reflects the growing recognition that women's empowerment is indispensable to achieving broader developmental objectives.

Collectively, these international instruments have transformed women's rights from matters of domestic social policy into universally recognised legal obligations grounded in the principles of equality, dignity, and non-discrimination. They have not only shaped national constitutions and legislative reforms but have also provided valuable interpretative guidance to courts in addressing contemporary issues of gender justice. For India, these developments have served as important normative influences in constitutional adjudication and public policy, reinforcing the constitutional commitment to substantive equality and women's empowerment. Against this international backdrop, it becomes essential to examine the constitutional and legislative framework through which these principles have been incorporated into Indian law and translated into enforceable rights.

- **Constitutional and Legislative Framework for the Protection of Women's Rights in India**

The Constitution of India provides one of the most comprehensive legal frameworks for the protection and advancement of women's rights among democratic nations. The framers of the Constitution recognised that political independence would remain incomplete unless accompanied by social and gender justice. Consequently, the constitutional scheme was designed not merely to prohibit discrimination against women but also to create conditions that would enable them to participate equally in every sphere of national life. This commitment to gender equality is reflected in the Preamble, which promises justice, liberty, equality, and dignity to all citizens, and is further reinforced through Fundamental Rights, Directive Principles of State Policy, and Fundamental Duties. Together, these constitutional provisions embody the principle of substantive equality by acknowledging that women, having suffered historical and structural disadvantages, may require affirmative measures to achieve genuine equality.

The guarantee of equality before the law under Article 14 constitutes the cornerstone of constitutional protection for women. It mandates that every person shall be treated equally before the law and receive equal protection of the laws, thereby prohibiting arbitrary or discriminatory state action. Complementing this guarantee, Article 15(1) expressly prohibits discrimination on the ground of sex, while Article 15(3) empowers the State to make special provisions for women and children.

This provision is particularly significant because it recognises that equal treatment alone may not be sufficient to eliminate entrenched gender inequalities. Instead, it constitutionally legitimises affirmative measures aimed at promoting women's welfare and empowerment, including reservations in local governance, maternity benefits, educational incentives, and other welfare initiatives. Similarly, Article 16 guarantees equality of opportunity in matters of public employment, ensuring that women cannot be excluded from public service solely on account of their gender. Over the years, the judiciary has interpreted these provisions liberally to strike down discriminatory service conditions and to affirm that constitutional equality extends beyond formal legal recognition to encompass fairness, dignity, and equal opportunity.

The Constitution also safeguards women's autonomy through the expansive interpretation of Article 21, which guarantees the right to life and personal liberty. Judicial decisions have consistently held that the expression "life" under Article 21 includes the right to live with dignity, bodily integrity, reproductive autonomy, privacy, health, and a safe working environment. In addition, Article 23, which prohibits trafficking in human beings and forced labour, serves as an important constitutional safeguard against the exploitation of women and girls. The Directive Principles of State Policy further reinforce these guarantees by directing the State to secure equal pay for equal work, ensure just and humane conditions of employment, provide maternity relief, improve public health, and promote social justice. Equally important is the Fundamental Duty under Article 51A(e), which enjoins every citizen to renounce practices derogatory to the dignity of women, thereby recognising that the responsibility for achieving gender justice extends beyond the State to society as a whole.

An equally significant development has been the constitutional commitment to enhancing women's participation in democratic institutions. The Constitution (One Hundred and Sixth Amendment) Act, 2023, popularly known as the *Nari Shakti Vandan Adhiniyam*, provides for the reservation of one-third of the seats in the House of the People, the Legislative Assemblies of the States, and the Legislative Assembly of the National Capital Territory of Delhi for women. Although its implementation is contingent upon the completion of the first census conducted after the commencement of the amendment and the subsequent delimitation exercise, it represents a historic step towards improving women's representation in legislative bodies. This reform builds upon the success of reservations introduced through the Seventy-third and Seventy-fourth Constitutional Amendments, which substantially increased women's participation in Panchayati Raj Institutions and urban local bodies, demonstrating the transformative potential of affirmative political representation.

The constitutional and legislative framework governing women's rights in India thus reflects a progressive movement from formal equality towards substantive

justice. While constitutional guarantees establish the normative foundation and legislation provides institutional mechanisms for enforcement, the effective realisation of these rights has depended significantly upon judicial interpretation. The Indian judiciary has played a transformative role in expanding the meaning of equality, dignity, privacy, and personal liberty, often filling legislative gaps and adapting constitutional principles to emerging social realities. An examination of these judicial developments is therefore essential to understanding the contemporary landscape of women's rights in India.

- **Judicial Developments and Contemporary Challenges**

The constitutional and legislative framework protecting women's rights in India has been considerably strengthened through judicial interpretation. The Supreme Court of India has consistently adopted a dynamic and purposive approach while interpreting constitutional guarantees, recognising that the Constitution is a living document capable of responding to evolving social realities. In numerous decisions, the Court has expanded the meaning of equality, dignity, liberty, and privacy to ensure that women enjoy not merely formal legal rights but meaningful opportunities to exercise them. Judicial intervention has often filled legislative gaps, invalidated discriminatory practices, and reaffirmed that gender justice forms an essential component of constitutional governance.

One of the most significant milestones in this regard is the Supreme Court's decision in *Vishaka v. State of Rajasthan* (1997), where the Court recognised sexual harassment at the workplace as a violation of the fundamental rights guaranteed under Articles 14, 15, 19, and 21 of the Constitution. In the absence of a specific statutory framework, the Court relied upon the principles embodied in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) to formulate the Vishaka Guidelines, which imposed an obligation upon employers to prevent and redress workplace harassment. This decision marked a watershed moment in Indian constitutional jurisprudence by demonstrating the judiciary's willingness to employ international human rights norms in protecting women's rights. The principles laid down in *Vishaka* subsequently formed the basis for the enactment of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

The judiciary has also played a transformative role in dismantling discriminatory personal laws and patriarchal social practices. In *Shayara Bano v. Union of India* (2017), the Supreme Court declared the practice of instant triple talaq (*talaq-e-biddat*) unconstitutional, holding that arbitrary unilateral divorce violated constitutional values of equality and dignity. The decision reaffirmed that personal laws cannot remain immune from constitutional scrutiny where they perpetuate discrimination or infringe fundamental rights. Similarly, in *Joseph Shine v. Union of India* (2018), the Court struck down Section 497 of the Indian Penal Code, which

criminalised adultery in a manner that treated married women as the property of their husbands. The Court observed that such provisions were rooted in outdated patriarchal assumptions and incompatible with the constitutional guarantee of individual dignity, autonomy, and equality.

While these judicial interventions have considerably expanded the scope of women's rights, the gap between legal recognition and social reality continues to remain substantial. Gender-based violence remains one of the most serious challenges confronting women despite an increasingly robust legal framework. Crimes such as domestic violence, sexual assault, trafficking, honour-based violence, cyber harassment, and workplace harassment continue to be reported across the country, indicating that legislative reforms alone cannot eradicate deeply entrenched patriarchal attitudes. Delays in investigation and trial, social stigma, fear of retaliation, and inadequate institutional support often discourage survivors from seeking legal remedies, thereby undermining the effectiveness of existing laws.

The continued evolution of women's rights thus demands a multidimensional approach that extends beyond legal reform. Judicial innovation has undoubtedly strengthened constitutional protections and expanded the scope of gender justice, but meaningful equality ultimately depends upon effective implementation, institutional accountability, public awareness, educational reform, and sustained social transformation. As India continues to pursue the constitutional vision of justice, liberty, equality, and dignity, the challenge lies not merely in creating new rights but in ensuring that the rights already guaranteed are accessible to every woman, irrespective of her social or economic background. The next and final part of this chapter therefore considers the way forward by identifying key reforms necessary for bridging the gap between constitutional promises and lived realities, while reaffirming that the advancement of women's rights remains indispensable to the achievement of an inclusive, democratic, and equitable society.

- **The Way Forward and Conclusion**

The journey towards gender equality has witnessed remarkable progress over the past century, yet the persistence of structural discrimination demonstrates that the recognition of rights alone cannot guarantee their effective realisation. Constitutional guarantees, progressive legislation, and judicial innovations have undoubtedly strengthened the legal position of women in India. Nevertheless, the continued prevalence of gender-based violence, economic inequality, underrepresentation in decision-making institutions, unequal distribution of unpaid care work, and barriers to education and healthcare indicate that substantial challenges remain. The transition from formal equality to substantive equality therefore requires a comprehensive approach that integrates legal reform with institutional accountability, social transformation, and inclusive public policy.

Education continues to occupy a central position in the advancement of women's rights. Beyond improving literacy and professional opportunities, education plays a transformative role in challenging patriarchal stereotypes and fostering constitutional values of equality and dignity. Gender-sensitive curricula, awareness programmes, and community engagement initiatives can contribute towards reshaping social attitudes that perpetuate discrimination. Simultaneously, greater emphasis must be placed upon promoting women's participation in science, technology, engineering, mathematics, entrepreneurship, and leadership positions, thereby ensuring that women are adequately represented in emerging sectors of the economy. Digital literacy has likewise become an essential component of empowerment, particularly in an era where access to information, financial services, employment, and education is increasingly mediated through technology.

Ultimately, the protection of women's rights is not merely a legal obligation imposed upon the State but a shared societal responsibility. Laws and judicial decisions can establish normative standards, but lasting transformation requires the active participation of families, educational institutions, civil society organisations, private enterprises, and individual citizens in challenging discriminatory attitudes and promoting gender-sensitive practices. The constitutional vision of equality can be realised only when women are able to exercise their rights freely, participate meaningfully in public life, and make decisions concerning their own lives without fear of discrimination or violence.

In conclusion, the evolution of women's rights reflects one of the most significant achievements of modern constitutionalism and international human rights law. The progress made through constitutional guarantees, legislative reforms, judicial innovation, and international cooperation demonstrates that meaningful social change is both possible and achievable. At the same time, the persistence of structural inequalities reminds us that gender justice remains an ongoing process rather than a completed objective. The true measure of women's empowerment lies not merely in the existence of legal rights but in the extent to which those rights translate into lived experiences of dignity, autonomy, security, and equal opportunity. A society that upholds women's rights is not simply one that protects half of its population; it is one that strengthens democracy, advances social justice, and promotes sustainable and inclusive development for all.

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