
FROM SUBORDINATION TO CONSTITUTIONAL GUARANTEES: THE LEGAL EVOLUTION OF WOMEN'S STATUS IN INDIA

Dr. Shilpa Tiwari, Principal, Haveli Institute of Legal Studies and Research, Silvassa,
Dadra & Nagar Haveli and Daman & Diu, India (affiliated to the University of Mumbai)

ABSTRACT

This article traces the status of women in India from the Vedic period to the present, examining how religious texts, customary law, colonial legislation, social reform and constitutional guarantees have shaped women's rights. It argues that the trajectory has not been linear: the relatively high status of women in the Vedic age declined through the post-Vedic and medieval periods, was partly restored by nineteenth-century reform and colonial statutes, and was given constitutional footing after independence. The article then surveys the post-independence framework on marriage, succession, workplace equality and violence against women, and assesses why socio-cultural barriers, unequal personal laws and weak enforcement continue to limit substantive equality. It concludes that legislative reform must be accompanied by gender-sensitive education, effective enforcement and movement towards a uniform civil code if the constitutional promise of equality is to be realised.

Keywords: Women's status; gender equality; Indian Constitution; personal laws; social reform; uniform civil code

Inequity grounded in gender pervades societies globally, and India stands no exception. Women worldwide, including in the United States, contend with significant disparities across key facets of existence. Across diverse societies, discrimination against women remains prevalent, entrenched, and systemic. Historically, women have often occupied a subordinate position, relegated to roles of servitude and subjected to various forms of mistreatment by male-dominated societies.¹

The status of women in Indian society has traversed a complex trajectory over epochs. During the Vedic period, women enjoyed elevated status, only to witness a decline in the post-Vedic era, and later experience a resurgence in modern times.² However, despite the theoretical reverence accorded to women, practical realities often subjected them to cruelty, oppression, and relegation to subordinate roles.

Social and legal frameworks further entrenched gender disparities. Philosophers like Plato and Aristotle, while advocating for equality in some contexts, ultimately reinforced patriarchal norms that subjugated women.^{3,4} Religious texts and customary laws, such as Manusmriti, perpetuated notions of female subservience and restricted women's autonomy.⁵

Education, a cornerstone of empowerment, exemplifies the oscillations in women's rights. While ancient Indian societies afforded women equal educational opportunities, subsequent eras witnessed a decline, with women being denied access to learning.⁶ Early marriages and purdah practices further curtailed women's freedom and perpetuated their subjugation. Marriage, considered sacred, often became a tool for perpetuating gender inequalities. Hindu and Muslim legal frameworks differed in their treatment of marital rights, yet both often disadvantaged women, allowing practices like polygamy and restricting widow remarriage.⁷

¹ Comm. on the Status of Women in India, Gov't of India, Towards Equality: Report of the Committee on the Status of Women in India (1974).

² A.S. Altekar, *The Position of Women in Hindu Civilization: From Prehistoric Times to the Present Day* (Motilal Banarsidass 1938) [hereinafter Altekar].

³ Plato, *The Republic* bk. V (women as guardians); Plato, *The Laws* bks. VI–VII (the place of women in domestic and civic life).

⁴ Aristotle, *Politics* bk. I.

⁵ *The Laws of Manu* 3.56, 5.148, 9.3 (G. Bühler trans., Clarendon Press 1886) (*Sacred Books of the East* vol. 25) [hereinafter *Laws of Manu*].

⁶ See Altekar, *supra* note 2 (chapters on education and marriage).

⁷ *The Hindu Marriage Act, 1955*, No. 25, Acts of Parliament, 1955, § 5(i) (India); see also Quran 4:3.

POSITION OF WOMEN IN INDIA: A COMPREHENSIVE OVERVIEW

The position of women in Indian society has evolved through various historical periods, shaped by religious, cultural, and socio-political factors. From ancient times to the modern era, the status of women has seen fluctuations, marked by moments of empowerment and oppression. This essay aims to provide a detailed exploration of the position of women in India, highlighting key developments across different epochs.

1. Ancient India

The Rigvedic period in ancient India, spanning roughly from 1500 BCE to 500 BCE, offers a fascinating glimpse into the status of women in society. Drawing upon religious texts such as the Vedas, Upanishads, Smritis, and epics like the Ramayana and Mahabharata, we can discern a nuanced picture of women's roles and rights during this era. During the Rigvedic period, women enjoyed a remarkably high status in society, contrary to the subordination seen in later periods. They held an honourable place, actively participating in public life and attending great assemblies and state occasions. Women were not secluded from men; instead, they freely interacted with them, contributing to intellectual discourse and scholarly pursuits.

Education was not withheld from women during this time. They studied the Vedas, composed hymns, and distinguished themselves in various fields of knowledge, including science and learning.⁸ Women were considered intellectual companions to their husbands, sharing in religious duties and domestic responsibilities as equal partners. Marriage during the Rigvedic period was regarded as a sacred bond, with monogamy being the prevailing norm.⁹ Love marriages, known as Gandharva Vivaha, were not uncommon, highlighting the autonomy and agency women had in selecting their partners.¹⁰ Child marriage was virtually unheard of during this period, underscoring the emphasis on the maturity and consent of both parties in marital unions.

Women enjoyed considerable freedom in household matters, actively participating in religious ceremonies and rituals alongside their husbands. Their presence was deemed essential, as the performance of religious rites was considered incomplete without their participation. Even in

⁸ See Rigveda 1.179 (Lopamudra), 8.91 (Apala), 10.39–40 (Ghosha); Brihadaranyaka Upanishad 2.4 (Maitreyi), 3.6, 3.8 (Gargi); Altekar, *supra* note 2.

⁹ See Rigveda 10.85; Altekar, *supra* note 2.

¹⁰ Laws of Manu, *supra* note 5, at 3.32.

matters of property rights, women held joint ownership with their husbands, inheriting and possessing property, albeit with certain limitations. The treatment of widows in Rigvedic society also differed significantly from later periods. Widows were not subjected to harsh restrictions or austerities; instead, remarriage was permitted, and provisions such as Niyoga allowed for the continuation of family lineage. The practice of sati, or the burning of widows, finds no mention in Rigvedic texts, indicating a departure from later customs.¹¹

2. Post-Vedic Period

The transition from the Vedic period to the post-Vedic era marked a significant shift in the status of women in Indian society. While women enjoyed relative equality and freedom during the Vedic period, their position gradually deteriorated in the post-Vedic period, characterized by the emergence of Brahminical rules, caste restrictions, and societal norms outlined in texts like the Puranas and Smritis.

Before 300 BCE, women held a respectable position, although not as elevated as in the Vedic period. However, societal changes during this period led to the curtailment of women's freedoms and rights. Daughters began to be viewed as burdens, deprived of inheritance and property ownership. Practices like pre-puberty marriages became prevalent, further limiting women's autonomy and agency.¹²

The imposition of Brahminical codes of conduct reinforced patriarchal norms, relegating women to subordinate roles within the family and society. Restrictions on women's participation in religious rituals and pilgrimages were enforced, denying them spiritual agency. Polygyny became tolerated, perpetuating unequal power dynamics within marriages. Dharmasastras of the post-Vedic period introduced prohibitions on practices like Niyoga and widow remarriage, further restricting women's choices and freedoms. Widows were expected to lead lives of austerity and penance, with remarriage prohibited and the practice of sati gaining popularity by the 7th century AD.

The portrayal of women in texts like the Mahabharata reflects the ambivalence of their status, with contradictory depictions ranging from reverence to derogation.¹³ Despite these disparities,

¹¹ See Rigveda 10.18.7–8; Altekar, *supra* note 2 (on the absence of sati and the practice of niyoga in the Vedic period).

¹² Altekar, *supra* note 2; Laws of Manu, *supra* note 5, chs. 5, 9 (niyoga and the conduct of widows).

¹³ Mahabharata, Anushasana Parva (bk. 13) (containing both exalted and derogatory descriptions of women).

ancient Indian scriptures and moral codes upheld the sanctity of marriage and emphasized equality between husband and wife before God. While women's rights were increasingly constrained in the post-Vedic period, they were not devoid of agency altogether. Women continued to contribute to economic activities, supporting their families in agricultural pursuits and other endeavors. However, their participation was often subordinate to male authority and societal expectations.

3. Medieval Period

The medieval period in India, spanning from the 11th to the 18th century, witnessed a further deterioration in the position of women, largely influenced by the advent of Muslim culture. During this time, various social evils such as female infanticide, child marriage, the purdah system, sati, and slavery deeply affected women's status and freedoms.¹⁴

The birth of a female child came to be viewed as a curse or bad luck, perpetuating gender bias and discrimination from an early age. Women became increasingly confined to their homes, with limited opportunities for education, social interactions, and personal autonomy. The imposition of the purdah system further restricted women's visibility and participation in public life, reinforcing notions of female seclusion and modesty. Education for women was nearly banned, perpetuating cycles of illiteracy and dependency. Conservative attitudes towards women intensified, exacerbating their marginalization and reinforcing patriarchal norms. Despite being cherished within the confines of the home, women faced growing oppression and restrictions on their freedoms.

The prevalence of sati, the prohibition of remarriage, and the widespread adoption of polygamy further compounded women's hardships, relegating them to subordinate roles within marital and societal structures. The revival of sati, in particular, symbolized the erosion of women's rights and agency, perpetuating harmful practices under the guise of tradition. Scholars like A.S. Altekar have highlighted the steady deterioration of women's status over nearly two millennia, from approximately 20 BC to 1800 AD.¹⁵ Despite being cherished within familial settings, women faced increasing marginalization and subjugation, exacerbated by social and cultural shifts. The dual standards of morality propagated by texts like the Manu Smriti and other Dharmasastras continued to shape societal attitudes towards women, perpetuating

¹⁴ Altekar, *supra* note 2 (on purdah, child marriage and the decline of women's education in the medieval period).

¹⁵ Altekar, *supra* note 2 (tracing the gradual decline in women's status over roughly two thousand years).

unequal power dynamics and limiting their opportunities for advancement. While urban educated women may have experienced some degree of emancipation, the overarching structures of patriarchy remained entrenched, hindering widespread progress.

4. British Period

During the approximately two-century period of British colonial rule (from the early 18th century to the first half of the 20th century) in India, significant strides were made in addressing gender inequalities in various aspects of society, including education, employment, social rights, and property rights. Issues such as sati, purdah, female infanticide, child marriage, inheritance laws, slavery, and the prohibition of widow remarriage garnered attention from British authorities. Initially, the British administration refrained from interfering with traditional social structures, but over time, influenced by social reformers such as Raja Ram Mohan Roy, Ishwar Chandra Vidyasagar, and Mahatma Gandhi, they began to enact legislative measures to reform social customs and address women's issues.¹⁶

In the latter half of the 19th century and the early 20th century, legislative measures were introduced to abolish or modify certain social practices. Key legislation included:

1. The Bengal Sati Regulation in 1829, which prohibited the practice of widow burning.¹⁷
2. The Hindu Widow Remarriage Act in 1856, allowing widows to remarry.¹⁸
3. The Special Marriage Act in 1872, providing for civil marriages.¹⁹
4. The Married Women's Property Act in 1874, granting married women property rights.²⁰
5. The Child Marriage Restraint Act (Sharda Act) in 1929, aimed at curbing child marriages.²¹

¹⁶ Rammohun Roy, *A Conference Between an Advocate for, and an Opponent of, the Practice of Burning Widows Alive* (1818).

¹⁷ Bengal Sati Regulation, 1829, Regulation XVII of 1829 (India) (enacted under Governor-General Lord William Bentinck).

¹⁸ The Hindu Widows' Remarriage Act, 1856, Act No. 15 of 1856 (India).

¹⁹ The Special Marriage Act, 1872, Act No. 3 of 1872 (India).

²⁰ The Married Women's Property Act, 1874, Act No. 3 of 1874 (India).

²¹ The Child Marriage Restraint Act, 1929, Act No. 19 of 1929 (India).

6. The Hindu Law of Inheritance (Amendment) Act in 1929, addressing inheritance rights for Hindu women.²²
7. The Hindu Women's Rights to Property Act in 1937, enhancing property rights for Hindu women.²³
8. The Hindu Marriage Disabilities Removal Act in 1946, removing certain disabilities faced by Hindu women in marriage.²⁴

Additionally, provincial governments enacted legislation to address specific regional issues. For instance, in 1795, Bengal Regulation XXI declared infanticide to be murder, extending to other parts of the country by 1804.²⁵

A significant development during the 19th century was the effort by social reformers to promote formal education for Indian girls. Prior to this period, formal education for women was virtually non-existent. Christian missionaries played a crucial role in establishing girls' schools, with the first one established in Bombay (now Mumbai) in 1824. Over time, attitudes towards women's education shifted, leading to increased opportunities for girls to pursue higher education and careers as teachers, nurses, and doctors.²⁶

The efforts of 19th-century social reformers laid the groundwork for the emancipation of women in India, facilitating their integration into various spheres of society and enabling them to claim their rightful place as equal members of the community.

5. Modern Period

In the early 19th century, the concerted efforts of social reformers brought about incremental changes driven by humanitarian concerns and societal pressures. Visionaries such as Swami Dayanand, the founder of Arya Samaj, courageously advocated against the various forms of mistreatment and discrimination faced by women, laying the groundwork for fundamental legal reforms in the country.²⁷

²² The Hindu Law of Inheritance (Amendment) Act, 1929, Act No. 2 of 1929 (India).

²³ The Hindu Women's Rights to Property Act, 1937, Act No. 18 of 1937 (India).

²⁴ The Hindu Marriage Disabilities Removal Act, 1946, Act No. 28 of 1946 (India).

²⁵ Bengal Regulation XXI of 1795 (India), *extended by* Bengal Regulation III of 1804 (India).

²⁶ Educational Despatch of July 19, 1854 (Wood's Despatch).

²⁷ Swami Dayanand Saraswati, *Satyarth Prakash* (1875).

These social reformers campaigned vigorously to eradicate deeply entrenched practices such as sati, the prohibition on widow remarriage, and child marriage. Their advocacy aimed to dismantle oppressive norms and foster a more equitable society where women could enjoy their rightful place.

Moreover, the position of women within Hindu tradition became a focal point for debate and reform, with British colonial authorities leveraging it as a means to justify and legitimize their rule. This intersection of colonial governance and indigenous social reform movements played a pivotal role in shaping the evolving status of women in modern India.

SOCIAL AND LEGAL DISPARITIES FACED BY WOMEN

Throughout history, women have encountered social and legal inequalities, reflecting prevailing cultural norms and philosophical perspectives. In various civilizations, women's roles and status have been subject to interpretation and often relegated to subordinate positions. In ancient Indian texts like the Manusmriti, women were idealized as mothers, sisters, and daughters, with their respect seen as essential for divine blessings to grace a household. However, this respect did not always translate into equal treatment. Philosophers like Plato, while initially advocating for women's equality, later reduced their status to that of household caretakers in works like "Laws."²⁸

Similarly, Aristotle, Rousseau, Hobbes, and Locke presented varying views on women's roles, often emphasizing traits like modesty and meekness as inherent to femininity.²⁹ Islamic texts and Sharia law, while acknowledging women's rights in theory, often resulted in practical inequalities, with women considered half the status of men and subjected to practices like the payment of dower (Mehr) and the wearing of the burka, limiting personal liberty.³⁰ Even within orthodox Hindu society, notions of female subjugation persisted, with figures like Tulsi Das perpetuating stereotypes about women's corruptibility and deserving punishment.³¹ Such attitudes underscored the lack of personal liberty and gender equality experienced by women across different societies and religions.

²⁸ Plato, *The Laws*, *supra* note 3.

²⁹ Jean-Jacques Rousseau, *Emile, or On Education* bk. V (1762); Thomas Hobbes, *Leviathan* (1651); John Locke, *Two Treatises of Government* (1689).

³⁰ Quran 4:4 (dower), 4:11 (shares in inheritance).

³¹ Tulsidas, *Ramcharitmanas*, Sundara Kanda.

1. Women's Education and Marital Rights

Historically, women's educational opportunities have varied significantly. In ancient Vedic times, women enjoyed equal access to education, but post-Vedic society witnessed a decline in women's educational rights, leading to early marriages and the revival of practices like purdah and Sati Pratha.

Marriage, considered a sacred union in Hinduism, often disadvantaged women, with polygamy permitted for men and widow remarriage condemned. While legislative reforms have sought to address these inequalities, such as the Marriage Laws (Amendment) Act of 1976, disparities persisted, with women often bearing the brunt of marital injustices.³²

2. Evolution of Women's Rights

The trajectory of women's rights is complex, with religious and customary laws on one end of the spectrum and statutory reforms on the other. While ancient Hindu texts provided some protections for women's property rights, these fell short of modern notions of equality.³³ Similarly, Islamic jurisprudence aimed to safeguard women's economic interests within the framework of contractual marriages.³⁴

Overall, the history of women's rights is marked by a struggle for equality, with progress influenced by cultural, religious, and legal factors. While strides have been made, significant disparities persist, highlighting the ongoing need for advocacy and reform to ensure gender equity in all aspects of society.

PROGRESS AND CHALLENGES AFTER INDEPENDENCE

Following independence, the Indian government, inspired by the efforts of social reformers and the national movement, embarked on comprehensive initiatives to uplift the status of women. Recognizing the pivotal role of women in nation-building, leaders emphasized their active participation in socio-economic and political spheres.³⁵

³² The Marriage Laws (Amendment) Act, 1976, No. 68, Acts of Parliament, 1976 (India).

³³ Laws of Manu, *supra* note 5, at 9.194 (kinds of *stridhana*).

³⁴ Quran 4:7, 4:11–12.

³⁵ See Comm. on the Status of Women in India, *supra* note 1 (findings on education, employment and political participation).

The liberal philosophy of the West, combined with insights from Hindu scriptures, influenced the ideologies of reformers who championed principles of equality, rationality, and individual rights. The post-independence era witnessed significant legal reforms aimed at addressing gender disparities across various domains.

Key legislative measures included acts related to marriage, inheritance, property rights, and employment, such as the Hindu Marriage Act (1955), the Hindu Succession Act (1956), and the Protection of Women from Domestic Violence Act (2005), among others.^{36,37,38} These reforms aimed to dismantle archaic customs and empower women with legal safeguards.

Despite legislative progress, socio-cultural barriers continue to impede women's empowerment. Persistent illiteracy rates among women hinder their awareness and utilization of legal provisions. Traditional gender norms and values perpetuate discrimination, restricting women's autonomy and opportunities for advancement.

Within households, women often face unequal treatment and limited decision-making authority. Patriarchal structures prevail, with male dominance in familial and societal realms. Economic disparities persist, with women encountering barriers in accessing lucrative employment opportunities and achieving parity in professional spheres.

Even in cases where women attain positions of authority, they face systemic biases and discriminatory practices. The phenomenon of the "glass ceiling" restricts women's ascension to higher echelons of leadership, despite their qualifications and capabilities.

In rural areas, women endure entrenched inequalities, juggling multiple responsibilities without commensurate recognition or support. Their contributions to agricultural and domestic labor often go undervalued, perpetuating cycles of marginalization and dependence.

In conclusion, while legislative strides have been made to enhance women's rights and opportunities, deep-rooted socio-cultural norms and systemic biases continue to impede gender equality in India. Addressing these challenges requires concerted efforts to dismantle patriarchal structures, promote gender-sensitive education, and foster inclusive socio-economic

³⁶ The Hindu Marriage Act, 1955, No. 25, Acts of Parliament, 1955 (India).

³⁷ The Hindu Succession Act, 1956, No. 30, Acts of Parliament, 1956 (India), *amended by* The Hindu Succession (Amendment) Act, 2005, No. 39, Acts of Parliament, 2005 (India); *see Vineeta Sharma v. Rakesh Sharma*, (2020) 9 S.C.C. 1 (India).

³⁸ The Protection of Women from Domestic Violence Act, 2005, No. 43, Acts of Parliament, 2005 (India).

policies that empower women to realize their full potential.

POST-INDEPENDENCE DEVELOPMENTS

Since gaining independence, India has made significant strides in liberating women across all segments of society, irrespective of class or religion. The Constitution of India, enshrining the principles of equality and non-discrimination, laid the groundwork for transformative legal and social reforms aimed at empowering women.³⁹

Various landmark legislations have been enacted to address gender disparities and eliminate discriminatory practices:

1. The Equal Remuneration Act, 1976, aimed at ensuring equal pay for equal work, marked a crucial step towards gender parity in the workplace.⁴⁰
2. The establishment of the National Commission for Women Act, 1990, provided a platform for addressing women's issues and advocating for their rights at the national level.⁴¹
3. Acts such as the Commission of Sati Prevention Act, 1987, and the Indecent Representation of Women (Prohibition) Act, 1986, sought to safeguard women from harmful practices and exploitative representations.^{42,43}
4. Legal frameworks like the Dowry Prohibition Act, 1961, and the Protection of Human Rights Act, 1993, aimed to combat gender-based violence and protect women's dignity and rights.^{44,45}
5. Measures to address specific issues faced by Muslim women, such as the Muslim Women's (Protection of Rights on Divorce) Act, 1986, have also been enacted to

³⁹ India Const. arts. 14, 15(1), 15(3), 16, 51A(e).

⁴⁰ The Equal Remuneration Act, 1976, No. 25, Acts of Parliament, 1976 (India); *see also* The Code on Wages, 2019, No. 29, Acts of Parliament, 2019 (India).

⁴¹ The National Commission for Women Act, 1990, No. 20, Acts of Parliament, 1990 (India).

⁴² The Commission of Sati (Prevention) Act, 1987, No. 3, Acts of Parliament, 1988 (India).

⁴³ The Indecent Representation of Women (Prohibition) Act, 1986, No. 60, Acts of Parliament, 1986 (India).

⁴⁴ The Dowry Prohibition Act, 1961, No. 28, Acts of Parliament, 1961 (India).

⁴⁵ The Protection of Human Rights Act, 1993, No. 10, Acts of Parliament, 1994 (India).

promote gender justice within diverse religious communities.⁴⁶

Efforts have been made to reform personal laws governing marriage, divorce, and inheritance to uphold women's rights:

1. Legislation such as the Hindu Marriage Act, 1955, introduced principles of monogamy and minimum age requirements for marriage, thereby curbing child marriage and promoting gender equality within Hindu communities.⁴⁷
2. The Dowry Prohibition Act, 1961, aimed to eradicate the harmful practice of dowry, though challenges persist in its enforcement.
3. Legal provisions for divorce, including those under the Hindu Marriage Act, 1955, have provided avenues for women to seek dissolution of marriages in cases of cruelty, abandonment, or other grounds, albeit with varying degrees of gender equality across different personal laws.

Despite these legislative efforts, deep-rooted social norms and practices continue to impede women's full emancipation:

1. Gender-based violence, including domestic abuse and dowry-related harassment, remains a pervasive issue, reflecting entrenched patriarchal attitudes.
2. Cultural and societal expectations often restrict women's autonomy and decision-making power within families and communities.
3. Disparities in access to education, economic opportunities, and political representation persist, particularly in rural and marginalized communities.
4. Personal laws governing marriage, divorce, and inheritance still reflect unequal power dynamics, especially in Muslim and Christian communities where women's rights may be limited.

⁴⁶ The Muslim Women (Protection of Rights on Divorce) Act, 1986, No. 25, Acts of Parliament, 1986 (India); *see Mohd. Ahmed Khan v. Shah Bano Begum*, (1985) 2 S.C.C. 556 (India); *Danial Latifi v. Union of India*, (2001) 7 S.C.C. 740 (India).

⁴⁷ The Hindu Marriage Act, 1955, *supra* note 36, §§ 5, 13.

Moving forward, there is a pressing need for comprehensive legal reforms and socio-cultural initiatives to promote gender equality and women's empowerment:

1. Implementing stringent enforcement mechanisms for existing laws to combat gender-based violence and discrimination.
2. Enhancing access to education, healthcare, and economic opportunities for women, particularly in rural and underserved areas.
3. Promoting awareness and advocacy campaigns to challenge harmful gender stereotypes and promote gender-sensitive attitudes and behaviors.
4. Advocating for the adoption of a common civil code to ensure uniformity and equality in personal laws across religious communities, thereby safeguarding women's rights and autonomy.⁴⁸

While significant progress has been made, achieving gender equality requires sustained efforts from all sectors of society, guided by principles of justice, inclusivity, and respect for human rights.

SOCIAL REFORM MOVEMENTS AND LEGAL REFORMS

Sati: During the early 19th century, social reformers like Raja Rammohan Roy spearheaded the campaign against the abhorrent practice of Sati. Roy's arguments were rooted in religious scriptures, contending that Sati was not sanctioned by shastric texts. Despite resistance, legislative steps were taken, such as the ordinance prohibiting Sati, enacted under Lord Bentinck's governorship.⁴⁹ While this legislation condemned Sati, it also stirred debate, revealing entrenched cultural defenses of the practice.

Child Marriage: In the latter half of the 19th century, reformers like Behramji Malabari and Justice Ranade addressed the scourge of child marriage, which often resulted in early widowhood. Their activism contributed to the Age of Consent Act of 1891, a crucial legal intervention aimed at protecting young girls. The Hindu Widows Remarriage Act of 1856,

⁴⁸ India Const. art. 44; see *Sarla Mudgal v. Union of India*, (1995) 3 S.C.C. 635 (India); *John Vallamattom v. Union of India*, (2003) 6 S.C.C. 611 (India).

⁴⁹ Bengal Sati Regulation, 1829, *supra* note 17; Roy, *supra* note 16.

secured earlier through the efforts of Ishwar Chandra Vidyasagar, had already sought to empower widows.^{50,51}

Improvement in Women's Status: Towards the end of the 19th century, social movements led by figures like Raja Ram Mohan Roy, Iswarchandra Vidyasagar, and the Arya Samaj advocated for women's rights, resulting in legislative measures such as the abolition of Sati (1829) and the permission for widows to remarry. As the national movement gained momentum, laws like the Hindu Women's Rights to Property Act (1937) and subsequent enactments further addressed gender disparities.⁵²

Women's Education: Despite conservative opposition, strides were made in recognizing women's right to education, leading to a decline in practices like purdah. While the East India Company initially overlooked women's education, private initiatives by missionaries and institutions gradually established schools for girls. From 1917 to 1947, women's education expanded significantly, with the establishment of the National Council of Women in 1915 reflecting growing awareness and advocacy.

Position of Muslim Women: Reforms within Muslim personal law, such as granting divorce rights to Muslim women in 1939, reflected evolving societal norms and demands for gender equality.⁵³ Efforts to address diverse interpretations and customary practices within different schools of law aimed to ensure uniformity and equitable treatment.

Legal Reforms: Gandhiji's advocacy for gender equality spurred demands for comprehensive legal reforms, prompting the government to establish the Sir B.N. Rau Committee to address changes in Hindu law.⁵⁴ Despite initial resistance, post-independence initiatives under Pandit Nehru's leadership aimed to codify laws and ensure equal rights for women, culminating in the adoption of equal rights clauses in the constitution.⁵⁵ However, the Hindu Code Bill, which aimed at providing partial equality to women, faced opposition in the central legislature,

⁵⁰ Behramji M. Malabari, Notes on Infant Marriage and Enforced Widowhood (1884); The Age of Consent Act, 1891, Act No. 10 of 1891 (India).

⁵¹ The Hindu Widows' Remarriage Act, 1856, *supra* note 18.

⁵² The Hindu Women's Rights to Property Act, 1937, *supra* note 23.

⁵³ The Dissolution of Muslim Marriages Act, 1939, Act No. 8 of 1939 (India).

⁵⁴ The Hindu Law Committee was constituted in 1941 under Sir B.N. Rau. The Hindu Code Bill was eventually enacted in parts as The Hindu Marriage Act, 1955, *supra* note 36; The Hindu Succession Act, 1956, *supra* note 37; The Hindu Minority and Guardianship Act, 1956, No. 32, Acts of Parliament, 1956 (India); and The Hindu Adoptions and Maintenance Act, 1956, No. 78, Acts of Parliament, 1956 (India).

⁵⁵ India Const. arts. 14–16, *supra* note 39.

highlighting the ongoing struggle for gender justice.

STATUS OF WOMEN WORKING ABROAD

A survey conducted by NatWest International Personal Banking reveals insights into the experiences of women working abroad, shedding light on both the opportunities and challenges they encounter.

- **Career Advancement and Opportunities:**

- 83% of women working abroad believe that the experience will benefit their career progression, demonstrating a readiness to embrace new challenges and seize career-advancing opportunities.
- Working overseas is perceived as a means to acquire valuable skills and experiences that may not be readily available in their home countries.

- **Exceeding Expectations:**

- More than half of the surveyed women (52%) reported that their experience of working abroad surpassed their initial expectations, highlighting the positive impact of international work assignments on personal and professional growth.

- **Challenges Faced:**

- Despite the perceived career benefits, working abroad comes with its share of difficulties.
- Two-thirds of respondents (66%) expressed feelings of inequality compared to their male counterparts, indicating persistent gender disparities in the workplace.
- A significant portion of participants cited instances of male stereotyping (26%) and feeling excluded from informal communication among colleagues (21%).
- Nearly one-fifth of women noted the absence of influential mentors in their new environment as a challenge, underscoring the importance of mentorship in career development.

- **Regional Disparities:**

- Among the countries surveyed, Canada emerged as the top performer in terms of gender parity, followed by New Zealand, the US, and Australia.
- Conversely, the United Arab Emirates (UAE) ranked the lowest among the surveyed locations, suggesting greater gender inequalities in the workplace compared to other countries.

While working abroad offers valuable opportunities for career advancement and personal development, it also presents significant challenges, particularly concerning gender equality and inclusion. Addressing these disparities requires concerted efforts from employers, policymakers, and society as a whole to create more inclusive work environments where all individuals, regardless of gender, can thrive and succeed.

WOMEN'S STATUS IN CONSTITUTION OF INDIA

The trajectory of women's status in India has traversed various epochs, from the ancient era where they enjoyed parity with men, through medieval legal systems, to the contemporary era marked by advocacy for equal rights. Despite notable strides, women in India continue to grapple with a myriad of social challenges. According to a Thomson Reuters study, India ranks as the "fourth most dangerous country" for women globally.⁵⁶ Nevertheless, women in modern India actively participate across diverse domains including education, politics, sports, media, and science, among others. Notably, figures like Indira Gandhi have ascended to the highest echelons of power, illustrating the evolving landscape of gender dynamics in the country.

1. **Constitutional Safeguards:** The Constitution of India lays down a robust framework to safeguard the rights and dignity of women. Key provisions include Article 14, ensuring equality before the law, Article 15(1), prohibiting discrimination by the state, and Article 16, guaranteeing equal opportunities in all spheres of life.⁵⁷ Moreover, Article 39 enunciates the state's duty to ensure equal pay for equal work and protection

⁵⁶ Thomson Reuters Found., Expert Perception Poll on the World's Most Dangerous Countries for Women (June 2011).

⁵⁷ India Const. arts. 14, 15(1), 16, *supra* note 39.

against exploitation, while Article 42 mandates provisions for just and humane working conditions, including maternity relief.⁵⁸

2. **Fundamental Rights:** Women are entitled to the full spectrum of fundamental rights enshrined in the Constitution, spanning equality of status, freedom, protection against exploitation, freedom of religion, and cultural and educational rights. Notably, Article 25 ensures the freedom to profess, practice, and propagate religion, subject to public order and morality.⁵⁹
3. **Directive Principles and Women:** Directive Principles of State Policy underscore the state's obligation to promote gender equality and ensure adequate means of livelihood, equal pay, and protection against exploitation for both men and women. Article 44 further advocates for a uniform civil code to promote gender equality irrespective of religion, caste, or creed.⁶⁰
4. **Prevention of Sexual Harassment:** In response to the pressing issue of sexual harassment in the workplace, the Supreme Court, in *Vishaka v. State of Rajasthan*, delineated comprehensive guidelines to safeguard the rights of working women.⁶¹ These guidelines encompass preventive measures, criminal proceedings, disciplinary actions, and the establishment of complaint mechanisms to address instances of harassment effectively.
5. **Legislative Measures:** Legislative interventions such as the Equal Remuneration Act, 1976, underscore the principle of equal pay for equal work, while provisions under the Indian Penal Code and the Code of Criminal Procedure afford protection to women against offences like adultery and grant special considerations in bail provisions.^{62,63}

⁵⁸ India Const. art. 39(a), (d) (adequate means of livelihood; equal pay for equal work); *id.* art. 42 (just and humane conditions of work and maternity relief).

⁵⁹ India Const. art. 25.

⁶⁰ India Const. arts. 39, 44.

⁶¹ *Vishaka v. State of Rajasthan*, (1997) 6 S.C.C. 241 (India), A.I.R. 1997 S.C. 3011. The guidelines were later codified in The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, No. 14, Acts of Parliament, 2013 (India).

⁶² The Equal Remuneration Act, 1976, *supra* note 40.

⁶³ See *Joseph Shine v. Union of India*, (2019) 3 S.C.C. 39 (India) (striking down Indian Penal Code, 1860, No. 45, Acts of Parliament, 1860, § 497 (India)). The Indian Penal Code and the Code of Criminal Procedure have since been replaced by The Bharatiya Nyaya Sanhita, 2023, No. 45, Acts of Parliament, 2023 (India), and The Bharatiya Nagarik Suraksha Sanhita, 2023, No. 46, Acts of Parliament, 2023 (India), in force from July 1, 2024.