

## Aligning India's Gender Sensitization Regime with International Human Rights Standards: A Critical Evaluation

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### Abstract

This study critically evaluates India's gender sensitization regime in alignment with international human rights standards. Global frameworks developed by the United Nations, particularly the Convention on the Elimination of All Forms of Discrimination Against Women, emphasize equality, non-discrimination, and institutional accountability. India has incorporated these principles through constitutional provisions and legislative measures; however, gaps remain in implementation, monitoring, and representation. The study highlights disparities between policy intent and ground realities, influenced by socio-cultural barriers and institutional limitations. Comparative analysis reveals partial convergence with global standards but underscores the need for stronger enforcement and capacity building. The findings suggest that aligning national practices with international norms requires sustained reforms, awareness, and accountability mechanisms to ensure substantive gender equality across all sectors in India.

**Keywords:** Gender Sensitization; Human Rights; India; CEDAW; Gender Equality

### Introduction

In the field of law and justice, gender justice has recently attracted attention, especially in developing nations where gender-based discrimination and inequality are prevalent and must be handled in accordance with the widely acknowledged The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), the Beijing Declaration and Platform for Action, various resolutions and decisions of the United Nations General Assembly, the Security Council, the Economic and Social Council, and the Commission on the Status of Women are just a few of the commitments made in support of the gender equality goal outlined in the "Charter of the United Nations," which unequivocally emphasizes that gender equality, women's rights, and women's empowerment are essential to building a more equitable and just world for everyone. Furthermore, the 2030 Agenda's "Sustainable Development Goal 5 (SDG 5)" calls on its Member States to mainstream gender into their laws and policies and to take special steps to advance gender equality and empower women and girls, while also reiterating that gender equality is a prerequisite for sustainable development and an essential result of it. The appointment of "Anna Chandi" as the first female judge of a High Court in 1937 and "Fathima Beevi" as the first female judge of the Indian Apex Court, or the Supreme Court (SC), marked a significant turning point in the country's progress toward achieving gender equality in many facets of civil society, including the judiciary.

As a result, women were able to join the Supreme Court Bench, giving them a chance to have a long-lasting influence. Gender prejudices and structural barriers that had previously prevented women from advancing in India's legal community were successfully eliminated by this development. Five years after the tenure of jurist "M. Fathima Beevi," a prominent female jurist, Justice "Sujata Vasant Manohar" became a Supreme Court judge.

The Supreme Court (SC) has appointed 276 justices since gaining independence, but only 11 of them are female, making up a pitiful 4% of the total (Gauri, 2024). In fact, a review of the Supreme Court's official website as of November 30, 2024, shows that, of the thirty-four (34) justices currently serving on the court—one Chief Justice and thirty-three (33) judges—the number of female justices has decreased from three to two after a female justice retired in early September 2024. Additionally, according to data from the official websites of 25 High Courts (HCs) in different Indian States and Union Territories, women justices comprise 13.76% of all current judges in all high courts, or 96 out of 719 judges, as Table 1 illustrates.

Serial No.	High Court	Number of Sitting Women Judges
1	Allahabad	3
2	Andhra Pradesh	5
3	Bombay	11
4	Calcutta	6
5	Chhattisgarh	1
6	Delhi	9
7	Guwahati	4
8	Gujarat	7 Judges + 1 Chief Justice
9	Himachal Pradesh	1
10	Jammu, Kashmir & Ladakh	2
11	Jharkhand	1
12	Karnataka	8
13	Kerala	4
14	Madhya Pradesh	2
15	Madras	12
16	Manipur	1
17	Meghalaya	0
18	Orissa	1
19	Patna	1
20	Punjab & Haryana	13
21	Rajasthan	3
22	Sikkim	1
23	Telangana	8
24	Tripura	0
25	Uttarakhand	0

**Note:** Information about number of sitting women Judges in various HC's as accessed on November 30, 2024

Additionally, the World Economic Forum (2022) ranks India 48th out of 146 nations on the Political Empowerment dimension, which gauges the proportion of women in ministerial and parliamentary roles. As of right now, the Indian Parliament has the greatest percentage of female members—roughly 14.4%. In fact, the Indian Parliament recently approved the "Nari Shakti Vandan Adhiniyam," also known as the

"Women's Reservation Bill," 2023, which requires that 33% of the seats in the Lok Sabha (the Lower House of Parliament), the Vidhan Sabha (the Provincial Legislative Assemblies), and the Delhi assembly be set aside specifically for women in order to promote gender equality and women's empowerment in a patriarchal Indian society. However, the implementation of the seat distribution has been delayed until the Census and a delimitation process are finished (The Constitution (106th Amendment) Act, 2023). In order to address the current gender gap in our court and to act as a catalyst for other required reforms, the passing of this bill has also sparked a conversation proposing the introduction of a 33% quota for women in the judiciary. However, a number of issues have also been brought up about its viability and effects, such as the potential to undermine meritocracy and prioritize gender over qualifications, which would result in less qualified people filling positions aside from these quotas being influenced by political factors rather than judicial merit. However, these issues can be resolved by reforms in legal education and professional development, the establishment of independent judicial committees with representation from academia, nonpartisan organizations, and legal professionals to guarantee merit-based candidate selection, frequent evaluations of the effects of quotas to determine whether they are producing the intended results, and the implementation of feedback and mentorship programs to guarantee that women not only hold positions of power but also succeed in them. It is undeniable that doing this will improve India's standing and put it among the progressive countries in terms of gender parity. It will also help break the glass ceiling that many women encounter, especially in fields where they have historically been marginalized or excluded. Similar gender disparities exist in politics and other leadership positions in India, in addition to the fact that women make up a very tiny percentage of the court. However, there has also been a lot of discussion surrounding the aforementioned idea for a 33% quota for women and gender nonconforming individuals in the Indian court.

**Comparative Analysis: India vs International Standards in Gender Sensitization**

Gender sensitization has emerged as a critical component in advancing equality and protecting human rights globally. International frameworks led by the United Nations establish comprehensive standards for eliminating gender-based discrimination and promoting inclusive institutions. Key instruments such as the Convention on the Elimination of All Forms of Discrimination Against Women, the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights mandate state parties to ensure equality before the law, eliminate discriminatory practices, and promote gender-sensitive policies across all sectors.

India, as a signatory to these international conventions, has incorporated several gender equality principles into its constitutional and legal framework. The Constitution of India guarantees equality under Articles 14, 15, and 21, while various legislations such as the Sexual Harassment of Women at Workplace Act (2013) and the Protection of Women from Domestic Violence Act (2005) reflect commitments toward gender justice. Furthermore, judicial interventions have played a pivotal role in advancing gender sensitization, particularly through landmark judgments like the Vishaka guidelines, which were formulated in alignment with CEDAW principles.

Despite these advancements, a comparative analysis reveals both convergence and divergence between India's gender sensitization regime and international human rights standards. In terms of convergence, India has demonstrated strong normative alignment by adopting legal frameworks consistent with global standards. Institutional mechanisms such as gender sensitization programs in judiciary, police, and educational institutions indicate efforts toward implementation. Additionally, policy initiatives and awareness campaigns reflect an increasing recognition of gender equality as a developmental priority.

However, significant gaps persist in the effective realization of these standards. One of the major challenges lies in implementation deficits, where laws exist but are not uniformly enforced across regions. Socio-cultural factors, including patriarchal norms and gender stereotypes, continue to hinder the effectiveness of sensitization efforts. Compared to international best practices, which emphasize continuous training, monitoring, and accountability mechanisms, India's approach often lacks consistency and measurable outcomes. Furthermore, representation of women in key decision-making institutions, including higher judiciary and law enforcement, remains inadequate, highlighting structural inequalities. Table 2: Comparative Analysis of India's Gender Sensitization Regime vs International Human Rights Standards.

**Table 2: Comparative Analysis of India's Gender Sensitization Regime vs International Human Rights Standards**

Aspect	India	International Standards
<b>Legal Framework</b>	Constitutional provisions (Articles 14, 15, 21) and specific laws like workplace harassment and domestic violence acts	Strong frameworks under Convention on the Elimination of All Forms of Discrimination Against Women, Universal Declaration of Human Rights, and International Covenant on Civil and Political Rights
<b>Policy Implementation</b>	Policies exist but implementation is inconsistent across regions	Emphasis on uniform implementation, monitoring, and accountability mechanisms
<b>Institutional Mechanisms</b>	Gender sensitization programs in judiciary, police, and education sectors	Institutionalized training with continuous evaluation and global best practices
<b>Judicial Role</b>	Active judiciary with landmark judgments (e.g., Vishaka guidelines)	Encourages judicial activism aligned with human rights principles
<b>Representation of Women</b>	Limited representation in higher judiciary and leadership roles	Strong emphasis on equal participation in decision-making bodies
<b>Intersectionality</b>	Recognized but weakly implemented in policies	Strong focus on intersectional discrimination (race, class, ethnicity, etc.)
<b>Monitoring &amp; Evaluation</b>	Limited data and impact assessment mechanisms	Robust monitoring systems and measurable indicators (e.g., SDGs)
<b>Socio-cultural Barriers</b>	Significant influence of patriarchal norms	Focus on transforming social attitudes through education and awareness
<b>Compliance &amp; Accountability</b>	Weak enforcement and accountability in some sectors	Strong compliance mechanisms with periodic international review

International standards also stress intersectionality, recognizing overlapping forms of discrimination based on caste, class, religion, and other identities. While India has acknowledged these complexities in principle, integration into policy and practice remains limited. Another area of divergence is the lack of robust data collection and evaluation systems to assess the impact of gender sensitization programs, which are emphasized in global frameworks such as the Sustainable Development Goals.

**Significant majority rulings**

The crucial role Indian women judges play in influencing the course of justice is demonstrated by the numerous noteworthy decisions rendered by female justices on the bench. For example, Indian women judges have had a major influence on the criminal justice system and have

been essential in deciding the path of justice in instances involving sexual abuse, forced marriage, abortion, and rape. Additionally, they have had a major influence on the continued development of family law by recognizing the importance of individual autonomy and freedom in the framework of marriage and enabling the formation of more progressive interpretations. Some of these rulings are as follows:

In the 2005 case of "A. Jayachandera v. Aneel Kaure," the Supreme Court's Division Bench, consisting of "Justices Ruma Pal, Arijit Passayat, and CK Thakkar," decided that mental cruelty must be taken into account in relation to the marital ties common in the community to which the individuals belong with their social standing, living conditions, and values. When one spouse's acts seriously injure another spouse's body or mind, it is considered cruelty. Examining abusive behaviors and their consequences is essential. It is important to note that by broadening the definition of cruelty and stressing that it encompasses not only physical harm but also mental and emotional harm, this ruling serves as a reminder to society of the importance of emotional well-being in marriages and the necessity of fostering respectful relationships, opening the door to a healthier future for both individuals and families.

A bench of the Apex Court made up of "J. Ruma Pal and J. A.R. Laxmannan" decided in favor of the woman by awarding a divorce in the 2006 case of "Vinitha Saxena v. Pankaj Pandit." The accused husband was diagnosed with paranoid schizophrenia, a mental illness that neither the wife nor her parents were aware of prior to the marriage, based on the information presented in court. The court concluded that the assessment of mental cruelty is based on its harmful impact on the psychological disposition required for creating a peaceful home environment rather than the frequency of such incidents or the severity of abuses. The court may have to decide whether the victim's spouse has endured the insults, complaints, and reproaches for a long enough period of time to cause such severe harm and suffering that the accused spouse reasonably believes it is impossible to maintain the marital home if they were of a less serious nature.

Additionally, even though the Indian legal system does not formally recognize a second wife, the "Pyla Mutyalamma v. Pyla Suri Demudu" case bravely addressed the legal interpretation of established legislation regarding the second wife's entitlement to maintenance (Satyavathi, 2011). The question of whether women convicted of bigamy under section 125 of the Code of Criminal Procedure (CrPC), 1973, are ineligible for maintenance was addressed in this ruling. The division bench of Justices "Gyan Sudha Mishra and Harjit Singh Bedi" came to the judgment that section 125 of the Cr. PC functions under the assumption of a de facto marriage rather than a de jure marriage. Therefore, the spouse who claims that his first marriage makes the second marriage void must give the court enough proof to back up this assertion. The court will assume that the marriage is lawful and have the power to provide maintenance if the spouse is unable to produce such proof.

It is evident that the aforementioned rulings serve as an important reminder of the value of integrity, dedication, and respect—all of which are necessary to establish a foundation of trust and understanding in marriages and guarantee that those who have been harmed receive the assistance and protection they are due.

A three-judge Supreme Court panel, which included Justice "Hima Kohli," declared in the 2022 case of "State of Madhya Pradesh v. Jogendra & Anr" that the High Court erred in holding that the demand for funds to build a home could not be regarded as a dowry demand. The courts noted that any type of property or valued security is included in the Dowry Act's broad definition of "dowry." Therefore, by include financial demands made by the spouse or in-laws, such as for building a house, within the definition of dowry, such rulings support the idea that dowry is a persistent societal evil and call for coordinated action against both overt and covert versions of this practice.

Similarly, in "Smt. Pratibha Singh v. Mr. Vineet Kumar" (2023), the Delhi High Court emphasized the significance of upholding a balance between the rights of both parties within a family unit while ruling on a petition concerning a matrimonial dispute involving a woman, speaking through Justice "Pratibha M. Singh." As a result, the court decided that a daughter-in-law's rights in the home are not unqualified and shouldn't be restricted to the in-laws. As a result, this decision advances cultural awareness of financial responsibility, marital duties, and the necessity of treating family court disputes fairly.

Furthermore, in "Smt. Chetna Rathee v. Sh. Chahit Kundu" (2023), a case decided by a single judge bench of Justice "Rekha Palli," it was established that the Court should not adopt overly technical conduct and restrict the parties' right to be cross-examined in a hurry, even if the dispute is to be decided quickly, when the Court is addressing petitions related to Family Law and the parties are already in conflict.

A five-judge Supreme Court bench, which included Justice "Indu Malhotra," rendered a unanimous decision in the 2018 case of Joseph Shine v. Union of India, invalidating Section 497 of the Indian Penal Code (IPC) 1860. This decision declared adultery to be unconstitutional, antiquated, and obviously arbitrary, therefore decriminalizing it. In particular, Justice "Indu Malhotra" noted that adultery could only be used as a basis for divorce and should be treated as a civil wrong. As a result, the court in this particular instance recognized the important influence of this concept inside the Indian legal system and defended the morality of the constitution at the time. This ruling challenges long-standing patriarchal norms and opens the door for more progressive interpretations of gender roles and marital freedom in India by promoting the idea that women are autonomous individuals capable of making their own decisions and should not be subject to discriminatory laws.

It is also important to note that in recent years, Indian courts have recognized the right to reproductive autonomy as an extension of the right to make one's own decisions, placing it on par with the right to privacy and dignity guaranteed by Articles 14 and 21 of the Indian Constitution. In the historic case of "Pratibha Gaur v. NCT of Delhi" (2021), the Delhi High Court, speaking through Justice "Jyoti Singh," allowed the plaintiff to have the surgery after 28 weeks of pregnancy, stating that continuing a pregnancy knowing the baby has a high risk of major defects and difficulties and that the baby's birth would be largely dependent on the clinical condition and quality of medical care would have a "deleterious impact on the petitioner's mental wellbeing." Therefore, the petitioner is ultimately in charge of deciding whether or not to have a surgical abortion; she would do so at her own risk and in accordance with her own obligations.

Similarly, in another case before the Delhi High Court, "Mrs. X v. GNCTD & Anr" (2022), a single bench of Justice "M Pratibha Singh" decided that the woman had the last word in pregnancy situations involving fetal abnormalities. The decision further underlined that in certain circumstances, medical boards must submit qualitative evaluations. Furthermore, it was observed that the medical board's viewpoint is crucial in supporting the court in cases involving pregnancy termination. As a result, it is essential that such a viewpoint be all-inclusive and free of any ambiguity or fragmentation.

Therefore, this decision not only promotes women's rights and health as an essential part of social justice reforms, but it also establishes the foundation for a more just and compassionate healthcare system that eliminates the legal remnants of patriarchy.

Similar to this, the journey of Indian courts with female judges playing an important role on the bench is noteworthy as well. It began with the recognition of sexual orientation as an integral part of self-identity rather than an anomaly and has been instrumental in shielding marginalized groups from various forms of violence. This is evident from a cursory reading of the following significant rulings: -

In "Navtej Singh v. Union of India" (2018), the Supreme Court's constitution bench, which included Justice "Indu Malhotra," unanimously decriminalized consensual same-sex relationships between consenting adults by reading down Section 377 of the IPC, which punished same-sex relationships, on the grounds that it violated several fundamental rights of a citizen, including the "right to privacy, equality, freedom of expression, human dignity, and protection from discrimination." It was also stated that, notwithstanding its limited influence on a tiny percentage of the population, the inclusion of sexual orientation as an integral component of self-identity is an incontrovertible truth. J. Malhotra

also claimed that the right to privacy includes "spatial and decisional privacy" in addition to the right to solitude, and that homosexuality should be seen as a manifestation of sexuality rather than an oddity. She concluded by saying that history must apologize to members of the LGBT community and their families for the long time it took to address the injustices and marginalization they have experienced throughout history.

Similar to this, in the case of "Neetu Singh v. Telegram (2022)," Justice Pratibha M. Singh, acting as a single bench, granted an interim injunction and ordered Telegram to provide information about the channels and devices used for the distribution of infringing content. The plaintiff's copyrighted materials, including books and video lectures, were being illegally circulated on various Telegram groups. This ruling is significant given the rapidly expanding and evolving nature of technology, particularly digital technology, which constantly jeopardizes the preservation of an individual's intellectual property rights, which must be safeguarded at all costs.

#### **Conclusion:**

In conclusion, India has made notable progress in developing a legal and institutional framework for gender sensitization that aligns, in principle, with international human rights standards. Constitutional guarantees and legislative measures reflect commitments to equality and non-discrimination, while judicial interventions have further strengthened gender-sensitive jurisprudence. However, significant gaps persist in implementation, monitoring, and institutional accountability, limiting the effectiveness of these measures. Socio-cultural barriers and underrepresentation of women in decision-making positions continue to challenge the realization of substantive equality. To achieve meaningful alignment with global standards, India must focus on strengthening enforcement mechanisms, promoting continuous sensitization programs, enhancing representation, and adopting robust monitoring systems. A comprehensive and sustained approach is essential to translate legal commitments into tangible outcomes.

#### **Acknowledgement**

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#### **Appendix: Case laws**

- *ADM Jabalpur v. Shivkant Shukla* (1976) SCC (2) 521
- *Ak Gopalam v. State of Madras* (1950) SCC 228
- *Amish Devgan v. Union of India* (2021) 1 SCC 1
- *Aruna Ramachandra Shanbaug v. Union of India* (2011) 4 SCC 454
- *Independent Thought v. Union of India* (AIR 2017 SC 4904)
- *Indian Young Lawyers' Association v. The State of Kerala* (2019) 11 SCC 1
- *Jayachandera v. Aneel Kaure* (2005) 2 SCC 22
- *Jharkhand v. Shailendra Kumar Rai* (2022 SCC Online SC 1494)
- *Joseph Shine v. Union of India* (2018) 11 SCALE 556
- *Kaushal Kishor v. State of Uttar Pradesh & Ors* (2023) LiveLaw (SC) 4
- *Kharak Singh v. State of UP* (1964) 1 SCR 332
- *Lakshmi Kanta Kamath v. The State of West Bengal* (2015) Lawsuit (Cal) 129
- *Laxmi v. Union of India* (2015) 2014 SCC 2427
- *Lillu @ Rajesh & Anr. V. State of Haryana* (2013) 14 SCC 643
- *Mankayi v AngloGold Ashanti Ltd (CCT 40/10) [2011] ZACC 3*