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From Legal Equality to Lived Equality: Women Empowerment in the Indian Constitutional Framework

SWARNIM* AND ASHUTOSH RAJ ANAND**

ABSTRACT

The constitutional history of women's empowerment in India is marked by a striking tension between legal equality and lived inequality. From the guarantee of equality before law to affirmative measures, political reservation, workplace protection, reproductive autonomy and property rights, the Indian constitutional order has progressively displaced the idea of women as dependants requiring protection with the idea of women as autonomous rights-bearing citizens. Yet formal recognition has not uniformly transformed social power. This paper examines that constitutional gap by tracing the historical movement from nineteenth-century social reform and nationalist participation to post-Constitution legislation and contemporary substantive-equality jurisprudence. It analyses Articles 14, 15, 16 and 21, the Directive Principles, local-government reservations and the evolving judicial rejection of gender stereotypes. Particular attention is paid to decisions concerning sexual harassment, inheritance, intimate choice, reproductive freedom, military service, maternity protection and menstrual dignity. The paper also evaluates recent developments, including the Supreme Court's 2026 judgments in Dr. Jaya Thakur v. Government of India, Hamsaanandini Nanduri v. Union of India, Wg. Cdr. Sucheta EDN v. Union of India and Shankar v. State of Rajasthan, which collectively illuminate a constitutional shift from nominal opportunity toward structural and lived equality. Contemporary data, however, reveal a more complicated reality: women's labour-force participation has improved, but economic participation remains deeply gendered; women constitute nearly half of elected representatives in Panchayati Raj Institutions while remaining substantially underrepresented in Parliament; and violence, unequal care burdens, institutional tokenism and discriminatory social norms continue to limit the practical exercise of constitutional freedoms. The paper argues that the next phase of women's empowerment cannot be satisfied by enlarging the catalogue of legal rights alone. It requires enforceable institutions, redistribution of unpaid care, economic and property independence, gender-responsive public infrastructure, meaningful political representation, accessible justice and an intersectional understanding of disadvantage. The transition from legal equality to lived equality therefore demands a constitutionalism concerned not merely with whether women

* Author is a Research Scholar at Amity Law School, Amity University Haryana, Gurugram, Haryana, India.

** Author is an Associate Professor at Amity Law School, Amity University Haryana, Gurugram, Haryana, India.

possess rights in law, but whether social and institutional conditions enable them to exercise those rights without dependency, stigma, violence, exclusion or disproportionate personal cost. It consequently reframes empowerment as the effective redistribution of social power.

Keywords: *Women Empowerment, Constitutional Equality, Substantive Equality, Gender Justice, Women's Autonomy, Feminist Constitutionalism, India*

I. INTRODUCTION: FROM FORMAL EQUALITY TO LIVED CONSTITUTIONALISM

Women's empowerment occupies a distinctive position within the Indian constitutional project. The Constitution did not merely prohibit discrimination against women; it attempted to reconstruct citizenship upon an assumption radically different from many social practices prevailing at the time of its commencement. A woman was no longer constitutionally relevant primarily as a daughter, wife, widow or mother. She was an individual citizen entitled to equality, liberty, dignity, political participation and equal protection of law. This transformation was revolutionary in normative terms. Yet more than seven decades after the Constitution came into force, the distance between constitutional status and social experience remains one of the central challenges of Indian democracy.¹ The fundamental question has therefore shifted. The contemporary inquiry is not merely whether women have equal rights in law, but whether they possess the material, institutional and social capacity to exercise those rights as equals.

The distinction between legal equality and lived equality provides the conceptual foundation of this paper. Legal equality refers to rights, protections and opportunities formally guaranteed through constitutional provisions, legislation and judicial decisions. Lived equality concerns what those guarantees mean in everyday existence. A daughter may legally be an equal coparcener but still be pressured to relinquish property in favour of her brothers. A woman may possess an equal constitutional right to employment yet leave the labour market because childcare and unpaid domestic responsibilities are overwhelmingly assigned to her. A girl may possess an equal right to education but experience absenteeism because basic menstrual-health infrastructure is unavailable. A woman may be elected to political office while decision-making authority is informally exercised by male relatives. Formal entitlement and actual power are therefore distinct phenomena.

This distinction does not diminish the importance of law. Law can change the vocabulary through which social practices are understood. Practices once defended as family matters can

¹ See generally FLAVIA AGNES, LAW AND GENDER INEQUALITY: THE POLITICS OF WOMEN'S RIGHTS IN INDIA (Oxford Univ. Press 2001).

become recognised as domestic violence; sexually hostile workplaces can become constitutional equality concerns; exclusion from military command can be recognised as stereotyping rather than natural difference; and reproduction can be understood through autonomy rather than paternalism. Legal recognition can delegitimise entrenched practices and create institutional mechanisms through which resistance becomes possible. At the same time, law may fail where institutions are inaccessible, implementation is weak or economic and social dependence makes the exercise of rights prohibitively costly.

Recent data demonstrate the unfinished nature of this transition. The World Economic Forum's *Global Gender Gap Report 2025* ranked India 131st among 148 economies, with an overall parity score of 64.4%. Educational-attainment parity was much higher, at 97.1%, while economic participation and opportunity stood at only 40.7%.² The contrast is significant. If educational gaps narrow while economic gaps remain substantial, then unequal outcomes cannot be explained only through lack of qualifications. They require examination of employment structures, unpaid care, occupational segregation, property ownership, mobility, safety, marriage and maternity.

The most recent labour-market data also require careful interpretation. Under the Current Weekly Status approach, the Periodic Labour Force Survey (PLFS) recorded an overall female labour-force participation rate (LFPR) of 32.7% for persons aged fifteen years and above in June 2026, with 36.6% in rural areas and 24.8% in urban areas. The June 2026 figure was 0.7 percentage points above that for June 2025.³ Different PLFS measures and reference periods produce different participation estimates, but the broader constitutional issue remains unchanged: women's economic presence has expanded, yet participation and economic power remain deeply gendered.

Women's empowerment must consequently be understood as a constitutional process rather than merely a welfare objective.⁴ The transition from legal equality to lived equality requires the transformation of the institutions through which power is distributed: family, property, work, education, politics, healthcare and the justice system. Constitutional equality becomes

² WORLD ECON. F., GLOBAL GENDER GAP REPORT 2025, at 38–39 (June 2025), https://www3.weforum.org/docs/WEF_GGGR_2025.pdf.

³ NAT'L STAT. OFF., MINISTRY OF STAT. & PROGRAMME IMPLEMENTATION, *Press Note on Periodic Labour Force Survey (PLFS) Monthly Bulletin, June, 2026* (July 15, 2026), <https://static.pib.gov.in/WriteReadData/specificdocs/documents/2026/jul/doc2026715921501.pdf>.

⁴ See generally Lakshmi Iyer, Anandi Mani, Prachi Mishra & Petia Topalova, *The Power of Political Voice: Women's Political Representation and Crime in India*, 4 AM. ECON. J.: APPLIED ECON. 165 (2012), <https://doi.org/10.1257/app.4.4.165> (finding that the rise in women's representation in local government after the mandated reservation of seats was followed by a large rise in documented crimes against women, driven mainly by greater reporting rather than greater incidence).

meaningful not when discrimination is merely prohibited in statutory language, but when women can make consequential choices without having to overcome disadvantages that the legal system treats as private, natural or inevitable.

II. HISTORICAL EVOLUTION: FROM SOCIAL REFORM TO EQUAL CONSTITUTIONAL CITIZENSHIP

The contemporary constitutional framework cannot be understood without recognising the historical condition from which it emerged. During the nineteenth century, the legal position of women was deeply affected by patriarchal family structures, religious and customary practices, restrictions on education, limited proprietary independence, child marriage and the severe consequences of widowhood. Early reform initiatives did not speak the modern constitutional language of autonomy or substantive equality, but they began the process of subjecting gender relations within the supposedly private sphere to public and legal scrutiny.

The abolition of sati in 1829 represented an early assertion that custom could not automatically immunise practices affecting women from legal regulation. The Hindu Widows' Remarriage Act, 1856 challenged social restrictions surrounding widowhood.⁵ Later controversies around the age of consent and child marriage generated intense debates about the relationship among community, family, colonial authority and the bodily interests of girls. Social reformers including Raja Ram Mohan Roy, Ishwar Chandra Vidyasagar, Jyotirao Phule, Savitribai Phule, Pandita Ramabai and others contributed to wider intellectual struggles concerning education, widowhood, caste, marriage and women's social position. These movements were neither uniform nor free from paternalism, but they helped destabilise the assumption that gender relations belonged exclusively to an untouchable private domain.

The emergence of organised women's movements added another dimension.⁶ Women increasingly participated in educational reform, associational activity and public political life. Organisations such as the Women's Indian Association, the National Council of Women in India and the All India Women's Conference placed questions of education, legal reform, marriage, property and political representation within organised public discourse. Women's participation in the national movement further challenged the distinction between the male public sphere and female domesticity. Sarojini Naidu, Kamaladevi Chattopadhyay, Aruna Asaf Ali, Sucheta Kripalani, Kasturba Gandhi and countless less-documented participants demonstrated that political citizenship could not plausibly remain a masculine preserve.

⁵ Bengal Sati Regulation, 1829, Reg. XVII of 1829 (India); The Hindu Widows' Remarriage Act, 1856, Act No. XV of 1856 (India).

⁶ See generally RAKA RAY, *FIELDS OF PROTEST: WOMEN'S MOVEMENTS IN INDIA* (Univ. of Minn. Press 1999).

The adoption of universal adult franchise at the commencement of the Republic was therefore profoundly important. Indian women did not have to await a later constitutional amendment granting them voting rights after independence. The Constitution recognised adult suffrage without sex-based qualification from the beginning. This placed India ahead of several democracies in the formal universality of political citizenship. Yet the subsequent underrepresentation of women in Parliament demonstrates precisely the distinction examined in this paper: the right to vote equally did not automatically produce an equal probability of becoming a legislator, party leader, minister or holder of political power.

The Constituent Assembly's constitutional design also rejected an exclusively protective conception of women. Articles 14 and 15 placed equality and non-discrimination at the centre of citizenship, while Article 15(3) permitted the State to make special provisions for women and children. The Constitution thus adopted an approach more sophisticated than absolute identical treatment. It recognised that historical disadvantage may require differential measures in order to make equality effective. Article 16 added equality of opportunity in public employment;⁷ Article 21 subsequently developed into a powerful foundation for dignity, privacy, bodily integrity and decisional autonomy. Directive Principles concerning livelihood, equal pay and maternity relief created an additional normative framework for social and economic transformation.

Post-independence legislation gradually extended this constitutional restructuring into family and property relations. The Hindu Marriage Act, 1955 transformed important aspects of marriage and divorce. The Hindu Succession Act, 1956 altered inheritance law, although full equality within the Mitakshara coparcenary required later intervention. The Hindu Succession (Amendment) Act, 2005 eventually made daughters coparceners by birth in the same manner as sons. In *Vineeta Sharma v. Rakesh Sharma*,⁸ the Supreme Court confirmed the birth-based character of that entitlement and clarified that the father need not have been alive on 9 September 2005 for the daughter to acquire the statutory right. Property equality is crucial because economic assets affect bargaining power, exit options, security and intergenerational opportunity.

The post-Constitution period also witnessed successive enactments concerning dowry, maternity, equal remuneration, sex selection, domestic violence, sexual harassment and

⁷ See generally FEMINIST TERRAINS IN LEGAL DOMAINS: INTERDISCIPLINARY ESSAYS ON WOMEN AND LAW IN INDIA (Ratna Kapur ed., Kali for Women 1996).

⁸ *Vineeta Sharma v. Rakesh Sharma*, (2020) 9 SCC 1 (India); see The Hindu Succession (Amendment) Act, 2005, No. 39, Acts of Parliament, 2005, § 3 (India) (substituting § 6 of the Hindu Succession Act, 1956).

reproductive healthcare.⁹ The historical movement is therefore visible in the language of law itself. Early reform often imagined women as subjects requiring rescue from especially oppressive practices. Constitutional law increasingly recognised them as rights-bearing individuals. Contemporary jurisprudence is now moving toward a third stage: asking whether institutions themselves must be reconstructed so that supposedly equal rules do not reproduce historically accumulated disadvantage.

This historical trajectory prevents two simplistic conclusions. The first is that law has accomplished little because inequality persists; that would overlook enormous transformation in women's formal status and social possibilities. The second is that equality has been achieved because discriminatory laws have been abolished; that would confuse normative change with social transformation. The history of women's empowerment in India is better understood as an unfinished constitutional transition in which each enlargement of legal equality exposes deeper structures that must next be addressed.¹⁰

III. THE CONSTITUTIONAL ARCHITECTURE OF WOMEN'S EQUALITY: ARTICLES 14, 15, 16 AND 21

Article 14 is the constitutional starting point of gender equality, but its modern meaning extends beyond the proposition that men and women must always be treated identically. Equality before law restrains arbitrary differentiation, while equal protection requires attention to materially different circumstances. This second dimension becomes particularly important where women have been historically excluded from institutions or made disproportionately responsible for reproductive and care work. Treating people identically after decades of unequal opportunity may preserve rather than eliminate inequality.

Article 15 gives this principle a specifically gendered constitutional form. Article 15(1) prohibits discrimination by the State on grounds including sex, whereas Article 15(3) authorises special provisions for women and children. Rather than constituting an exception inconsistent with equality, Article 15(3) can operate as an instrument of substantive equality where measures respond to historical or structural disadvantage. Reservations in political institutions, maternity measures, protective mechanisms against sexual harassment and measures facilitating

⁹ See generally Flavia Agnes, *Protecting Women against Violence? Review of a Decade of Legislation, 1980–89*, 27 ECON. & POL. WKLY. WS19 (1992), <https://www.epw.in/journal/1992/17/review-womens-studies-review-issues-specials/protecting-women-against-violence>.

¹⁰ See generally Naila Kabeer, *Resources, Agency, Achievements: Reflections on the Measurement of Women's Empowerment*, 30 DEV. & CHANGE 435 (1999), <https://doi.org/10.1111/1467-7660.00125>.

educational participation can therefore be examined not simply as special concessions but as mechanisms aimed at equal citizenship.

Article 16 extends constitutional equality to public employment. The history of women's litigation in public service illustrates the evolution of Indian equality doctrine. In *C.B. Muthamma v. Union of India*,¹¹ the Supreme Court confronted service conditions reflecting assumptions about marriage and women's careers in the foreign service. *Air India v. Nergesh Meerza*¹² exposed discriminatory employment rules governing air hostesses, although aspects of early equality jurisprudence remained tied to conventional ideas of sex differentiation. The major conceptual movement came later through cases such as *Anuj Garg v. Hotel Association of India*,¹³ where the Court questioned exclusionary "protective" legislation and emphasised that the State cannot build employment policy upon stereotypes concerning women's vulnerability.

The constitutional doctrine developed further in *Secretary, Ministry of Defence v. Babita Puniya*.¹⁴ The Supreme Court rejected arguments rooted in stereotypes regarding women's physiological features, domestic obligations and military suitability while directing that eligible women Short Service Commission officers be considered for permanent commission. The judgment represented a shift from asking whether women can be accommodated within male-defined institutions to asking whether exclusion itself rests upon constitutionally impermissible assumptions. The later decision in *Lt. Col. Nitisha v. Union of India*¹⁵ deepened this jurisprudence by recognising indirect discrimination. Neutral criteria may perpetuate historical disadvantage when the institutional circumstances that produced performance records, assignments and professional opportunities were themselves unequal.

Article 21 has simultaneously transformed the constitutional understanding of women's personhood. Its protection of life and personal liberty has developed to include dignity, privacy, bodily integrity, intimate decision-making and reproductive choice. In *Suchita Srivastava v. Chandigarh Administration*,¹⁶ reproductive choice was linked with personal liberty. *K.S. Puttaswamy v. Union of India*¹⁷ strengthened the constitutional foundation of privacy and decisional autonomy. *Joseph Shine v. Union of India*¹⁸ invalidated the adultery offence and

¹¹ *C.B. Muthamma v. Union of India*, (1979) 4 SCC 260 (India).

¹² *Air India v. Nergesh Meerza*, (1981) 4 SCC 335 (India).

¹³ *Anuj Garg v. Hotel Ass'n of India*, (2008) 3 SCC 1 (India).

¹⁴ *Sec'y, Ministry of Def. v. Babita Puniya*, (2020) 7 SCC 469 (India).

¹⁵ *Lt. Col. Nitisha v. Union of India*, (2021) 15 SCC 125 (India).

¹⁶ *Suchita Srivastava v. Chandigarh Admin.*, (2009) 9 SCC 1 (India).

¹⁷ *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1 (India).

¹⁸ *Joseph Shine v. Union of India*, (2019) 3 SCC 39 (India).

rejected a legal structure that treated women within marriage through proprietary and paternalistic assumptions. *Shafin Jahan v. Asokan K.M.*¹⁹ affirmed the constitutional significance of choosing one's partner. *X v. Principal Secretary, Health and Family Welfare Department, Government of NCT of Delhi*²⁰ interpreted the Medical Termination of Pregnancy framework in a manner that refused to make marital status a barrier to reproductive healthcare. The combined operation of Articles 14, 15, 16 and 21 has consequently transformed gender constitutionalism. Equality cannot be isolated from liberty. A woman cannot be genuinely equal if she lacks authority over her body, profession, intimate relationships, property or reproductive choices. Conversely, choice itself cannot be understood abstractly. A decision made under severe economic dependence, fear of violence or absence of institutional alternatives may be legally voluntary while being socially constrained. Lived constitutionalism therefore asks not only whether the State formally permits a choice, but whether conditions exist that make that choice realistically exercisable.

The Directive Principles add a social dimension to this constitutional architecture. Article 39 directs the State toward adequate means of livelihood and equal pay; Article 42 calls for just and humane conditions of work and maternity relief; Article 51A(e) identifies renunciation of practices derogatory to the dignity of women as a fundamental duty. These provisions reveal that the Constitution did not conceive equality merely as non-interference. The social order itself was expected to change.

Modern substantive-equality doctrine brings these strands together. It asks whether disadvantage is individual, institutional or systemic; whether rules rest on gender stereotypes; whether apparently neutral standards disproportionately burden historically disadvantaged groups; and whether affirmative interventions are necessary to make constitutional opportunity real. The Supreme Court's 2026 jurisprudence has increasingly articulated precisely this approach. In *Dr. Jaya Thakur v. Government of India*,²¹ for example, menstrual hygiene was treated not as a peripheral welfare matter but as a condition affecting girls' equal access to education. Equality in the twenty-first century is therefore becoming an inquiry into the material conditions through which citizenship is experienced.

¹⁹ *Shafin Jahan v. Asokan K.M.*, (2018) 16 SCC 368 (India).

²⁰ *X v. Principal Sec'y, Health & Fam. Welfare Dep't, Gov't of NCT of Delhi*, (2023) 9 SCC 433 (India).

²¹ *Dr. Jaya Thakur v. Gov't of India*, 2026 INSC 97, ¶¶ 44–53 (India).

IV. JUDICIAL CONSTRUCTION OF WOMEN'S AGENCY: FROM PROTECTION TO AUTONOMY AND STRUCTURAL EQUALITY

The Supreme Court's gender jurisprudence reflects a gradual conceptual movement from protection toward autonomy. Protection remains necessary where women face violence, exploitation and discrimination; the difficulty begins when protection is based on an assumption that women are inherently dependent, weak or incapable of making decisions.²² Constitutional empowerment requires protection against coercion without converting protection itself into paternalism.

The decision in *Vishaka v. State of Rajasthan*²³ was transformative because it reframed workplace sexual harassment as a constitutional issue. Sexual harassment was not merely misconduct affecting an individual employee; it interfered with equality, dignity and the freedom to work. In the absence of specific legislation, the Supreme Court formulated the *Vishaka* Guidelines, which later provided the foundation for the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.²⁴ The case illustrated an important principle of lived equality: opening a workplace formally to women is insufficient if the institutional environment subjects them to sexual intimidation or humiliation.

The Court's autonomy jurisprudence increasingly challenged the idea that family or community authority can substitute its judgment for a woman's own choices.²⁵ *Shafin Jahan* placed intimate choice within constitutional liberty. *Joseph Shine* rejected a conception of marriage in which a wife was legally situated through the interests of her husband. *Shayara Bano v. Union of India*,²⁶ while resting on different opinions and doctrinal routes, became part of the broader constitutional debate over women's dignity and equality within personal-law structures. These cases do not eliminate the complex relationship among constitutional law, religion, family and community, but they contribute to an important conceptual shift: adult women are constitutional decision-makers rather than objects around whom familial interests are organised.

Property jurisprudence similarly demonstrates why agency depends on material resources. *Vineeta Sharma* represents more than a technical interpretation of coparcenary law. Property

²² Ratna Kapur, *The Tragedy of Victimization Rhetoric: Resurrecting the "Native" Subject in International/Post-Colonial Feminist Legal Politics*, 15 HARV. HUM. RTS. J. 1 (2002), <https://journals.law.harvard.edu/hrj/wp-content/uploads/sites/83/2020/06/15HHRJ1-Kapur.pdf>.

²³ *Vishaka v. State of Rajasthan*, (1997) 6 SCC 241 (India).

²⁴ The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, No. 14, Acts of Parliament, 2013 (India).

²⁵ See generally PREM CHOWDHRY, *CONTENTIOUS MARRIAGES, ELOPING COUPLES: GENDER, CASTE, AND PATRIARCHY IN NORTHERN INDIA* (Oxford Univ. Press 2009).

²⁶ *Shayara Bano v. Union of India*, (2017) 9 SCC 1 (India).

ownership affects the economic position from which a woman negotiates marriage, separation, caregiving, entrepreneurship and old age. Formal inheritance equality is therefore an important constitutional achievement, but lived equality requires attention to whether daughters actually claim and retain property. Social pressure to execute releases, relinquishment deeds or informal family settlements in favour of male heirs can reproduce inequality despite formally equal statutory rights.

The armed-forces cases have become particularly influential because they expose structural discrimination within institutions that ostensibly select on merit. *Babita Puniya* rejected stereotypes that had helped confine women officers to limited career trajectories. *Lt. Col. Nitisha* subsequently demonstrated that equal standards can remain discriminatory if women were historically denied the assignments, command experience and career pathways from which those standards derive value. The constitutional question thus shifted from “Were the same criteria applied?” to “Were the conditions under which candidates accumulated their records themselves equal?”

That principle was powerfully developed again in *Wg. Cdr. Sucheta EDN v. Union of India*,²⁷ decided on 24 March 2026. The Supreme Court examined the position of women Short Service Commission officers in the Indian Air Force whose professional records had been generated within an institutional setting in which permanent commission had not been available to them. The Court questioned the fairness of retrospectively relying upon assessments produced under that different career structure. Most significantly for gender equality, it rejected the notion that a woman officer’s decision to become a parent could be equated with unwillingness to pursue professional advancement. The Court recognised that inadequate accommodation for pregnancy could distort assessment and career opportunity.

The significance of *Sucheta EDN* lies beyond the armed forces. Modern workplaces frequently operate around an unstated “ideal worker”: continuously available, geographically mobile, uninterrupted by pregnancy and relatively free of primary caregiving responsibilities. Because unpaid care is not equally distributed, facially neutral expectations can produce gendered consequences. Substantive equality does not require the abandonment of professional standards. It requires institutions to distinguish genuine occupational requirements from criteria that reward conformity to a historically masculine life pattern.

Reproductive jurisprudence has similarly evolved from medical paternalism toward decisional autonomy. *Suchita Srivastava* recognised reproductive choice as part of personal liberty. *X v.*

²⁷ *Wg. Cdr. Sucheta EDN v. Union of India*, 2026 INSC 280, ¶¶ 10–16, 31–32 (India).

Principal Secretary refused to interpret abortion access through a narrow marital-status distinction. This body of law is important because reproductive freedom affects education, employment, bodily integrity and economic life simultaneously. A constitutional order cannot plausibly treat women as equal citizens in the public sphere while denying them meaningful authority over reproductive decisions in the private sphere.

A striking extension of this logic occurred in *Hamsaanandini Nanduri v. Union of India*,²⁸ decided on 17 March 2026. The Supreme Court examined the maternity-benefit provision applicable to adoptive mothers under the Code on Social Security, 2020. It held the restrictive three-month age condition concerning the adopted child constitutionally impermissible and read the provision so that a woman who legally adopts a child is entitled to twelve weeks of maternity benefit without that age barrier. The judgment connected adoption with reproductive decisional autonomy and treated maternity protection as related to economic independence and gender equality. It also urged the Union to recognise paternity leave as a social-security benefit, acknowledging that care must not remain legally constructed as a uniquely female responsibility.

This emerging jurisprudence suggests an important transformation in constitutional reasoning. Women's equality is increasingly measured not by whether they are permitted to enter institutions, but by whether institutional rules accommodate women as full human beings whose lives may include pregnancy, parenthood, care responsibilities and intimate choices. The law is gradually moving from the metaphor of opening doors toward the more demanding project of examining what happens after women enter.

Yet courts themselves have acknowledged that jurisprudential progress cannot substitute for social implementation. In *Shankar v. State of Rajasthan*,²⁹ the Supreme Court reflected upon the coexistence of significant legal reform with continuing crimes and patriarchal attitudes. It noted the long legislative history of measures addressing dowry, cruelty, domestic violence and workplace sexual harassment while observing that the constitutional promise of equality remains elusive for many women in everyday life. Judicial doctrine can articulate equality; lived equality ultimately requires the surrounding society and institutions to internalise it.

²⁸ *Hamsaanandini Nanduri v. Union of India*, 2026 INSC 246, ¶¶ 113, 166–169 (India); see The Code on Social Security, 2020, No. 36, Acts of Parliament, 2020, § 60(4) (India); The Maternity Benefit Act, 1961, No. 53, Acts of Parliament, 1961, § 5(4) (India) (inserted by the Maternity Benefit (Amendment) Act, 2017).

²⁹ *Shankar v. State of Rajasthan*, 2026 INSC 315, ¶¶ 14–18 (India).

V. LEGISLATIVE EMPOWERMENT AND THE ENFORCEMENT DEFICIT

Indian legislation concerning women is extensive. The central problem is increasingly not the complete absence of regulatory law but uneven enforcement, limited accessibility and the fragmentation of remedies across institutions. The Protection of Women from Domestic Violence Act, 2005 is an important illustration. It moves beyond a narrow criminal-law model by recognising physical, sexual, verbal, emotional and economic abuse and by creating residence, protection and monetary remedies.³⁰ Its significance lies in recognising that violence within the family implicates constitutional values even though it occurs within a private relationship.

The Sexual Harassment of Women at Workplace Act, 2013 similarly translated the constitutional principles of *Vishaka* into institutional obligations. Employers must establish mechanisms for prevention and redressal; Local Committees are contemplated where ordinary workplace mechanisms are unavailable. Yet the continuing judicial attention to compliance with the Act reveals an implementation gap.³¹ The need for repeated monitoring years after enactment suggests that an institution can be legally compliant on paper while its complaint mechanism remains unknown, improperly constituted, inaccessible or distrusted.

This phenomenon extends beyond the workplace. In *Amit Kumar v. Union of India*,³² although the litigation concerned equality and support systems in higher educational institutions more broadly, the Supreme Court discussed how bodies such as Equal Opportunity Cells and Internal Complaints Committees can become tokenistic where they lack independence, visibility or institutional credibility. It recognised that formal existence does not necessarily mean effective protection and that complainants may fear retaliation or suppression. This observation could almost serve as a general principle of lived constitutionalism: institutions created to enforce equality must be judged by their operation, not their organisational charts.

Reproductive legislation reflects another complicated interaction between protection, health and autonomy. The Medical Termination of Pregnancy Act, as amended, has expanded access in important respects, and constitutional interpretation has increasingly resisted artificial distinctions based on marital status. The Pre-Conception and Pre-Natal Diagnostic Techniques

³⁰ The Protection of Women from Domestic Violence Act, 2005, No. 43, Acts of Parliament, 2005, §§ 3, 18–22 (India).

³¹ The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, §§ 4, 6, 19 (India); see *Aureliano Fernandes v. State of Goa*, (2024) 1 SCC 632 (India) (directing verification that Internal Committees and Local Committees had been constituted under the 2013 Act).

³² *Amit Kumar v. Union of India*, 2026 INSC 62, ¶¶ 18–22 (India).

regime addresses sex selection and the discriminatory social preference underlying it.³³ Yet reproductive justice requires more than regulation at the moment of pregnancy. It includes access to healthcare, contraception, nutrition, privacy, information and the economic capacity to make meaningful reproductive choices.

The Bharatiya Nyaya Sanhita, 2023, which came into force on 1 July 2024, reorganised the criminal-law framework and contains specific offences concerning women and children.³⁴ Criminalisation is indispensable for serious violence, but the effectiveness of criminal law depends upon reporting, investigation, forensic capacity, legal assistance, witness support and trial quality. Increasing statutory severity cannot by itself compensate for institutional weakness. A survivor who encounters disbelief at the first point of contact, cannot afford repeated court appearances or remains economically dependent upon the person accused of violence may possess a strong legal remedy but a weak practical capacity to use it.

Maternity and social-security law illustrates the same paradox from another direction. The legal system has progressively recognised maternity protection, yet a regime focused exclusively on maternity risks reinforcing the assumption that childcare is principally a woman's responsibility. *Hamsaanandini Nanduri* is therefore important not only because it expanded an individual maternity entitlement but because its discussion of paternity leave gestures toward a structural solution. Gender equality at work requires redistribution of care, not merely protection for women who perform it.

An enforcement-centred approach requires a different understanding of legislative success. The number of cases registered under a statute is not, by itself, a reliable indicator either of success or failure. Increased reporting may reflect greater confidence; low reporting may conceal barriers. Likewise, establishment of committees does not prove accessibility.³⁵ Lived equality requires qualitative questions: whether women know their rights; whether procedures are understandable; whether officials are trained; whether remedies arrive in time; whether orders are enforced; whether complainants are protected against retaliation; and whether marginalised women can use the system on equal terms.

The future of women's legal empowerment thus lies partly in a transition from law-making to law-working. India has accumulated a substantial normative architecture. The next

³³ The Medical Termination of Pregnancy Act, 1971, No. 34, Acts of Parliament, 1971 (India), *as amended by* The Medical Termination of Pregnancy (Amendment) Act, 2021, No. 8, Acts of Parliament, 2021 (India); The Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994, No. 57, Acts of Parliament, 1994 (India).

³⁴ The Bharatiya Nyaya Sanhita, 2023, No. 45, Acts of Parliament, 2023, ch. V (India) (in force from July 1, 2024).

³⁵ See generally RAJESWARI SUNDER RAJAN, *THE SCANDAL OF THE STATE: WOMEN, LAW, AND CITIZENSHIP IN POSTCOLONIAL INDIA* (Duke Univ. Press 2003).

constitutional task is to ensure that legal institutions operate with sufficient independence, sensitivity, accessibility and resources to transform those norms into everyday security and agency.

VI. ECONOMIC AND POLITICAL EMPOWERMENT: THE UNEQUAL DISTRIBUTION OF OPPORTUNITY AND POWER

Economic independence is not synonymous with empowerment, but empowerment is difficult to sustain without economic capability. Income, property, employment and social security determine the conditions under which women can make decisions, resist coercion or leave abusive relationships. A woman may have a constitutional right to personal liberty but remain practically constrained if exercising that liberty entails destitution. Economic equality is therefore not peripheral to constitutional freedom; it is one of its material foundations.³⁶

Recent labour-market statistics show both change and continuing inequality. The June 2026 PLFS Monthly Bulletin recorded female LFPR at 32.7% under the Current Weekly Status approach, with rural female participation at 36.6% and urban female participation at 24.8%. The overall figure was higher than in June 2025, but the rural-urban difference remained substantial.³⁷ The PLFS Annual Report 2025, which uses usual-status measures for its annual estimates, also documented changes in women's employment patterns.³⁸ These differences in statistical methodology caution against simplistic use of a single participation percentage, but every major measure confirms that women's economic participation remains an important site of gender inequality.

The World Economic Forum's 2025 findings provide another perspective. India's 97.1% educational-attainment parity existed alongside only 40.7% parity in economic participation and opportunity.³⁹ The gap between educational achievement and economic outcomes should be treated as a constitutional warning. It suggests that the pipeline from education to economic power is interrupted by structural factors, care responsibilities, labour-market discrimination, occupational segmentation, limited mobility, workplace safety concerns, maternity-related career penalties and unequal ownership of productive assets.

³⁶ See generally Sandra Fredman, *Substantive Equality Revisited*, 14 INT'L J. CONST. L. 712 (2016), <https://doi.org/10.1093/icon/mow043>.

³⁷ NAT'L STAT. OFF., *supra* note 3.

³⁸ PRESS INFO. BUREAU, MINISTRY OF STAT. & PROGRAMME IMPLEMENTATION, *Periodic Labour Force Survey (PLFS) Annual Report, 2025 [January, 2025 – December, 2025]* (Mar. 27, 2026), <https://www.pib.gov.in/PressReleasePage.aspx?PRID=2246009>.

³⁹ WORLD ECON. F., *supra* note 2, at 39.

Unpaid care is particularly important because conventional economic measures often place it outside visible production even though paid employment depends upon it. Cooking, cleaning, childcare, elder care and household management require time. Where these responsibilities fall disproportionately upon women, equality in the labour market begins from unequal temporal resources.⁴⁰ The answer cannot simply be to tell women to “participate” more. Public childcare, parental leave, flexible yet secure employment, care services, safe transport and social-security coverage are equality infrastructure.

Political empowerment reveals a similar gap between formal citizenship and institutional power. Constitutional reservations under Articles 243D and 243T transformed local democracy by guaranteeing women seats in Panchayats and Municipalities. By March 2026, India had more than 14.5 lakh elected women representatives in Panchayati Raj Institutions, around 46 per cent of all elected PRI representatives. During 2025–26, more than 7.18 lakh women representatives were reported to have received training, while 744 Model Women-Friendly Gram Panchayats had been identified across States and Union Territories.⁴¹ These figures represent one of the world’s largest experiments in constitutionally facilitated women’s political participation.

National representation, however, remains much lower. Seventy-five women sit in the Eighteenth Lok Sabha (seventy-four returned at the 2024 general election and one at a subsequent by-election), approximately 13.8% of the House.⁴² This contrast between local and national representation demonstrates the power of institutional design. When constitutional reservation creates entry pathways, women participate in large numbers. Where candidate selection remains substantially mediated through conventional party structures and political networks, representation remains considerably lower.

The Constitution (One Hundred and Sixth Amendment) Act, 2023, commonly associated with the Nari Shakti Vandan Adhiniyam, represents a potentially transformative response. It provides for one-third reservation for women in the Lok Sabha, the State Legislative Assemblies and the Legislative Assembly of Delhi, subject to its constitutionally prescribed implementation

⁴⁰ See PRESS INFO. BUREAU, *supra* note 38 (reporting that 44.4% of women outside the labour force in 2025 cited child care or personal commitments in home-making as the main reason).

⁴¹ INDIA CONST. arts. 243D, 243T; PRESS INFO. BUREAU, MINISTRY OF PANCHAYATI RAJ, “*Sashakt Panchayat-Netri Abhiyan Places Women at the Helm of Grassroots Democracy*”: Shri Rajiv Ranjan Singh (Mar. 11, 2026), <https://www.pib.gov.in/PressReleasePage.aspx?PRID=2238655>.

⁴² Ananya Matta, *Women in Lok Sabha at 13.8%: Slow Gains, Persistent Gaps*, FACTLY (Apr. 24, 2026), <https://factly.in/women-in-lok-sabha-at-13-8-slow-gains-persistent-gaps/> (seventy-four women returned at the 2024 general election and a seventy-fifth at the Wayanad by-election); PRESS INFO. BUREAU, MINISTRY OF WOMEN & CHILD DEV., *Government Is Promoting Greater Participation of Women in Local Governance and Political Leadership Roles* (July 30, 2025), <https://www.pib.gov.in/PressReleasePage.aspx?PRID=2150216> (seventy-five women in the Eighteenth Lok Sabha); see also WORLD ECON. F., *supra* note 2, at 39 (women’s representation in Parliament at 13.8% in 2025).

mechanism. The Union Government brought the Act into force with effect from 16 April 2026, but under Article 334A the reservation takes effect only after a delimitation exercise based on the first Census taken after that commencement.⁴³ A Bill introduced in the same month to change that sequence, the Constitution (One Hundred and Thirty-first Amendment) Bill, 2026, did not secure the special majority required in the Lok Sabha.⁴⁴ The amendment therefore embodies both constitutional progress and the paper-practice distinction: the normative decision to redistribute representation has been made, while its practical effect depends upon implementation.

Political equality should nevertheless not be reduced to numerical presence. Representation matters intrinsically because democratic institutions should resemble the citizenry they govern, but lived political equality also concerns effective voice, committee roles, party leadership, control over resources and freedom from proxy decision-making or gendered intimidation.⁴⁵ Training initiatives for elected women representatives are therefore significant because the movement from occupying office to exercising authority often requires institutional support.

Economic and political empowerment consequently reinforce one another. Economic dependence can limit political participation; political representation can redirect public resources toward childcare, health, water, safety and other infrastructure that affects women's economic opportunity.^{46,47} Constitutional empowerment should therefore be understood not as a collection of isolated women-specific schemes but as a redistribution of the material and institutional conditions through which power is exercised.

⁴³ The Constitution (One Hundred and Sixth Amendment) Act, 2023, § 1(2) (India); INDIA CONST. arts. 330A, 332A, 334A; MINISTRY OF L. & JUST. (LEGIS. DEP'T), Notification S.O. 1922(E), Gazette of India, Extraordinary, pt. II, sec. 3(ii) (Apr. 16, 2026), <https://egazette.gov.in/WriteReadData/2026/271834.pdf>; *Centre Brings 2023 Women's Reservation Law into Force from April 16 Amid Parliament Debates on Amendments*, LIVE LAW (Apr. 17, 2026), <https://www.livelaw.in/top-stories/centre-brings-2023-womens-reservation-law-into-force-from-april-16-while-parliament-debates-new-amendments-530608>.

⁴⁴ The Constitution (One Hundred and Thirty-first Amendment) Bill, 2026, Bill No. 107 of 2026 (India) (introduced in the Lok Sabha on Apr. 16, 2026, and negatived on Apr. 17, 2026); PRS LEGIS. RSCH., *The Constitution (131st Amendment) Bill, 2026*, <https://prsindia.org/billtrack/the-constitution-131st-amendment-bill-2026>; Amisha Shrivastava, *Lok Sabha Rejects Constitution (131st) Amendment Bill 2026 to Increase Seats; Centre Withdraws Delimitation Bill*, LIVE LAW (Apr. 17, 2026), <https://www.livelaw.in/top-stories/lok-sabha-rejects-constitution-131st-bill-2026-on-delimitation-530736>.

⁴⁵ Lori Beaman, Raghavendra Chattopadhyay, Esther Duflo, Rohini Pande & Petia Topalova, *Powerful Women: Does Exposure Reduce Bias?*, 124 Q.J. ECON. 1497 (2009), <https://doi.org/10.1162/qjec.2009.124.4.1497>.

⁴⁶ See generally NIVEDITA MENON, *SEEING LIKE A FEMINIST* (Zubaan & Penguin Books 2012).

⁴⁷ See Raghavendra Chattopadhyay & Esther Duflo, *Women as Policy Makers: Evidence from a Randomized Policy Experiment in India*, 72 ECONOMETRICA 1409 (2004), <https://doi.org/10.1111/j.1468-0262.2004.00539.x>.

VII. CONTEMPORARY CONSTITUTIONAL DEVELOPMENTS, 2025–2026: MAKING EQUALITY MATERIAL

The most significant recent development in women's constitutional jurisprudence is the increasing judicial insistence that equality must extend to the conditions under which rights are exercised. This approach is visible across education, maternity, employment, institutional accountability and reproductive autonomy. Rather than identifying only explicit sex classifications, courts are increasingly examining structures that translate formally equal opportunity into unequal lived consequences.

Dr. Jaya Thakur v. Government of India,⁴⁸ decided on 30 January 2026, is among the clearest illustrations. The case concerned menstrual-hygiene management in schools. The Supreme Court recognised that absence of appropriate menstrual-health infrastructure can contribute to absenteeism and discontinuation of education. It connected access to sanitary facilities with dignity, health, equality and educational participation and issued directions requiring implementation by the Union, States and Union Territories.

The constitutional importance of *Jaya Thakur* lies in what the case says about the meaning of an equal right to education. Suppose two students are formally admitted to the same school, taught by the same teachers and subjected to the same attendance rules. Formal equality might see no constitutional problem. Substantive equality asks whether the physical infrastructure allows both students to use that opportunity with equal dignity. If menstruation makes attendance materially difficult because toilets, water, disposal facilities or sanitary products are unavailable, the formally identical rule operates within unequal bodily and social circumstances. Equality therefore requires infrastructure.

Hamsaanandini Nanduri v. Union of India,⁴⁹ decided less than two months later, carried the same principle into maternity and adoption. The Court invalidated the restrictive age condition that limited the statutory maternity benefit for adoptive mothers according to the age of the adopted child and linked adoption with reproductive decisional autonomy. It treated maternity protection as an instrument connected with women's economic independence rather than mere benevolent leave. Importantly, the judgment discussed the role of paternity leave in dismantling gendered assumptions surrounding care. The constitutional message is significant: workplaces cannot claim equality while organising care in a manner that systematically externalises its professional cost onto women.

⁴⁸ *Jaya Thakur*, 2026 INSC 97, ¶¶ 51–53, 110–120, 173–179.

⁴⁹ *Hamsaanandini Nanduri*, 2026 INSC 246, ¶¶ 87, 113, 155–164, 167–169.

*Wg. Cdr. Sucheta EDN v. Union of India*⁵⁰ extended structural equality into professional assessment. The Court confronted a military career system whose records had been written for officers who, when they were assessed, had no prospect of permanent commission. Its treatment of pregnancy was particularly consequential. The Court rejected any inference that becoming a parent demonstrated diminished professional ambition and recognised that failure to accommodate pregnancy could affect assessment. This is a substantial constitutional development because it interrogates not simply discriminatory outcomes but the design of the metric used to define merit.

Another important 2026 development came through *Amit Kumar v. Union of India*,⁵¹ where the Court discussed the practical failures that can afflict equality and grievance institutions in higher education. The recognition that Equal Opportunity Cells and Internal Complaints Committees can become formalistic or tokenistic if they lack genuine independence and credibility is highly relevant to women's empowerment. The decision reinforces a principle essential to this paper: institutional existence is not the same as institutional effectiveness.

The Supreme Court's observations in *Shankar v. State of Rajasthan*⁵² are even more directly aligned with the title of this research. The Court surveyed the legislative and judicial progress made in women's rights while drawing attention to continuing violence and entrenched patriarchy. It acknowledged the coexistence of constitutional guarantees, protective statutes and increasing social participation with persistent inequality in lived experience. This recognition is important because it avoids both triumphalism and fatalism. Legal reform matters, but legal reform is not self-executing.

Contemporary policy developments similarly reveal movement toward an implementation-oriented approach. In March 2026, the Ministry of Panchayati Raj reported the launch of the "Nirbhay Raho" initiative under the Nirbhaya Fund, intended to strengthen women's safety and empowerment in Panchayats, including capacity building of elected women representatives and sensitisation of male representatives.⁵³ Whether such initiatives ultimately produce measurable improvements depends upon execution, but the policy direction reflects growing recognition that numerical representation must be supported by institutional capacity and safety.

Current statistical developments also complicate simple narratives of progress. The latest available PLFS monthly figures before August 2026 showed female LFPR at 32.7% in June

⁵⁰ *Sucheta EDN*, 2026 INSC 280, ¶¶ 12–16, 31–32.

⁵¹ *Amit Kumar*, 2026 INSC 62, ¶¶ 19–22.

⁵² *Shankar*, 2026 INSC 315, ¶¶ 14–18.

⁵³ PRESS INFO. BUREAU, MINISTRY OF PANCHAYATI RAJ, *supra* note 41.

2026 under the Current Weekly Status framework, slightly above June 2025 but with a continuing rural-urban divide. The World Economic Forum's 2025 report simultaneously showed high educational parity and substantially lower economic parity. Such evidence reinforces the argument that legal and educational gains do not mechanically produce economic equality.

The contemporary constitutional agenda is therefore moving toward what may be described as material constitutionalism. Menstrual products and school toilets become equality questions. Maternity leave becomes an economic-autonomy question. Paternity leave becomes a gender-equality question. Pregnancy becomes relevant to the constitutional design of professional assessment. Complaint committees are judged by whether they function, rather than whether an employer can merely display an order constituting them. Political reservation is assessed by whether representatives can exercise power rather than simply occupy positions.

This shift is intellectually important because it rejects the false dichotomy between “major constitutional rights” and “ordinary administrative details.” For a girl who misses school because of inadequate sanitation, a toilet is constitutional infrastructure. For an adoptive mother unable to secure leave, the design of social-security legislation affects equal citizenship. For an officer whose pregnancy adversely influences career assessment, personnel policy becomes constitutional equality law. Lived equality is precisely where constitutional principle encounters everyday institutional design.

VIII. CONCLUSION: COMPLETING THE JOURNEY FROM RIGHTS TO REALITY

The Indian constitutional framework has profoundly transformed the legal status of women. From universal adult franchise and equality guarantees to property rights, workplace protections, political reservation, reproductive autonomy and expanding substantive-equality jurisprudence, women's citizenship has moved far beyond the legal structures inherited from a deeply patriarchal social order. To describe these achievements as merely “on paper” would be inaccurate. Law has changed lives, enabled claims, created institutions and altered the legitimacy of practices once regarded as natural or private.

Yet the existence of legal rights cannot itself become the measure of their success. The central challenge now lies in converting constitutional entitlement into ordinary social experience. A right becomes lived equality when exercising it no longer requires extraordinary financial resources, social defiance, repeated litigation or exceptional personal courage. The Constitution's promise is not fulfilled merely because a daughter can theoretically inherit, a woman can theoretically complain about workplace harassment or a girl can theoretically attend

school. The relevant question is whether the conditions surrounding those rights permit their effective exercise.

Recent constitutional developments demonstrate an encouraging doctrinal movement. *Jaya Thakur* recognises that educational equality depends upon menstrual dignity and infrastructure. *Hamsaanandini Nanduri* links maternity protection with autonomy and economic independence while questioning the gendered allocation of care. *Sucheta EDN* exposes the discriminatory potential of professional standards created within historically unequal systems. *Amit Kumar* questions institutions that exist formally but fail substantively. *Shankar* openly acknowledges the paradox between legal progress and persistent patriarchal realities. Together, these decisions show that Indian equality jurisprudence is increasingly concerned with outcomes, structures and lived conditions rather than formal classification alone.

The path forward therefore requires more than additional women-specific legislation. It requires rigorous implementation of existing statutes; accessible legal aid and responsive police and judicial institutions; effective workplace grievance mechanisms; universal and dignified gender-responsive public infrastructure; economic and property independence; social security for women in informal and emerging forms of employment; redistribution of unpaid care between families, employers and the State; and meaningful participation of women in political decision-making.

Political empowerment must similarly move from representation to authority. The presence of more than 14.5 lakh women representatives in Panchayati Raj Institutions demonstrates what affirmative constitutional design can accomplish. Extending meaningful representation to Parliament and State Assemblies through the constitutional reservation framework could significantly alter the architecture of public power, but implementation will determine whether the constitutional promise becomes institutional reality.

Finally, substantive equality must remain intersectional. There is no single universal experience of Indian womanhood.⁵⁴ Caste, tribe, class, disability, religion, geography, marital status, age and access to technology can multiply or transform gender disadvantage.⁵⁵ A constitutional framework committed to lived equality must therefore examine which women remain unable to access rights even when aggregate indicators improve.

⁵⁴ Nivedita Menon, *Is Feminism about 'Women'? A Critical View on Intersectionality from India*, 50 ECON. & POL. WKLY. 37 (2015), <https://www.epw.in/journal/2015/17/perspectives/feminism-about-women.html>.

⁵⁵ Uma Chakravarti, *Conceptualising Brahmanical Patriarchy in Early India: Gender, Caste, Class and State*, 28 ECON. & POL. WKLY. 579 (1993), <https://www.epw.in/journal/1993/14/special-articles/conceptualising-brahmanical-patriarchy-early-india-gender-caste>; UMA CHAKRAVARTI, *GENDERING CASTE: THROUGH A FEMINIST LENS* (Stree 2003).

The deeper constitutional lesson is that empowerment should not be understood as power graciously conferred upon women by the State or society. Women are already equal constitutional persons. The role of constitutional governance is to dismantle the structures that prevent that equality from being experienced. The transition from legal equality to lived equality will be complete only when gender ceases to determine whose education is interrupted, whose career bears the cost of care, whose property rights are socially negotiable, whose bodily autonomy requires justification, whose political voice is treated as derivative, and whose safety determines the boundaries of freedom. Until then, women's empowerment in India remains both one of the Constitution's greatest achievements and one of its most important unfinished promises.
