

INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 5 | Issue 1

2022

© 2022 International Journal of Law Management & Humanities

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

This Article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of any suggestion or complaint, please contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication at the **International Journal of Law Management & Humanities**, kindly email your Manuscript at submission@ijlmh.com.

The Women in Olive Green: Socio-Legal Analysis of Permanent Commission for Women in Indian Army

AYASHA YADAV¹

ABSTRACT

Women around the globe are fighting to make their mark in society. The defence forces of any nation is among the most prestigious organization reflecting the strength of a nation. The government of India granted women a permanent commission in the Army following judgement passed by the apex court. This decision struck down the multiple hurdles women faced while climbing the promotion ladder in defence services. The olive green uniform should not see the person donning it as a man or woman but as a soldier. This paper analyses the changing role of women in defence services. Furthermore, the impact of these changes is assessed in the backdrop of feminine jurisprudence along with various domestic and international legal developments. The changing gender roles, along with traditional and contemporary developments, are also discussed.

Keywords: Defence services, Feminism, Legal Developments, Equality, Gender roles

I. INTRODUCTION

15 January 2020, on the occasion of 72nd Army Day, a fourth-generation army officer was leading the Core of Signals contingent and won the best contingent award. What was new here was the officer- Captain Tania Shergill, the first woman officer to be a parade adjutant.² The very next month, the honourable supreme court passed a judgement- *The Secretary, Ministry of Defence vs Babita Puniya*³, granting permanent commission (PC) to women in eight more fields of the armed forces. For many, this was a fresh breeze of change symbolizing equality in the true sense, while some took it with a pinch of salt as non-combat roles are still out of the purview.

Historically Indian women, in general, were confined to four walls of the house and subjected to oppressive rules and regulations. Some of these were the practice of child marriage and sati.

¹ Author is a student at Symbiosis Law School, Pune, India.

² The Economic Times, <https://economictimes.indiatimes.com/news/defence/meet-captain-tania-shergil-the-1st-woman-republic-day-parade-adjutant/a-first/slideshow/73265177.cms> (last visited Jan. 2, 2022)

³ *The Secretary, Ministry of Defence vs Babita Puniya*. No. Civil Appeal Nos 9367-9369 of 2011. Supreme Court. 17 February 2020.

Manu confined a female to her father first, then to her husband and finally to her sons.⁴ It was a result of the years of subjugation that we have recognized very few women of valour, such as Rani Lakshmi Bai. Many more like her are lost in the pages of history. Post-independence, it was realized that the condition of women was extremely poor. Keeping the state of women in mind, the constitution-makers provided specific provisions in the constitution and granted the parliament powers to make special laws for women.

It was in the year 1992 that women were inducted into the armed forces for the first time in an independent India. This was restricted to a mere period of five years under the *Women's Special Entry Scheme (WSES)*. It was replaced by *Short Service Commission (SSC)* for women in 2006. This allowed women to serve for a 10 yr. Term with additional 4 years of optional re-employment⁵. Such term of service has been understood as detrimental to the feminist goals. It is so because the law provides benefits of pension and other post-retirement schemes only to people serving for 20 yrs. Or more. This entails that women in the short service were unable to benefit from the majority of post-retirement schemes.⁶

(A.) Research objective

The judgement created a wave of joy among the supporters of feminist ideas. Granting women PC in the armed forces was seen as a symbol of equality, which it indeed is. The decision is clearly a step towards achieving gender equality and will let many women rise up to ranks in the armed forces. This shall also inspire many young women to look up to a career in defence services.

One can argue that gender equality is not limited to a particular career rather to society as a whole. But such decisions do impact the society at large, sending messages across the world and creating a pathway for the further uplifting of women. The paper aims to analyze the impact of this decision in light of feminist jurisprudence, discussing multiple facets of the issue beforehand.

To sum up, the following questions are answered in the research paper:

1. Is the progression of women in male-dominated arenas the only way to achieve gender equality?
2. What are the judicial and legislative developments associated with the role of women

⁴Meenakshi Sharma 'Ambedkar's Feminism: Debunking the Myths of Manu in a Quest for Gender Equality Contemporary Voice of Dalit 11(1) 17–24, SAGE Publications India, 2019

⁵ Join Indian Army, <https://joinindianarmy.nic.in/entry-schemes-women.htm> (last visited Jan 05, 2022)

⁶ Department of ex-servicemen Welfare, <https://www.desw.gov.in/pensions> (last visited Jan.10, 2022)

in defence services?

3. What are the structural and legal changes required for women serving in the armed forces?

(B.) Hypothesis

The fight for gender equality is not new in India. One of the modes to achieve gender equality is removing barriers that discriminate among gender and stopping them from achieving their full potential. One such bar in the defence services of India was on the term of service for women officers. Not granting PC is a testament to the inequality of status of women. Defence services symbolize the might of a nation. Explicitly putting a bar on the services of women sends a message of their unsuitability in an institution of such importance to a country.

For a developing society such as the one of India, the granting of permanent commission to women officers is undoubtedly a step towards equality. However, it should not be considered a sole criterion to promote gender equality. Though it certainly dismantles some gender stereotypes, what it truly promotes is equality of opportunity. If the aim is gender equality, then providing equal opportunity is a means, not the end.

(C.) Method of study

The method of study for this research paper includes various **secondary data** and **literature reviews** in order to achieve a comprehensive analysis of issues. All the sources and data used for the research is available in the public domain. Greater emphasis has been made to analyze the research question from a legal and academic perspective. Various **judgements** laid down by the apex court of India with respect to women's role in the armed forces are analyzed as well.

The paper approaches the issues of women in the armed forces in a systematic manner. It is done by studying recent developments and laws related to the jurisprudence of gender equality in the defence forces. Various domestic laws along with international laws and resolutions are analyzed to draw conclusions. Among various schools of feminism, the **liberal feminist** and **cultural feminist** schools of thought are used to critically analyze the multiple dimensions of the research questions beforehand.

(D.) Literature review

In an article by Noya Rimalt titled "*When a Feminist Struggle Becomes a Symbol of the Agenda as a Whole: The Example of Women in the Military*"⁷. The author has critically analyzed the

⁷ Rimalt, Noya. "When a Feminist Struggle Becomes a Symbol of the Agenda as a Whole: The Example of

resistance against the Equal Rights Amendment (ERA) and women's induction in the military under the lens of feminist jurisprudence.

The ERA of the USA was met with its fair share of criticism. The concept of gender equality is argued to be different from gender sameness. *Liberal feminists* believe that women's inferior position can be improved only when they are given identical rights as those of men. Thus assuming gender sameness, under which ERA was to do away with special legal provisions provided to women. This assimilation of women in a male-dominated world leads to dissatisfaction among the ones with differences. Affirmative action for women is in a way highlighting the differences among the two genders.

The above example is contrasted with the Israeli take on women in defence services. In Israel, a woman named Alice Miller petitioned for women's enrolment in the Israeli air force⁸. The supreme court upheld the same, calling it a violation of women's right to equality. The author of the said Article claims that both of these cases disregard the discussions on gender differences and assume gender sameness with gender equality. This way, the only possible way to achieve equality is seen as a result of assimilating them into masculine spheres.

It is also highlighted that this is an elitist struggle, and only a few women in Israel are to relate with the same. Another argument reflected in writing is how several *cultural feminists* believe that feminism should not make women fit into existing institutions, making them function like men. Instead, institutions should be changed to provide accommodation for women.

The **limitations** of the literature are related to two broad ideas which it tries to highlight. First is *how differences should be accepted over achieving sameness and that institutions should make room to accommodate women rather than asking them to accommodate accordingly*. The said idea seems in consonance with cultural feminism. Although it may hold good on paper, it overlooks practical requirements and necessities. An area like that of defence requires a certain amount of expertise which should not be seen through the lens of being masculine or feminine. Unfortunately, a large part of society attributes physical strengths to masculinity. The fact that it is a male-dominated career should not make it a male attributed area. The qualification should be seen simply as a functional requirement for the job from a gender-neutral perspective. Anyone irrespective of their sex (or gender) possessing the required qualification should be suitable for the task.

Women in the Military." Nashim: A Journal of Jewish Women's Studies & Gender Issues, no. 6, Indiana University Press, pp. 148–64, 2003.

⁸ Miller v Ministry of Defence. No. 49(4) 94. IsrSC. 1995.

The second major argument reflected in the literature is that *masculine roles are kept at a higher pedestal than the so-called feminine ones*. This idea resonated more with liberal feminism that equality can only be achieved by the following equality on the path of men even though it aims at empowering women but are discounting the value of work performed by women in the present society. Yet again, it typecasts different career paths as masculine and feminine. Instead, the end goal should be to remove the categorization of a masculine or feminine class of careers.

However, the **paradox** lies in the fact that several feminist theories thrive on using these distinctions (masculine and feminine) as a tool to promote their ideologies. These are ideas that in themselves targets the removal of distinctions between genders. While the argument of affirmative discrimination is well accepted, it should not be kept hidden. Such typecasting of gendered roles can be eliminated when the gap of gender inequality becomes narrow. This shall certainly require more and more of the minority gender taking up jobs in the arena and thus balance the unequal statistics.

Moreover, women's enrolment in the Army should not be seen as a sole criterion to measure equality in society. Entering a male-dominated world does indicate the equal capabilities of women. It establishes the fact that the standards are still set on the basis of the male pedestal, indicating the superiority of their work while overlooking the role played by women in society. A more gender-neutral approach should be taken to diminish the differentiation in male and female-dominated sectors.

II. WHAT IS GENDER EQUALITY

In order to understand the issue beforehand, we must analyze some of the fundamental terms. According to UNESCO's *Gender Mainstreaming Implementation Framework*, 'gender equality refers to ***women and men having equal conditions for realizing their full human rights and for contributing to, and benefiting from, economic, social, cultural and political development.***' Here society values both genders equally. Whereas 'gender equity is ***the process of being fair to men and women.***' Here measures are to be put in place in order to ensure fairness compensating historical wrong done to women.⁹

Furthermore, empowerment is defined as both genders taking control of their own lives; only individuals can empower themselves. It may include assistance from various agencies

⁹ "Glossary of Terms and Concepts.", UNICEF for every child, pg-03, 2017, <https://www.unicef.org/rosa/media/1761/file/Gender%20glossary%20of%20terms%20and%20concepts%20.pdf%3E>.

nurturing such self-empowerment¹⁰. Equity is often considered as a means and equality an end. In armed forces, a stereotype prevailing for a long is that women are more peaceful and men more belligerent. Several types of research claim to prove that most men are inherently more aggressive than women.¹¹ This gendered stereotype often leads to the appointment of the person on the basis of gender rather than the one with best-suited abilities. It should ideally be a question of national security, not a feminist project.

Liberal feminism generally emphasizes the fact that there is no difference between men and women. Hence the same kind of work should be given to women. Such liberal equality can refer to equality in terms of pay, distribution of wealth, resources, opportunity and equality before the law. It is a paradox that *seeking equality to men often re-inscribes the differences*. This is due to the demand for gendered privileges, which are differentiated based on taking men as standard references.¹²

III. LEGAL CHANGES

The baton for gender equality in tri-services has always been carried on by the Indian Air Force being ahead of everyone else. As far as in the late 1960s, the organization had started recruiting women as medical officers, mainly in a non-combat role. This developed further into flying and other support roles in 1994. Moving on in 2015, women were inducted into combat roles in the form of fighter pilots¹³. Hence It won't be wrong to derive that the air force as an organization has managed to gradually diminish the barriers and distinction among the role of women and men in their organization. However, the armed forces and navy have seen recent changes, and some argue these are not complete in the absence of combat roles.¹⁴

In the *Babita Puniya* case was decided on 17 February 2020. The court granted a permanent commission to women in the armed force in 8 more fields in addition to the previous few streams. The union of India was challenging the ruling of the Delhi high court¹⁵, which held that women in SCC were entitled to PC. The government of India even proposed a separate policy for the same while limiting staff positions with a different set of requirements and

¹⁰ UNESDOC Digital Library, <https://unesdoc.unesco.org/ark:/48223/pf0000131854>, (last visited Jan. 15, 2022)

¹¹ Valenius, Johanna. "Gender Mainstreaming – What and Why?" Gender Mainstreaming in ESDP Missions, European Union Institute for Security Studies (EUISS), pp. 11–32, 2007

¹² Mesok, Elizabeth. "Sexual Violence and the US Military: Feminism, US Empire, and the Failure of Liberal Equality." Feminist Studies, vol. 42, no. 1, Feminist Studies, Inc., 2016, pp. 41–69,

¹³ Singh, Soibam, 'Indian Air Force has 110 female pilots', The Hindu, (Jan 14, 2022, 11:00 AM), <https://www.thehindu.com/news/cities/Delhi/indian-air-force-has-110-female-pilots/article32508819.ece>

¹⁴ Bouta, Tsjeard. "Gender-Specific Roles in (Ir)Regular Armies." Gender and Disarmament, Demobilization and Reintegration: Building Blocs for Dutch Policy, Clingendael Institute, , pp. 6–9, 2005.

¹⁵ Babita Puniya vs The Secretary & Anr. No. WP (C) No.1597 of 2003. Delhi High Court. 12 March 2020.

standards. All of this was proposed to apply prospectively.

Section 10 of the army act¹⁶ allows the president with the power to grant commission. Further, section 12 of the act¹⁷ provides that women shall only be eligible for enrolment in particular fields, which are permitted by the union government by way of notification. This provides a legal process for the grant of permanent commission to women by way of policy decision dated 25 February 2019.

The union government argued that the high court ruling of 2010 fails to take cognizance of Section 10 and 12 of the Army Act. Moreover, the government provided numerous gender-stereotypical arguments like combat duty being hazardous to women, maternity leave challenges, spouse posting challenges, physiological differences, management challenges to provide women soft postings and specific infrastructure. It was also put forward that the government's consideration for occupational hazards and inherent dangers of the service are not to undergo the scrutiny of judicial review¹⁸. The recommendation of the **Ajay Vikram Singh Committee** was quoted to support the argument of the permanent cadre.¹⁹

The respondents argued that the union government is discriminating against women and alleges them to have a negative impact on troops and on the unity of the organization. According to them (respondents), around 30% of women are already serving in a hostile environment in several staff posts along with assisting in combat duties. Moreover, all the arguments of government are based on the stereotypes of society, and it is time that these should be shunned. It was also claimed that the women SCC officers undergo similar training as their male (SCC) counterparts and are treated of lesser value than the jawan/JCO. A major argument put forth here was that the statistics indicate a deficiency of staff in the armed forces, yet the government are letting go of valuable well trained and experienced women officers. An extensive list of examples was quoted by the respondent to throw light on the success and competency of women in the defence services. Some of them are as follows:

- Sewa medal was awarded to Captain Ashwini Pawar and Captain Shipra Majumdar in 2007
- In naval forces, Commander Ruby Singh was the first Indian woman to lead a platoon at raj path in 1993.

¹⁶ The Army Act, 1950 § 10

¹⁷ The Army Act, 1950 § 12

¹⁸ Union of India v PK Chaudhary . No. CIVIL APPEAL NO. 3208 OF 2015. Supreme court. 15 February 2016.

¹⁹ Ministry of defence, Standing Committee on defense (2014-2015), http://164.100.47.193/Isscommittee/Defence/16_Defence_10.pdf, (last visited Jan 16, 2022)

- The first female to lead an all men contingent was in the history of India is Lieutenant Bhavana Kasturi
- Among 170 males and 57 women, Lieutenant A Divya became the sword of honour in the OTA Chennai in September 2010.
- Many women officers of the Indian Army have participated in UN Peace Keeping Force, many have been deployed in active combat areas such as in Israel, Lebanon, Syria and Ethiopia ²⁰

The bench comprising of Justice D Y Chandrachud and Justice Ajay Rastogi granted PC to women SCC officers in all 10 streams along with removing the bar on limiting their appointment to staff only. The government was given 3 months to implement the order.

IV. AFTERMATH OF JUDGEMENT

The primary objective of this judgement was to remove obstacles for women in terms of opportunities and career growth in the field of defence services. It reiterated the ideas of women empowerment in our country. The decision was also in consonance with the constitutional values. *Article 15 (1)* of the Indian Constitution²¹ speaks of no discrimination on the grounds of sex, and *Article 16(1)*²² provides for equal opportunity to all citizens in public employment. In this light, granting women permanent commission is a step towards achieving constitutional mandate and gender parity.

The first major impact of the judgement was setting up a precedent for further development. The case of Babita Puniya was extensively quoted and relied upon in the case of *Union of India v Lt Cdr Annie Nagaraja & Ors*²³, where women officers of the navy were granted permanent commission. Various legislation, such as the Army act 1950 and the Navy act 1957, was drafted at the time when women were not eligible for enrolment. Thus various provisions in the act either expressly refused the enrolment of women as per law or used terms that were gender-specific that impliedly excluded women altogether. For instance, *Section 9(2) of the Navy Act 1957*²⁴, which lays down the eligibility criteria for enrolment in the naval forces, expressly bars women for appointment subject to notification by the central government in the official gazette.

Finally, the grant of PC has been a precursor to the recent decision of opening doors of the

²⁰ Supra 2

²¹ INDIAN CONST. art 15(1)

²² INDIAN CONST. art 16(1)

²³ Union of India v Lt Cdr Annie Nagaraja & Ors. . No. Civil Appeal Nos 2182-87 . Supreme court. 2020.

²⁴ The Navy Act, 1957 § 9(2)

National Defence Academy (NDA) to women. More such decisions can be expected in future as the judiciary continues to brainstorm providing equal opportunity to women in defence services.

V. ANALYSIS

Post the decision of the supreme court; there were few arguments raised questioning the areas lacking clarity from the government. One such argument was the possibility of *reverse discrimination*. The postings in armed forces are broadly categorized into two different groups. One is called “field” postings, which involve areas along the border and where the combat role takes the lead. The other is called “peace” posting, where administration or training takes bigger roles.

The fact that women are to be considered only for non-combat posts raises several eyebrows in question. The first argument is that this can lead to lesser vacancies for the male counterpart in peace postings as they might get reserved for women alone. This may cause reverse discrimination towards men, cornering them solely to field postings. Secondly, it may also indirectly aid in the increasing **stereotype** that men are more suited in the field and women for administrative work (peace).

As far as the former argument is concerned, the vacancies for women in supporting combat roles shall also send them on field postings. Furthermore, the high number of unfulfilled vacancies and shortage of officers in the organization reduces the possibility of unequal or discriminatory distribution of types of posting. While the latter argument may hold some ground, however, the fact that more women are being considered for support in combat roles along with changing role of women in defence services may not let such stereotypes build up. Especially when the Indian Air Force has already incorporated women as fighter pilots, there is hope for the picture to change in other services too.

Another major contention was to induct women in combat roles. There has been a constant to and fro between those in favour and those against women in core combat roles. The matter was not an issue in the above case. Moreover, the court refused to take its cognizance, considering it to be a policy matter and leaving it up to the defence institution to decide. It is indeed true that women in India have no dearth of ability and skills. The idea of women in combat forces is not new to India; an example of this was the Rani of Jhansi regiment composed by Subhash Chandra Bose in the INA. It was a female infantry battalion that participated in world war II.²⁵

²⁵ Ateendriya Gupta, Women in command: Remembering the Rani of Jhansi Regiment, The Hindu, (Jan 20,2022, 02:00 PM) <https://www.thehindu.com/society/history-and-culture/women-in-command-remembering-the-rani->

Post-independence women were not allowed in the armed forces. There are various socio-cultural factors related to inducting women in combat roles, requiring full-fledged separate research itself. Limiting the analysis to the object of the paper, it can be said that the judgement has laid down another stepping stone in developing the role of women in the armed forces.

VI. SOCIAL CHANGES

A mere black and white order cannot be enough to shatter the age-old patriarchal system. A change is required in the mindset of society at large. Such changes in ideologies do not take place overnight but take time. Some of the social aspects in question are discussed in this section.

For instance, the psychology of troops is one argument given on numerous accounts. These troops who come from rural areas and have less educational qualifications are argued as unable to take orders from a female officer. This can be countered by giving an example of the Indian police forces where female IPS officers are obeyed and respected by the havildars and other junior colleagues who also come from similar rural backgrounds. The police forces maintain domestic security and often face a dire, life-threatening situation. Indeed, the premise and operating field of the armed forces are distinct from the police service, but the nature of the challenges have similarities. Respecting gender equality is a progressive value and, by all means, a virtue that the soldiers should learn and honour.

Another important argument is that if a woman gets killed in action during field postings, it shall create social turmoil and unrest in society. To this, the author argues that for protecting the borders, one must not rely on a man or a woman but a soldier. The fact that there is fear of social unrest on the death of a female soldier speaks of a larger social bias that considers women as someone whose life and honour has to be protected. Such patriarchal understanding of honour has long confined women under the protection of men. Unfortunately, this idea continues to manifest itself in various forms in contemporary society. Another reason why it is unacceptable for society to accept women on the border is that we do not have enough examples or role models available in society to refer to.

An analogy could be drawn again from the Indian Air Force. There was a time it was unacceptable for women to fly, let alone become fighter pilots. But gradually, policies changed. It is already discussed in this paper that from non-combat roles to flying and now to combat pilots. This gradual shift has made an earlier unacceptable role now become an acceptable

career path for a woman. Anticipating the worst and not giving them a chance would deprive society of growth and development. By all means, this growth does not have to be in the form of shock therapy but a gradual development.

VII. STRUCTURAL CHANGES

The security forces are the services with no kind of reservation; the constitution, such as *Article 335*²⁶ and various judicial presidents, emphasize that there are several services that should be solely based on merit. All the arguments of historical injustice against SC/ST are nullified, given the requirement of the defence services. Emphasizing that ability should be the only criteria required for the services. Despite no cast divide, the gender divide had persisted, which is now being slowly done away with.

The structural changes required are in terms of training and hierarchy of services. The hierarchy is bound to undergo changes as women are no longer limited to staff postings only. The men who are to be commissioned permanently train at the National Defence Academy(NDA), Indian Military Academy(IMA) and the ones for SSC train at the Officer Training Academy (OTA). Women officer's major training takes place at the OTA (Chennai), enrolment of women in NDA is still at an infancy stage. Thus it is not clear what or whether or not any kind of changes in the training of woman officers are made.

The new guidelines post the judgement mandates junior command course at the Army War College at Mhow along with revising criteria for physical assessment. The guidelines are still developing. Meanwhile, it can be assumed that the ineligibility of women in combat roles may confine them to a shorter period of training continuing in the OTA itself²⁷. In these revised standards, questions are raised over the increased physiological requirements for the Battle Physical Efficiency Test (BPET). It is argued that such standards shall render many ineligible.

The training standards for women officers are kept comparatively low to men. One argument is that it acknowledges women cadet's different needs as that of a male cadet. Multiple research claims that women, in general, are comparatively less physiologically well than men in certain areas like strength and speed (subject to several exceptions)²⁸. So if we keep similar standards, many women won't be able to perform well.

²⁶ INDIA CONST. art.335

²⁷ Man, Aman Singh Chhina, Army tweaks battle physical efficiency test policy for women, The Indian Express, (Jan 20,2022, 11:00 AM) <https://indianexpress.com/article/india/army-tweaks-battle-physical-efficiency-test-policy-for-women-6460580/>

²⁸ Baaz, Maria Eriksson, and Maria Stern. "WHORES, MEN, AND OTHER MISFITS: UNDOING 'FEMINIZATION' IN THE ARMED FORCES IN THE DRC." *African Affairs*, vol. 110, no. 441, Oxford University Press, pp. 563–85, 2011

When it comes to national security, indeed, only abilities should matter. Many argue if that is applied here, only a handful of women would be able to join the armed forces, and the number of women serving in forces may see a fall. The dilemma is that in order to achieve similar physical abilities, we must make women go through similar standards. However, if the same is done, relatively fewer women shall find their place in the service as achieving these standards may be beyond the natural ability of many.

This further leads to the question of **when is equality achieved? Is it when both the sections serve a job in equal numbers or when despite numbers, the values of equality are upheld?** Is it the lesser physical standards or the gender which is causing the debate? It must be noted that criteria such as height and weight are not consistent even while recruiting men in the armed forces. For instance, the Gurkhas, Assamese, Garhwalis etc., have varying height requirements, which are classified as ‘special physical standards’²⁹. It is done perhaps for the geographic factors impacting their genetic, physiological structure. This provides relaxation of physical standards for men across different regions. Should similar logic of genetics and physical structure apply to women, the question of lesser physical standards would not arise in the first place.

Therefore, men can have varying physical standards without compromising the requirements for defending borders, but the same reasoning does not apply to women. The women officers are planning to challenge the increased requirement of the BPET, claiming that there is no scientific data backing the same. Also, not enough training is provided for them to meet the said standards effectively. Besides the above, they also demand stringent laws to tackle issues such as sexual assault of women in the armed forces.³⁰

VIII. INTERNATIONAL BINDINGS

India has signed several international conventions committing itself to gender equality, such as the ‘*Convention on the Elimination of All Forms of Discrimination against Women*’, *The sustainable development goal 5*, which aims at achieving gender equality and empowering women. In the *Vishaka case*,³¹ the court upheld India’s commitment to international resolutions and treaties along with upholding gender equality.

Another important provision to understand the role of women in conflict and conflict resolution

²⁹ Join Indian Army, http://joinindianarmy.nic.in/writereaddata/Portal/BRAVO_NotificationPDF/Rally_Notification_Bongaigaon__Rally_wef_04_Dec_to_16_Dec_19.pdf, (last visited Jan 12,2022)

³⁰ CHOWDHRY, PREM. “Women in the Army.” *Economic and Political Weekly*, vol. 45, no. 31, *Economic and Political Weekly*, pp. 18–20, 2010.

³¹ *Vishaka and ors v. State of Rajasthan and others*. No. AIR 1997 SC. 3011. Supreme Court. 1997.

is the *Security Council resolution 1325 on Women, Peace and Security (SCR 1325)*, which was adopted on 31 October 2000³². The resolution seeks to integrate a gendered point of view by involving women in peacekeeping and conflict resolution. The SCR 1325 is criticized for presuming women as a homogenous group with a shared interest and that women shall only advocate for their own gender when incorporated. Nevertheless, it falls short of targeting the major causes in the form of socio-political and economic reasons for their underrepresentation. Instead, strategies and policies should be incorporated to work on increasing women's participation.³³

The resolution also relates women towards 'peacefulness' and to their natural tendency for peace-building, which is seen as the propagation of gender stereotypes. The resolution, along with the four *Geneva Conventions of 1949*, is widely criticized for emphasizing the victimhood nature of women. For instance, *Article 27 of the Geneva Convention (IV)*³⁴ seeks to protect women against attacks on their honour. Furthermore, *Article 76 of Additional Protocol I*³⁵ uses terms depicting women as 'objects of special respect'³⁶. Such terms echo the socially constructed norms relating to women's honour and respect relating to their inviolability.

The *2010 report of the UN Department of Peacekeeping Operations (DPKO)* observed that women serving in peacekeeping missions were well received by women and communities affected by conflict disturbances. An example of an Indian female unit under peacekeeping in Libya was quoted in the report. These units were seen as role models challenging gender stereotypes and encouraging local women to participate.³⁷

IX. CONCLUSION & SUGGESTION

The contemporary legal developments are trying to eradicate the gender gaps by removing barriers to the development of women. It can be said that prima facie, these developments are catering to a small section of women in society, given the vast population and mass illiteracy. But what makes these developments important is the social impact in terms of breaking the glass ceilings, which tries to confine women.

Many argue that as time passes, the society shall also progress to gradually accept the changing role of women. Perhaps then, it shall accept women in core combat roles. But who decides

³² OSAGI, <https://www.un.org/womenwatch/osagi/wps/#resolution>, (last visited on Jan. 19, 2022)

³³ Isha Jain, *Mainstreaming Gender Through International Institutions: Revisiting Security Council Resolution 1325*, vol 6, Centre for Women and the Law, Gender, Human Rights and Law (2019)

³⁴ Geneva Convention (IV) 1949 § 27

³⁵ Additional Protocol I to Geneva Convention, 1977 § 76

³⁶ ICRC, https://www.icrc.org/en/doc/assets/files/other/icrc_002_0321.pdf, (last visited Jan 18, 2022)

³⁷ Nduwimana Françoise, *United Nations Security Council Resolution 1325 (2000) 2019*, https://www.un.org/womenwatch/osagi/cdrom/documents/Background_Paper_Africa.pdf

when society has developed enough? The government, the armed forces or another petition filed in the court? Maybe instead of waiting for society to progress at its own pace, examples must be set to make it a new norm. It is only when society has enough role models to look up to that normalization happens.

One's abilities should be the foremost requirement to serve in an arena such as the armed forces, not a gender. Women should not be discriminated against in job opportunities and promotions. At the same time, they should also not be given a role in the services merely to satisfy feminist beliefs. Abilities should be a criterion over any gender requirements.

The broader aim should be to demolish the genderization of services as masculine and feminine. This can be achieved when women are increasingly participating. With the permanent commission, the training regime must be enhanced to achieve the best out of the women officers. This shall guide them to realize their full potential and meet required standards. The number of vacancies for women should be enhanced (given the already unfulfilled vacancies) along with improved infrastructure for catering to their specific needs.

Gender role and feminine jurisprudence is an ever-evolving arena. Often the social norms prevalent during the period defines the characteristics of this development. The current period sees the global world becoming more and more liberal, with freedoms and equality as core values. As society develops further, many more changes are expected to be welcomed in order to achieve the goal of equality.
