

# Quest for an equal pedestal

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**By enforcing legislations aimed at ensuring gender parity for single women, government can fulfil its constitutional obligations; write Amit Upadhyay & Abhinav Mehrotra**

BY [Amit Upadhyay & Abhinav Mehrotra](#) 26 Nov 2022 2:31 AM



As per the recent Supreme Court judgment in the case of X v. The Principal Secretary, Health and Family Welfare Department, Govt. of NCT of Delhi & Anr., all women, including those not married and persons other than cis-gender women, have equal rights to abortion and observed that the law should not decide the beneficiaries of a statute based on narrow patriarchal principles about what constitutes "permissible sex", creating classifications excluding groups based on their personal circumstances.

The significance of the judgment needs to be understood by the 73 million single women living in India. While doing so, we need to understand the position of single women in the pre-independence period and the steps taken to ensure the constitutional rights of single women after independence including the existing legislations and case laws that aim to safeguard such rights and the possible way forward for the future.

The preamble of our Constitution aims to establish a society ensuring justice and equality for all citizens. The term "We the people of India" also includes women because in the pre-independence period women faced discrimination at the hands of the colonizers and carried an inferior status below men in society. Such a situation existing at that time can be ascertained from the statement of Mahatma Gandhi, Father of the Nation, who was of the opinion that "the sole occupation of a woman amongst us is supposed to be to bear children, to look after her husband and otherwise to drudge for the household. This is a shame. Not only was the woman condemned to domestic slavery, but when she went out as a labourer to earn wages, she was paid less, though she worked harder than men"

This made the men realize that the goal of independence could only be achieved when women enjoyed equal rights and full participation in the national struggle for independence. Consequently, the women came out of their homes, but it could not by itself bring about a substantial change, and more so for single women who were still confined within their homes. To bring such change, legal rights were essential and, as a result, many post-independence constitutional provisions were included to ensure the rights of women such as Article 15 of the Constitution which provides a specific constitutional prohibition against discrimination on grounds of sex, among others. Also, clause 3 of this article provides the power to the state for making special provisions for women and children.

In this light, from a judicial perspective, *The Secretary, Ministry of Defence vs Babita Puniya & Ors.* that provides equal opportunity to women in the army and equal treatment with men counterparts engaged in Short Service Commissions (SSC) in seeking parity to obtain Permanent Commission is an important landmark judgment for women and especially single women. This judgment has been hailed as a victory for women officers in their fight against gender discrimination as well as enforcement of their right to equality of opportunity and equal access to appointment and engagement in the Indian army, as recognized under Article 16 of the Constitution. While delivering this judgment, the division bench comprising Justice DY Chandrachud and Justice Ajay Rastogi emphatically stated that the time has come for a realization that women officers in the Army are not adjuncts to a male-dominated establishment whose presence must be 'tolerated' within narrow confines".

From a comparative perspective, the US is a similar example. Although women have been serving in the military since 1901 there, their role was confined to cooks and nurses during the 18th and 19th centuries. Their defence policy restricted women from serving in combat till 2015 despite their equal participation in both the World Wars and Vietnam, but their role was not for peace times.

This kind of thought process has been challenged by the UN by observing that women peacekeepers broaden the range of skills and capacities among all categories of personnel, enhance the operational effectiveness of all tasks and improve the mission's image, accessibility, and credibility vis à-vis the local population. Such an approach may also act as a guide for India in the years ahead to enhance the role of women in the army.

However, there continue to exist violations of the rights of single women, one such form is the social menace of child marriage. It assumes significance because, despite the Prohibition of Child Marriage Act, of 2006, child marriages continue to take place, thus violating the freedom of choice and opportunities for single women and may subject them to domestic violence. The root of the issues is the violation of a woman's bodily integrity and accompanying rights like the right to education and the right to health ensured through Article 21 of the Constitution. As a result, she suffers from what is known as Type II trauma—exposure based on traumatic events, adversities, and day-to-day stressors. By safeguarding her dignity, the girl child will have an increased awareness of her rights and privileges and the duties of their parents or guardians towards them.

Recently, the government has brought measures like increasing the age of a girl child to 21 for marriage which is yet to take the form of a law, the government needs to think how the impact of the proposed bill on various aspects of a single women's lives, whether the orthodox mindset of obtaining 'just enough' education be rectified by bringing in such a change and whether it will ensure equal educational opportunities for women as education is not only a human right but also a powerful tool for women's empowerment and education will also increase their share in the labour market.

Going forward, the state needs to ensure the overall development of women including single women as stated under Article 51 A (e) of the Constitution which deals with renouncing practices that are derogatory to the dignity of women.

*Views expressed are personal*



**Amit Upadhyay & Abhinav Mehrotra**

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