



# The Role of International Instruments in Advancing Women's Rights in India: Judicial and Legal Responses

 Neeyajudeen<sup>1\*</sup>  Dr. Fasih Raghib Gauhar<sup>2</sup>  Mohd Fareed<sup>3</sup>

<sup>1</sup>Research Scholar of Department of Political science, Aligarh Muslim University

<sup>2</sup>Associate Professor of Department of Political science, Aligarh Muslim University.

<sup>3</sup>Research Scholar, Department of Political science, Aligarh Muslim University.

DOI: <https://doi.org/10.70333/ijeks-04-10-005>

\*Corresponding Author: [gk4413@myamu.ac.in](mailto:gk4413@myamu.ac.in)

Article Info:- Received : 19 July 2025

Accepted : 25 August 2025

Published : 30 August 2025



This paper examines how international instruments, primarily the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), have influenced India's legal order in advancing women's rights. It analyses constitutional provisions, landmark judicial responses, and legislative enactments that align with international norms, while scrutinizing the persistent challenges posed by reservations, personal laws, and implementation gaps. Using case law analysis and selected indicators (parliamentary representation, labor force participation, and crime data), the paper assesses impact and proposes practical, institutionally grounded recommendations with a focus on judicial and legislative solutions. Findings show meaningful but uneven domestication of international standards; progress depends on harmonization of personal laws, capacity building, accountability mechanisms, and sustained representation of women within institutions of justice and governance.

**Keywords:** *International Instruments; Women's Rights; Judicial Responses; Legislative Responses.*



© 2025. Neeyajudeen et al., This is an open access article distributed under the Creative Commons Attribution License (<https://creativecommons.org/licenses/by/4.0/>), which permits unrestricted use, distribution, and reproduction in any medium, provided you give appropriate credit to the original author(s) and the source, provide a link to the Creative Commons license, and indicate if changes were made.

## 1. Introduction

Women's rights, long marginalized within traditional legal systems, have gained prominence as fundamental human rights within the international order (**Charlesworth & Chinkin, 1993**). Instruments such as the Universal Declaration of Human Rights (**United Nations [UN], 1948**), the Convention on the Elimination of

All Forms of Discrimination against Women (**UN, 1979**), the International Covenant on Civil and

Political Rights (**UN, 1966a**), and the International Covenant on Economic, Social and Cultural Rights (**UN, 1966b**) have created binding and normative obligations for states to eliminate discrimination. India's constitutional framework already entrenches principles of equality and dignity

([Constitution of India, arts. 14, 15, 21](#)), yet it is the interaction with international law that has often catalysed progressive judicial and legislative action. From a theoretical perspective, the incorporation of international law in India reflects elements of both monism and dualism ([Baxi, 2006](#)). While treaties require legislative enactment to become binding domestically, the Indian judiciary has consistently treated ratified instruments as persuasive authority, particularly where domestic law is silent ([Apparel Export Promotion Council v. A. K. Chopra, 1999](#)). This dual dynamic allows international law to influence constitutional interpretation without displacing parliamentary sovereignty. This paper explores how international instruments have shaped India's gender justice framework through judicial interpretation and legislative enactment. It also examines the persistent friction created by reservations to CEDAW ([Articles 2, 9, 16](#)), religious personal laws, and cultural pluralism ([Agnes, 2011](#)). The study aims to present practical judicial and legislative pathways for enhancing women's rights in India.

## 2. Literature Review

Scholars have presented diverse perspectives on India's engagement with international women's rights frameworks. [Agnes \(2011\)](#) highlights that legislative reforms often bypass personal law domains, leaving deep-seated gender disparities unresolved. [Sarkar \(1993\)](#) critiques the piecemeal nature of reforms, emphasizing that patriarchal structures undermine the constitutional promise of equality. [Baxi \(2006\)](#) underscores the judiciary's creative use of international law, particularly in *Vishaka v. State of Rajasthan* (1997), where CEDAW was invoked to fill a legislative gap. Beyond India, comparative experiences demonstrate both possibilities and constraints. In [S v. Jordan \(2002\)](#), the South African Constitutional Court referenced CEDAW and the African Charter to strike down discriminatory practices. In *Bangladesh National Women Lawyers' Association v. Government of Bangladesh* (2009), the Supreme Court invoked CEDAW principles in workplace harassment cases, echoing India's *Vishaka* precedent. Canada's Charter jurisprudence also illustrates how constitutional rights can be interpreted consistently with international commitments ([Boyd, 2004](#)). These comparisons

highlight that India's approach is progressive but still selective compared to global peers. More recent work connects international law to the Sustainable Development Goals (SDGs), arguing that legal reforms must integrate socioeconomic initiatives for gender equality ([Sen, 2022](#)). Critics also stress India's reservations to CEDAW as a key limitation, insulating family law from reform despite repeated recommendations by the CEDAW Committee ([UN, 2015](#)). Theoretical contributions further deepen understanding. Liberal feminist theory explains how CEDAW advances formal equality, while radical feminist perspectives critique the persistence of patriarchal structures in personal laws. Intersectional feminism emphasizes how caste, class, and religion compound discrimination against women in India. Postcolonial feminists such as Ratna Kapur and Nivedita Menon argue that universal frameworks often reflect Western liberal assumptions, creating friction in plural societies like India. Taken together, the scholarship demonstrates both the transformative potential and structural limits of international law in India's pursuit of gender justice, underscoring the need for sustained comparative, feminist, and critical engagement.

## 3. International Frameworks For Women's Rights

The international legal framework for women's rights is rooted in a broad set of instruments developed under the United Nations system to promote equality, non-discrimination, and protection of human dignity. The Universal Declaration of Human Rights ([UN, 1948](#)) serves as the cornerstone, affirming that "all human beings are born free and equal in dignity and rights." Although not legally binding, the UDHR established the foundation for subsequent treaties and conventions, embedding principles of equality between men and women as universal norms. Building upon this, the ICCPR ([UN, 1966a](#)) and ICESCR ([UN, 1966b](#)) gave binding force to many of the UDHR's provisions. Article 3 of both covenants explicitly obliges States to ensure equal rights for men and women in the enjoyment of all civil, political, economic, social, and cultural rights. The most comprehensive instrument addressing women's rights is CEDAW ([UN, 1979](#)), often described as the international bill of rights for women. CEDAW requires States parties to eliminate discrimination in all spheres of life,

including political participation, education, employment, health care, and family relations. Its monitoring body, the CEDAW Committee, examines periodic reports and issues recommendations to advance compliance. CEDAW's Optional Protocol (UN, 1999) further strengthens the framework by allowing individual complaints. Other instruments complement this framework. The Declaration on the Elimination of Violence against Women (UN, 1993) recognized gender-based violence as a human rights violation. Similarly, the Beijing Declaration and Platform for Action (UN, 1995) provided a comprehensive policy agenda for governments to promote gender equality.

#### 4. Constitutional and Legislative Frameworks In India

The Constitution entrenches equality before the law and prohibits sex-based discrimination (Constitution of India, arts. 14–16). Article 21's guarantee of life and personal liberty has supplied a foundation for gender-sensitive jurisprudence. Directive Principles (arts. 39, 42) and Article 51A(e) reinforce the State's role in renouncing practices derogatory to women's dignity. Legislative measures reflecting international influence include the Equal Remuneration Act (1976); the Protection of Women from Domestic Violence Act (2005); the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act (2013); amendments strengthening rape laws post-2012; and the Maternity Benefit (Amendment) Act (2017).

#### 5. Judicial Responses In India

Indian courts have been central to incorporating international women's rights norms into domestic law. In *Vishaka v. State of Rajasthan* (1997), the Supreme Court invoked CEDAW (UN, 1979) to frame workplace harassment guidelines. In *Apparel Export Promotion Council v. A. K. Chopra* (1999), the Court linked sexual harassment to dignity and equality. Other judgments such as *Githa Hariharan v. Reserve Bank of India* (1999), *Seema v. Ashwani Kumar* (2006), and *Joseph Shine v. Union of India* (2018) significantly advanced women's rights in India in line with CEDAW and constitutional guarantees. Collectively, these judgments strengthened women's rights in guardianship, marriage, and personal liberty.

#### 6. Impact Assessment

Articles 7 and 8 of CEDAW (UN, 1979), together with Article 25 of the ICCPR (UN, 1966a), address political representation. Article 11 of CEDAW and ILO Convention No. 100 focus on workforce participation (International Labour Organization, 1951). Articles 2 and 5 of CEDAW, reinforced by General Recommendation No. 19, address violence against women (UN, 1992). India's representation in the Lok Sabha rose to 78 women members in 2019 but declined slightly in 2024 (Election Commission of India, 2024). Female labor force participation remains at approximately 27 percent (World Bank, 2025). NCRB data report over 450,000 cases of crimes against women annually (National Crime Records Bureau, 2022). Comparative indices reinforce these disparities. The UNDP Gender Inequality Index (2023) and the World Economic Forum Global Gender Gap Report (2024) rank India comparatively low, while Rwanda and Nepal perform better due to institutional integration of gender equality norms.

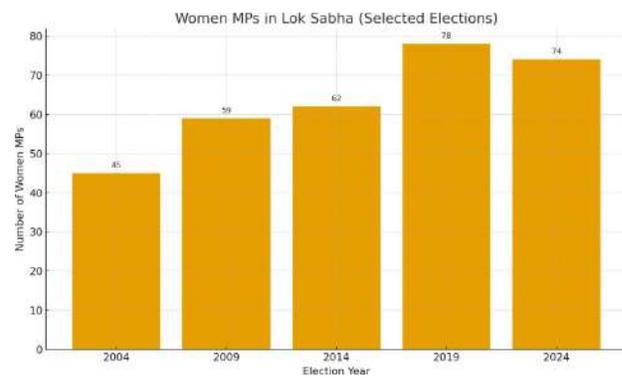


Figure 1. Election Commission of India. (2024). Statistical Report on General Elections to the 18th Lok Sabha.

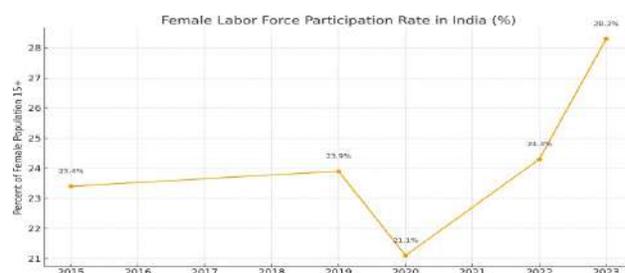


Figure 2. Female Labor Force Participation Rate (India). Source: World Bank (modeled ILO estimates). Values indicative; update with latest series for precision.

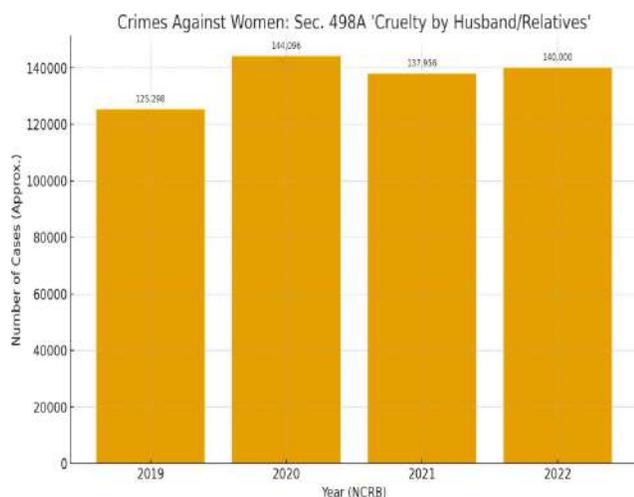


Figure 3. Crimes Against Women – Sec. 498A ‘Cruelty by Husband/Relatives’ (Approximate counts). Source: NCRB ‘Crime in India’ reports.

## 7. Challenges and Gaps

Despite constitutional guarantees and the ratification of major international instruments such as CEDAW (United Nations [UN], 1979), several barriers undermine the realization of women’s rights in India. Reservations to CEDAW allow discriminatory personal laws to persist, while patriarchal norms discourage women from reporting violence and discrimination. NCRB data confirm widespread underreporting (National Crime Records Bureau [NCRB], 2022), and NFHS surveys reveal that many women normalize domestic violence, reflecting deep cultural barriers. Institutional weaknesses remain stark. Protection Officers under the Domestic Violence Act (2005) are underfunded, Internal Committees under the POSH Act (2013) lack independence, and courts remain overburdened with delays. Marginalized women like Dalit, Adivasi, Muslim, and rural women face compounded disadvantages, showing the urgent need for intersectional approaches. From a feminist standpoint, these challenges reveal that international law cannot be transformative without structural change (Charlesworth & Chinkin, 1993). Radical feminists argue that patriarchy embedded in personal law undermines constitutional equality, while intersectional scholars highlight how caste, class, and religion intensify inequalities. Comparative evidence shows that countries like Rwanda and Nepal advanced rapidly not by ratifying treaties alone but by embedding equality into governance, economy, and community

institutions. India’s challenge is therefore not only ratification but also effective domestication of commitments. Strengthening institutions, harmonizing personal laws with constitutional equality (Constitution of India, arts. 14–16), and embedding gender equality into socio-economic policies are essential steps.

### 7.1 Reservations to CEDAW

India’s reservations, particularly concerning provisions that conflict with personal laws, have created a significant barrier to reform (UN, 1979). These reservations shield discriminatory practices in areas such as marriage, divorce, inheritance, and guardianship, thereby allowing patriarchal interpretations of religion-based personal laws to prevail over international commitments. This legal dualism undermines the transformative potential of CEDAW in promoting uniform gender justice.

### 7.2 Patriarchal Norms and Social Resistance

Deeply entrenched patriarchal attitudes continue to shape both public and private spheres, discouraging women from reporting violence, harassment, and workplace discrimination. Fear of social stigma, victim-blaming, and community backlash perpetuates underreporting of gender-based crimes (NCRB, 2022), limiting the effectiveness of legal frameworks.

### 7.3 Institutional Weaknesses

Institutional mechanisms intended to enforce women’s rights often remain under-resourced or structurally compromised. For instance, Indian courts are overburdened with case backlogs, resulting in delays in adjudication of women’s rights violations. Similarly, Internal Committees constituted under the Prevention of Sexual Harassment (POSH) Act, 2013 frequently lack independence or expertise. Protection Officers under the Protection of Women from Domestic Violence Act (2005) also suffer from chronic underfunding and inadequate training, restricting their ability to provide effective support to survivors.

### 7.4 Intersectional Inequalities

Gender inequality in India is compounded by caste, class, religion, and regional disparities. Women from marginalized communities such as Dalit, Adivasi, and minority groups face multiple

layers of discrimination that extend beyond gender-based violence and include restricted access to justice, healthcare, and education. This intersectional reality reflects a major gap in India's compliance with CEDAW, which emphasizes elimination of all forms of discrimination in a holistic manner (UN, 1979).

## 7.5 Unpaid Care Work and Economic Exclusion

A persistent challenge lies in the disproportionate burden of unpaid care work carried out by women within households. This invisible labor limits women's participation in the formal workforce, perpetuates economic dependency, and undermines realization of equality in the socio-economic domain. Despite international recognition of care work as a barrier to gender equality under ICESCR (UN, 1966b), domestic policy frameworks in India have not adequately addressed this issue.

## 7.6 CEDAW Periodic Reviews and Superficial Compliance

While India regularly submits periodic reports to the CEDAW Committee (UN, 1979), these reports often highlight formal compliance through legislative enactments rather than substantive implementation. Critical concerns raised by the Committee, including persistence of discriminatory personal laws and weak enforcement mechanisms, remain inadequately addressed. This reflects a gap between international monitoring and national-level accountability.

## 8. Solutions and Recommendations

The effectiveness of international instruments in advancing women's rights in India depends largely on the strength of judicial interpretation and legislative adaptation. Despite progressive constitutional guarantees (Constitution of India, arts. 14–16, 21) and partial incorporation of treaties such as CEDAW (UN, 1979), gaps persist in practical enforcement.

### 8.1. Judicial Recommendations

#### 8.1.1 Adopt a Harmonization Approach

Courts should consistently apply harmonization between constitutional guarantees and international commitments (UN, 1979), rather than insulating personal law from reform.

### 8.1.2 Institutionalize Treaty-Based Interpretation:

The Supreme Court and High Courts may formally adopt citation of CEDAW (UN, 1979), ICCPR (UN, 1966a), and UDHR (UN, 1948) in women's rights cases, ensuring international standards function as interpretive tools.

### 8.1.3 Specialized Gender Benches

Establishing gender justice benches within higher courts could expedite cases and ensure consistency.

### 8.1.4 Judicial Training and Sensitization

Continuous judicial education programs should focus on international human rights instruments in adjudication.

## 8.2. Legislative Recommendations

### 8.2.1 Comprehensive Personal Law Reform

Parliament should gradually codify personal laws into a gender-neutral framework consistent with constitutional equality and international standards (UN, 1979).

### 8.2.2 Mandatory Compliance Clauses

New gender-related legislation should incorporate clauses mandating conformity with India's treaty obligations.

### 8.2.3 Strengthening Enforcement Mechanisms

The Domestic Violence Act (2005) and POSH Act (2013) require stronger funding and accountability measures.

### 8.2.4 Periodic Legislative Review

A statutory requirement for periodic parliamentary review of gender-related laws in light of international developments (UN, 1979; UN, 1966a) can prevent stagnation.

## 8.3. Cross-Cutting Recommendations

### 8.3.1 National Treaty Implementation Authority

Establishing an independent statutory body to oversee domestication of international women's rights treaties would improve coordination. Integrating Intersectionality: Courts and legislatures must explicitly address compounded discrimination.

### 8.3.2 Enhanced Access to Justice

Expanded legal aid for women and marginalized groups would improve enforcement.

### 8.3.3 Digital Transparency and Accountability

Leveraging technology for monitoring compliance can strengthen implementation. By institutionalizing treaty-based interpretation and embedding compliance obligations within legislation, India can bridge the gap between its constitutional framework and international commitments.

## 9. Conclusions

International instruments such as CEDAW (UN, 1979), ICCPR (UN, 1966a), ICESCR (UN, 1966b), and the UDHR (UN, 1948) have substantively shaped India's gender-equality jurisprudence and legislation. The trajectory from the Vishaka guidelines to the POSH Act illustrates how international instruments have guided the Indian judiciary and legislature in strengthening women's rights. However, this process has faced several hurdles. Institutional challenges include reservations to treaty provisions, inefficiencies, and financial constraints. Implementation challenges include lack of awareness, patriarchal norms, and socio-economic disadvantages. Addressing these obstacles through practical and context-specific solutions can lead to more effective outcomes and ensure stronger protection of women's rights in India.

## References

- Agarwal, R., & Prasad, J. (2020). [Digital HR Transformation in Indian Banking Sector](#).
- Agnes, F. (2011). [Law, justice and gender: Family law and constitutional provisions in India](#). Oxford University Press.
- Apparel Export Promotion Council v. A. K. Chopra, (1999) 1 SCC 759 (India).
- Baxi, U. (2006). [Human rights in a posthuman world: Critical essays](#). Oxford University Press.
- Bangladesh National Women Lawyers' Association v. Government of Bangladesh, (2009) (Bangladesh Supreme Court).
- Boyd, S. (2004). [The Charter of Rights and Freedoms and gender equality](#). *Canadian Journal of Women and the Law*, 16(2), 359–395.
- Charlesworth, H., & Chinkin, C. (1993). [The boundaries of international law: A feminist analysis](#). Manchester University Press.

[Constitution of India, arts. 14, 15, 21](#).

- Election Commission of India. (2024). [Statistical report on general elections to the 18th Lok Sabha](#).
- National Crime Records Bureau. (2022). [Crime in India 2022](#). Ministry of Home Affairs, Government of India.
- Sarkar, L. (1993). [Women and the law: Contemporary problems](#). Vikas Publishing.
- S v. Jordan, 2002 (Constitutional Court of South Africa).
- United Nations. (1948). [Universal Declaration of Human Rights](#). UN Doc. A/RES/217 A (III).
- United Nations. (1966a). [International Covenant on Civil and Political Rights](#). 999 UNTS 171.
- United Nations. (1966b). [International Covenant on Economic, Social and Cultural Rights](#). 993 UNTS 3.
- United Nations. (1979). [Convention on the Elimination of All Forms of Discrimination against Women](#). 1249 UNTS 13.
- United Nations. (1993). [Declaration on the Elimination of Violence against Women](#). UN Doc. A/RES/48/104.
- United Nations. (1995). [Beijing Declaration and Platform for Action](#). Fourth World Conference on Women.
- United Nations. (1999). [Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women](#). UN Doc. A/RES/54/4.
- World Bank. (2025). [Labor force participation rate, female \(% of female population ages 15+\) \(ILO modeled estimate\)](#).
- International Labour Organization. (n.d.). [Equal Remuneration Convention, 1951 \(No. 100\)](#).

**Cite this article as:** Neeyajudeen et al. The Role of International Instruments in Advancing Women's Rights in India: Judicial and Legal Responses. *International Journal of Emerging Knowledge Studies*. 4(8), pp.1239 – 1244. <https://doi.org/10.70333/ijeks-04-10-005>