



INDIA – Gender Based Violence Policy Briefing

April 2018 (updated May 2019)

India is a large country in Southern Asia with a population of approximately 1.3 billion. According to the World Bank country classifications by income level, India is currently classed as a lower-middle income nation (US\$ 1,006–3,955).

Gender parity across life domains:

India has non-discrimination laws in hiring women and the law mandates equal pay for women and men for the same or similar work (see the [Equal Remuneration Act, 1976](#)). Economic inequality between women and men, however, is a persistent problem in India. In spite of India's rapidly growing economy and increasing educational attainment among girls, women are still far less likely to be employed than men. In 2015, 25.8% of Indian women aged 15 years and over were in employment, compared with 76.4% of men ([International Labour Organization, 2016](#)). Most youths not in employment or education are female and the majority of unpaid work is conducted by women ([The Global Gender Gap Report, 2018](#)). Although data suggest that over a third of women working at home would like a paid job, India is a patriarchal society and women's restricted mobility outside their homes is justified by ensuring their "purity" ([Pande & Moore, 2015](#)). This indicates that gender economic parity will be difficult to achieve without changes in people's attitudes and engaging men in anti-discriminatory programmes.

Indian women have only partial access to financial services, land and non-land assets use, control, and ownership, as well as inheritance rights for daughters (The Global Gender Gap Report, 2018). [The Hindu Succession \(Amendment\) Act 2005](#) sought to give Hindu women legal rights to ancestral lands, but its progressive intent was undermined by a host of perverse tactics to deny Hindu women property. Subterfuge included 'gifting' the daughter's due share to her brothers, and increased female foeticide and childhood mortality. These responses not only deprived Hindu women of their legal rights but also seem to have erased decades of progress made in levelling sex ratios. [National Family Health Surveys \(NHFS\)](#) reveal that the overall number of females to males declined sharply after the 2005 law, more so in states with more Hindus. In states where the population is mostly Hindu, overall sex ratios now are comparable to the distorted levels that existed in the 1990s.

The right to vote was granted to women in 1935. According to the Global Gender Gap Report published in 2018, India ranks relatively high on gender parity in political representation compared with other countries (rank 19 out of 144). However, political empowerment has been measured through the ratio of women and men in ministerial and parliamentary positions and the participation of men and women at local levels of government has not been accounted for. To date, one woman, Indira Gandhi, served as Prime Minister of India.

Law permits medical termination of pregnancy for reasons of contraceptive failure up to 20 weeks. Termination of pregnancy beyond 20 weeks is only allowed if a woman's physical life is endangered by the pregnancy and/or if the foetus has abnormalities. The desire for sons coupled with prenatal monitoring technology (such as ultrasound scans), sometimes results in sex-selective abortions, which can be forced on women by spouses and families. Sex selection is prohibited by the current law (see below for the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition Of Sex Selection) Act, 1994, amended in 2002).

During maternity leave, which lasts six months (26 weeks), women in employment receive 100% of their wages. Indian government does not currently provide or support childcare. More men than women attain primary, secondary, and tertiary education (The Global Gender Gap Report, 2018).

On 6 September 2018, the Supreme Court of India [decriminalised gay sex](#) between consenting adults. The Supreme Court ruled that [parts of Section 377](#) of the Indian Penal Code which pertain to homosexual sex, are unconstitutional. This ruling will contribute towards the reduction of discrimination and violence against LGBT persons.

Gender equality indexes:

1. [Gender Inequality Index \(GII\)](#) measures gender inequalities between women and men in three important areas: reproductive health, empowerment, and economic status. Values range from 0 to 1, with higher values indicating more disparities between the genders. India's current GI index is [0.524](#). Comparable scores are currently held by Tanzania (0.537), Gabon (0.534), Uganda (0.523), and Zambia (0.517).
2. [Global Gender Gap Index \(GGGI\)](#) assesses gender gaps on economic, political, education, and health criteria. Values range from 0 to 1, with lower values indicating more disparities between the genders. According to the Global Rankings Report 2018, India's GGGI is 0.665 (rank 108 out of 149 countries). The lowest rank recorded for India was on health and survival subindex (score: 0.940, rank: 147), followed by economic participation and opportunity subindex (score: 0.385, rank: 142), and educational attainment subindex (score: 0.953, rank: 114). India had a high 19th rank on political empowerment (score: 0.382). In 2018, India recorded an improvement in wage equality for similar work and the tertiary education gender gap has been fully closed for the first time. However, India's gender gap on health and survival has widened, indicating that more efforts and resources need to be directed at increasing women's access to healthcare.

Gender-based violence (GBV):

Lifetime prevalence of GBV in India is estimated at 37% (The Global Gender Gap Report, 2018). Although improved GBV screening in healthcare settings could reduce this statistic, recent research evidence indicates that 90% of women had never been asked about GBV by healthcare providers. Seventy-two percent of women expressed willingness to answer questions about GBV experiences, especially when the healthcare provider was a nurse or a counsellor ([Suryavanashi et al., 2018](#)). India faces persistent gender discrimination, including physical, sexual, emotional and economic violence, son preference, unequal resource distribution and unequal decision-making power (in both private and public spaces). Caste discrimination of women from specific castes, communal violence and several neo-liberal economic policies also impact women in different ways. Widows and single women face particularly high levels of discrimination, deprivation, restricted employment opportunities, and various forms of violence ([High Level Committee on the Status on Women, 2015](#)).

According to the [National Crime Records Bureau \(NCRB\) \(2017\)](#) report, total crimes committed against women were reported as 338,954 in 2016. Further, there were 110,378 cruelty by husband or his relatives crimes, 84,746 assaults on women, 64,519 kidnapping and abduction cases, and 38,947 rapes reported to the authorities in 2016. Rape was the country's fastest growing crime. There were also 36,022 reported cases which were classed as violations of the Protection of Children from Sexual Offences Act, 2012. However, rights workers argue that the official statistics do not reflect the magnitude of the problem, as sex crimes are likely to be underreported due to social stigma surrounding such offences. Victims can also be pressured to settle or compromise by the police, especially when the perpetrator comes from a powerful community ([Home Office, 2018](#)). In April 2018, the Union Cabinet, which is the supreme decision-making body in India, approved an ordinance to allow courts to award death penalty to those convicted of raping a child up to 12 years of age. The Hindustan Times report dated August 2017 indicated that over 1,000,000 cases had been filed across the country in 10 years under sections pertaining to cruelty by husband and dowry ([Chachra, 2017](#)).

One form of GBV which appears to be prevalent in India is domestic violence. A community-based study on the topic among 450 women from Gujarat (a state in Western India) indicated that 42% of participating women experienced physical beatings and sexual abuse, 23% experienced abusive language, belittlement, and threats, and 56% believed that wife beating is justified (Nambi, 2011). In 2002, the [International Center for Research on Women](#) reported that 85% of men admitted being violent against their wives in the 12 months preceding the study, 57% sexually abused their wives, and 32% were violent towards their pregnant wives. Findings suggest that prevention programmes should focus on addressing pro-GBV attitudes among both women and men. Such efforts appear particularly crucial in light of India's low GGI health and survival rating. Indeed, a study with a large sample of Indian women aged 15-49 years (N = 9,938) revealed that experience of physically violent behaviours by husband doubles the risk of poor mental health among affected women, compared

with women who had not reported any physical spousal violence ([Kumar, Jeyaseelan, Suresh, & Ahuja, 2005](#)).

Other forms of violence against women and girls which require immediate attention include dowry-related violence and harassment and child marriage. Although, in line with the Prohibition of Child Marriage Act (PCMA) of 2006, the legal age for marriage is 18 for women and 21 for men, India has the highest number of child brides in the world. According to the Ministry of Women and Child Development, over half of Indian children suffer sexual abuse, but it is clearly far more widespread than is admitted ([Human Rights Watch, 2012](#)).

India is a member of the [South Asian Initiative to End Violence Against Children \(SAIEVAC\)](#), which adopted a regional action plan to end child marriage. In 1993, India also ratified the [Convention on the Elimination of all forms of Discrimination against Women \(CEDAW\)](#). Successful reduction of the prevalence of GBV in India, however, seems to require a whole of society approach, including gender sensitisation as a part of school curriculum as well as overall improvement in quality of education.

India's most important legislation and judgements related to GBV and gender parity:

1961 – [Dowry Prohibition Act](#) – The Act states that giving and taking dowry is a punishable offence. The law, however, has been found ineffective in stopping the practice.

1986 – [Amendments to the Indian Penal Code, 1862](#) – Sections outlining unlawful treatment of women, including dowry death, abduction, or rape, have been incorporated into the Indian Penal Code.

1986 – [Indecent Representation of Women \(Prohibition\) Act](#) – The Act prohibits the indecent representation of women in publications, paintings, and through advertisements.

1986 – [Child Labour \(Prohibition and Regulation\) Act](#) – The Act outlines where and how children can work and where they cannot. It is one of the most debated acts regarding children in India.

1987 – [Commission of Sati \(Prevention\) Act](#) – The Act was developed to provide an effective prevention of the commission of *sati*, i.e., the burning or burying alive of a woman.

1990 – [National Commission for Women Act](#) – An Act to constitute a National Commission for Women. The National Commission for Women was set up in 1992 to: review the constitutional and legal safeguards for women, recommend remedial legislative measures, facilitate redress of grievances, and advise the Government on all policy matters affecting women.

1994 - [The Pre-Conception and Pre-Natal Diagnostic Techniques \(Prohibition Of Sex Selection\) Act](#) - An Act to provide for the prohibition of sex selection, before or after conception, and for regulation of pre-natal diagnostic techniques for the purposes of

detecting genetic abnormalities or metabolic disorders or chromosomal abnormalities or certain congenital malformations or sex-linked disorders and for the prevention of their misuse for sex determination leading to female foeticide.

2002 – [The Constitution \(86th Amendment\) Act](#) – This amendment introduced in 2002, made free and compulsory education for all children in the 6-14-year age group regardless of gender a fundamental right.

2005 – [Protection of Women from Domestic Violence Act](#) – The Act legally defined domestic violence and is friendly to poor and illiterate women. Some states have developed strong implementation models.

2005 – [The Hindu Succession \(Amendment\) Act](#) – The Act gave Hindu Women legal rights to ancestral property.

2006 – [Prohibition of Child Marriage Act](#) – An Act to provide for the prohibition of solemnisation of child marriages. Under the Act, a child is a male who has not completed 21 years of age and a female who has not completed 18 years of age. Contracting, performing, conducting or directing a child marriage is a punishable offence. Unless proved otherwise, the parents or guardians of the child are considered to have failed to prevent the child marriage and hence are also held accountable.

2008 – [Information Technology \(Amendment\) Act](#) – The Information and Technology Act was amended to address exploitation of children through the internet.

2009 - [The Right of Children to Free and Compulsory Education Act](#) – An Act to provide for free and compulsory education to all children of the age of six to fourteen years.

2012 – [The Protection of Children from Sexual Offences Act](#) – An Act to strengthen the legal provisions for the protection of children from sexual abuse and exploitation. It applies to all young people under the age of 18 years and provides protection from the offences of sexual assault, sexual harassment, and pornography.

2013 – [Criminal Law \(Amendment\) Act](#) – The amendments sought to make provisions relating to gender-based violence. New offences, including acid attack, sexual harassment, and stalking, have been incorporated into the Indian Penal Code. Penalties for the more serious crimes, such as gang rape and causing serious injury, have been increased.

2013 – [Sexual Harassment of Women at Workplace \(Prevention Prohibition and Redressal\) Act](#) – The Act provides protection against sexual harassment of women at workplace.

2014 - [NALSA Vs. Union of India](#) – The Supreme Court of India gave recognition to transgender persons in India as a 'third gender' giving them equal rights as any other citizen in the country. This judgement clearly stated that gender is inextricably linked to a person's identity, and everyone has the right to self-determine their gender, with or without biomedical validation.

2016 – [Child Labour \(Prohibition and Regulation\) Amendment Act](#) – An Act to prohibit the engagement of children in all occupations and to prohibit the engagement of adolescents in hazardous occupations and processes.

2017 – On 11 October 2017, a two Judge Bench of Supreme Court held that sexual intercourse with minor (below 18 years) wife is rape. It read down the exemption to section 375 of the Indian Penal Code which did not initially consider it to be rape where the wife was between ages of 15-18 years. This brought the rape laws in consonance with the POCSO Act which makes it a statutory rape if the victim was under 18 years.

2017 – Right to Privacy Judgement – The judges of the Supreme Court of India in a unanimous verdict held that privacy is a fundamental right. The judges conceptualised privacy as being central to citizens' ability to have control over information shared about them, the right to decisional autonomy, the right to be let alone by the state, and the right to choose their own sexual partners as well as their gender identity and sexual orientation.

2017 – [Triple Talaq Judgement](#) – The Supreme Court of India passed a judgement by 3:2 majority, declaring the practice of triple talaq (Talaq e Biddat) as illegal and void. It is a practice among Indian Muslims where an instant divorce is effective as soon as the word "Talaq" has been pronounced thrice.

2018 – On 6 September 2018, the Supreme Court of India [decriminalised gay sex](#) between consenting adults. The Supreme Court ruled that [parts of Section 377](#) of the Indian Penal Code which pertain to homosexual sex are unconstitutional. This ruling will contribute towards the reduction of discrimination and violence against LGBT persons.

India's national policy for women:

In 2016, a draft national policy for women was published by the Government of India, Ministry of Women and Child Development. Its mission is to create an effective framework for the development of policies, programmes, and practices which would ensure gender equality. The policy focuses, among others, on prioritising a holistic approach to women's health, the nutrition of women of all ages, and strengthening geriatric services for women. The policy also talks about engaging men and boys through advocacy, awareness generation and community programmes to instil respect for women in men from a young age. The overall vision of the draft policy is to create a society in which women would be able to attain their full potential and participate as equal partners in all spheres of life.