

## Women in the Armed Forces and the concept of Social Justice

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### ABSTRACT

*The gender composition of Armed Forces through ages is predominantly men. The medieval and modern history has accounts of women soldiers. Women were primarily enlisted as doctors and nurses. Women are now inducted as officers through the short service commission. All positions are non-combative. The Indian Armed Forces accepts women recruits only in the officer grade. Going by the constitutional obligation of social justice, there should not be any issue in opening up the portals of defense recruitment to women on par with men. In the light of the above the author tries to analyse implications objectively.*

### 1. Introduction

Armed forces are the backbone to any nation. The continued existence of a nation depends on the existence of a strong, powerful, professional Armed Force, with officers organised to a systematic subordination, obedience and cadre based hierarchical authority<sup>1</sup>. They safeguard the sovereignty and stability of the state. The Army, the Navy and the Air force are the three wings of the Armed Forces.<sup>2</sup> The Supreme Court has also held that "Armed forces of the Union"<sup>3</sup> and "Military Service"<sup>4</sup> means Army, Navy and Air Force. Recruitment into the Armed forces as soldiers, Airmen and sailors is voluntary and all citizens are eligible to be recruited. The standards of physical fitness for the Armed forces personnel is very high. Rigorous training is accorded to them before they are recruited. Some of the feats include running 5 km in 28 minutes and jumping across a 9 feet wide ditch with full equipment and personal weapons.<sup>5</sup> All personnel are subjected to annual Battle Physical Efficiency Tests till they attain the age of 45 years. The nature of the duty and tasks performed by these personnel requires a lot of strength and physical resilience which is essential to withstand combat.

### 2. History of women in the Armed Forces

The gender composition of Armed Forces through ages is predominantly men throughout the world. It is undoubtedly a male dominated "Force" due to the very fundamental nature of tasks that need to be performed by them. But history is also replete with instances of women being part of the combat. There are numerous instances in mythology of women who were part of wars. Goddess Durga, the manifestation of Shakti,

the consort of Lord Shiva is revered as mother of all destruction of evil. Dreadful and frightening to the enemies, she is the destroyer of evil and is a ferocious defender of the good.<sup>6</sup> Durga was also the Commander in chief<sup>7</sup> of the Army of devas in their war against the asuras led by Mahishasura.<sup>8</sup> The Greek Goddess Athena<sup>9</sup> and the Roman Diana<sup>10</sup>, are also classic examples of women warriors. The medieval and modern history has accounts of women soldiers carrying out tasks like carrying ammunitions, collecting weapons, washing, stitching and cooking.<sup>11</sup> Maharani Lakshmi Bai<sup>12</sup> of Jhansi, Razia Sultana<sup>13</sup>, Rani Chennamma<sup>14</sup>, Onake Obavva<sup>15</sup> and Chand bibi<sup>16</sup> to name a very few, to represent the medieval period.

- <sup>6</sup> Beloved Durga – Shiva's Unfathomable Shakti Vol. 35 No. 5 - February 2, 1992, <https://www.summitlighthouse.org/pearls/1992pows/920202DU.html>, last accessed on 16-12-2019 at 2225 hrs
- <sup>7</sup> Devi Bhagavata, Chapter 5.2.1-5. Hymn 18-70 Available at <http://www.apamnapat.com/articles/Devibhagavata030.html>, Last accessed on 17-12-2019 at 2153 hrs
- <sup>8</sup> A Demon king with the head of a buffalo. He was a staunch worshipper of Lord Brahma.
- <sup>9</sup> Athena was the Olympian goddess of wisdom and good counsel, war, the defence of towns, heroic endeavour, weaving, pottery and various other crafts. She was depicted as a stately woman armed with a shield and spear. <https://www.greekmythology.com/Olympians/Athena/athena.html>, last accessed on 17-12-2019 at 2230 hrs
- <sup>10</sup> The Romans viewed Diana as a many-sided goddess associated with forests and hunting. Artists usually portrayed her as a virgin hunter, often with a bow and quiver, accompanied by maidens, hunting dogs, or deer. <http://www.mythencyclopedia.com/Cr-Dr/Diana.html>, last accessed on 20-12-2019 at 2240 hrs
- <sup>11</sup> Role of Women In The Indian Armed Forces, <http://www.ukessays.com/essays/history/role-of-women-in-the-indian-armed-forces-history-essay.php>, last accessed on 20-12-2019 at 2250 hrs
- <sup>12</sup> Rita Sharma and Vijay Sharma, The Forts of Bundelkhand, Rupa & Co., 2006 at p 39
- <sup>13</sup> Table of Delhi Kings: Muazzi Slave King, The Imperial Gazetteer of India, 1909, v. 2, p. 368
- <sup>14</sup> Gopalakrishnan, (Ed.) (2007). The South Indian rebellions: before and after 1800 (1st ed.). Chennai: Palaniappa Brothers. pp. 102–103. ISBN 9788183795005.
- <sup>15</sup> B.N. Sri Sathyan, ed. (1967). Mysore State Gazetteer - Chitradurga District. Vol.4. Bangalore: Govt. of Mysore. p. 393
- <sup>16</sup> Sailendra Sen (2013). A Textbook of Medieval Indian History. Primus Books. pp. 118–119

<sup>1</sup> MacIver R. M. (2006) *The Modern State* (reprint), Surjeet Publications, Delhi, at p.56

<sup>2</sup> Verma, B. (Ed.). (2012). *Pretending Soldiers* (4th ed., Vol. 27, Oct-Dec). Indian defence review, at page 81

<sup>3</sup> Saraswathi Devi v District Magistrate, Deora, AIR 1965 All. 236 at p. 238

<sup>4</sup> Bhagat Singh v State of Haryana, AIR 1996 SC 1705

<sup>5</sup> Maj. Gen. Mrinal Suman, AVSM, VSM, PhD, *Women in the Armed Forces: Misconceptions and Facts*, Indian Defence Review, Vol.25, Issue 1, Jan-Mar 2010, pp 49-53 Also available at <http://www.esamskriti.com/essay-chapters/Women-in-the-Armed-Forces--Misconceptions-and-Facts-1.aspx>, last accessed on 16-12-2019 at 2155 hrs

The Indian National Army<sup>17</sup> successfully raised an all women Regiment "Rani of Jhansi" commanded by Capt. Lakshmi Sehgal.<sup>18</sup>

### 3. Current position of women in Indian Armed Forces

Women were primarily enlisted as doctors and nurses<sup>19</sup>. It was only in 1992<sup>20</sup> that women were inducted as officers through the short service commission. Though the entry of women is permitted, yet they are allowed to serve only in the following branches<sup>21</sup> of the armed forces.

- a) **ARMY:** EME, Signals, Engineers, Army Education Corps, Army Ordnance Corps, Army Service Corps, Intelligence and Judge Advocate General's branch.
- b) **NAVY:** All branches of the Navy (except submariners and divers).
- c) **AIR FORCE:** Flying (transport aircraft and helicopters), Technical and Administration branches.

All the above mentioned positions are non-combative. The Indian Armed Forces accepts women recruits only in the officer grade<sup>22</sup> and that too in limited roles. The closest they come to combat is support services and arms. They are initially granted a commission for 5 years which can be extended upto 14 years. They are not entitled to pension unless they are granted full commission, which can happen only in the Medical branch. They constitute only about 5.4% to the total officers excluding the Medical Branch<sup>23</sup>. The women function as pilots of helicopters and transport aircrafts, carry weapons, patrol borders, and perform many other occupations like engineers, teachers, lawyers, majority of them are Doctors and Nurses. Recently the Air force allowed the women to fly as fighter pilots.<sup>24</sup>

The 66 Republic Day parade on 26<sup>th</sup> January 2015, saw the first ever women contingent of the Armed forces marching on Rajpath.<sup>25</sup> In the same year, Wing Commander Pooja Thakur, became the first woman to lead the Guard of Honour

17 Azad Hind Fauj was another name for Netaji's Indian National Army, and initially comprised Indian prisoners of war (PoWs) in Singapore.

18 Manmohan Kaur, Women in India's freedom struggle, Sterling, 1985 at p 224, see also Ratna Ghosh, Netaji Subhas Chandra Bose and Indian freedom struggle, Volume 2, Deep & Deep, 2006 at p 181

19 The Indian Military Nursing Service was formed in 1888 and nurses fought in World War I and II. Colin Gonsalves and Usha Sikdar, Indian Army must stop its discrimination against military nurses, <https://www.hindustantimes.com/opinion/indian-army-must-stop-its-discrimination-against-military-nurses/story-VmhPT6cKj3GW3M3KjCterK.html>, last accessed on 20-12-2019 at 2325 hrs

20 <http://joinindianarmy.nic.in/Default.aspx?id=65&lg=eng&>, last accessed on 26-12-2019 at 0845hrs

21 Capt. Piyush Kumar Sanwal, Role of Women in the Indian Armed Forces, Journal of the United Service Institution of India, Vol. CXXXVIII, No.571, Jan-Mar 2008 pp 31-42 at p 32

22 Dr. P Radhakrishnan, From Margin to Main Stream: Barriers to the Integration of Women into Indian Armed Forces, South Asian Journal, pp 175-182

23 <https://timesofindia.indiatimes.com/india/Forces-battle-shortage-of-fighting-rank-officers/articleshow/45329628.cms>, last accessed on 26-12-2019 at 0850hrs

24 <https://timesofindia.indiatimes.com/india/avani-becomes-first-ever-indian-woman-to-fly-a-fighter-aircraft-solo-that-too-a-mig-21/articleshow/63020252.cms>, last accessed on 26-12-2019 at 0855hrs

25 <https://www.firstpost.com/india/first-ever-all-women-contingent-marches-through-the-66th-republic-day-parade-2064965.html>, last accessed on 26-12-2019 0905hrs

being inspected by President Barack Obama of the United States of America when he had come to India as to be chief guest in the Republic day. Though these are symbolical, yet the incidents have elevated the position of women in the Armed Forces, drawing huge publicity and increasing the curiosity among women to join the Forces.

### 4. Position in other countries

Almost all countries employ women in their Armed forces. Even Saudi Arabia has allowed women to enlist as soldiers.<sup>26</sup> More than 25 countries in the world like Australia, Canada, Israel, United Kingdom, United States of America offer restricted or full-fledged combat roles to its women recruits. In Australia almost all positions are open to women in their Defence Force. It also allows its women to serve in the Submarine. In 2011, it was also decided to allow them in frontline combat roles like mine disposal services, deep sea divers, Air Force guards, and infantry or artillery frontline combat positions. In the United Kingdom, 95 % of the jobs of the Royal Air Force is open to women making upto 12.3 percent of the total employed by RAF.<sup>27</sup> In 2016, Prime Minister David Cameron in principle approved the deployment of women in close combat units in the British military<sup>28</sup>, which means that women will now be allowed to serve in the cavalry, infantry and armoured corps. In the United States of America women have been in the battlefield since 1775.<sup>29</sup> As on today, all combat roles are accessible to women. All military service branches and the United States Special Operations Command have opened their combat posts to women.<sup>30</sup> Though France does not allow its women in field combat roles or submarines, yet, the French women make up about 15% of the Force, the highest ratio in Europe.<sup>31</sup>

### 5. Social Justice for Women in the Armed Forces

Social Justice is the foundation of Indian Constitution. This notion of Social justice means the equal treatment of all without any social divisions based on caste, colour, race, religion or sex. It also exhorts the state to strive for the improvement in the conditions of socially and economically weaker sections and women. Fundamental Rights, are found under Part III of the Constitution of India. The Supreme Court of India in I. C. Golaknath & Ors v State of Punjab & Anrs<sup>32</sup> held that the fundamental rights are the natural rights available to every

26 <https://www.bbc.com/news/world-middle-east-43197048>, last accessed on 26-12-2019 0905hrs

27 Supra Note 23 at p 35

28 <https://www.bbc.com/news/uk-36746917>, last accessed on 26-12-2019 0915hrs

29 Stephanie Hepburn and Rita J. Simon, Women, Roles and Statuses the World Over, Lexington Books, New York, 2007 at p 24

30 <https://www.nbcnews.com/news/us-news/pentagon-nbc-news-all-combat-roles-now-open-women-n473581>, last accessed on 26-12-2019 0915hrs

31 Les femmes dans l'armée française, An official document of the Ministry of Defence, Republic of France, available at <https://www.defense.gouv.fr/.../Les+femmes+dans+larmee+francaise-diptyque.pdf>, last accessed on 26-12-2019 1130hrs

32 AIR 1967 SC 1643 at p 1656, "..... "Fundamental rights" are the modern name for what have been traditionally known as "natural rights". As one Author puts: "they are moral rights which every human being everywhere at all times ought to have simply because of the fact that in contradistinction with other beings, he is rational and moral.

..... The fundamental rights are given a transcendental position under our Constitution and are kept beyond the reach of Parliament"

human being at all times. Justice Bhagwati in *Maneka Gandhi v Union of India*<sup>33</sup>, held that:

*"These fundamental rights represent the basic values cherished by the people of this country since the Vedic times and they are calculated to protect the dignity of the individual and create conditions in which every human being can develop his personality to the fullest extent."*

Articles 14 to 18 of the Indian Constitution deal with the Right to Equality which has been enshrined in the Preamble as well and remains to be one of the cornerstones of the Indian Constitution. The Indian polity and the social situation must have been a contributing factor for this right to be named as the first fundamental right. In simple words, it just means non-discrimination. However, it has encompassed in it several meanings which not only disregards discrimination but also goes to greater heights by giving a new view point to what equality is in terms of not only the letter but also in spirit.

Article 15 (3)<sup>34</sup> specifically empowers parliament to prohibit discrimination against women and also enables favourable treatment of women and children in different spheres of activities. The Hon'ble Supreme Court has observed that the insertion of clause (3) of Article 15 in relation to women is a recognition of the fact that for centuries, women of this country have been socially and economically handicapped<sup>35</sup>. Thus the Indian constitution not only strives to provide equality to women but also bestows upon the state the power to enforce positive discrimination for the upliftment and development of women.

## 6. Legal framework for women in Armed Forces for ensuring Social justice

Though Section 12 of the Army Act 1950, Section 12 of the Air Force Act 1950 and Section 9 (2) of the Navy Act 1957 prima facie forbids employment of women in the Armed forces, the provision also creates an exception in delegating the power to the Central Government to allow women to be enrolled in the Armed Forces by a notification in the official gazette.

In the 21<sup>st</sup> century no field is left out of women. They have forced their way into all workplaces which was hitherto only carried on by men. The changing status of women, needs of the society and liberal political thinking have all contributed to their progress. And the Armed forces is not to be left behind in this citadel breaking spree of women. Lieutenant General Punita Arora<sup>36</sup> is a classic example of breaking both citadels and glass ceilings. Being the first woman to reach the second highest rank in the Army, the rank of Lieutenant General, the first Vice admiral of Indian Navy and first woman officer to command the prestigious Armed Forces Medical College. There is a sense of feeling that the last bastion of men has been conquered. There has been a call for enlisting an all

women battalion of the Indian Army.<sup>37</sup> Another encouraging aspect in the call for more women in the Armed forces was the the number of American women personnel in combat deployed in Afghanistan and Iraq. Another pressing factor that requires consideration for inducting more and more women is the acute shortage of officers faced by the Armed Forces. Hence there is call to bring in a conscious and serious change in the existing policies to enlist more and more women, which would also be in tune with the Indian constitutional mandate.

Going by the Indian constitutional obligation of social justice, there should not be any issue in opening up the portals of defense recruitment to women on par with men. There are many vociferous call for such a measure. It is argued that such a right is inherent in women as their sovereign right.<sup>38</sup> Further it is argued that in the modern times with modern weapons and electronic warfare, overcoming stress is more relevant than physical combat<sup>39</sup>, because though women are considered inferior in terms of physical fitness when compared to men, by virtue of their very physique and stamina, they are far more superior in handling stress and endurance. It is in fact argued that women display more endurance and have even out beaten men in the training sessions and given the opportunity, they will carry forward this tradition. To sum up, it is put forth that there is no justification whether legally, constitutionally or otherwise to keep women out of all the positions in the armed forces and the discrimination against women is very blatant.

## 7. Women in the Armed Forces - A perspective analysis

Discussions on women in armed forces is highly superficial and light. The crusaders on both sides don't realise the complexity of the issue. The call for women in armed forces just seems to be either sociological, gender based or political in nature. This is not so as the issue is a complicated one needing thorough multidisciplinary and multi-dimensional research. Long term implications of these multiple issues need to be studied. All stakeholders need to understand that this issue is not about women, it is about the Armed Forces, which in turn has its effect on the political, economic and social factors of the State, in short on the sovereignty itself. We need to judge the issues concerning Women in the Armed Forces with dispassionate reasoning and practical consequences.<sup>40</sup> The following are some of the issues which need to be borne in mind.

### 1. Equal Opportunity

The question is not about equal opportunities, but the fighting potential of the Armed Forces. It is argued that the armed forces exist for the defence of the country and not to provide employment.

### 2. Physical fitness

<sup>33</sup> (1978) 1 SCC 248; AIR 1978 SC 597

<sup>34</sup> Article 15(3), The Constitution of India 1949, "Nothing in this article shall prevent the State from making any special provision for women and children"

<sup>35</sup> Government of Andhra Pradesh v P B Vijaya Kumar AIR 1995 SC 1648

<sup>36</sup> <https://www.thehindu.com/todays-paper/tp-in-school/lieutenant-general-punita-arora/article22445707.ece>, last accessed on 26-12-2019 at 2130hrs

<sup>37</sup>Supra note 7 at p 49

<sup>38</sup> Brinda Karat, Indian Army's Shameful Treatment of Women Recruits, <https://www.ndtv.com/opinion/indian-armys-shameful-treatment-of-women-recruits-706717>, last accessed on 26-07-2018 at 2140hrs

<sup>39</sup>Sajita Nair, Women in the Indian Armed Forces, [http://www.gatewayforindia.com/articles/army\\_women.htm](http://www.gatewayforindia.com/articles/army_women.htm), last accessed on 26-12-2019 at 2145hrs

<sup>40</sup> Supra Note 23 at p33

An average female is weak in strength when compared to the male. However, with the advent of technology, physical limitations do not matter. Technology and physical fitness are inversely proportional. But India is not technically advanced compared to US, Russia and Israel. We still bank on a lot of physical ground effort and are manpower intensive.

### 3. Psychological and physiological concerns

Male Soldiers would not trust a woman soldier to rightly perform her duty. Trusting a soldier is fundamental to Armed forces. Women are also more prone to injuries.<sup>41</sup> Further, due to pregnancy, they are forced to be out of physical activities.

### 4. Ground Concerns

The reaction of public and media if women are taken prisoners of war would be outrageous. The possibility of women captured, tortured, molested and raped would bring down the morale of the country and the forces.

### 5. Culture shock

In India, Women are stereotyped to perform certain roles. This is very much embedded in the mindsets of all. So it becomes difficult to accept a women officer leading a contingent, which may give rise to serious disciplinary problems. An officer must lead from the front and hence have to be better than their soldiers.

### 6. Sexual Harassment

It is a challenge to ensure safety and dignity of women in the Armed forces. Their complaints would not be taken seriously and considered frivolous. On the other hand, male soldiers could be court martialled for frivolous reasons.

### 7. Shortage of Officers

According to the written reply minister of state for defense Sri. SubhashBhamre, the shortage is high among JCOs and Other ranks. The shortage at officers' level is 9242 in all wings of the Armed Forces put together.<sup>42</sup> So the argument that female officers can fill up falls flat.

### 8. Training

Though the job profile and expected outcome is the same for both men and women, yet their training standards differ suggesting different endurance levels. While men have to run 5kms in 28 minutes, women have to run the same distance in 40 minutes. In obstacle courses, women have to cross a 5 feet wide while men have to jump across 9 feet wide ditch.<sup>43</sup>

<sup>41</sup> Interim Report on the Health Risks to Women in Ground Close Combat Roles, WGCC/Interim-Report/10/2016, Ministry of Defence, United Kingdom

<sup>42</sup> <https://www.hindustantimes.com/india-news/shortage-of-over-9-000-officers-in-indian-army-navy-mos-defence/story-mYlcDSBbh0QUcgphmo1p6N.html>, last accessed on 26-12-2019 at 2155hrs

<sup>43</sup> Supra note 7 at p50

### Percentage of women in armed forces<sup>44</sup>

Service	(%)
Army	03.80
Air Force	13.09
Navy	06.00
Medical Officers	21.63
Dental Officers	20.75
Nursing Officers	100.00

### Women recruited in the Armed Forces between 2016 to 2018<sup>45</sup>

Year	Army	Navy	Air Force
2016	69	44	108
2017	66	42	59
2018	75	29	59

### 8. Suggestion for women in the Armed Forces

The government should take a cautious step in induction of women into the Armed Forces. The current practice of giving a major role in medical field and also offering permanent commission is sensible. The other branches where women are given permanent commissions are JAG<sup>46</sup>, education and accounts. Western and European systems of enlisting women should not be blindly copied by India. The Cultural, Psychological, Physiological and physical conditions of women there are very different than ours.

### 9. Conclusion

Fundamental Rights are not absolute in themselves. Reasonable restrictions can be imposed on them. These restrictions are inherent and emanate from the very fundamental rights to maintain a balance between individual's rights and society's interests. However, these are general in character and do not make any discrimination in applying these restrictions to the people. Similarly, the cause with social justice. The framers of the constitution envisaged social justice for the betterment of society, not at the cost of society. India has given a knee jerk approach to employing women in the Armed forces. The need to induct women in the Armed Forces must be thoroughly analysed and need based. The authors agree with the argument that the ministry of Defence is not an employment generating department of the Government. The Armed forces exist to maintain and safeguard the sovereignty of the state. A professional military is the hallmark of every successful nation. Any effort to undermine this will jeopardise its very existence.

<sup>44</sup> RakshaRajyaMantri Dr. SubhashBhamre in a written reply to Dr. VikasMahatme in Rajya Sabha today on 07 JAN 2019, Published as Press release by Press Information Bureau, Ministry of Defence, Government of India, Available at <https://pib.gov.in/Pressreleaseshare.aspx?PRID=1558892>, last accessed on 29-12-2019 at 2155 hrs

<sup>45</sup> RakshaRajyaMantri Shri ShripadNaik in a written reply to Shri B.B. Patil in Lok Sabha on 26 JUN 2019, Published as Press release by Press Information Bureau, Ministry of Defence, Government of India, Available at <https://pib.gov.in/Pressreleaseshare.aspx?PRID=1575770>, last accessed on 29-12-2019 at 2205 hrs

<sup>46</sup> The Office of the Judge Advocate General is like the judiciary of the Armed forces. It is composed of a cadre of qualified legal officers headed by the Judge Advocate General. They conduct pretrial scrutiny, advise the courts martial on legal provisions and assist in conducting trial. Though not judges themselves, yet they play an important role in the trial of offences under the armed forces laws.

No doubt women are competent enough to don the role of many a job profiles. Their potential could be utilised to the optimum by throwing open the doors of the Armed forces to more number of positions. But it is preposterous to ask for equal combat role with men. It would be a very good topic to discuss in the safe zones of democratic comfort but not at the ground level. At the ground level, it is war. The object of war is to win, to neutralize an enemy and to support the political objectives.<sup>47</sup> There is no room for practicing politics nor democracy nor social justice, when it comes to survival, because you need to survive first to practice all these and these can be practiced only in peace times and not during the war.

But for above restrictive reasons, the Indian Armed Forces and polity needs to come out and break the patriarchal shell and be more progressive. Women are trained alongside men and have proved their mettle. They are as competent as men in a wide variety of areas in which they can be allowed. The changing socio economic political scenario, education of women, gradually broadening of mindset of the Indian masses and the changing dimensions of future technology based war and defenses systems should pave the way for a greater role for women in the Armed forces, which will in turn be successful in maintaining the balance between social justice and sovereignty.

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<sup>47</sup> Carl von Clausewitz, PRINCIPLES of WAR, Translated and edited by Hans W. Gatzke, The Military Service Publishing Company, 1942