



INDIAN JOURNAL OF LEGAL AFFAIRS AND RESEARCH

Peer-reviewed, open-access, refereed journal

IJLAR

+91 70421 48991
editor@ijlar.com
www.ijlar.com

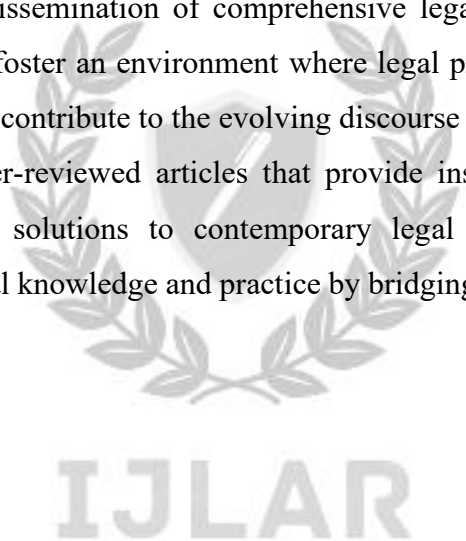
DISCLAIMER

The views and opinions expressed in the articles published in the Indian Journal of Legal Affairs and Research are those of the respective authors and do not necessarily reflect the official policy or position of the IJLAR, its editorial board, or its affiliated institutions. The IJLAR assumes no responsibility for any errors or omissions in the content of the journal. The information provided in this journal is for general informational purposes only and should not be construed as legal advice. Readers are encouraged to seek professional legal counsel for specific legal issues. The IJLAR and its affiliates shall not be liable for any loss or damage arising from the use of the information contained in this journal.

IJLAR

Introduction

Welcome to the Indian Journal of Legal Affairs and Research (IJLAR), a distinguished platform dedicated to the dissemination of comprehensive legal scholarship and academic research. Our mission is to foster an environment where legal professionals, academics, and students can collaborate and contribute to the evolving discourse in the field of law. We strive to publish high-quality, peer-reviewed articles that provide insightful analysis, innovative perspectives, and practical solutions to contemporary legal challenges. The IJAR is committed to advancing legal knowledge and practice by bridging the gap between theory and practice.



Preface

The Indian Journal of Legal Affairs and Research is a testament to our unwavering commitment to excellence in legal scholarship. This volume presents a curated selection of articles that reflect the diverse and dynamic nature of legal studies today. Our contributors, ranging from esteemed legal scholars to emerging academics, bring forward a rich tapestry of insights that address critical legal issues and offer novel contributions to the field. We are grateful to our editorial board, reviewers, and authors for their dedication and hard work, which have made this publication possible. It is our hope that this journal will serve as a valuable resource for researchers, practitioners, and policymakers, and will inspire further inquiry and debate within the legal community.

IJLAR

Description

The Indian Journal of Legal Affairs and Research is an academic journal that publishes peer-reviewed articles on a wide range of legal topics. Each issue is designed to provide a platform for legal scholars, practitioners, and students to share their research findings, theoretical explorations, and practical insights. Our journal covers various branches of law, including but not limited to constitutional law, international law, criminal law, commercial law, human rights, and environmental law. We are dedicated to ensuring that the articles published in our journal adhere to the highest standards of academic rigor and contribute meaningfully to the understanding and development of legal theories and practices.

IJLAR

FROM WELFARE TO RIGHTS: THE EVOLUTION OF WOMEN EMPOWERMENT POLICIES IN INDIA

AUTHORED BY - RAJNI¹, SHIVANI SAINI²

^{1&2} Assistant Professor, Department of English & Humanities

University of Engineering & Management, Jaipur, Rajasthan, 303807

ABSTRACT

Since independence, women empowerment has been an initial area of focus of the constitutional vision and development path of India. The Indian public policy is based on the principle of equality, dignity, and social justice, and it has been aimed to mitigate the historical and structural gender inequalities with the help of a mixture of constitutional provisions, legislative changes, development planning, and specific interventions. In this chapter, the author explores how women empowerment policies in India have developed since the post-independence era to the present era and the change in perspective in policies being welfare-focused and protectionist in nature to being rights-focused and capability-enhancing and participatory. It examines major stages in this evolution, such as early welfare policies, the equality turn and rights-based reorientation of the 1970s, the rights-based reorientation of 1990s and paper policies on the basis of education, financial inclusion, political participation, and legal protection. The chapter contextualizes the domestic policy developments in the international commitments, including the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) and the Sustainable Development Goals and evaluates them in terms of their impact on national policy formulation and responsibility. The chapter critically analyzes what was accomplished and what failed to be accomplished, focusing on gaps in the implementation, intersectional inequalities, and socio-cultural barriers with the help of a longitudinal and policy-oriented analysis. It contends that to achieve the vision of Viksit Bharat @2047, it is important to go beyond formal equality and towards substantive empowerment in the form of effective governance, inclusive policy formulation and long-term social change.

Keywords: Women empowerment; Gender equality; Indian public policy; Constitutional governance, Viksit Bharat.

INTRODUCTION

It is well known that women empowerment is a condition in respect of inclusion in development, democratic rules, and social justice. Questions concerning the status, rights and agency of women in India have been strongly entangled with the freedom struggle in the country, the constitutional philosophy and the post-independence nation-building project in India. The role of women in the anti-colonial movement did not only break the patriarchal standards, but also enlightened the framers to ensure equality, dignity and non-discrimination in the constitution. In spite of such normative commitments, Indian women have over time been continuously disadvantaged by structural reasons which are patriarchal, caste hierarchical, class inequality, economic dependence, and deeply rooted social and cultural values. These overlapping processes of exclusion have restricted access to education, employment, property, political power, and justice by women and the interventions of the state in the form of public policy is not only necessary but inevitable.

It is the role of the public policy that has been central in defining the course of women empowerment in India. Since the early independence days, the State has been trying to tackle the gender imbalances in the country through a mix of constitutional provisions, legislations, and development planning and specific programmes. These interventions however have changed quite a bit in nature and in the aim of these interventions. The changes in the development thinking, in that the new policy of women empowerment in India is a reflection of the larger changes in the sphere of development thinking: the shift to rights/capabilities/participation/agency-based frameworks. The early policies mostly defined women as inactive recipients of social protection, especially on health, nutrition and family welfare. Although these actions helped to mitigate direct vulnerabilities, they did not generally question power dynamics and widen the autonomy of women.

Throughout the years, the policy discourse has come to appreciate the women as agents of social and economic change with rights and entitlements that can be enforced due to the influence of feminist scholarship, women movements, judicial interpretation and international commitments.¹ This has been accompanied by the attempts to mainstream the issue of gender in all sectors, empower institutional mechanisms, and harmonize the domestic policy with

¹ Kabeer, N. (1999). Resources, agency, achievements: Reflections on the measurement of women's empowerment. *Development and Change*, 30(3), 435–464. <https://doi.org/10.1111/1467-7660.00125>

gender equality standards in the world arena.

It is against this background that this chapter explores the women empowerment policies in India since independence to the modern times. It examines constitutional clauses, planning models of development, congressional changes and flagship policy plans, critically evaluating their successes and drawbacks. The chapter provides a longitudinal and policy-focused approach to the process of conceptualising, operationalising, and contesting the empowerment of women in the sphere of Indian public policy and helps see the challenges that should be overcome to achieve substantive gender equality in the Viksit Bharat @2047.

CONCEPTUAL FRAMEWORK: UNDERSTANDING WOMEN'S EMPOWERMENT

The empowerment of women is a concept with many dimensions as well as being context-specific rather than limited to individual economic or welfare-based measures. It can generally refer to the process by which women learn to make strategic choices in life when these choices were not in the past or had been limited.² Empowerment is a process and a product, therefore, it entails transformations in the relationships of power at individual, domestic, communal, and institutional levels. It is comprised of access to resources, both material and non-material, decision-making agency, and outcomes in the form of better well-being, rights, and social status.

The literature on women in policy and development has expressed the conceptualisation of women empowerment using various analytical frameworks which manifested varying assumptions regarding the role of the state and gender inequality. The welfare approach is aimed at meeting the basic needs of women, i.e. food, health and education, mostly in their capacity as mothers and nurturers. Although it is needed in the settings of deprivation, this practice tends to strengthen the conventional gender roles and does not resolve the power imbalances. The equity approach aims to rectify the structural disparities by enhancing equal right, legal reforms and institutional change especially in employment, education and political participation.

² Kabeer, N. (1999). Resources, agency, achievements: Reflections on the measurement of women's empowerment. *Development and Change*, 30(3), 435–464. <https://doi.org/10.1111/1467-7660.00125>

The anti-poverty strategy connects women empowerment with the generation of income, skill training and reduction of poverty as women were viewed as economically vulnerable as a major factor of disadvantage. The efficiency approach which focuses on the role of women in the outcomes of economic growth and development is closely associated with this, positing that women investing will contribute to better productivity and social payoffs. But detractors observe that efficiency-driven logic presents the danger of instrumentalisation of women labour leaving questions of autonomy and justice unanswered.

Rights-based and capability approaches have become increasingly popular in the scholarly and policy sectors more recently. These models emphasize substantial equality, legal rights, liberty, and the growth of female abilities in order to live lives they appreciate.³ They insist on agency, dignity and participation and stress the importance of considering intersectional inequality due to caste, class, ethnicity and region.

Policies regarding the Indian women empowerment are based on a dynamic and mostly intersecting collection of these strategies. Whereas early interventions have focused on welfare and protection, the modern day policies have shifted to rights, participation, and inclusion. This conceptual development is crucial to the critical assessment of the policy effectiveness as well as to formulating future strategies that can go beyond symbolic inclusion and towards transformative empowerment.

CONSTITUTIONAL FOUNDATIONS OF WOMEN'S EMPOWERMENT

The Indian Constitution offers a strong and enlightened normative base of women empowerment, which is full of concern towards equality, dignity, and social justice. Preamble imprints the principles of justice, social, economic, and political, equality and fraternity which define the moral code that gender equality should be achieved. They are the underlying values that shape the understanding of basic rights and the state action towards the historical and structural injustices against women.

Article 14, 15 and 16 form the main constitutional assurances of equality. Article 14 guarantees

³ Sen, A. (1999). *Development as freedom*. Oxford University Press.

equality before the law and parity of the laws whereas Article 15 forbids discrimination based on sex, among others. Notably, Article 15(3) allows the State to take any special measures towards women, since formal equality is not enough in order to overcome ingrained gender inequalities. This empowering clause has been used to support the affirmative action policies and women-related welfare and development policies, which have their constitutional foundation. Article 16 goes further to promote equality of opportunity in the employment related matters of the State, which gives a critical legal basis against which women can be exercising their participation in the public sphere.

Directive Principles of State Policy (DPSPs) are addition to fundamental rights, and they describe the socio-economic objectives of the Constitution. Article 39(a) and 39(d) require equal access to livelihood and equal pay to equal work, which is a substantive understanding of economic justice. Article 42 guides the State to guarantee the fair and humane terms of job and maternity relief and it recognizes the gender aspects of the work and care burden. The DPSPs, though not justiciable, have played a major role in the legislative and policy processes towards encouraging the welfare and empowerment of women.

With time, this constitutional structure has facilitated the passing of progressive laws and policy actions of concern to the education, employment, political participation, and vulnerability to violence. Judicial interpretation has also increased the area of gender equality through reading constitutional values into administrative action and law. However, there still exists a gap between the ideals of the constitution and social realities. Manifold embedded patriarchal culture, unequal application of law, and institutional constraints still remain as some of the factors that are hindering the full achievement of constitutional rights of women. This divide highlights the importance of long term policy intervention, institutional change and constitutional dedication to the translation of formal guarantees into substantive empowerment.

1. Post-Independence Phase: Welfare-Oriented Policies (1950s–1970s)

A welfare-based and protectionist paradigm was very dominant in shaping women empowerment policies in India during the decade's right after independence. The women were mostly considered by policy-makers in terms of their procreative and nurturing functions, and thus interventions were based on social welfare and not rights or agency. The main agenda of this time was on enhancing the basic living of women by efforts in health, nutrition, education

and family welfare. This was echoed in the early Five-Year Plans which incorporated women issues into more social welfare programmes, especially in the sectors of maternal and child health, literacy and social assistance.⁴ (Government of India, 1951).

The welfare approach was strengthened by institutional mechanisms that were established in this stage. Some of the bodies that played a significant role as implementing agencies included the Central Social Welfare Board and worked in conjunction with the voluntary organisations to provide service to vulnerable women and children. Such interventions were significant in meeting short time needs and relief, especially when there was so much poverty and dislocation after partitions. The dependence on voluntary action and piecemeal provision usually constrained the size and viability of these programme though.

The post independent period also saw a great deal of legislative reformation along with the welfare measures, the most prominent coming with the passage of the Hindu Code Bills in the 1950s. These reforms aimed at increasing the legal rights of women in the fields of marriage, divorce, heritage, and property which was a significant deviation of the customary practices. Although the Hindu Code Bills was a progressive claim to gender equality in the personal laws, the social effect of the same was not even because of lack of legal awareness, opposition by conservative quarters and weak enforcement mechanisms.

Nevertheless, the welfare-based approach was limited in nature even in the wake of these developments. Early policies did not confront more structural forms of patriarchy and financial reliance by prioritizing women as the consumers and not the active agents of protection in rights. The participation of women in formal employment, political decision making and governance were minimal and gender inequalities were still prevalent in the social and economic sectors. This step therefore set the stage of state intervention in the welfare of the women but also revealed the necessity of a more radical put across policy structure one that, would later come into being with the orientation towards development and equality in the seventies.

2. Shift towards Development and Equality (1970s–1990s)

The 1970s was a turning point in the Indian thinking on the issue of women empowerment when the policy discourse shifted to the issue of equality, development and rights instead of just welfare and protection. Another catalyst that was critical to this change was the landmark report of the Committee on the status of women in India, Towards Equality (1974) which

⁴ Government of India. (1951). First Five-Year Plan. Planning Commission

offered a holistic evaluation of the socio-economic and legal status of women in independent post-independent India. As opposed to existing perceptions of progress, the report showed that women had a downward situation on major indicators such as participation in the labour force, education access, health outcomes and political representation. It also brought to focus the gender-based violence and constraints of law reforms in changing the deeply rooted social practices. The report recommended an essential re-orientation of the state policy by ensuring that the state shifted its emphasis of welfare interventions with policies that encouraged equality, autonomy, and participation.

Subsequently, successive Five-Year Plans progressively embraced a developmental approach which incorporated the issues of women in the wider framework of socio-economic planning. More focus was made on the increase of women access to education, vocational training, and health and job prospects. The gender issues were further institutionalised by the introduction of the Department of Women and Child Development, which also offered a special administrative platform on which to align the women-based programmes. The Support to Training and Employment Programme to Women (STEP) and various other initiatives were meant to help increase the skills, income generation, and self-reliance of women, especially those with disadvantaged backgrounds, economically.

It was also a time marked by the trends of an increasing strength of women movements and civil society activism that led to significant influence on changes in the law and policies. Through grassroots mobilisation and feminist activism, the problem of dowry-related violence, custodial abuse, sexual harassment and employment discrimination became a topic and a subject of discussion and legalisation. Prolonged activism led to the passing and enhancement of laws against dowry practices, employment equality and protection against violence. Meanwhile, the contact between the state and the women movements revealed the points of tension between the formulation and implementation of the policy. Nevertheless, most initiatives were marred by poor governance structures, lack of resources and ineffective inter-sectoral coordination despite the progressive intent. However, the 1970s to 1990s provided the groundwork on a more rights-conscious and development-oriented approach on the issue of women empowerment, which would later provide the groundwork of the policy changes during the liberalisation age.

3. Liberalisation and Rights-Based Turn (1990s–2000s)

The economic liberalisation reforms that were launched in the early nineties were a decisive

turning point in the process of development in India and redefined the theme of women empowerment considerably. With the Indian economy being opened to the global markets, policy consideration in the country began to pay more attention to efficiency, productivity, and human capital, which has put the economic contribution of women under the microscope. Simultaneously, a rights-based conceptualisation of gender equality was strengthened by the global normative advances, especially, the Beijing Declaration and Platform on Action (1995)⁵ and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which India ratified in 1998. Such global engagements focused on women autonomy, legal rights, and involvement in decision making in domestic policy priorities.

In this regard, women started to be more acknowledged as participants of the economy and rights bearers as opposed to the passive consumers of social welfare. The policy talk brought to the fore the significance of access to education, employment, credit and property by women as critical to equity as well as growth. The legal changes and institutionalisation of this era indicated the drive toward mainstreaming gender issues in all sectors but the fruits of liberalisation were uneven, especially to those women who work in casual and insecure types of labour.

This rights based turn was greatly consolidated with the introduction of the National Policy of Empowerment of Women (2001)⁶. The policy developed a holistic vision of empowerment that included the economic, social, political as well as legal aspects and stressed the concept of gender mainstreaming in the planning of development. It also demanded institutional fortification, legal awareness and whether or not women can be given a say in the governance and decision-making processes.

A key invention during this era was the concept of gender budgeting as a fiscal policy. Gender budgeting sought to reflect budgetary priorities in accordance with the needs and entitlements of women by analyzing the public spending through the gender lens.⁷ Gender budgeting was a move to accountability and result-oriented governance, but it has not been effective due to the lack of data availability, institutional capability, and systematic monitoring. However, the liberalisation era was the beginning of the incorporation of the women empowerment into the general economic and governance changes resulting in the future policy formation of the twenty-first century.

⁵ United Nations. (1995). Beijing Declaration and Platform for Action. United Nations.

⁶ Government of India. (2001). National Policy for the Empowerment of Women. Ministry of Women and Child Development.

⁷ Chakraborty, L. S. (2016). Gender budgeting in India: A promising approach. Routledge.

CONTEMPORARY POLICY INITIATIVES AND FLAGSHIP SCHEMES

Since the first half of the 2010s, the topic of women empowerment has been given a second policy boost of importance in India as a number of flagship schemes and legislative programs focused on overcoming the decades-long gender inequalities. Programmes like Beti Bachao Beti Padhao (BBBP) were initiated to react to the high rates of degradation in child sex ratios and the survival, protection and education of the girl child. Although the scheme is evidence of a significant normative change in the direction of placing more importance on the education and dignity of girls, the reviews have revealed an uneven application and more focus on the awareness campaigns instead of the investment in the health and education infrastructure.

The empowerment of the economy has been the main focus of the modern policy. Programmes like Pradhan Mantri Jan Dhan Yojana have increased access to formal banking by women, which has provided financial inclusion and through transfers of various benefits. Programs such as Stand-Up India and Pradhan Mantri Mudra Yojana are the ones that intend to support female entrepreneurship by enhancing access to credit and institutional resources. These programmes recognize women as economic actors and drivers of growth but problems pertaining to credit access, digital literacy, and business sustainability continue to challenge women especially in informal sector areas.

The issue of political empowerment has also been addressed. Women have participated in the governance of their panchayats at the grassroots level in large numbers because of the constitutional reservation of seats to women in Panchayati Raj Institutions, which have resulted in increased sensitivity to matters affecting women including their health, sanitation and education. According to empirical research, the role of women leaders at the local level has resulted in making changes in the governance priorities and societal attitudes. New laws that have been enacted to empower women by enhancing their representation in high legislative institutions also support the democratic aspect of empowerment.

At the same time, the formal protection of women has been fortified by the development of the law on gender-based violence and workplace safety in the form of sexual harassment law, domestic violence, and criminal justice reform. Nonetheless, their effectiveness is still compromised by the still existing loopholes in enforcement, inaccessible justice, and socio-cultural obstacles. These constraints demonstrate a necessity of complementary institutional

change, legal consciousness, and social change in order to make sure that policy efforts equip to substantive empowerment.

INTERNATIONAL COMMITMENTS AND POLICY ALIGNMENT

The women empowerment policies in India have been greatly influenced by the experience through the international human rights tools and global development models, which has also offered the normative guidelines and accountability checks. The prime example in this respect is the ratification of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) by India in 1993. CEDAW places upon the State parties both the need to remove discrimination against women by legislation, administration and policy and substantial equality in political, economic, social and cultural domains.⁸ The regular reporting of India with regard to CEDAW has helped in reinforcing the domestic legal reforms and policy debate especially in education, labour rights, and gender-based violence protection.

The national policy orientation has also been affected by the international consensus-building platforms. The 1995 Beijing Declaration and Platform of Action was a turning point in the world towards perceiving the empowerment of women as a key to development and governance. Its gender mainstreaming, institutional and involvement of women in decision making is seen in the adoption of gender budgeting and development of institutional specialised structures in India.

Most recently, the 2030 Agenda of Sustainable Development has solidified India-based gender equality with Sustainable Development Goal 5 that aims at ending discrimination against women, as well as violence, aiding women in unpaid care work, and female leadership and economic empowerment.⁹ (United Nations, 2015). India has tried to adjust national policy and monitoring frameworks to SDG indicators and incorporate gender issues in larger development plans.

Irrespective of this congruency, there have been persistent difficulties in conversion of international norms to local results owing to implementation gaps, regional disparities, as well

⁸ United Nations. (1979). Convention on the Elimination of All Forms of Discrimination against Women. United Nations.

⁹ United Nations. (2015). Transforming our world: The 2030 Agenda for Sustainable Development. United Nations.

as, to socio-cultural limitation. International obligations, however, remain to be vital in the development of the rights-based approach of women empowerment in India and pursuit of accountability in the pursuit of inclusive development.

WAY AHEAD

The future of the women empowerment in India needs to see a move beyond the piece meal policy interventions and a more holistic, accountable and transformative structure. Although the current legal and policy framework is associated with high normative commitments, the needed shift of the focus should now be on the effective implementation, evaluation of outcomes, and inclusive governance. Building institutional strength at the central, state and local level is necessary to widen the gap between policy wish and the realities of life.

One of the main priorities is to have an intersectional approach to policy design. The experiences of women are influenced by the interlapsing identities in terms of caste, class, religion, disability, region and age. The strategies in the future should thus go beyond standard solutions and deal with differentiated vulnerabilities, especially of women in informal jobs, rural settings, and the marginalised communities. Being more responsive to disaggregated data and the use of gender-sensitive impact assessments in the production of law can help to improve law-making and policy evaluation.

The access to justice and mechanisms of enforcement should be complements of legal reform. Accountability and trust in institutions can be enhanced by strengthening legal aid services, quick courts on gender-based offences and technology-enabled systems of redressing grievances. It is also critical to create more legal awareness and rights literacy so as to enable women to assert their claims to entitlements granted by the law.

Lastly, to attain substantive empowerment, there has to be social and cultural change in the long run. Education, community-based and media interventions are especially useful in undermining patriarchal norms and transforming perceptions of women as leaders and agents of their own lives. In the context of the Indian progress towards Viksit Bharat @2047, the empowerment of women should not be considered as a sector-level issue only, but as a cornerstone of the democratic process, economic growth, and constitutional justice.

CONCLUSION

The development of women empowerment policies in India is indicative of the long-term effort to implement constitutional principles of equality, dignity, and justice into objective legal and policy measures. Since the very inception of welfare interventions with focus on the requirements of women to modern-rights and capability-enhancement policies, Indian public policy has gradually recognised the women as independent citizens and decisive contributors to the national development process. The combination of constitutional guarantees, reforms in the legislature, development planning, and specific schemes have established an all-encompassing institutional frame work of the efforts to combat gender-based disparities.

Nonetheless, the fact that inequalities in education, employment, health and political participation persisted points to the fact that a disparity between normative commitments and lived realities exists. The restrictive nature of structures, including socio-economic disparity, the informality of the work process, and the entrenched nature of patriarchal values remain the factors that suppress the transformative power of the policies aimed at empowerment. These complexities also highlight why it is necessary to have an efficient implementation process, a strong monitoring system, and increased accountability in the governance institutions.

In the context of the development of India as Viksit Bharat @2047, women empowerment should be centralized in the development strategy and constitutional government. Substantive equality should be obtained by strengthening the access to justice, making the law-making process gender-responsive, and increasing the level of women involvement in institutions of decision-making. Empowerment should not just be a talk on policy but should be given a real agency, opportunity and security to women in various social settings. The achievement of the developmental ambitions of India will be ultimately in the extent to which it manages to actualise gender justice not as a social objective, but as an orienting principle of democratic and legal order.

References

- Chakraborty, L. S. (2016). Gender budgeting in India: A promising approach. Routledge.
- Government of India. (1951). First Five-Year Plan. Planning Commission.
- Government of India. (2001). National Policy for the Empowerment of Women. Ministry of Women and Child Development.

Kabeer, N. (1999). Resources, agency, achievements: Reflections on the measurement of women's empowerment. *Development and Change*, 30(3), 435–464.
<https://doi.org/10.1111/1467-7660.00125>

Sen, A. (1999). *Development as freedom*. Oxford University Press.

United Nations. (1979). *Convention on the Elimination of All Forms of Discrimination against Women*. United Nations.

United Nations. (1995). *Beijing Declaration and Platform for Action*. United Nations.

United Nations. (2015). *Transforming our world: The 2030 Agenda for Sustainable Development*. United Nations.

