



# Women And Citizenship In India: Inclusionary Or Exclusionary?

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**Abstract:** The discourse around the concept of citizenship has been a center of discussion in both the liberal and the neo-liberal states. The theoretical discussion is primarily dominant in the civic republican and liberal debates. The civic republican notion of citizenship emphasizes the community participation while advocating active citizenry, political participation, and civic virtue. The emphasis is more on active participation in civic life. The liberal notion of citizenship believes in the capacity of the individuals themselves as an active citizen by emphasizing individual rights and private interests. The question arises as to whether these two concepts can encompass the marginalized sections of society, especially women. And is there a possibility of reaching a milieu of formal and substantive rights of a citizen? These are some of the issues in the concept of citizenship that demand a revision of the current definition of citizenship. However, there has been an attempt at re-theorization of the concept by recent scholars whose work focuses on the binary of the concept of citizenship. The binary of public-private gives space for discussion on women and their claim to citizenship. There is a notion that men are active participants in the public domain while women are mostly confined to the private domain (the insider-outsider debate). Therefore, in this context, the paper tries to look at the relationship between the concept of citizenship and how the concept is contested and negotiated when it comes to women. Women's oppression is exemplified in the way women experience citizenship rights. On the one hand, the state guarantees citizenship rights and on the other, it is the nature of the society to determine the extent to which citizenship rights can be exercised. The paper is an attempt to look at citizenship as a concept from the lens of women's experience and will mainly outline the theoretical implications of the concept of citizenship in the context of women in India while giving a general view of how discrimination and social exclusion can undermine the benefits of citizenship. The method used in this paper is qualitative and analytical while relying on theoretical discourse analysis and secondary research.

**Index Terms -** Women, Citizenship, Gender, Social exclusion, Inclusion, Rights

## I. THE CONCEPT OF CITIZENSHIP:

In a contemporary world, a citizen can be defined as a member of the bounded territory, with a sovereign head that prescribes legal rights and responsibilities in which citizenship status is granted by states and nations. With rights as the crux of the citizenship status it has become more of a political privilege. Citizenship entails a tension between the inclusionary and exclusionary aspects. There are many debates on citizenship today that continue to reflect the tension between citizenship as participation and citizenship as a legal status. These debates also reflect the continuing struggle with the exclusionary aspect of citizenship, particularly based on gender, sexuality, class, race ethnicity, and religion. 'Citizen' is an equalizing word, which carries the definition of Aristotle "A citizen rules and is ruled in turn". By taking this definition of Aristotle a citizen can be defined in terms of equal rights and obligations, and equal treatment to all rather than differential one. But a political system of equal citizenship in reality is less equal with a part of society divided into unequal social conditions (Turner 1990). The issue of who can practice citizenship is not only related to formal or legal

citizenship but also to the non-political capacities of the citizens which is derived from the social resources and their access to it. The concept of citizenship has further been extended by the social movements concerned with identity and equality. The new social movements like civil rights movements, anti-racist movements, feminist movements, and gay liberation movements are directed towards the inequalities in the rights of the different categories of citizens. The conception of universal citizenship rights has become less relevant with the advent of new social movements. Formal citizenship rights are related to non-formal criteria of inclusion in the civil sphere. Formal rights are mostly given by the state but the entitlement to citizenship is decided in the civil sphere where it is recognized whether an individual deserves to be included or not. Therefore, the civil sphere also plays a major role in the inclusion of an individual. Democracies construct identities in terms of citizens, where the identity is created by several discourses that are not fixed in a closed system of differences. The identity of the individual depends on their position, where the plurality of identity is constantly sub-served and over-determined by others. There are many conceptions of citizenship, Republicans believe in the common good, liberals affirm there is no common good, and emphasize individualism and the conception that recognizes the plurality of identities. More than the conception that stresses commonality at the cost of individuality, what is to be stressed is the form of commonality that has space for plurality and difference and also respects different forms of individuality.

## II. DISCOURSES ON CITIZENSHIP:

Citizenship is presented as the “momentum concept”, with its egalitarian, integrative, and universalizing aspect, momentum meaning which is infinitely progressive and egalitarian (Roy, 2010). Momentum concept can be distinguished from stagnant concepts like state patriarchy which are repressive. Citizenship's promise of equality may be seen as premised on masking of ascriptive, structural, and historically emergent inequalities and the differences of caste, culture, and gender ethnicity rather than dismantling them (Roy 2010). The boundaries of citizenship are constituted by political life, political community, and a growing recognition of pluralities, diversities, social existence, and allegiance where the state plays a significant role. Roy emphasizes other aspects that democratic citizenship has to take into account like the multidimensionality of oppression that determines citizenship, the ideological structures of the state and its rule, and also its hegemonic articulation of nationhood constitutes citizenship through differential inclusions and erasures. There are even new systems of domination coming from economic liberalization, globalization, and political conservatism. National identity, the history shared and the common destiny of the people have become the political identity of citizenship which can be regarded as the “politicization of the cultural concept of nationality” (Roy 2010). Walter D. Mingolo in his article “Citizenship, knowledge and the limits of humanity” has attempted to trace an epistemological understanding of the very concept of citizenship. Mingolo also draws an interesting analytical difference between the idea of “person” and citizen and argues that the space between person and citizen is divided by colonial and imperial racism. What Mingolo largely talks about is the epistemic matrix of citizenship, founded on the very idea of exclusion. At some levels, the structural binary between the citizen private and the public becomes a useful entry point into understanding the question of citizenship. Identities are created by binaries, the presence of significant ‘other’ or otherness gives meaning to the identity of ‘self’. Similarly, the manifestation of the ‘lesson of otherness’ is inextricably and inherently inscribed into the code of citizenship in modern nation-states, citizenship produces the ‘constitutive outsiders’, as an element of its own identity, its virtuality, its power. This membership in the political community of “otherness” is the relationship of one of “forclusion”, where the outsider is present discursively and constitutively. Moreover this “forclusion” is reinforced and reinscribed continually through legal and judicial pronouncement (Roy 2010). India, with a history of colonial rule, the partition of the country on religious lines, cultural and religious diversity, and also caste oppression, and communal riots are what citizens of India have experienced and are experiencing. The evolution of the Indian idea of citizen as a relation between the state and individuals and citizens gives a new dimension to the understanding of citizenship. How is it declared, proclaimed, capitulated, abrogated, condensed, and violated are some of the questions that many scholars have sought to address. Jayal has argued that Indian democracy cannot be judged only through voter turnout or macro-level generalization about political participation but by evaluating its ability to provide for the meaningful exercise of citizenship rights. The discontent among the citizens, even the liberal and well-provisioned citizens of a democratic state prevails when the marginalized claim their recognition of belonging to different cultures. The role of civil society is also emphasized by Jayal to show the individuals their face in the mirror of citizenship and also civil society provides a space for the citizens to realize their political self-hood.

### III. WOMEN AND CITIZENSHIP:

The republican and libertarian concept of citizenship encompassing the debate of active citizenry and individual capacity has in a way failed to recognize the inequality due to societal inequalities. It does not consider the citizenship rights of the marginalized sections of society and the way one experiences citizenship, especially concerning women. Women in general experience citizenship in a differentiated way and it can all be traced back to the gender structures of society. Women are considered "second-class citizens" because of the way they are placed in society. Citizenship is an overall concept that encapsulates the relationship between the individual, state, and society (Davis, 1997). The issue of women's citizenship concerning men and their affiliation in social groups should be considered for the gendered reading of citizenship. Such as their ethnicity, whether they belong to dominant or subordinate groups, their origin, and their residence whether it is urban or rural should be considered as the factors to make a comparative study of citizenship. Mostly, their belonging plays an important role in understanding the concept of citizenship through women's perspective. Early discussions on the concept of citizenship emphasized community membership, as seen in T.H. Marshall's definition (1950): "a status bestowed on those who are full members of the community." This perspective connects citizenship more to belonging within a community rather than to the state. Marshall's view serves as a foundation for exploring citizenship as a multi-tiered construct, encompassing various forms of membership, including local, ethnic, national, and transnational affiliations. It also raises important questions about the relationship between community and state and how these dynamics influence individuals' citizenship. His conceptualization allows for a critical discussion on the relationship between community and state in shaping citizenship. The state is often seen as the primary institution that grants citizenship rights but the community membership plays a deciding factor that influences access to one's citizenship rights, identity, and participation in civic life. Therefore, it gives a space to raise questions about how citizenship goes beyond the legal status setting a stage to explore different forms of citizenship, in this aspect cultural citizenship which involves identity and culture. Bryan Turner's (1990) attempt at creating a typology of citizenship into public and private, active and passive has been criticized by feminists because it is Western-centric and most importantly has ignored women in its context. Feminists like Carol Pateman and Ursula Vogel (1989) have identified the public sphere as identical to political. The private-public dichotomy postulated by theorists like Turner opens a wide range of questions, as it gives the state the authority to determine where it can intervene and where it can stop itself from intervening. Therefore, the construction of the boundary between the public and private is a political act in itself (Davis, 1997). Iris Young suggests that democracy should not treat people as individuals but as members of groups. Argues that the universal concept of citizenship would ignore the differences and enhance the domination of groups that are already dominant and would further silence the marginal and oppressed groups. Citizenship can be viewed from the point of view of how much one can sacrifice to attain the worth of the nation – an active citizen. For instance, military workers, mostly the frontline workers are men, women on the other hand due to the existing patriarchal structure does not get any opportunity to prove their loyalty to the state to which they belong, moreover, they are marked with an attribute of weakness, hence their participation is less compared to the male counterparts. The placement in the economy also holds significance in contributing to the role of active citizens, for instance, the ability to pay taxes. Men have played a significant role in the economy due to their placement, they had the liberty to work, to get out of the houses, and have been assigned the role of provider hence they hold more importance than women. Women due to the gendered structure were deprived of such liberties and hence played the role of a caretaker, having less significance in the economy of a nation. Jayal and Bhargava (2005) engaged in the theorization of citizenship rights differentiate between active and passive citizens based on who receives benefits, rights liberties, and protection from the state. Among women as well there can be passive and active citizens, passive has hardly any role in the public sphere and has a private sphere protected by the state and granted as citizens. The active is in regular engagements with the state to negotiate for her rights and how benefits and burdens are to be distributed. As Bhargava states citizenship entitlements are unequally distributed. Women can experience differentiated citizenship rights due to the existing social structure. Feminists on the other hand thus believe that citizenship operates on the principle of binary i.e., public and private, such as productive and reproductive, economic and cultural, relegating women to the reproductive, private, and cultural sphere.

However, women's and gender history, together with political science studies, have significantly redefined the parameters of citizenship. These days, it is impossible to think of citizenship as a "single and undivided" concept; rather, we envision a variety of citizenships, including social, cultural, political, and economic. The phrase can now relate to custom, usage, practices, and a sense of belonging, all of which can differ depending

on the context, nation, or community in question. It no longer only refers to a status or a set of rights enjoyed by "nationals" who are legally recognized as such inside a particular state. Even in the absence of formal rights, it entails taking part in the polity in its widest meaning. As a result, it is crucial to closely examine not only the terms translated as "citizens" (male or female) and "citizenship" in various historical and linguistic contexts, as well as the range of legal categories, but also social practices and experiences—in other words, to comprehend what citizenship means in various societies. Since the term refers to the acquisition of rights within society as well as to commitments, campaigns, forms of resistance, and "practical actions" that can be found throughout every period of history, women's and gender history has thus contributed to the demonstration that there are multiple types of social citizenship rather than just one "single."

#### IV. EXPERIENCES OF CITIZENSHIP RIGHTS OF WOMEN IN INDIA

Citizenship with its Western ideals has been adopted in countries where there are ascribed, multiple positions within the overlapping communities and are experienced to exclude women, lower castes, and other stigmatized groups. Citizenship is of alien origin as the concept is of Western origin. However, the "concept of exogenous provenance can become culturally embedded, politically contested" (Mitra, 2021). Mitra's argument focuses on how citizenship has been relevant in India and has embedded itself into the concepts of identity and entitlement. Subrata Mitra's attempt at theorizing the concept of citizenship has recognized the concept of citizen as a group as a "third space" which is placed in between the state and society, a citizen is a part of the state as well as the society. It lingers between the personhood relevant to society and the legal individual. By taking Mitra's (2021) conceptualization of citizenship, it gives a starting point to place an argument about the marginalized sections especially the status of the women. Citizenship with its Western ideals has been adopted in countries where there are ascribed, multiple positions within the overlapping communities and are experienced to exclude women, lower castes, and other stigmatized groups. As discussed in the previous section how women are relegated to the reproductive, private, and cultural sphere, women in general experience a differentiated citizen thus creating a multi-tier or differentiated citizenship. Further, the question arises whether the women in India experience citizenship in an inclusionary or exclusionary manner. To support this argument, Mitra's attempt at theorization could be adopted. However, Mitra (2021) does not consider the women's issue directly while presenting his argument but his conceptualization could be adopted to understand the experiences of citizenship rights by women. The state gives formal rights to all its citizens including women but the extent of those rights is decided by the social structures. Sharp economic disparity and inherited social inequality disable one to enjoy full citizenship rights. Women as compared to men experience citizenship differently because they are not only governed by the state but also by the social construction.

While considering the citizenship question of women in India and whether it is exclusionary or inclusionary, it is imperative to consider the country's legal, social, and political frameworks. While legal frameworks and constitutional provisions guarantee women formal citizenship, factors like socio-cultural norms, legal barriers, and structural inequalities continue to restrict their full participation. India's constitution believes in and provides for universal citizenship, where all citizens regardless of gender are granted equal rights through various provisions. India, after attaining independence in 1947, aimed to be a progressive state providing equality and benefits embodying all sections of society irrespective of gender. However, this was possible to achieve only in the formal sense, in practice it is difficult to achieve since, women have faced systemic exclusions due to patriarchal societies, legal loopholes, and socio-economic disparities. In contrast to its Western counterparts, women in India achieved political rights (right to vote) before social rights. In Western countries like the USA and France, women could work in the offices, educate themselves, had a say in marriage but were deprived of decision-making rights and did not have the right to vote. But if we look at the scenario in India, women were given political rights from the onset of the independent country but social exploration of such rights was still missing. The gendered understanding of citizenship argues about this deprivation when it argues that the state gives primary citizenship rights but the extent of these rights is decided by the society.

When we look at rights, the Indian state, or the 'secular' policies, gender is an invisible value. The Indian Constitution guarantees Fundamental rights to all the citizens of India, but the bearer of rights is both a member of a community and an individual, the "universal as well as the particular" (Menon, 1998). Articles 14 to 24 of the Indian constitution give rights to the universal subject ensuring the individual's right to equality and freedom while Articles 25 to 30 give rights to the particular as it protects religious freedom and cultural

and educational rights of minorities. The right to religious freedom gives the religious community the right to be governed by their own 'personal laws'. These personal laws cover a range of matters from marriage to inheritance proving to be discriminatory to women. Article 44 (Part IV) of the Indian constitution states that "The state shall endeavor to secure for the citizens a uniform civil code throughout the territory of India", it is included in the Directive Principles of State Policy (DPSP) which are not enforceable by the court of law. The makers of the Indian constitution were aware of the complications related to the uniform civil code (UCC) and hence included in DPSP and not under Part III which is enforceable in a court of law. The personal laws of Hindus and Muslims guide the religious communities on matters like marriage, divorce, adoption, inheritance and custody of children, succession to property, etc., all issues directly related to women's rights. The Hindu Code Bill and Muslim Personal laws are two such contentious laws that even after more than 70 years of independence, India still struggles to mediate the tussle between Article 25 which guarantees religious freedom, and Article 44 which provides for uniform civil laws. Between the inability of the state to enact Article 44 and personal laws, for many years women have been facing discrimination in the name of religious laws. However, some inclusionary laws attempted to enfranchise women through successive legislation such as the Hindu Succession (Amendment) Act, 2005 was proposed to provide daughters equal inheritance rights to brothers or sons in most property. Scholars like Bina Agarwal have argued that this Act strengthened women's bargaining power against the state and community (Rajak, 2020). The judiciary has also given verdicts in favour of women transcending religious personal laws such as the case of Shah Bano. This case acquired a considerable amount of public attention. In 1985, the Indian Supreme Court ruled that Shah Bano, a 68-year-old woman was eligible for maintenance under section 125 of the Code of Criminal Procedure. Her husband divorced her when she asked for maintenance (Desouza, 2015). The judgment countered the Muslim personal law, because according to the personal law, after the divorce his responsibility for maintenance was limited to a period of three months only. It produced a massive political outrage; the Muslim community objected to the secular law overriding the Muslim personal law. Political mobilizations such as All India Muslim Personal Law Board AIMPLB), and Jamiat Ulama-i-Hind came up as staunch opponents to the judgement on the grounds of religious freedom (Desouza, 2015). Although hurried legislation was enacted by the government, the Muslim Women (Protection of Rights on Divorce) Act (MWPRDA), 1986 to contain the outrage by the Muslim political mobilization. It in a way sidelined the issue of women's emancipation from the religious personal laws. Archana Parashar (2008) in her 'Gender Inequality and Personal Laws in India' have expressed that "one marked feature of most RPLs (Religious Personal laws) is that women have fewer rights than men" and that the personal laws even deny formal legal equality in personal relations". The continuous tension between Part III and Part IV of the Constitution is something that needs courageous action by the state. The Indian constitution provides women with gender equality under Article 14 (right to equality) and prohibits discrimination under Article 15 and equal opportunity under Article 16, but the question is whether these formal rights can transcend certain religious personal laws to proclaim gender equality. Feminists have argued that legislation in the personal laws from outside will threaten religious beliefs, legislation will only be possible if it comes from within the community, and it has a rough path to lead because the religious personal laws operate on the very basis of patriarchal structure. Few attempts have been taken by the state to empower women in personal matters through legislation such as Anti Dowry Act (1961), Divorce Act (2001), Protection of Women from Domestic Violence Act (2005), Maternity Benefit Act (1961), 73<sup>rd</sup> and 74<sup>th</sup> Amendment Act (1992), Criminal Law Amendment Act (2013), Protection of Women from Sexual Harassment Act, 2013 (POSH Act) Women's Reservation Bill (2023), etc. Desouza (2015) has linked domestic violence with religious personal laws as these laws deny even formal rights to women in personal relations. The socio-economic condition of women and the lack of economic independence among women pose limitations to such acts. Such acts provide certain relief to women but also open up issues of gender inequalities in such personal relations.

Crimes against women, including domestic violence, marital rape, dowry deaths, honor killings, and sexual harassment, highlight a major gap between legal protections and lived experiences. The structural and cultural changes mentioned above have brought about equality of opportunities in education, employment, and political participation, reducing exploitation among women, but are these laws enough to have a social transformation of women, do gender norms, and structural inequality allow substantive equality to women? Crimes against women, economic gaps, educational and health care gaps, violence and safety issues, intersectional disadvantages, and societal taboos are a few socio-economic barriers to full citizenship for women. According to the National Crime Records Bureau report (2022), the rate of total crimes against women was 4,45256 in 2022 which marked a sharp rise from 3,71503 in 2020 (66.4% from 2020-22). Despite the implementation of the POSH Act, 2013 to prevent women from sexual harassment cases increased from

402 in 2018 to 422 in 2022. The Georgetown Institute for Women, Peace, and Security (2023), a US-based institute has ranked India 128 out of 177 countries with an index score of 0.595 out of 1 point in terms of inclusion, justice, and security. The economic disparity between men and women is also one of many issues that Indian society fails to tackle. Women's labor force and participation remain one of the lowest globally around 24% in 2022 with many engaged in informal, unpaid, or low-paid work according to the reports of the Periodic Labour Force Survey (2022). National Family Health Survey records that the gender wage gap remains between 20-30% which is less than men for some work and according to UNESCO Global Education Monitoring report the literacy rate of women is 66% and men is 82% which shows a huge educational disparity.

Women in Indian societies still struggle against the Dowry-related issues. Despite the legislation that protects women against dowry and domestic issues, India reported more than 7.1 thousand dowry deaths in 2019. Dowry-related deaths and abuse are still prevalent in Indian societies. Organisations like Mahila Dakshata Samity (MDS), and Stree Sangharsh are related to women empowerment and upliftment. Other than the physical crimes against women, there are certain social taboos especially related to menstruation of women that tend to ostracize women on the grounds of "pollution". Indian society is highly dictated by the norms that generate the idea of "purity/ impure" and "pollution" which mostly has been derived from Hindu Brahmanical texts. Sekine has given a detailed formation of the idea of purity and pollution centered on women and argues that such ideas are contradictory in nature. Since women's reproductive ability becomes central as a mediator between death and birth, menstrual blood is classified independent category of relational pollution. This results in containment of women's power and results in subjugation of women. For instance, in the case of Sabarimala temple in Kerala, the doors of the temple were closed to all women irrespective of their age. The Supreme Court of India in October 2018 gave the verdict in favor of women. The court ruled that the temple could not discriminate against women of menstruating age by not allowing them to enter public places of worship. This case has led to a huge amount of controversy where the verdict of the Supreme Court has been criticized and protested by the devotees. The exclusion of women from places of worship during her menstruation and the exclusion of women from certain religious ceremonies when she is bleeding, a natural phenomenon is considered impure in the Hindu traditions. This implores an imbedded patriarchal practice and these traditions have structured the lives of women in Indian societies.

## V. CONCLUSION

The concept of citizenship gives an exploration of many issues, women being one of many. Recent scholarly writings have differentiated between formal and substantive citizenship rights, and have discussed the binary in citizenship, the private and public realm within the concept of citizenship. The changing dynamics in understanding the concept of citizenship provide a space to discuss the experiences of citizenship by women. Especially in a country like India, where the society is still in the limbo of traditional and modern values, how women experience citizenship provides us with a greater understanding of the concept and vice versa. The Indian state guarantees rights to all its citizens in "universal and particular" but the guaranteed rights have been exclusionary to women in India especially when it comes to religious personal laws. It has proven contradictory and exclusionary. The debate around whether the citizenship experiences of women in India are inclusionary or exclusionary is still an open question. Taking the concept of citizenship encourages discussions on how gender, law, and society interact in shaping citizenship experiences for women in India. Even after legislation, and implementations of various policies and laws that promise to protect the rights of women, enforcement and cultural attitudes of society limit their effectiveness. There are progressive movements to uplift the conditions of women, judicial interventions that aim to preserve the effectiveness of various laws, and legal reforms that provide a vision for greater inclusion of women. However, the real transformations require societal change, that upholds the patriarchal structure through various practices, and traditions in the society. Many scholars have focused on education and sensitization of rights, but along with those, a structural change is required in society backed by the enforcement of laws. Therefore, in the question of whether the experiences of women are inclusionary or exclusionary, the answer will be both. Some laws guarantee women inclusionary rights but if we look at the experience of women in India, it is still exclusionary.

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