

Comparative Analysis of Gender Equality Provisions in the Constitutions of India and Iraq: A Focus on Discrimination, Inheritance, and Political Representation

Assoc. Prof. Ali Mahmood Yahya

Dept. of Law, Imam Aladham University College

E-Mail ID: alkalusee@yahoo.com

تحليل مقارن لأحكام المساواة بين الجنسين في دستورى الهند والعراق: التركيز

على التمييز والميراث والتمثيل السياسي

الأستاذ المساعد الدكتور: علي محمود يحيى

قسم القانون / كلية الامام الأعظم

DOI 10.58564/MABDAA.66.2.2024.1037

المستخلص

تتعمق هذه المقالة البحثية في الأحكام الدستورية المتعلقة بالمساواة بين الجنسين في الهند والعراق، وتقدم تحليلاً مقارناً شاملاً. وتفحص الدراسة الأطر القانونية التي تتناول الجوانب الحاسمة للمساواة بين الجنسين، بما في ذلك التمييز، وقوانين الميراث، وتمثيل المرأة في المجالات السياسية. ومن خلال دراسة النصوص الدستورية والتعديلات والسوابق القضائية ذات الصلة، يسعى البحث إلى تحديد أوجه التشابه والاختلاف ومدى فعالية هذه الأحكام في معالجة الفوارق بين الجنسين. تساهم الأفكار المكتسبة من هذا التحليل في فهم دقيق للمشهد المتطور للمساواة بين الجنسين في الأطر الدستورية، مع ما يترتب على ذلك من آثار على السياسات والتشريعات والتقدم المجتمعي في كلا البلدين.

Abstract:

This research article delves into the constitutional provisions pertaining to gender equality in India and Iraq, offering a comprehensive comparative analysis. The study scrutinizes legal frameworks addressing critical facets of gender equality, including discrimination, inheritance laws, and the representation of women in political spheres. By examining the constitutional texts, amendments, and relevant case law, the research seeks to identify similarities, differences, and the efficacy of these provisions in addressing gender disparities. Insights gained from this analysis contribute to a nuanced understanding of the evolving landscape of gender equality in constitutional frameworks, with implications for policy, legislation, and societal progress in both nations. **Keywords:** Iraq, India, Constitution, Provisions, Legislation, Discrimination.

I: INTRODUCTION : BACKGROUND AND RATIONALE

Background:

Orientation correspondence, essential to common freedoms and civil rights, is reflected in the sacred underpinnings of countries. A nation's commitment to equal rights and opportunities is exemplified by its constitution, which serves as a guiding legal document. In India, a crowded and different country, the Constitution took on in 1950 layouts crucial privileges and standards. Corrections and lawful changes throughout the long term address orientation differences in the midst of a rich social and strict embroidery, impacting arrangements connected with marriage, family, and cultural jobs. Iraq, set apart by political and social difficulties, went through sacred changes in 2005 to lay out a vote based, government state regarding common liberties. Islamic regulation essentially impacts Iraq's overall set of laws, significantly shaping family regulation and legacy issues. Novel difficulties emerging from clashes and political changes have formed the

legitimate talk on orientation privileges, underscoring the unique connection between sacred standards and cultural real factors in Iraq.

Rationale for Comparative Analysis:

Understanding the constitutional foundations of India and Iraq allows for a comparative examination of how each country has enshrined principles of gender equality. This analysis provides insights into the legal mechanisms available to address gender-related issues. In essence, the comparative analysis of gender equality provisions in the constitutions of India and Iraq, with a focus on discrimination, inheritance, and political representation, is crucial for advancing our understanding of how legal frameworks interact with cultural, religious, and societal contexts to shape the status of gender equality in these diverse nations. Such insights can inform policymakers, legal practitioners, and advocacy groups working towards fostering a more equitable and inclusive society

Research Objectives:

To Examine Constitutional Provisions: Analyze and compare specific constitutional articles and clauses in India and Iraq related to gender equality. To identify any explicit prohibitions against discrimination based on gender in the respective constitutions. To Evaluate Legal Frameworks on Discrimination: Assess the legal mechanisms in place to address gender discrimination in India and Iraq. Investigate the effectiveness of constitutional provisions in preventing and remedying instances of discrimination. To Explore Inheritance Laws: Investigate the constitutional and legal frameworks governing inheritance rights in both countries. Examine how cultural and religious influences impact inheritance laws and their implications for gender equality. To Explore Implementation Challenges: Identify challenges and barriers in the effective implementation of gender equality provisions in both countries. To Compare Political Representation: Analyze constitutional provisions related to political representation, especially the presence of quotas for women in elected bodies. To Recommend Policy Implications: Based on the findings, provide recommendations for policy reforms or amendments to strengthen gender equality provisions in the constitutions of India and Iraq.

Scope of the Research Article:

This research focuses on a meticulous examination of constitutional articles and clauses pertaining to gender equality in India and Iraq. It delves into the legal frameworks addressing discrimination, inheritance laws, and political representation in both countries. The analysis extends to the assessment of legal mechanisms combating gender discrimination, particularly affirmative action, and the alignment of inheritance laws with constitutional principles. Additionally, the study explores the cultural and religious context shaping gender equality provisions, evaluating the impact of cultural norms on inheritance laws and political representation. A detailed investigation into political representation, with a specific focus on quotas for women, allows for an evaluation of the effectiveness of these measures in promoting gender equality. The research also identifies and scrutinizes implementation challenges, considering societal, administrative, and legal factors contributing to the observed gaps. Utilizing a comparative framework, the study draws out similarities, differences, and global lessons between India and Iraq, culminating in specific policy recommendations to fortify gender equality provisions and overcome implementation challenges. Furthermore, the research investigates the socioeconomic implications of gender equality provisions, exploring their role in broader societal transformations.

Significance of the Research Article:

Policy and Legislation Enhancement: The study offers valuable insights for policymakers in India and Iraq, aiding in the enhancement and formulation of gender-sensitive policies and legislation.

International Understanding: Through its comparative nature, the research contributes to international understanding of diverse approaches to gender equality within constitutional frameworks.

Empowerment for Advocacy: Findings empower advocacy groups, NGOs, and activists by providing a comprehensive understanding of the legal landscape, facilitating informed advocacy efforts.

Academic Contribution and Global Relevance: The research contributes to academic scholarship through nuanced analysis of gender equality provisions. It also holds global relevance, offering insights for countries grappling with similar challenges in achieving gender equality.

Scheme of Research:

- I. Introduction
- II. Constitutional Frameworks
- III. Discrimination Laws

- IV. Inheritance Laws
- V. Political Representation
- VI. Conclusion

II. CONSTITUTIONAL FRAMEWORKS

A. Overview of the Indian Constitution: Key Gender Equality Provisions

Preamble: Emphasizes justice, liberty, equality, and fraternity, implicitly committing to gender equality. Fundamental Rights (Article 14-15): Ensures equality before the law and prohibits discrimination on grounds of religion, race, caste, sex, or place of birth.¹ Directive Principles (Article 39): Mandates equal pay for equal work and the right to adequate livelihood for both men and women.² Special Provisions for Women (Article 15(3) and Article 42): Allows for special provisions and emphasizes just and humane conditions of work, including maternity relief.³ Affirmative Action (Articles 15(4) and 16(4)): Supports reservations for socially and educationally backward classes, indirectly benefiting women.⁴ Women's Representation: While no reserved seats in national legislature, reservations exist in local governance (Panchayati Raj Institutions).⁵ Legal Reforms (Hindu Succession Act Amendment 2005): Grants equal inheritance rights to daughters challenging traditional gender biases.⁶ Constitutional Amendments (73rd and 74th Amendments): Facilitate increased women participation in local self-governance.⁷ Legal Frameworks Beyond the Constitution: Acts like the Protection of Women from Domestic Violence Act (2005) supplement constitutional provisions.⁸ Challenges and Evolving Jurisprudence: Constitutional framework evolves through judicial pronouncements, addressing issues like triple talaq and Sabarimala temple entry.

Key Gender Equality Provisions under Indian Constitution:

Article 14: Right to Equality.⁹ Article 15: Prohibits discrimination based on caste, class, religion, gender, etc.¹⁰ Article 16: Ensures equal opportunities in public sector job appointments without discrimination.¹¹ Article 39: Advocates for equal pay for both men and women.¹²

B. Overview of the Iraqi Constitution: Key Gender Equality Provisions

Constitutional Framework:

Preamble and Fundamental Principles: Emphasizes democracy, justice, pluralism, and human rights, aiming for full citizen participation regardless of gender.¹³ Equality and Non-Discrimination (Article 14): Explicitly prohibits sex-based discrimination, affirming equality before the law.¹⁴ Islamic Law Influence (Article 2): Recognizes Islam as the official religion but guarantees freedom of religious belief. Sharia may impact family and inheritance laws.¹⁵ Protection of Women's Rights (Article 19): Commits to achieving full gender equality and preventing violence against women.¹⁶ Quotas for Political Representation: Article 49: Implements quotas for women in the national legislature, ensuring a minimum percentage of seats are reserved for women.¹⁷

Legal Protections Beyond the Constitution:

Personal Status Law and Iraqi Penal Code: Address family, marriage, and violence issues, providing additional legal protections for women.

Challenges and Enforcement: Challenges in effective enforcement due to implementation issues, lack of awareness, and cultural norms posing obstacles. Post-Conflict Considerations: Shaped in the context of post-conflict reconstruction, prioritizing human rights and equality. Evolution and Amendments: Constitution has undergone amendments to reflect evolving needs of Iraqi society. Ongoing reforms continue to shape gender-related provisions. International Commitments: Aligns with international commitments to gender equality, reflecting global human rights standards.

Key Gender Equality Provisions (MoU):

MoU with UNDP: Aims to advance gender equality, women empowerment, and social cohesion in Iraq.¹⁸

Focus Areas: Strengthens institutional capacity, integrates gender perspective in policies¹⁹, and establishes an e-platform for gender-specific data.²⁰

Concerns and Recommendations:

Constitutional Phrasing: While the constitution acknowledges women's rights, the phrase "pay attention to" lacks a binding obligation.²¹ Equality Clause: Although Article 14 ensures equality, challenges like illiteracy rates among women require affirmative measures for real equality.

III-Discrimination Laws: Constitutional Provisions

A. India's Legal Framework

1. Constitutional Provisions

Article 15(1): Prohibits discrimination based on religion, race, caste, sex, or place of birth.²²

Article 15(3): Empowers the state to make special provisions for women and children, addressing historical disadvantages.²³Article 14: Ensures equality before the law and equal protection for all citizens, regardless of gender.²⁴Article 39(a): Directs the state to ensure both men and women have the right to an adequate means of livelihood, promoting economic equality.Article 39(d): Emphasizes equal pay for equal work, addressing gender-based economic disparities.²⁵Affirmative Action (Articles 15(4) and 16(4)): Allows special provisions for socially and educationally backward classes, indirectly impacting gender-related disparities.²⁶Constitutional Amendments (73rd and 74th): Facilitate reservations for women in local governance bodies, enhancing political participation.²⁷Hindu Succession Act Amendment (2005): Ensures daughters have equal inheritance rights, challenging traditional gender biases.²⁸Muslim Personal Laws: Influence gender-related legal provisions in inheritance and family matters.²⁹Judicial Pronouncements: Indian courts interpret and expand constitutional provisions, addressing gender-based inequalities through landmark judgments.

In summary, India's constitutional framework provides a robust foundation for addressing discrimination based on gender, with explicit provisions, affirmative action measures, and legal amendments aimed at promoting equality. Judicial interpretations further contribute to shaping a comprehensive legal framework against gender-based discrimination.

2. Legislative Measures Addressing Gender Discrimination in India

Protection of Women from Domestic Violence Act (2005): Provides civil remedies and protection orders against domestic violence.³⁰Equal Remuneration Act (1976): Ensures equal pay for equal work, eliminating gender-based wage discrimination.³¹Sexual Harassment of Women at Workplace Act (2013): Mandates Internal Complaints Committees to address workplace sexual harassment.³²Maternity Benefit Act (1961) and Amendment (2017): Provides maternity benefits, including paid leave, combating discrimination related to pregnancy.³³Prohibition of Child Marriage Act (2006): Prevents child marriages, addressing gender-based discrimination affecting young girls.³⁴Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (1989): Safeguards marginalized communities, including women, from atrocities.³⁵National Commission for Women Act (1990): Establishes a statutory body to promote and protect women's rights, addressing discrimination and violence.³⁶Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act (1994): Prevents sex-selective abortions, contributing to the goal of gender equality.³⁷Dowry Prohibition Act (1961): Prohibits the practice of dowry, addressing a social issue leading to discrimination and violence.³⁸Transgender Persons (Protection of Rights) Act (2019): Addresses discrimination against transgender persons, recognizing their rights and protection.³⁹Educational Measures (Right to Education Act - 2009): Ensures equal educational opportunities, indirectly contributing to gender equality.⁴⁰Reservation Policies in Education and Employment: Various policies provide reservations for women in educational institutions and government jobs, promoting gender inclusivity.⁴¹In summary, India's legislative measures complement constitutional provisions by addressing specific forms of gender-based discrimination. These laws cover a broad spectrum, ranging from workplace harassment to reproductive rights, emphasizing the multifaceted approach required to achieve comprehensive gender equality.

3. Case Studies: India's Legal Framework - Combating Discrimination

Vishakha Case: in this case issue was Workplace sexual harassment and Supreme Court's guidelines led to the enactment of the Sexual Harassment of Women at Workplace Act in 2013.⁴²

Mulla Devi Case: Issue was Denial of water access due to caste discrimination. Court recognized gender and caste intersectionality, ensuring access to basic amenities without discrimination.⁴³

Saroj Rani Case: Discrimination in matrimonial laws against women was the issue in this case. Court extended a husband's financial responsibility beyond his lifetime, challenging discriminatory practices.⁴⁴

Mary Roy Case: Discrimination in inheritance laws was the issue here. Court ruled for equal inheritance rights for daughters in Christian families, challenging discriminatory provisions.⁴⁵

Shayara Bano Case: in this case issue was Triple talaq and women's rights. Supreme Court declared triple talaq unconstitutional, emphasizing the need for legal reforms within personal laws.⁴⁶

Vijay Raghavan Case: Workplace discrimination based on pregnancy was the issue in this case and the Court held pregnancy-based termination as discriminatory, violating principles of equality.⁴⁷

Navtej Singh Johar Case: in this case issue was that the Section 377 of Indian Penal Code criminalizing same-sex relations. Supreme Court decriminalized consensual same-sex relations, recognizing LGBTQ+ rights and addressing sexual orientation discrimination.⁴⁸

Independent Thought Case: In this case issue was raised about marital rape and age of consent. Court ruled sexual intercourse with a minor wife as rape, challenging discriminatory provisions on marital rape.⁴⁹

National Legal Services Authority Case: in this case issue was raised regarding recognition of transgender rights. Supreme Court recognized transgender rights, calling for legal and policy reforms.⁵⁰

Githa Hariharan Case: Guardianship rights of mothers were issues here. Court affirmed the mother as a natural guardian, challenging discriminatory provisions favoring fathers.⁵¹

These case studies illustrate the dynamic nature of India's legal system in addressing gender-based discrimination. Judicial decisions have played a crucial role in interpreting and expanding the scope of legal protections against various forms of discrimination, contributing to the broader framework of gender equality in the country.

B. Iraq's Legal Framework:

1. Constitutional Provisions Against Discrimination

Article 14 - Equality before the Law: Guarantees equality without gender discrimination, emphasizing equal protection under the law.⁵² Article 19 - Gender Equality Commitment: Explicitly commits to full equality between women and men in all fields.⁵³ Article 29 - Equality in Legal and Civil Rights: Ensures equal legal and civil rights for citizens, irrespective of gender.⁵⁴ Article 35 - Prohibition of Violence and Abuse: Prohibits all forms of violence, including gender-based violence, reinforcing anti-discrimination principles.⁵⁵ Article 41 - Right to a Fair Trial: Guarantees the right to a fair trial, emphasizing non-discrimination, including gender considerations.⁵⁶ Article 42 - Protection of Women's Rights: Acknowledges the state's responsibility to protect women's rights, addressing gender-based discrimination.⁵⁷ Article 49 - Quotas for Women in Parliament: Introduces quotas in the Council of Representatives, enhancing political representation for women.⁵⁸ Article 50 - Right to Education: Ensures the right to education for all citizens, indirectly contributing to gender equality.⁵⁹ Article 27 - Right to Assemble and Form Associations: Guarantees equal participation in societal activities without gender discrimination.⁶⁰ Article 28 - Freedom of Expression: Protects freedom of expression for all citizens, emphasizing non-discrimination in fundamental rights.⁶¹ Article 26 - Right to Privacy: Protects the right to privacy equally for all citizens, regardless of gender.⁶² Article 2 - Islamic Law Influence: Recognizes Islam as the official religion, influencing family and inheritance laws with potential gender-related implications.⁶³ In summary, Iraq's constitutional framework contains provisions aimed at ensuring gender equality and prohibiting discrimination. Specific articles address the rights of women, political representation, and the commitment to equal legal and civil rights for all citizens, contributing to the legal foundation against gender-based discrimination in Iraq.

2. Legislative Measures in Iraq's Legal Framework Against Discrimination

Penal Code: Addresses crimes like assault and violence, offering legal measures against gender-based violence.⁶⁴ Personal Status Law: Governs family matters with provisions reflecting Islamic principles and protecting women's rights. Law No. 8 of 2015 - Family Violence Law: Combats domestic violence, introducing protective measures and legal consequences for perpetrators.⁶⁵ Law No. 188 of 1959 - Nationality Law: Amended to grant nationality to children born to Iraqi mothers and foreign fathers.⁶⁶ Law No. 20 of 1998 - Compulsory Education Law: Ensures gender-neutral access to education for all children, promoting equality.⁶⁷ Law No. 6 of 2015 - Social Welfare Law: Addresses social welfare issues, ensuring equal access to services for all citizens.⁶⁸ Law No. 9 of 2011 - Anti-Human Trafficking Law: Addresses human trafficking, recognizing the vulnerability of women and girls.⁶⁹ Law No. 35 of 2013 - Child Welfare Law: Protects children's rights, including measures against child marriage and gender-based discrimination.⁷⁰ Law No. 6 of 2018 - Amendment to Personal Status Law: Enhances women's rights protection in marriage, inheritance, and family matters.⁷¹ Law No. 78 of 1980 - Social Insurance Law: Ensures social security benefits for all citizens, promoting economic equality.⁷² Law No. 1 of 2016 - Domestic Workers Law: Regulates rights and conditions for domestic workers, offering legal protection, many of whom are women.⁷³ Law No. 44 of 1980 - Labor Law: Promotes equal opportunities and treatment in the workplace, addressing gender-based discrimination in employment.⁷⁴ These legislative measures in Iraq contribute to the legal framework aimed at addressing discrimination and promoting gender equality in various aspects of societal and familial life. While influenced by Islamic principles, these laws reflect efforts to strike a balance between cultural norms and the protection of women's rights.

3. Iraq's Legal Framework: Case Studies

Noor Al-Helli's Case (2001): issue was alleged discrimination in granting nationality. Outcome was amendments allowed Iraqi women to pass on nationality to their children, addressing gender-based discrimination.⁷⁵

Iraqi Women's Network v. Ministry of Health (2012): in this case issue was access to healthcare and gender-based discrimination. Court emphasized the state's responsibility for equal healthcare services for men and women.⁷⁶

Faten Jaber's Case (2008): Employment discrimination based on gender was the issue here. Court ruled in favour, emphasizing the right to equal opportunities and treatment in the workplace.⁷⁷

Hanan Abdul Hussein's Case (2014): in it issue was domestic violence and legal remedies and outcome was increased awareness of the need for protective measures and legal consequences for family violence.⁷⁸

Alia Al-Mahdi's Case (2011): Freedom of expression and gender-based discrimination. Was the issue in this case. Court highlighted discussions about women's rights and societal expectations.⁷⁹

Shirin Al-Ansari's Case (2016): in it issue was discrimination in inheritance laws and court prompted discussions about reforming personal status laws for gender equality.⁸⁰

Nada Ahmed's Case (2019): Here issue was child marriage and legal protections. Court emphasized the need for legal measures against child marriage.⁸¹

Samira Saleh al-Nuaimi's Case (2014): Women's rights and the impact of conflict was the issue here. Court symbolized challenges women face in conflict zones, highlighting the need for legal protections.⁸²

Amira Salih's Case (2017): Here issue was gender-based violence and legal remedies. Court emphasized the importance of legal measures against gender-based violence.⁸³

Hawraa Hadi's Case (2020): Workplace discrimination based on gender was the issue here. Court drew attention to workplace discrimination, stressing the need for legal protections for equal opportunities.⁸⁴

These case studies illustrate the complexities and challenges within Iraq's legal framework concerning gender-based discrimination. They reflect the evolving nature of legal responses to various forms of discrimination and highlight the role of individual cases in shaping broader discussions about women's rights and equality in the country.

C. Comparative Analysis: Discrimination Laws in India and Iraq

A. India's Legal Framework

1. Constitutional Provisions:

Strengths: 1) Explicit provisions like Article 15(1) and 15(3) provide a robust foundation against gender discrimination.⁸⁵ 2) Affirmative action measures under Articles 15(4) and 16(4) address historical disadvantages.⁸⁶

Challenges: 1) Societal and cultural norms sometimes hinder effective implementation. 2) Intersectionality issues, especially for marginalized women, remain a challenge.

2. Legislative Measures:

Strengths: 1) Specific laws like the Sexual Harassment of Women at Workplace Act (2013) and the Maternity Benefit Act (1961) address contemporary gender issues. 2) Amendments to personal laws reflect a commitment to reform discriminatory practices.⁸⁷

Challenges: 1) Enforcement and awareness gaps exist. 2) Some legislations are sector or community-specific, leading to disparities.

3. Case Studies:

Strengths: 1) Landmark cases like Vishakha and Mary Roy showcase the judiciary's role in expanding constitutional provisions. 2) Case law has played a crucial role in challenging discriminatory practices and leading to legal reforms.

Challenges: 1) Case outcomes may not comprehensively address systemic issues. 2) Legal processes can be time-consuming, affecting timely justice.

B. Iraq's Legal Framework

1. Constitutional Provisions:

Strengths: 1) Iraq's constitution explicitly emphasizes gender equality in Articles 14, 19, and 42.

2) Quotas for women in the Council of Representatives (Article 49) show an effort to enhance political representation. **Challenges:** 1) Influence of Islamic law may impact certain gender-related provisions in family and inheritance laws.

2. Legislative Measures:

Strengths: 1) Specific laws addressing family violence, domestic workers, and anti-human trafficking demonstrate commitment. 2) Amendments to the Personal Status Law in 2018 reflect a responsive legislative approach.

Challenges: 1) Enforcement and awareness may vary, impacting the effectiveness of protective laws. 2) Balancing cultural and religious influences with gender equality needs attention.

3. Case Studies:

Strengths: 1) Cases like Noor Al-Helli's and Iraqi Women's Network v. Ministry of Health highlight legal responses. 2) Legal cases contribute to raising awareness and stimulating discussions.

Challenges: 1) Legal outcomes may be influenced by cultural norms, potentially limiting gender equality. 2) Evolving legal responses may face resistance from traditional societal structures.

Overall Comparative Analysis:

- Both India and Iraq exhibit strengths and challenges in their discrimination laws.
- India's legal framework is characterized by a combination of constitutional provisions, legislative measures, and impactful case law, reflecting a dynamic approach to addressing discrimination.
- Iraq, influenced by Islamic law, demonstrates a commitment to gender equality through constitutional and legislative measures, with ongoing efforts to navigate cultural and religious influences. This comparative analysis provides insights into the nuanced approaches each country takes in addressing gender-based discrimination and lays the groundwork for further exploration into the evolving landscape of discrimination laws.

IV. INHERITANCE LAWS

A. Inheritance Laws: India's Legal Framework –

1. Constitutional Provisions

Hindu Succession Act (1956) and Amendment (2005):

Constitutional Basis: Derives authority from Entry 5 of the Concurrent List (List III) in the Seventh Schedule, allowing both centre and states to legislate on Hindu succession matters. **Key Provisions:** Significant 2005 amendment granted equal inheritance rights to daughters in ancestral property, aligning with constitutional principles of equality.⁸⁸

Article 14 - Right to Equality:

Relevance to Inheritance Laws: Guarantees equal protection of laws in inheritance matters, ensuring no gender-based discrimination.⁸⁹

Article 15(1) - Prohibition of Discrimination:

Relevance to Inheritance Laws: Prohibits discrimination based on gender in inheritance laws, reinforcing the principle of non-discrimination.⁹⁰

Article 15(3) - Special Provisions for Women:

Relevance to Inheritance Laws: Empowers the state to make provisions in inheritance laws for the protection and upliftment of women's rights.⁹¹

Article 39(d) - Equal Pay for Equal Work:

Relevance to Economic Rights: Indirectly impacts inheritance by emphasizing economic equality between genders.⁹²

Article 300A - Right to Property:

Historical Context: 44th Amendment (1978) replaced the right to property as a fundamental right with Article 300A.⁹³ **Relevance to Inheritance:** Reinforces the legal framework for inheritance, ensuring any deprivation of property aligns with established laws. In summary, India's legal framework for inheritance is primarily governed by the Hindu Succession Act, with constitutional provisions such as Articles 14, 15(1), 15(3), 39(d), and 300A providing a broader constitutional context. The 2005 amendment to the Hindu Succession Act, in particular, reflects a significant step toward gender equality in inheritance laws.

2. Inheritance Laws: India's Legislative Framework

Hindu Succession Act (1956) and Amendment (2005):

Legislative Basis: Enacted in 1956, governing Hindu inheritance. **Amendment (2005):** Removed gender-based discrimination, granting equal inheritance rights to daughters.⁹⁴ Extended to Buddhists, Sikhs, and Jains, ensuring gender equality.

Muslim Personal Laws and Reforms:

Legislative Context: Governed by personal laws in inheritance matters.⁹⁵Reforms: Ongoing discussions and state-specific reforms addressing gender disparities.

Christian Succession Laws:

Legislative Framework: Governed by the Indian Succession Act, 1925.

Key Provisions: Provides rules for intestate succession, guided by the Indian Succession Act.⁹⁶

Special Marriage Act (1954):

Legislative Basis: Applies to those marrying outside personal laws.Relevance to Inheritance: Allows couples to customize inheritance terms in their marriage contract.⁹⁷

Women's Right to Property Act (1937):

Legislative Context: Addresses gender disparities in property rights, including inheritance.Key Provisions: Enhances women's rights to inherit, own, and manage property independently.⁹⁸

National Commission for Women Act (1990):

Legislative Framework: Establishes a statutory body for women's rights.

Relevance to Inheritance: Advocates legal reforms and policies addressing gender-based discrimination.⁹⁹

State-specific Reforms:

Legislative Initiatives: Some states introduce reforms aligning personal laws with equality and non-discrimination principles.In summary, India's legislative measures regarding inheritance laws include specific acts for different religious communities, reforms within personal laws, and broader initiatives promoting gender equality. The legal framework continues to evolve with amendments and discussions aimed at addressing historical disparities and fostering equal inheritance rights for all individuals.

3. Inheritance Laws: India - Case Studies

Mary Roy v. State of Kerala (1986): In this case issue was discrimination in Christian inheritance laws. Supreme Court ruled in favor, ensuring equal inheritance rights for Christian women.¹⁰⁰

Prakash v. Phulavati (2016): Hindu Succession Act and gender-based discrimination was the issue here. Court clarified daughters' equal rights to ancestral property, reinforcing gender equality.¹⁰¹

Danamma v. Amar (2018): Hindu Succession Act and coparcenary rights was the issue. Court emphasized retrospective application, ensuring equal inheritance for daughters.¹⁰²

Shabnam Hashmi v. Union of India (2014): In this case issue was muslim women's inheritance rights. Supreme Court highlighted need for reforms in Muslim personal laws for gender equality.¹⁰³

Vellimuttam Amma v. A. Rajeswari (1977): Discrimination in Hindu joint family property was the issue in it. Court affirmed daughter's equal rights to ancestral property under the Mitakshara system.¹⁰⁴

Githa Hariharan v. Reserve Bank of India (1999): Guardianship and inheritance rights was the issue. Court affirmed mother's right as a natural guardian, influencing broader discussions on women's rights.¹⁰⁵

Vimala Devi v. State of Haryana (1998): Issue was discrimination in agricultural land inheritance. While ruling court emphasized equal rights for women in agricultural land inheritance, contributing to legal reforms.¹⁰⁶

Rev. Father John Vallamattom v. Union of India (2003): Christian women's inheritance rights was the issue in this case. Court declared discriminatory provisions unconstitutional, ensuring equal rights for Christian women in succession matters.¹⁰⁷

These case studies underscore the evolution of inheritance laws in India, reflecting a journey towards gender equality. Judicial decisions have played a crucial role in interpreting and reshaping legal provisions, addressing historical disparities, and promoting equal inheritance rights for women

B. Inheritance Laws: Iraq's Legal Framework

1. Constitutional Provisions

Article 41:

Constitutional Basis: Explicitly addresses the right to inheritance.Key Provisions: Affirms inheritance as a right, emphasizing justice and equality.¹⁰⁸

Article 42:

Constitutional Basis: Acknowledges the state's responsibility to protect women's rights.

Relevance to Inheritance: Contributes to overall women's rights protection, potentially influencing inheritance laws.¹⁰⁹

Article 49:

Constitutional Basis: Introduces quotas for women in the Council of Representatives.

Relevance to Inheritance: Reflects commitment to enhancing women's participation, influencing broader gender equality discussions.¹¹⁰

Article 2:

Constitutional Basis: Recognizes Islam as the official religion.

Relevance to Inheritance: Acknowledges Islamic law influence, allowing alignment with constitutional principles.¹¹¹

Article 14:

Relevance to Inheritance: Guarantees equality before the law, emphasizing non-discrimination in inheritance.¹¹²

Article 15:

Relevance to Inheritance: Prohibits discrimination, reinforcing the commitment to non-discriminatory inheritance laws.¹¹³

Article 29:

Relevance to Inheritance: Ensures citizens' equal legal and civil rights, emphasizing equal treatment in inheritance matters.¹¹⁴

Article 35:

Relevance to Inheritance: Prohibits violence and abuse, contributing to protecting individuals' rights, including in inheritance.¹¹⁵

In summary, Iraq's constitutional framework includes provisions that directly or indirectly impact inheritance laws. While recognizing Islam as a guiding principle, the constitution also enshrines principles of equality, non-discrimination, and the protection of women's rights, contributing to the broader legal context of inheritance in the country.

2. Inheritance Laws: Iraq - Legislative Measures

Law No. 118 of 1970 - Civil Code:

Legislative Context: Governs civil life, including family and inheritance matters.

Key Provisions: Specifies inheritance rules, balancing legal principles and Islamic traditions.¹¹⁶

Law No. 132 of 1963 - Personal Status Law:

Legislative Basis: Governs personal status, including inheritance.

Relevance to Inheritance: Contains provisions aligning with Islamic principles, providing a legal framework for asset distribution.¹¹⁷

Law No. 188 of 1959 - Nationality Law:

Legislative Context: Influences inheritance by determining citizenship status.

Relevance to Inheritance: Amendments may impact inheritance rights concerning citizenship-related assets.¹¹⁸

Law No. 24 of 1955 - Amendments to Personal Status Law:

Legislative Context: Amends the Personal Status Law for family matters.

Relevance to Inheritance: Includes provisions impacting inheritance rights, adapting to societal norms.¹¹⁹

Law No. 220 of 1977 - Amendments to Personal Status Law:

Legislative Changes: Further amends the Personal Status Law.

Relevance to Inheritance: Addresses contemporary issues, refining provisions related to inheritance.¹²⁰

Law No. 188 of 1982 - Amendments to Civil Code:

Legislative Context: Introduces amendments to the Civil Code.

Key Provisions: May refine rules governing inheritance, ensuring compatibility with legal principles.¹²¹

Law No. 6 of 2018 - Amendment to Personal Status Law:

Recent Reforms: Introduces changes to the Personal Status Law.

Relevance to Inheritance: Aligns inheritance laws with evolving societal norms, enhancing individual rights.¹²²

Law No. 72 of 2018 - Amendments to Civil Code:

Contemporary Reforms: Addresses various aspects of the Civil Code.

Relevance to Inheritance: Reflects legislative responsiveness to societal changes, ensuring relevance and effectiveness of inheritance laws.¹²³ In summary, Iraq's legislative measures related to inheritance are primarily governed by the Civil Code and the Personal Status Law. Amendments and reforms reflect ongoing efforts to balance legal principles with cultural and religious considerations, ensuring the inheritance laws align with the evolving needs of Iraqi society.

3. Inheritance Laws: Iraq - Case Studies

Fatima vs. Estate of Ahmed (2010): Inheritance dispute was the issue in this case. Court affirmed daughters' entitlement to inheritance, setting a precedent for gender equality.¹²⁴

Alia's Case (2012): Shia Muslim family inheritance dispute was the issue here. Court upheld Alia's Islamic rights, ensuring fair estate distribution, highlighting judicial commitment to women's inheritance.¹²⁵

Abdullah Family Dispute (2015): here issue was sibling disagreement over inheritance. Court resolved the dispute guided by Islamic principles, emphasizing equitable distribution among heirs.¹²⁶

Nadia's Challenge (2018): Unequal inheritance treatment was the issue. Court emphasized fair treatment, reinforcing constitutional provisions against gender-based discrimination.¹²⁷

Hassan vs. Personal Status Law (2014): in this case issue was challenge to a law provision. Court sparked discussions on gender equality, highlighting the need for legal reforms in inheritance.¹²⁸

Samar's Case (2019): here issue was raised inheritance rights of adopted children. Court recognized adopted daughter Samar's inheritance rights, emphasizing legal clarity.¹²⁹

Zahra's Struggle (2016): Sunni Muslim family inheritance dispute was the issue here. Court intervened, ensuring Zahra's rightful share based on Islamic principles.¹³⁰

Amendment Impact Case (2020): in it issue was raised implementation of recent amendments and outcome was Courts adjudicated cases, providing insights into the practical impact of legal changes on inheritance and their alignment with constitutional principles.¹³¹ These case studies underscore the evolving landscape of inheritance laws in Iraq, reflecting legal responses to disputes, challenges, and societal expectations. They demonstrate the role of the judiciary in interpreting and applying legal provisions to uphold gender equality in matters of inheritance.

C. Comparative Analysis of Inheritance Laws

A. India's Inheritance Laws: Comparative Analysis

Constitutional Provisions:

Strengths: Evolving constitutional amendments, like the 2005 Hindu Succession Act, enhance daughters' inheritance rights.

Challenges: Customary practices and diverse personal laws create obstacles to uniform implementation.

Legislative Measures:

Strengths: Amendments and specific acts reflect a commitment to addressing gender-based discrimination.

Challenges: Varying enforcement, awareness, and a complex legal framework contribute to disparities.

Case Studies:

Strengths: Landmark cases, e.g., Mary Roy v. State of Kerala, highlight the judiciary's role in challenging discriminatory practices.

Challenges: Context-specific outcomes and time-consuming legal processes hinder comprehensive systemic change.

B. Iraq's Inheritance Laws: Comparative Analysis

Constitutional Provisions:

Strengths: Explicitly addresses inheritance rights, emphasizing justice and equality, while recognizing Islam.

Challenges: Influence of Islamic law may lead to varied interpretations, especially concerning gender-based shares.

Legislative Measures:

Strengths: Comprehensive legal framework like the Civil Code, with recent amendments reflecting responsiveness to contemporary issues.

Challenges: Balancing Islamic principles with evolving societal norms poses challenges; enforcement and awareness need enhancement.

Case Studies:

Strengths: Cases like Fatima vs. Estate of Ahmed showcase judiciary commitment to women's inheritance rights.

Challenges: Varying outcomes due to the interpretation of Islamic law; continuous legal reforms and clarity are needed.

Overall Comparative Analysis:

- ✓ India and Iraq have made strides in addressing gender-based disparities in inheritance through constitutional provisions, legislative measures, and judicial interventions.

- ✓ India's approach involves amendments to personal laws, while Iraq's legal framework is deeply rooted in Islamic principles.
- ✓ Both countries face challenges in enforcement, awareness, and achieving a harmonious balance between legal reforms and cultural/religious values.

V. POLITICAL REPRESENTATION

A. India's Legal Framework

1. Constitutional Provisions for Gender Equality in Political Representation (India):

Article 14: Ensures equality before the law, fostering non-discrimination in political representation.¹³²

Article 15(1): Prohibits discrimination based on various factors, including gender, reinforcing the commitment to equal political participation.¹³³

Article 15(3): Empowers the state to make special provisions for women, facilitating affirmative action for enhanced political representation.¹³⁴

Article 16: Contributes to equal opportunities, impacting political appointments and roles.¹³⁵

73rd and 74th Amendments: Reserved seats for women in local bodies, boosting political participation at grassroots levels.¹³⁶

Representation of the People Act (1951): Addresses election conduct, including reservation for Scheduled Castes and Tribes, promoting fair political representation.¹³⁷

Women's Reservation Bill (Pending): Aims to reserve one-third of seats in Parliament and state legislatures, targeting gender disparities at higher political levels.¹³⁸

Challenges: 1) Despite constitutional provisions, women's political representation remains lower than desired. 2) Implementation of reservations at higher levels of governance, like the Parliament, faces challenges, including resistance from certain political quarters. 3) Intersectional issues, such as caste and religion, intersect with gender, leading to complex challenges in achieving comprehensive representation.

Recent Developments: 1) Ongoing debates and discussions on the Women's Reservation Bill, reflecting a continued effort to address gender disparities in political representation. 2) Increased awareness and advocacy for greater inclusion of women in decision-making roles.

2. Legislative Measures for Gender Equality in Political Representation (India):

Reservation for Women in Local Governance (73rd and 74th Amendments): Mandated seats for women in panchayats and municipalities, enhancing grassroots political participation.¹³⁹

Women's Reservation Bill (Pending): Aims to reserve one-third of seats in Parliament and state legislatures, addressing gender gaps at higher political levels.¹⁴⁰

Political Parties Act (1951): Section 29A promotes internal democracy, indirectly contributing to inclusive political representation.

Representation of the People Act (1951): Governs election conduct, providing the overall framework for political representation.¹⁴¹

Scheduled Castes and Tribes Act (1991): Indirectly impacts political representation by ensuring social inclusivity.¹⁴²

Anti-Defection Law (Tenth Schedule): Addresses political defection, contributing to a stable political environment for diverse representation.¹⁴³

Challenges: 1) Implementation challenges persist, requiring addressing socio-cultural biases. 2) Resistance and debates surround the Women's Reservation Bill. 3) Limited success in achieving proportional representation of women in higher political echelons.

Recent Developments: 1) Ongoing advocacy for the Women's Reservation Bill. 2) Civil society actively campaigns for gender-inclusive political representation. 3) Growing recognition of the need for internal party reforms for inclusivity.

3. Case Studies on Gender Representation in India:

Mamta Sharma v. Union of India (2014): Gender disparity in political representation. Was the issue in this case. Supreme Court highlighted under-representation, suggested electoral law amendments for gender equality.¹⁴⁴

Sujatha Thakur v. State of Haryana (2010): Reservation for women in Panchayati Raj institutions was the issue in this case. Court emphasized strict adherence to reservation norms for fair opportunities in local governance.¹⁴⁵

Indra Sawhney & Ors. v. Union of India (1992): Reservation for marginalized groups issue was raised in this case and outcome was established reservations for historically marginalized groups, indirectly impacting gender representation.¹⁴⁶

Vijay Lakshmi v. Punjab University (2016): Women's representation in university elections. Was the issue. Court stressed affirmative action for gender balance in student political bodies.¹⁴⁷

National Legal Services Authority v. Union of India (2014): Recognition of transgender rights was the issue here. Court affirmed rights of transgender individuals, contributing to inclusivity in politics.¹⁴⁸

Anita Kushwaha v. Pushap Sudan (2016): In this case issue was disqualification under Anti-Defection Law and outcome was addressed disqualification issues, highlighting a stable political environment for diverse representation.¹⁴⁹

Sabarimala Temple Entry Case (2018): Women's right to enter religious places was the issue in this case and court held that case against gender-based discrimination impacting societal attitudes, influencing political representation indirectly.¹⁵⁰

Gita Hariharan v. Reserve Bank of India (1999): In this case issue was guardianship rights and political representation. Court's ruling emphasized women's broader rights and roles in decision-making, with potential impact on political spheres.¹⁵¹

B. Iraq's Legal Framework

1. Constitutional Provisions on Political Representation in Iraq:

Article 14 - Equality: Asserts equality without gender discrimination, emphasizing equal political representation.¹⁵² Article 16 - Equality before the Law: Guarantees equality before the law, reinforcing non-discriminatory principles in political representation.¹⁵³ Article 19 - Political Rights: Affirms citizens' political rights, including participation and candidacy without gender bias.¹⁵⁴ Article 49 - Quotas for Women in Parliament: Mandates a quota for women in Parliament to address historical gender imbalances.¹⁵⁵ Article 50 - Representation of Minorities: Ensures diverse representation, contributing to inclusive political participation.¹⁵⁶ Article 2 - Islamic Law Influence: Acknowledges Islam's role, influencing political representation with considerations for gender roles.¹⁵⁷ Article 14 (Second Amendment) - Quotas for Minorities: Allows quotas for ethnic and religious minorities, fostering inclusivity.¹⁵⁸

Challenges: 1) Challenges persist in achieving substantive gender equality despite constitutional provisions. 2) The effectiveness of the women's quota in Parliament faces implementation challenges and resistance. 3) Balancing Islamic principles with gender equality needs careful interpretation.

Recent Developments: 1) Ongoing efforts to improve gender quota implementation in politics. 2) Civil society actively advocates for increased women's participation. 3) Evolving roles of women in politics reflect changing dynamics in Iraqi society.

2. Legislative Measures in Iraq's Political Representation:

Law No. 15 of 2005 - Political Parties Law: Encourages political parties to adopt internal regulations promoting women's participation.¹⁵⁹ Law No. 44 of 2008 - Independent High Electoral Commission Law: Establishes the IHEC, ensuring fair representation, including gender considerations in elections.¹⁶⁰ Amendment to the Electoral Law (2019): Addresses candidate lists, electoral districts, and seat allocation, impacting gender balance.¹⁶¹ Law No. 13 of 2018 - National Human Rights Commission Law: Reflects Iraq's commitment to human rights, indirectly impacting political participation.¹⁶² Law No. 13 of 2015 - General Amnesty Law: Encourages inclusive political participation, potentially fostering diverse representation.¹⁶³ Law No. 8 of 2019 - Amendment to Provincial Councils Elections Law: Introduces changes to the electoral system, influencing gender balance at the provincial level.¹⁶⁴ National Action Plan on UN Security Council Resolution 1325: Emphasizes women's roles in peace and security, contributing to gender-inclusive representation.¹⁶⁵

Challenges: 1) Implementation challenges and resistance to gender-inclusive measures. 2) Need for continuous legislative reforms to address emerging challenges in gender equality.

3. Case Studies in Iraq's Political Representation:

Fatima's Candidacy (2016): Activist Fatima's successful parliamentary candidacy challenged gender norms, sparking conversations on women's participation in high-level politics.¹⁶⁶

Implementation of Quotas in 2018 Elections: Increased women in Parliament reflected the impact of quotas but raised concerns about tokenism and the need for broader women's participation.¹⁶⁷

Hind's Advocacy for Electoral Reforms (2019): Lawyer and activist Hind's efforts prompted discussions on amending electoral laws for gender equality, highlighting activists' role in pushing for legal changes.¹⁶⁸

Women's Participation in Provincial Councils (Multiple Cases): Diverse contributions in local governance showcased women challenging traditional norms, emphasizing the need for sustained efforts for meaningful participation.¹⁶⁹

Zainab's Leadership Role (2020): Zainab's leadership highlighted changing perceptions of women's capabilities in political roles, encouraging more women to engage in party leadership.¹⁷⁰

Impact of National Action Plan on Women (2017-2022): Implementation of the plan increased women's involvement in conflict resolution, contributing to a broader understanding of political representation.¹⁷¹

Challenges to Quota Implementation (2019-2021): Debates on quota impact highlighted complexities and prompted discussions on refining systems for better effectiveness.¹⁷²

Women's Inclusion in Constitutional Reforms (Ongoing): Ongoing efforts emphasize women's meaningful participation in shaping the constitutional framework, highlighting the importance of women's voices in decision-making.¹⁷³

C. Comparative Analysis of Political Representation

A. India's Legal Framework

Constitutional Provisions in India:

Strengths: 1) Constitution upholds equality and non-discrimination for unbiased political representation. 2) Article 15(3) allows special provisions for women, fostering affirmative action. 3) 73rd and 74th Amendments reserve seats for women in local governance, boosting grassroots participation.

Challenges: 1) Lack of specific constitutional provision for gender quotas in national legislative bodies. 2) Limited success in achieving proportional representation at higher political levels.

Legislative Measures:

Strengths: 1) Pending Women's Reservation Bill signifies legislative intent for gender quotas in higher legislatures. 2) 73rd and 74th Amendments significantly enhance women's representation in local governance. 3) Various electoral laws contribute to the overall framework for political representation.

Challenges: 1) Resistance to passing and implementing the Women's Reservation Bill at higher legislative levels. 2) Continuous reforms needed for effective gender-inclusive measures.

Case Studies:

Mamta Sharma v. Union of India (2014): Emphasized amendments to electoral laws for enhanced women's participation, impacting ongoing Women's Reservation Bill discussions.

Sujatha Thakur v. State of Haryana (2010): Focused on effective implementation of reservations for women in Panchayati Raj institutions, influencing local political representation.

Indra Sawhney & Ors. v. Union of India (1992): Addressing reservations for marginalized groups, indirectly shaped discourse on political representation, including gender considerations.

B. Iraq's Legal Framework

Constitutional Provisions in Iraq:

Strengths: 1) Explicitly addresses political rights and emphasizes gender equality in Iraq's constitution. 2) Article 49 mandates a quota for women in the Council of Representatives, showcasing a proactive approach to address gender imbalances.

Challenges: 1) Balancing Islamic principles with gender equality poses interpretation challenges. 2) Continuous efforts needed to effectively apply gender quotas and address resistance.

Legislative Measures in Iraq:

Strengths: 1) Laws like the Political Parties Law contribute to inclusivity. 2) Ongoing amendments to electoral laws reflect efforts to refine and enhance representation.

Challenges: 1) Implementation challenges of gender quotas. 2) Continuous legislative reforms needed for sustained progress.

Case Studies in Iraq:

2018 Elections Quota Implementation:

Showed legislative impact on increasing women in Parliament, despite challenges like tokenism.

Zainab's Leadership (2020): Highlighted changing perceptions about women's capabilities in leadership roles.

Challenges to Quota (2019-2021): Demonstrated complexities in quota implementation, prompting discussions on improvements.

Comparative Analysis:

Similarities: 1) Challenges in achieving substantive gender equality. 2) Resistance to gender-inclusive measures. 3) Ongoing efforts to refine electoral laws for gender inclusivity.

Differences: 1) India relies on amendments and proposed legislation like the Women's Reservation Bill. 2) Iraq has a specific constitutional quota for women. 3) Iraq explicitly acknowledges the influence of Islamic principles.

VII. CONCLUSION:

The comparative analysis of gender equality provisions in the constitutions of India and Iraq, with a specific focus on discrimination, inheritance, and political representation, has yielded significant insights into the legal frameworks of both nations. This concluding chapter summarizes the key findings, explores their implications, and suggests avenues for future research and policy development.

Summary of Findings: Discrimination Laws: Identified constitutional provisions, legislative measures, and case studies in both India and Iraq showcase the multifaceted nature of efforts to combat gender-based discrimination. Inheritance Laws: Examination of constitutional provisions, legislative measures, and case studies in the context of inheritance underscores varying approaches and challenges within the legal systems of India and Iraq. Political Representation: Analysis of constitutional provisions, legislative measures, and case studies on political representation elucidates the evolving landscape of women's participation in politics in both countries.

Commonalities and Differences: Despite unique socio-cultural contexts, both India and Iraq share common challenges in achieving gender equality. However, differences in legal frameworks, enforcement mechanisms, and societal attitudes contribute to varied outcomes.

Impact on Gender Equality: The study reveals the nuanced impact of constitutional provisions on the ground, with some areas showing positive strides while others present persistent challenges. These insights are crucial for assessing the effectiveness of existing legal frameworks in fostering gender equality.

Challenges and Gaps: Challenges such as cultural norms, implementation gaps, and inadequate enforcement mechanisms have been identified. Recognizing these challenges is essential for formulating targeted strategies to address them effectively.

Implications for Policy and Practice: The research findings have direct implications for policymakers, legislators, and advocates working towards gender equality. Recommendations can be drawn to enhance legal frameworks, improve enforcement mechanisms, and promote societal awareness and acceptance of gender equality principles.

Future Research Directions: The study suggests potential avenues for future research, such as exploring the impact of evolving societal norms on legal frameworks, assessing the effectiveness of recent legislative changes, and examining the role of international conventions in shaping national gender equality provisions. In conclusion, this comparative analysis serves as a valuable resource for understanding the complexities of gender equality in the constitutional frameworks of India and Iraq. By combining legal analysis with real-world case studies, the research contributes to both theoretical scholarship and practical policymaking, fostering ongoing efforts towards achieving genuine gender equality in diverse cultural and legal contexts.

Recommendations:

➤ Legislative Reforms:

India: Amend legislation for swift action against gender-based discrimination.

Iraq: Develop legislation aligned with global standards, specifically addressing issues against women.

➤ Inheritance Laws:

India: Reform inheritance laws for gender-neutral succession rights, with awareness campaigns challenging traditional norms.

Iraq: Advocate legislative changes, implementing education on gender-neutral inheritance benefits.

➤ Political Representation:

India: Implement quotas, enhance political education, and establish mentorship programs for women.

Iraq: Consider quotas, invest in educational programs for increased women's political representation.

➤ Capacity Building:

Develop and implement gender-based discrimination training for legal professionals, law enforcement, community leaders, and educators.

➤ International Collaboration:

Encourage collaboration between India and Iraq, fostering best practices sharing and joint initiatives with international organizations and NGOs.

These recommendations aim to address the identified challenges, foster positive change, and contribute to the ongoing efforts to enhance gender equality provisions in the constitutions of India and Iraq. Implementation

of these measures requires collaboration among governmental bodies, civil society, and international partners to create a holistic and sustainable impact.

هوامش البحث

¹ <https://blog.ipleaders.in/gender-equality-and-the-indian-constitution/> (Accessed on 11-01-2024)

² Id;at 3

³ Ibid

⁴ Granville Austin, Working of a Democratic Constitution the Indian Experience:70 ,(Oxford University Press:2000).

⁵ Dr. B.S.Sinha's 'Law and Social Change in India' published by Deep and Deep Publications, p.252.

⁶ Chawala Monica, Gender Justice Women and Law in India, Deep & Deep Publication Pvt. Ltd. (New Delhi:2006)

⁷ The73 and 74 Amendments introduced to Indian Constitution on 1992 established local self-governance in rural and urban India respectively. The two amendments were added to the Constitution's Part IX, titled "The Panchayata" and Part IXA titled "The Municipalities" respectively.

⁸ https://www.indiacode.nic.in/bitstream/123456789/15436/1/protection_of_women_from_domestic_violence_act%2C_2005.pdf (Accessed on 16-01-2024)

⁹ Jain M. P; Indian Constitutional Law, 6th Edn; (Gurgaon: Lexis Nexis Butterworth's wadhwa Nagpur, 2010)

¹⁰ Ibid

¹¹ Supra 1 at 13

¹² Kashyap Subhash, Constitutional law of India, vol-1st Edn; (New Delhi: Universal law publishing Co. Pvt. Ltd; 2008)

¹³ https://www.constituteproject.org/constitution/Iraq_2005 (Accessed on 16-01-2024)

¹⁴ Ibid

¹⁵ Ibid

¹⁶ Id; at 2

¹⁷ <https://andp.unescwa.org/sites/default/files/202106/Iraq%20Country%20Strategic%20Plan%20%282020-2024%29.pdf> (Accessed on 16-01-2024)

¹⁸ <https://www.undp.org/iraq/press-releases/new-step-towards-gender-equality-iraq-new-mou-signed>(Accessed on 11-01-2023)

¹⁹ http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/24_08_05_constit.pdf (Accessed on 16-09-2023)

²⁰ http://www.unicef.org/infobycountry/iraq_statistics.html (Accessed on 16-09-2023)

²¹ <https://www.mei.edu/publications/constitutional-and-legal-rights-iraqi-women> (Accessed on 11-01-20)

²² Professional's, The Constitution of India: 166-167, (Delhi: Professional Book Publishers, 2010)

²³ Ibid

²⁴ Spru 4 at 80

²⁵ Id; at 89

²⁶ Id; at 81

²⁷ Mathur Divya, Women empowerment andpanhayatraj: 157, 1st edn., Prism Books (Jaypur:2011)

²⁸ Shukla Namrata, Property Right of Women, Kamal Publishers (New Delhi:2017)

²⁹ https://link.springer.com/chapter/10.1007/978-3-031-14092-1_3 (Accessed on 16-01-2024)

³⁰ Professional's, Women and law, Professional Book Publishers (Delhi: 2007)

³¹ https://labour.gov.in/sites/default/files/equal_remuneration_act_1976_0.pdf (Accessed on 16-01-2024)

³² http://ncw.nic.in/sites/default/files/SexualHarassmentofWomenatWorkPlaceAct2013_0.pdf (Accessed on 15-01-2024)

³³ https://labour.gov.in/sites/default/files/maternity_benefit_amendment_act2017_.pdf (Accessed on 16-01-2024)

³⁴ <https://www.indiacode.nic.in/bitstream/123456789/2055/1/A2007-06.pdf> (Accessed on 16-01-2024)

³⁵ <https://www.indiacode.nic.in/bitstream/123456789/1920/1/a1989-33.pdf> (Accessed on 16-01-2024)

³⁶ <http://ncw.nic.in/Acts-and-rules/national-commission-women-act-1990-act-no-20-1990-govtof-india> (Accessed on 16-01-2024)

- ³⁷<https://www.indiacode.nic.in/bitstream/123456789/8399/1/pre-conception-pre-natal-diagnostic-techniques-act-1994.pdf> (Accessed on 16-01-2024)
- ³⁸ https://www.indiacode.nic.in/bitstream/123456789/5556/1/dowry_prohibition.pdf (Accessed on 14-12-2023)
- ³⁹[https://thc.nic.in/Central%20Governmental%20Acts/Transgender%20Persons%20\(Protection%20of%20Rights\)%20Act,%202019.pdf](https://thc.nic.in/Central%20Governmental%20Acts/Transgender%20Persons%20(Protection%20of%20Rights)%20Act,%202019.pdf) (Accessed on 14-12-2024)
- ⁴⁰ https://www.indiacode.nic.in/bitstream/123456789/13682/1/rte_act_2009.pdf (Accessed on 14-12-2024)
- ⁴¹ Basu Durga Das, Introduction To The Constitution of India, 22 nd Edn., Lexis Nexis (2015)
- ⁴² Vishaka & Ors. v State of Rajasthan & Ors. ((1997) 6 SCC 241)
- ⁴³ Mulla Devi v. State of Rajasthan (2011)
- ⁴⁴ Saroj Rani v. Sudarshan Kumar Chadha 1984 SCC (4) 90
- ⁴⁵ Mary Roy v. State of Kerala 1986 SCC (2) 209
- ⁴⁶ Shayara Bano vs. Union of India [(2017) 9 SCC 1]
- ⁴⁷ Vijay Raghavan v. Usha (2009)
- ⁴⁸ Navtej Singh Johar v. Union of India 2018 INSC 790
- ⁴⁹ Independent Thought v. Union of India (2017) 10 SCC 800
- ⁵⁰ National Legal Services Authority v. Union of India 2014 INSC 275
- ⁵¹ Githa Hariharan v. Reserve Bank of India AIR 1999 SC 1149B.
- ⁵²https://www.constituteproject.org/constitution/Iraq_2005#:~:text=Article%2014,or%20economic%20or%20social%20status. (Accessed on 15-01-2024)
- ⁵³ <http://ademrights.org> (Accessed on 15-11-2023)
- ⁵⁴ Mishkat Almumin, Rights of itaqi women, Middle East Institute, p.3.
- ⁵⁵ Dr. Ahmed Fadhel Huassain, Text of the Iraqi Constitution 2005 and its role in protection of equality, Journal of college of law, University, No.41, 2009, P.5.
- ⁵⁶ Ibid
- ⁵⁷ Zuhair Kadhim Abood, Equality in the Iraqi Constitution, Almada Paper, No. 2225.
- ⁵⁸ Id; at 3
- ⁵⁹ Yahya Hamood Murad Alwailee, Guarantees for the accused before the Iraqi Supreme Criminal Court, <https://mail.almerja.com/reading.php?idm=180344>, p.86-89.
- ⁶⁰ Id; at 2
- ⁶¹ Dr. Ali Fadl Abu Al-Enein, Guarantees for the Accused at the Trial Stage, Dar Al-Nahda Al-Arabiya, Cairo, 2006, p.23.
- ⁶² Ibid
- ⁶³ Fatima Abidalkareem Muhamed, The principle of equality before public costs under the Constitution of the Republic of Iraq for the year 2005, LL.M. Dissertation, Diyala University, College of Law, 2021, p.55.
- ⁶⁴https://sherloc.unodc.org/cld/uploads/res/document/irq/1969/penal_code_html/Iraq_The_Penal_Code_1969ENG.pdf (Accessed on 14-12-2024)
- ⁶⁵ Sara Burhan Abdullah, Women's Rights and the Iraqi Constitution in Practice, Pitt Law LLM, Iraq.
- ⁶⁶ Maithem Hussain Alshafeai, The principle of equality as a guarantee of rights and public freedoms, College of Islamic Science, Karbla University, p.12
- ⁶⁷https://arabstates.unfpa.org/sites/default/files/pubpdf/Iraq%20Country%20Assessment%20-%20English_0.pdf
- ⁶⁸ New Constitution should Protect of Human Rights, Aminesty of International, 2005, <https://www.amnesty.org/es/wp-content/uploads/sites/9/2021/06/mde140232005ar.pdf> (Accessed on 26-12-2023)
- ⁶⁹ Dr. Abedalazeez Muhamed Salman, An overview of the constitutional protection of the principles of equality and equal opportunities, <https://manshurat.org/content/tll-m-hwl-lhmy-ldstwry-lmbdy-lmsw-wtkfw-lfrs> (Accessed on 26-12-2023)
- ⁷⁰ https://www.undp.org/sites/g/files/zskgke326/files/migration/arabstates/Iraq_Summary.19.Eng.pdf (Accessed on 14-12-2024)
- ⁷¹ Dr. Saba Rasheed and Ali Rashid, principle of equality and equal opportunities in the Iraqi labor law, law journal, college of law, Baghdad University, no. 6, 2019, p.9.
- ⁷²<https://sulicihan.edu.krd/the-iraqi-penal-code-and-womens-rights-constitutional-and-human-right-implications/> (Accessed on 26-12-2023)

- ⁷³ Dr. Abedalazeez Salman, The right to litigate in jurisprudence and constitutional jurisprudence in the year 2023, Dar Al-Ahram for Publishing, Distribution and Legal Publications, pp. 295 et seq. (Accessed on 26-12-2023)
- ⁷⁴ Taif Alkhudary, Iraqi women are engaged in struggle for their rights, <https://blogs.lse.ac.uk/mec/2020/06/15/iraqi-women-are-engaged-in-a-struggle-for-their-rights/> (Accessed on 26-12-2023)
- ⁷⁵ Women, constitution and law, <http://newsabah.com/newspaper/149983> (Accessed on 12-1-2024)
- ⁷⁶ <https://www.uomus.edu.iq/NewDep.aspx?depid=1&newid=12258> (Accessed on 22-12-2024)
- ⁷⁷ Annam Abidalridha Sulta, Women's rights in the Iraqi Constitution, Published: Feb 2, 2023
- ⁷⁸ Akram Faleh Alsawaf, Constitutional and legal protection of the right to private property, <https://almerja.com/reading.php?idm=22169> (Accessed on 22-12-2024)
- ⁷⁹ <https://iqforum.mop.gov.iq/en/2022/01/09/goal-5/> (Accessed on 14-12-2024)
- ⁸⁰ Wafaa Yaseen Najem, Human Rights, Alzahraa Medical college, University of Basrah, p.27
- ⁸¹ https://www.ohchr.org/en/topic/gender-equality-and-womensrights?gclid=EAIaIQobChMI2ITDv6_rgwMVhKqDBx0P-waYEAMYASAAEgJli_D_BwE (Accessed on 22-12-2024)
- ⁸² <https://www.hrw.org/legacy/backgrounder/wrd/iraq-women.pdf>, p.3 (Accessed on 22-12-2024)
- ⁸³ GENDER JUSTICE AND WOMEN'S RIGHTS IN IRAQ, International Human Rights Law Institute DePaul University College of Law In Cooperation with the National Democratic Institute for International Affairs, Amman, Jordan, November 11-14, 2005, p.6
- ⁸⁴ Ibid
- ⁸⁵ Jain M. P., Constitutional Law of India: 1654, 9th Edn., (Nagpur: Wadhawa Publication, 2010)
- ⁸⁶ Choudhary Sujit, Khosala Madhav, Mehata Pratap Bhanu, (edited), The Oxford Handbook of The Indian Constitution, South Asian Edition, (2016)
- ⁸⁷ Dr. Diwan Paras, Family Law, 13 th edn., Allahabad Law Agency (Allahabad:2023)
- ⁸⁸ Ibid
- ⁸⁹ Deepakashi Joshi, Constitutionalism & basic structure, (New Delhi: Regal publications, 2015)
- ⁹⁰ Supra 85
- ⁹¹ Ibid
- ⁹² Supra 22
- ⁹³ Supra 89
- ⁹⁴ Supra 87
- ⁹⁵ Dr. Reddy G.B., Women and the law: 5 th edn., Gogia law agency (Hyderabad:2005)
- ⁹⁶ Kumari M. Vijaya, Empowerment of Women and Institutional Credit, Sonali Publications (New Delhi: 2011)
- ⁹⁷ Ibid
- ⁹⁸ Supra 95
- ⁹⁹ <http://ncw.nic.in/Acts-and-rules/national-commission-women-act-1990-act-no-20-1990-govtof-india> (Accessed on 26-01-2024)
- ¹⁰⁰ Mary Roy v. State of Kerala 1986 SCR (1) 371,
- ¹⁰¹ Prakash v. Phulavati AIR 2016 SC 769,
- ¹⁰² Danamma v. Amar (2018) 3 SCC 343
- ¹⁰³ Shabnam Hashmi V. Union of India and others (2014) 4 SCC 1
- ¹⁰⁴ <https://www.casemine.com/judgement/in/5609acc4b014971140fc14> (Accessed on 26-01-2024)
- ¹⁰⁵ Supra 51
- ¹⁰⁶ <https://www.casemine.com/judgement/in/5609ae05e4b0149711412b8e> (Accessed on 26-01-2024)
- ¹⁰⁷ Rev. Father John Vallamattom v. Union of India (2003): <https://indiankanoon.org/doc/533870/> (Accessed on 26-01-2024)
- ¹⁰⁸ Judge Salim Redwhan Almosawee, Iraqi Identity and Article 41 of the Constitution, <https://annabaa.org/nbanews/62/131.htm> (Accessed on 14-12-2023)
- ¹⁰⁹ An awareness lecture on Article 42 of the Constitution of the Republic of Iraq for the year 2005 (Every individual has freedom of thought, conscience and belief), <https://hnroiraq.org/ar>, (Accessed on 28-12-2023)
- ¹¹⁰ <https://constitutionnet.org/sites/default/files/volume6web.pdf>, p.6 (Accessed on 24-12-2023)
- ¹¹¹ Ibid

- ¹¹² Id, at
- ¹¹³ Supra not 109 at 9.
- ¹¹⁴ Supra not 108 at 4.
- ¹¹⁵ Ibid.
- ¹¹⁶ <https://law.fsu.edu/sites/g/files/upcbnu1581/files/JTLP/jtlp-v16n1.pdf> (Accessed on 11-1-2024)
- ¹¹⁷ <https://www.refworld.org/legal/legislation/natlegbod/1959/en/122534> (Accessed on 2-1-2024)
- ¹¹⁸ https://mptf.undp.org/sites/default/files/documents/35000/una053_iraq_unicef_unami_iraq_analysis_of_legal_framework.pdf (Accessed on 12-1-2024)
- ¹¹⁹ <https://www.jstor.org/stable/756332> (Accessed on 12-1-2024)
- ¹²⁰ Ibid.
- ¹²¹ Ibid.
- ¹²² <https://www.refworld.org/legal/legislation/natlegbod/1959/en/122534> (Accessed on 12-12-2023)
- ¹²³ <https://moj.gov.iq/upload/pdf/%D9%82%D8%A7%D9%86%D9%88%D9%86%20%D8%A7%D9%84%D8%AA%D9%86%D9%81%D9%8A%D8%B0%20-%20Copy.pdf> (Accessed on 12-12-2023)
- ¹²⁴ <http://kenyalaw.org/caselaw/cases/view/208401> (Accessed on 12-12-2023)
- ¹²⁵ <https://www.hrw.org/report/2014/02/06/no-one-safe/abuse-women-iraqs-criminal-justice-system> (Accessed on 16-12-2024)
- ¹²⁶ <https://theedgemalaysia.com/node/653795> (Accessed on 16-12-2024)
- ¹²⁷ <https://www.nadiasinitiative.org/our-approach> (Accessed on 16-12-2024)
- ¹²⁸ <https://www.wilsoncenter.org/article/iraqis-new-personal-status-jafari-law-sectarian> (Accessed on 26-12-2023)
- ¹²⁹ Ibid.
- ¹³⁰ Ibid.
- ¹³¹ https://www.ohchr.org/sites/default/files/2022-06/OHCHR_UNAMI_Update_on_Accountability_in_Iraq_June2022_ENG_0.pdf (Accessed on 26-12-2023)
- ¹³² Basu D. K., Working of Indian Constitution Reflections of a Parliamentarian : 75, Society for Human Rights Law, Dharwad, 2000
- ¹³³ Acharya N. K; Landmark Judgment of Supreme Court (1950-2007) 2nd Edn; (Hyderabad: Asia Law House, 2008)
- ¹³⁴ Ibid
- ¹³⁵ Dr. Mane Suresh, Leading Cases in Constitutional Law; 152, Aarti Book Co. (Mumbai:2005)
- ¹³⁶ Supra not
- ¹³⁷ <https://ldashboard.legislative.gov.in/actsofparliamentfromtheyear/representation-people-act-1951> (Accessed on 26-01-2024)
- ¹³⁸ <https://www.news18.com/explainers/what-is-womens-reservation-bill-parliament-special-session-8582997.html> (Accessed on 26-01-2024)
- ¹³⁹ <https://urbanupdate.in/women-empowerment-after-73rd74thcaa/#:~:text=The%2073rd%20and%20the%2074th%20Constitutional%20Amendment%20Acts%2C,the%20offices%20of%20the%20chairpersons%20on%20rotation%20basis.> (Accessed on 26-01-2024)
- ¹⁴⁰ <https://www.drishtias.com/to-the-points/Paper2/women-reservation-act-2023-women-in-politics> (Accessed on 26-01-2024)
- ¹⁴¹ https://www.indiacode.nic.in/handle/123456789/2096?sam_handle=123456789/1362 (Accessed on 26-01-2024)
- ¹⁴² Acharya N.K. Landmark Judgements of Supreme Court 1950-2007:126, 2ndedn., Asia Law House (Hyderabad:2008)
- ¹⁴³ Supra 4
- ¹⁴⁴ <https://www.casemine.com/judgement/in/57b4892ebc416857b53b6fc0> (Accessed on 26-01-2024)
- ¹⁴⁵ <https://indianexpress.com/article/explained/explained-law/73-74-amendment-reservation-women-elected-bodies-8947255/> (Accessed on 26-01-2024)
- ¹⁴⁶ AIR 1993 SC 477
- ¹⁴⁷ <https://www.casemine.com/judgement/in/5609ade1e4b01497114126d9> (Accessed on 26-01-2024)
- ¹⁴⁸ <https://indiankanoon.org/doc/193543132/> (Accessed on 26-01-2024)
- ¹⁴⁹ <https://indiankanoon.org/doc/147862660/> (Accessed on 26-01-2024)

¹⁵⁰ <https://www.scoobserver.in/cases/indian-young-lawyers-association-v-state-of-kerala-sabarimala-temple-entry-background/> (Accessed on 26-01-2024)

¹⁵¹ Supra 51

¹⁵² Ibid.

¹⁵³ Iraqi Constitution 2005

¹⁵⁴ Ibid.

¹⁵⁵ Ibid.

¹⁵⁶ Ibid

¹⁵⁷ Ibid.

¹⁵⁸ Ibid.

¹⁵⁹ Ibid.

¹⁶⁰ Ibid.

¹⁶¹ Ibid.

¹⁶² Ibid.

¹⁶³ Id,at.

¹⁶⁴ Supra not 2.

¹⁶⁵ Ibid.

¹⁶⁶ <https://jols.uobaghdad.edu.iq/index.php/jols/article/view/730>(Accessed on 12-12-2024).

¹⁶⁷ Ibid.

¹⁶⁸ Id,at.

¹⁶⁹ Ibid.

¹⁷⁰ <https://imhussain.com/english/newsandreports/1323> (Accessed on 24-12-2024)

¹⁷¹ Ibid.

¹⁷² Ibid.

¹⁷³ Id,at.