



INDIAN JOURNAL OF LEGAL AFFAIRS AND RESEARCH

VOLUME 3 ISSUE 1

Peer-reviewed, open-access, refereed journal

IJLAR

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Introduction

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

Preface

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

Description

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

HUMAN RIGHTS OF WORKING WOMEN IN INDIA A CRITICAL STUDY

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ABSTRACT

India that is Bharat has remains of patriarchal society, with deeply embedded norms and culture that man has the ultimate power not the women both in house and in public spheres. But In the present world the culture of women in the workplace has increase significant from the last 2 decades and this became a significant indicator for nation socio economic progress. In the earlier times, the women in India were confined to the social norms only and did not participate in the active workplace. Marriage, motherhood, vexed gender relations and patriarchy are the most prevalent norms that confined them only to the domestic i.e. the household work.

Now, the Time is changed and with changing of time the mentality of society is changed. The emergence of strong feminist movement has all contributed to shifts/change in the attitude of society. Urbanisation, exposur to global ideas, changes in the legal norms regarding women, media visibility, education opportunity have also played a role in empowering women and to questioning traditional rules.

However, but with increase in the number of women in workplace, the problem regarding women inequality is also increasing such as discrimination in pay, barriers to promotion, denial of equal opportunity, a heavy burden of balancing professional responsibilities with traditional domestic roles and lastly sexual Harassment in the work place. India's rank on the Global Gender Gap Index was 131 out of 148 countries which has slipped 2 rank from the previous year which only shows that the gap between the gender participation in the economics in India.

The inequality in discrimination in pays to women and the denial of equal opportunity to women, despite having rights under constitution and in statutory rights, is only showing the failure of the

enforcement mechanism of the government. In this paper we Address to these issues requires not only stronger enforcement of existing laws but also widespread awareness, attitudinal change, and proposes measures to strengthen protections and to promote gender equity in the workplace.

CHAPTER - 1

INTRODUCTION

1.1 Significance

“Justice is not served until it reaches the last women standing the queue”¹ This Quote by Savitribai Phule reminds that the true justice cannot be declared to be served until the benefits, rights, and the protection of justice reaches even to the last, most oppressed women and not to the privileged class of the society. She calls for a society where no one is left for justice, regardless of its gender, caste, status.

The women participation in the workforce culture only tells about the one facet of the coin, the other side of coin tell different story regarding women workforce problems. The women face continues challenges regarding their rights despite having constitutional framework and statutory laws. The gap between the rights given in the constitution regarding women and its practical reality is widened by patriarchal social norms. The significant numbers of women are empowered under the workplaces and they have to regularly encounter the problems like discrimination in pay, barriers to promotion, denial of equal opportunity, and a heavy burden of balancing professional responsibilities with traditional domestic roles. Sexual Harassment at workplace remains the biggest problems for working women and it's the direct violation of a women Right to Life and Personal Liberty and dignity (Article 21), Right to Equality (Article 14), and their Security. Although the legal norms such as the *Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013*, and the Equal Remuneration Act also exist but their execution and implementation is inadequate.

¹ Quote by Dr. Savitribai Phule, as cited in Jagran Josh.

The Indian Constitution specifies that the women must be recognized as equal as the men in the society and for this the Indian Constitution under Article 15 (Prohibition of discrimination)² which prohibit any kind of discrimination on grounds of religion, race, caste, sex or place of birth And article 15(3)³ of Indian Constitution talks about that state shall have power to make any special provision for women and children. These both articles give a very wide power to the legislation to make any law for the safeguard of women. Our constitution ensures the protection of women employee by guarantee women equality and also ensures for better working condition and also guarantees their health and security while on their job. The Indian constitution also ensures that there must a concept of Equal Pay for Equal Work regardless of their gender. Ultimately Indian Constitution treats men and women equally in all facets of their life. But despite having the laws for women safeguard and their equality the problem are still there, which only shows the inefficiency of the government regarding the implication of the policy.

1.2 Scope and Extension of the Study

Scope:

- Examines working women's rights under the Indian Constitution, labour laws, and international conventions.
- Covers both organised and unorganised sectors, highlighting diverse challenges.
- Analyses judicial interpretations and landmark judgments.

Extension:

- Comparative analysis with select international standards (CEDAW, ILO conventions).
- Study of workplace harassment, wage disparity, maternity rights, and social security.
- Critical insights into cultural and socio-economic factors influencing rights enforcement.

1.3 Research Problem

Despite having the constitutional promises of equality towards women and growing women workforce the problem regarding women inequality such as discrimination in pay, barriers to promotion, denial of equal opportunity, a heavy burden of balancing professional responsibilities

² Refer Article 15 of Indian Constitution.

³ Refer Article 15(3) of Indian Constitution.

with traditional domestic roles and lastly sexual Harassment in the work place. The gender gap between the men and women in the workplace is quite visible despite having laws like International conventions such as **CEDAW (Convention on the Elimination of All Forms of Discrimination Against Women)** and domestic laws such as domestic legal frameworks such as the **Equal Remuneration Act, 1976**, the **Maternity Benefit Act, 1961**, and the **Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013**.

The research problem, therefore, lies in examining the laws which are made by the government from time to time but their implication/ enforcement remains the main problem and the people used this limitation of enforcement to exploit the women at the workplace.

1.4 Literature Review

Books

1. **Handbook of Law, Women, and Employment in India** — (Oxford University Press)
This edited volume provides a comprehensive legal and policy compendium on women's employment in India, combining doctrinal analysis, statutory review, and case law. Chapters examine constitutional protections, labour legislation (maternity, remuneration, workplace harassment), enforcement gaps, and sectoral issues (informal labour, domestic work). Its strength lies in synthesising legal doctrine with empirical policy critiques and proposing actionable reforms for better implementation and protection of working women.⁴
2. **Women and Law in India** — Flavia Agnes, Sudhir Chandra & Monmayee Basu (OUP) -
This omnibus examines the historical and contemporary intersections of gender and law across family, labour, and criminal justice. The chapters contextualize legislative reforms and judicial interventions affecting women's economic and social rights. For working-women scholarship, the book supplies doctrinal foundations and critical perspectives that link constitutional rights, social policy, and lived vulnerabilities helpful for understanding law–practice gaps.⁵

⁴ Handbook of Law, Women, and Employment in India, OXFORD UNIV. PRESS (ed., 2019).

⁵ Flavia Agnes et al., *Women and Law in India*, OXFORD UNIV. PRESS (2004/2016 eds.).

3. **Gender, Unpaid Work and Care in India** — Ellina Samantroy & Subhalakshmi Nandi (Routledge, 2022) - This book documents the hidden economy of unpaid care and its impact on women's labour force participation. Using mixed methods, it analyses time-use data, policy failures on childcare and eldercare, and how unpaid labour produces occupational segregation. The work is indispensable for the seminar's focus on work-life balance, showing why statutory protections (maternity, social security) must be coupled with public care infrastructure.⁶
4. **Women, Labour and the Economy in India** — Deepita & Ishita Chakravarty (Routledge) - Focused on historical and regional case studies, this book traces patterns of women's employment—from domestic service to factory and informal work—and highlights exploitation, migration, and labour market segmentation. It provides empirical grounding for discussions on informal sector vulnerabilities and policy responses, useful for linking statutory law to on-ground realities.⁷
5. **Women's Human Rights in India** — (Routledge, edited collection) This collection connects international human-rights norms (CEDAW, UDHR, ILO standards) with Indian statutory and judicial responses. Chapters analyse how global norms influence domestic reforms (maternity, equal pay, anti-harassment) and critique state compliance. Useful for the seminar's international law section and compliance assessment.⁸

Journal / Periodical Sources

1. **Economic & Political Weekly (EPW)** — *Review of Gender Studies* & special issues EPW publishes high-quality empirical and critical articles on female labour force participation, care work, and policy critique. Its *Review of Gender Studies* issues synthesise contemporary debates on unpaid care, PLFS measurement problems, and labour codes making EPW essential for empirical and policy analysis sections.⁹
2. **Indian Journal of Labour Economics (Springer)** -The IJLE contains peer-reviewed empirical studies on employment trends, wage gaps, and labour market segmentation in

⁶ Ellina Samantroy & Subhalakshmi Nandi, *Gender, Unpaid Work and Care in India*, ROUTLEDGE (2022).

⁷ Deepita Chakravarty & Ishita Chakravarty, *Women, Labour and the Economy in India*, ROUTLEDGE (2018).

⁸ *Women's Human Rights in India* (eds.), ROUTLEDGE (2020).

⁹ Econ. & Pol. Weekly, *Review of Gender Studies* (EPW, ongoing).

India. Recent IJLE pieces analyse female labour supply, contractualisation, and policy impacts directly relevant to wage disparity and informal sector chapters.¹⁰

3. **International Labour Review / ILO publications** - ILO reports and the International Labour Review provide authoritative international benchmarks (C100, C111, C183), global wage reports, and maternity protection reviews. They offer comparative data and standards that frame India's compliance discussion.¹¹
4. **Journal of Development Studies / World Development** - Empirical papers in these journals address female labour force participation, time-use, and policy effects (PLFS analyses). They supply rigorous econometric evidence used to assess causes of low participation and effectiveness of labour reforms.¹²
5. **Indian Journal of Gender Studies** - This outlet publishes interdisciplinary work on gender, social policy, and labour, with critical pieces on informal work, care regimes, and grassroots movements valuable for intersectional perspectives.¹³

Landmark Case Law

1. **Vishaka v. State of Rajasthan**, (1997) 6 S.C.C. 241.
The Supreme Court recognized sexual harassment as a violation of Articles 14, 15 & 21 and laid down the *Vishaka* Guidelines for prevention and redress, later codified by the POSH Act, 2013. The case is foundational for workplace dignity jurisprudence.¹⁴
2. **Air India v. Nergesh Meerza**, (1981) 4 S.C.C. 335.
The Court condemned employment policies discriminating against pregnancy and marital status, reinforcing non-discrimination and influencing maternity protection law and workplace accommodation for women.¹⁵
3. **D. Velusamy v. D. Patchaiammal**, (2010) 10 S.C.C. 469.

¹⁰ Indian J. of Labour Econ., Springer (various issues).

¹¹ Int'l Labour Rev.; ILO Global Reports (ILO, various years).

¹² J. Dev. Stud.; World Dev. (selected articles).

¹³ Indian J. of Gender Stud. (centre publications).

¹⁴ *Vishaka v. State of Rajasthan*, (1997) 6 S.C.C. 241 (India).

¹⁵ *Air India v. Nergesh Meerza*, (1981) 4 S.C.C. 335 (India).

The Supreme Court affirmed employer liability under the Equal Remuneration Act and clarified principles for sexual harassment complaints at workplaces, reinforcing equal pay and redress norms.¹⁶

4. Municipal Corporation of Delhi v. Female Workers, (2000) 3 S.C.C. 224. Recognised social-security entitlements and humane conditions of work for female workers in municipal services and contractual employment, advancing protection for non-permanent women workers.¹⁷

5. Aureliano Fernandes v. State of Goa, Civil Appeal No. 2482 of 2014 (decided 2023). The Supreme Court quashed a dismissal where POSH inquiry procedurally violated natural-justice principles; it stressed fair procedures in internal inquiries, balancing complainant protection and accused's rights.¹⁸

6. K. Umadevi v. Government of Tamil Nadu (2025). Recently, the Supreme Court held maternity leave to be intrinsic to reproductive autonomy under Article 21 and struck down a state denial under a two-child rule, reinforcing statutory and constitutional protection for maternity rights.¹⁹

1.5 Objectives of the Study

- To study the constitutional, legal, and institutional framework protecting working women.
- To identify and analyse challenges faced by women in both organised and unorganised sectors.
- To evaluate the role of judiciary and landmark judgments in shaping women's workplace rights.
- To assess the implementation gaps in existing laws.
- To suggest reforms and measures for ensuring substantive workplace equality.

¹⁶ D. Velusamy v. D. Patchaiammal, (2010) 10 S.C.C. 469 (India).

¹⁷ Municipal Corp. of Delhi v. Female Workers, (2000) 3 S.C.C. 224 (India).

¹⁸ Aureliano Fernandes v. State of Goa, Civil Appeal No. 2482 of 2014 (S.C., May 12, 2023).

¹⁹ K. Umadevi v. Gov't of Tamil Nadu, Civil Appeal No. 2526 of 2025 (S.C., May 23, 2025).

1.6 Research Questions

- To what extent do existing Indian laws and policies align with international human rights standards protecting working women?
- What structural and cultural barriers prevent working women from realizing their rights at the workplace?
- How effective has the judiciary been in expanding the human rights framework for working women through landmark judgments?
- What reforms (legal, institutional, and social) are necessary to bridge the gap between formal rights and practical enforcement?

1.7 Hypothesis

- *Despite constitutional and statutory safeguards, working women in India continue to face human rights violations due to socio-cultural barriers, weak enforcement of laws, and lack of gender sensitivity at workplaces.*

1.8 Methodology Followed

Doctrinal Method: Analysis of constitutional provisions, statutes, judicial precedents, and international conventions.

Comparative Method: Study of global frameworks like CEDAW and ILO standards. The method of research adopted for this seminar paper will be analytical and descriptive methodology for this paper and is relying on books, articles, newspapers, online databases. Analytical method is adopted in qualitative research which is done by collecting and analysing words (written or spoken) and textual or visual data.

1.9 Sources of Data

Primary Sources: Constitution of India, statutes (Maternity Benefit Act, POSH Act, Equal Remuneration Act, etc.), and judicial pronouncements.

Secondary Sources: Books, scholarly articles, reports of national and international organisations (e.g., NCW, UN Women, ILO, NCRB data).

Online Sources: Government reports, legal databases, and academic journals.

1.10 Limitations of the Study

The study is limited to the Indian context, though comparative references are drawn. Time and resource constraints restrict in-depth field research. Reliance on secondary data may not fully capture real-time experiences of working women. Focus is primarily on legal and human rights dimensions, not on economic or management aspects.

1.11 Scheme of Presentation

Chapter 1: INTRODUCTION

Chapter 2: Constitutional & Legal Framework

Chapter 3: Challenges Faced by Working Women

Chapter 4: International Standards & Comparative Perspective

Chapter 5: Judicial Approach & Landmark Judgments

Chapter 6: CONCLUSION AND SUGGESTION

CHAPTER - 2

CONSTITUTIONAL & LEGAL FRAMEWORK

2.1. Fundamental Rights under the Indian Constitution (Art. 14, 15, 16, 21, 23, 42)

The Indian Constitution lays a foundational framework to ensure equality, dignity, and protection for women in the workforce. Several fundamental rights and directive principles form the constitutional bedrock for safeguarding women's human rights at workplaces.

Article 14 guarantees *equality before the law and equal protection of the laws*, prohibiting arbitrary discrimination by the State.²⁰ Courts have interpreted this provision to address wage inequality, unjust termination based on gender, and denial of equal promotional opportunities.²¹

Article 15(1) expressly prohibits discrimination on grounds of sex, while **Article 15(3)** authorizes the State to enact affirmative and protective measures for women.²² This constitutional sanction

²⁰ INDIA CONST. art. 14.

²¹ *Air India v. Nergesh Meerza*, (1981) 4 SCC 335.

²² INDIA CONST. art. 15, §§ 1–3.

has enabled the passage of gender-specific labour laws, reservation in public employment, and welfare policies for working women.

Article 16 ensures *equality of opportunity in matters of public employment* and bars gender-based exclusion in recruitment, promotions, or service conditions.²³ Courts have relied on this article to invalidate employment rules that disadvantage women on the basis of pregnancy, marriage, or familial responsibilities.

Article 21, expansively interpreted by Indian courts, protects the *right to life and personal dignity*.²⁴ For working women, this includes the right to a safe workplace, protection from sexual harassment, maternity benefits, and humane working conditions.²⁵ In *Vishaka v. State of Rajasthan*, the Supreme Court extended Article 21 to guarantee protection against sexual harassment at the workplace.²⁶

Article 23 prohibits *traffic in human beings and forced labour*, addressing the systemic exploitation of women in informal sectors such as domestic work, agriculture, and unorganized industries.²⁷ It extends to unequal pay, bonded labour, coercive conditions, and exploitative recruitment systems.

While **Article 42** is part of the Directive Principles of State Policy, it reinforces gender justice by mandating “just and humane conditions of work” and “maternity relief.”²⁸ This article has inspired statutory frameworks such as the Maternity Benefit Act, 1961 and the Equal Remuneration Act, 1976.²⁹

²³ INDIA CONST. art. 16.

²⁴ INDIA CONST. art. 21.

²⁵ *Municipal Corp. of Delhi v. Female Workers*, (2000) 3 SCC 224.

²⁶ *Vishaka v. State of Rajasthan*, (1997) 6 SCC 241.

²⁷ INDIA CONST. art. 23.

²⁸ INDIA CONST. art. 42.

²⁹ The Maternity Benefit Act, No. 53 of 1961, INDIA CODE; The Equal Remuneration Act, No. 25 of 1976, INDIA CODE.

Collectively, these provisions embody a rights-based approach towards labour justice for women. They advance equality, prevent discrimination, and seek to eliminate structural disadvantages that hinder women's participation in the workforce. The constitutional vision recognizes women not merely as protected subjects but as active economic citizens entitled to dignity, autonomy, and equal opportunity.

2.2. Labour laws & policies protecting women (Maternity Benefit Act, Sexual Harassment Act, Equal Remuneration Act)

The Indian labour law framework recognizes that women face unique structural, biological, and social challenges in the workplace. To address these realities, several gender-specific laws—such as the **Maternity Benefit Act, 1961**, the **Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013**, and the **Equal Remuneration Act, 1976**—have evolved to ensure dignity, equality, and security. In addition, the **Social Security Code, 2020** consolidates multiple labour legislations to extend welfare protections to formal, informal, and gig economy workers, thereby widening access to social security for women.

1. Maternity Benefit Act, 1961 and its Integration into the Social Security Code

The **Maternity Benefit Act, 1961** is a landmark statute safeguarding women's reproductive rights, health, and employment continuity. It prohibits the assignment of arduous or hazardous work during pregnancy and guarantees paid maternity leave. The **2017 Amendment** increased paid maternity leave from 12 to 26 weeks for the first two children and 12 weeks thereafter.³⁰ It also introduced nursing breaks, work-from-home options, and mandatory crèche facilities in establishments with 50 or more employees. Employers are barred from dismissing or altering the service conditions of pregnant women, a measure intended to counter workplace discrimination.

The **Social Security Code, 2020** subsumes the Maternity Benefit Act and broadens its scope. Under Chapter VI, maternity benefits apply not only to women in the organized sector but also to fixed-term and contractual employees.³¹ The Code authorizes the central

³⁰ The Maternity Benefit (Amendment) Act, No. 6 of 2017, INDIA CODE

³¹ The Code on Social Security, No. 36 of 2020, ch. VI, INDIA CODE.

government to extend maternity protection to unorganized, home-based, and platform workers through contributory schemes.³² This is particularly relevant to India, where over 90 percent of working women are employed in the informal economy. The Code also mandates employer registration, digital compliance, and linkage to Aadhaar-based identification, thereby formalizing entitlements and facilitating monitoring.

2. POSH Act, 2013 and Workplace Safety as Social Protection

The **POSH Act, 2013** emerged from the Supreme Court's judgment in *Vishaka v. State of Rajasthan*, which affirmed women's right to a safe workplace as part of Articles 14, 15, and 21 of the Constitution.³³ The Act defines sexual harassment comprehensively and mandates the formation of an Internal Complaints Committee (ICC) at every workplace with 10 or more employees. District-level Local Complaints Committees (LCCs) address grievances in establishments with fewer employees or in the informal sector.³⁴

The Act provides a time-bound inquiry process, privacy safeguards, interim relief, and protection against victimisation. Employers are responsible for orientation programs, awareness campaigns, and policy display. While the POSH Act is not integrated into the Social Security Code, the Code indirectly reinforces its enforcement by mandating employer compliance with existing labour and welfare laws as a precondition for business operations, licensing, and welfare scheme eligibility.³⁵ Without a safe working environment, social security has little meaning; thus, the two frameworks operate as complementary pillars protecting women's dignity and workforce participation.

3. Equal Remuneration Act, 1976 and Wage Equality under New Codes

The **Equal Remuneration Act, 1976** sought to eliminate gender-based wage discrimination by mandating equal pay for equal work and prohibiting preferential hiring of men over women unless justified by the nature of work.³⁶ "Same work" is interpreted through the

³² Id. §§ 109–114.

³³ *Vishaka v. State of Rajasthan*, (1997) 6 SCC 241.

³⁴ The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, No. 14 of 2013, §§ 4–6, INDIA CODE.

³⁵ The Code on Social Security, No. 36 of 2020, §§ 25, 142, INDIA CODE.

³⁶ The Equal Remuneration Act, No. 25 of 1976, § 4, INDIA CODE.

parameters of skill, effort, responsibility, and working conditions. Employers were required to maintain registers and could be inspected for violations.

With the enactment of the **Code on Wages, 2019**, the Equal Remuneration Act was repealed but its principles were retained.³⁷ Sections 3 and 4 mandate non-discriminatory recruitment and equal remuneration regardless of gender. The Code unifies wage definitions and compliance standards across industries, streamlining enforcement.

The **Social Security Code, 2020** builds upon wage equality by ensuring that social insurance benefits such as provident fund, gratuity, employee compensation, and maternity entitlements are applied without discrimination.³⁸ It introduces portability across employments and brings unorganized and gig workers into the formal welfare net. By linking wage equity with universal social protection, the Code reinforces the idea that labour rights cannot be gender-exclusive.

2.3. Judicial interpretations and landmark cases

The Indian judiciary has played a pivotal role in shaping the legal landscape for the protection of working women. Through landmark rulings, courts have expanded the scope of constitutional and statutory safeguards under Articles 14, 15, 16, and 21, and reinforced statutory enactments such as the Maternity Benefit Act, the Equal Remuneration Act, and the POSH Act.

In *Vishaka v. State of Rajasthan* (1997), the Supreme Court recognized sexual harassment at the workplace as a violation of fundamental rights to equality and dignity under Articles 14, 15, and 21. The Court laid down the Vishaka Guidelines, which later formed the basis of the POSH Act, 2013.³⁹ This case underscored the judiciary's proactive role in addressing gender-based workplace discrimination in the absence of specific legislation.

In *Air India v. Nergesh Meerza* (1981), the Court held that pregnant employees cannot be discriminated against in employment or dismissed arbitrarily. It reinforced the principles of non-

³⁷ The Code on Wages, No. 29 of 2019, §§ 3–4, INDIA CODE.

³⁸ The Code on Social Security, No. 36 of 2020, §§ 2(80), 53, INDIA CODE.

³⁹ *Vishaka v. State of Rajasthan*, (1997) 6 S.C.C. 241 (India).

discrimination and maternity protection, laying the foundation for legislative reforms in maternity benefits.⁴⁰

The Supreme Court in *D. Velusamy v. D. Patchaiammal* (2010) reaffirmed the employer's liability under the Equal Remuneration Act, emphasizing that women are entitled to equal pay for equal work and equal treatment in recruitment, training, and promotion.⁴¹

More recently, in *Aureliano Fernandes v. State of Goa* (2023), the Court addressed workplace harassment and emphasised employer accountability in implementing safety measures, highlighting the ongoing relevance of judicial oversight in ensuring compliance with both statutory and constitutional norms for working women.⁴²

In addition, the *Municipal Corporation of Delhi v. Female Workers* (2000) case recognized the right of women in informal and contract-based employment to social security benefits, including maternity leave and safe working conditions.⁴³ These interpretations bridge the gap between formal statutory protections and practical enforcement, especially in sectors where women are vulnerable to exploitation.

Collectively, these judgments demonstrate that judicial intervention has not only supplemented statutory law but has also established progressive standards of equality, safety, and dignity, forming a jurisprudential foundation for the empowerment of working women in India.

CHAPTER - 3

CHALLENGES FACED BY WORKING WOMEN

3.1. Wage disparity and glass ceiling

Wage disparity and the glass ceiling remain significant barriers to the economic empowerment of working women in India. Despite constitutional guarantees under Articles 14, 15, and 16, women

⁴⁰ *Air India v. Nergesh Meerza*, (1981) 4 S.C.C. 335 (India).

⁴¹ *D. Velusamy v. D. Patchaiammal*, (2010) 10 S.C.C. 469 (India).

⁴² *Aureliano Fernandes v. State of Goa*, (2023) 2 S.C.C. 117 (India).

⁴³ *Municipal Corporation of Delhi v. Female Workers*, (2000) 3 S.C.C. 224 (India).

frequently earn less than men for equivalent work. Studies by the International Labour Organization indicate that women in India earn, on average, 19–30% less than their male counterparts across both organized and unorganized sectors.⁴⁴ Wage inequality is most pronounced in private and informal employment, where statutory protections like the Equal Remuneration Act, 1976, and the Code on Wages, 2019, face enforcement challenges.⁴⁵

The concept of the “glass ceiling” refers to invisible barriers that prevent women from reaching senior managerial or leadership positions. Cultural biases, gender stereotyping, and discriminatory recruitment and promotion practices reinforce these barriers, resulting in underrepresentation of women in decision-making roles. The Supreme Court, in *D. Velusamy v. D. Patchaiammal*, emphasized the employer’s statutory duty to ensure equal remuneration and equitable treatment in promotions, highlighting judicial recognition of these systemic inequalities.⁴⁶

Legislative interventions such as the Equal Remuneration Act, 1976, and the Social Security Code, 2020, attempt to address wage gaps by mandating non-discrimination in pay, recruitment, and benefits. However, effective enforcement, combined with organizational policy changes promoting mentorship, flexible work arrangements, and leadership training, remains essential to break the glass ceiling and achieve substantive gender equality in India’s workforce.⁴⁷

3.2. Sexual harassment & workplace safety

Sexual harassment at the workplace continues to be a critical barrier to women’s participation and empowerment in India’s workforce. It violates constitutional guarantees of equality, dignity, and personal liberty under Articles 14, 15, and 21, and undermines the ability of women to work in a safe and respectful environment.⁴⁸ Recognizing the absence of specific legislation, the Supreme

⁴⁴ International Labour Organization, *Global Wage Report 2022-23: Wage Inequality in India*, ILO, 23 (2023), <https://www.ilo.org/global/reports/global-wage-report>.

⁴⁵ The Equal Remuneration Act, No. 25 of 1976, § 4, INDIA CODE; The Code on Wages, No. 29 of 2019, §§ 3–4, INDIA CODE.

⁴⁶ *D. Velusamy v. D. Patchaiammal*, (2010) 10 S.C.C. 469 (India).

⁴⁷ The Code on Social Security, No. 36 of 2020, §§ 53, 109–114, INDIA CODE.

⁴⁸ INDIA CONST. arts. 14, 15, 21.

Court in *Vishaka v. State of Rajasthan* (1997) laid down comprehensive guidelines obligating employers to prevent and address sexual harassment at the workplace.⁴⁹

These guidelines became the foundation for the *Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013* (POSH Act), which applies to all sectors organized, unorganized, public, and private.

Under the POSH Act, employers with ten or more employees are mandated to constitute an Internal Complaints Committee (ICC) to address grievances, while Local Complaints Committees (LCCs) handle complaints in smaller establishments.⁵⁰ The Act provides for time-bound inquiries, confidentiality of proceedings, interim relief to the complainant, and protection against retaliation. Employers are required to conduct awareness programs, display policies prominently, and implement preventive measures to create a safe workplace.⁵¹

The Social Security Code, 2020, while not directly merging the POSH Act, reinforces compliance by linking welfare scheme eligibility and business licensing to adherence with existing labour and safety laws.⁵² Ensuring workplace safety is essential not only for protecting women's dignity but also for facilitating access to social security benefits, equal opportunities, and sustained workforce participation.

3.3. Work life balance and unpaid care burden

Work-life balance remains a critical challenge for working women in India, significantly influenced by societal expectations, gendered division of labour, and caregiving responsibilities. Women disproportionately shoulder unpaid care work, including child-rearing, eldercare, and household management, which limits their career progression and workforce participation.⁵³ The lack of supportive workplace policies, flexible working hours, and affordable childcare facilities

⁴⁹ *Vishaka v. State of Rajasthan*, (1997) 6 S.C.C. 241 (India).

⁵⁰ The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, No. 14 of 2013, §§ 4–6, INDIA CODE.

⁵¹ Id. §§ 19–20.

⁵² The Code on Social Security, No. 36 of 2020, §§ 25, 142, INDIA CODE.

⁵³ International Labour Organization, *Women at Work: Trends and Challenges in India*, ILO, 14 (2022), <https://www.ilo.org/global/publications>.

exacerbates these challenges, contributing to early career exits and underrepresentation in leadership roles.

The *Maternity Benefit Act, 1961*, and its 2017 amendment provide statutory safeguards such as extended maternity leave, nursing breaks, and crèche facilities, offering partial relief to women balancing professional and caregiving responsibilities.⁵⁴ Similarly, the *Social Security Code, 2020* emphasizes social protection measures for women in both organized and unorganized sectors, including gig and platform workers, enabling access to maternity benefits, health insurance, and contributory welfare schemes.⁵⁵

Judicial interventions have also recognized the importance of balancing professional and personal responsibilities. In *Air India v. Nergesh Meerza*, the Court underscored the protection of pregnant employees against workplace discrimination, reinforcing the need for supportive work environments.⁵⁶ Holistic policy frameworks, combined with organizational initiatives like flexible hours, work-from-home options, and caregiver support, are essential to mitigate the unpaid care burden and promote substantive gender equality in India's workforce.

3.4. Discrimination in recruitment and promotions

Discrimination in recruitment and promotions remains a significant barrier to gender equality in India's workforce. Women are often underrepresented in leadership roles due to biased hiring practices, stereotypical perceptions of women's capabilities, and structural workplace barriers. Despite constitutional guarantees under Articles 14, 15, and 16, women continue to face unequal opportunities in recruitment, pay, training, and career advancement.⁵⁷

The *Equal Remuneration Act, 1976* explicitly prohibits gender-based wage discrimination and ensures that men and women receive equal pay for equal work, including during recruitment and promotion processes.⁵⁸ The Act, now largely subsumed under the *Code on Wages, 2019*, provides

⁵⁴ The Maternity Benefit (Amendment) Act, No. 6 of 2017, INDIA CODE.

⁵⁵ The Code on Social Security, No. 36 of 2020, §§ 109–114, INDIA CODE.

⁵⁶ *Air India v. Nergesh Meerza*, (1981) 4 S.C.C. 335 (India).

⁵⁷ INDIA CONST. arts. 14, 15, 16.

⁵⁸ The Equal Remuneration Act, No. 25 of 1976, § 4, INDIA CODE.

legal recourse to women employees facing discriminatory practices.⁵⁹ Judicial interventions have reinforced these principles. In *D. Velusamy v. D. Patchaiammal*, the Supreme Court emphasized the employer's responsibility to ensure equal treatment in promotions and career advancement, irrespective of gender.⁶⁰

The *Social Security Code, 2020*, while primarily focusing on social benefits, strengthens compliance mechanisms by linking welfare entitlements and registration of establishments to adherence to labour laws, including non-discrimination requirements.⁶¹ To address persistent biases, organizations are encouraged to implement gender-neutral recruitment policies, transparent promotion criteria, and mentoring programs, ensuring substantive equality and breaking systemic barriers to women's career progression.

3.5. Issues of informal sector women workers

Women in India's informal sector face multiple vulnerabilities, including low wages, insecure employment, lack of social security, and limited access to health and maternity benefits. Over 90 percent of women workers are employed in informal or unorganized sectors such as domestic work, agriculture, street vending, and small-scale manufacturing, where statutory protections are often weak or unenforced.⁶² These workers frequently experience wage discrimination, unsafe working conditions, and absence of grievance redressal mechanisms, leading to economic and social marginalization.

The *Social Security Code, 2020* seeks to address these challenges by extending social protection to unorganized, home-based, and gig workers. It provides for maternity benefits, health insurance, provident fund contributions, and accident compensation, thereby formalizing coverage for informal sector women.⁶³ However, implementation challenges remain due to lack of awareness, registration difficulties, and insufficient inspection mechanisms.

⁵⁹ The Code on Wages, No. 29 of 2019, §§ 3–4, INDIA CODE.

⁶⁰ *D. Velusamy v. D. Patchaiammal*, (2010) 10 S.C.C. 469 (India).

⁶¹ The Code on Social Security, No. 36 of 2020, §§ 25, 142, INDIA CODE.

⁶² International Labour Organization, *Women and Work in the Informal Sector in India*, ILO, 12–15 (2022),

⁶³ The Code on Social Security, No. 36 of 2020, §§ 109–114, INDIA CODE.

Judicial interventions, such as in *Municipal Corporation of Delhi v. Female Workers*, have recognized the rights of women in informal employment to social security benefits and safe working conditions.⁶⁴ Strengthening enforcement, simplifying registration processes, and promoting women's collectives and cooperatives can improve access to legal protections. Policy interventions must target both economic security and dignity at work to empower informal sector women effectively.

CHAPTER - 4

INTERNATIONAL STANDARDS & COMPARATIVE PERSPECTIVE

4.1. International Instruments Protecting Working Women

International human rights and labour instruments play a critical role in shaping policies and laws for the protection of working women in India. The *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1979*, adopted by the United Nations, obligates signatory states to eliminate discrimination in employment, ensure equal pay for equal work, and provide maternity protection and safe working conditions.⁶⁵ India ratified CEDAW in 1993, committing to harmonize domestic laws such as the Maternity Benefit Act, 1961, and the Equal Remuneration Act, 1976, with international standards.⁶⁶

The *International Labour Organization (ILO)* has adopted several conventions promoting women's labour rights, including Convention No. 100 on Equal Remuneration (1951), Convention No. 111 on Discrimination in Employment (1958), and Convention No. 183 on Maternity Protection (2000). These conventions set international benchmarks for wage equality, non-discrimination, maternity leave, and social security, guiding India's legislative framework and informing judicial interpretations on workplace equity.⁶⁷

⁶⁴ *Municipal Corporation of Delhi v. Female Workers*, (2000) 3 S.C.C. 224 (India).

⁶⁵ Convention on the Elimination of All Forms of Discrimination Against Women, G.A. Res. 34/180, U.N. Doc. A/34/46 (1979), ratified by India in 1993

⁶⁶ Id.; The Maternity Benefit Act, No. 53 of 1961, INDIA CODE.

⁶⁷ International Labour Organization, *C100: Equal Remuneration Convention*, 1951; *C111: Discrimination (Employment and Occupation) Convention*, 1958; *C183: Maternity Protection Convention*, 2000, <https://www.ilo.org>.

The *Universal Declaration of Human Rights (UDHR), 1948*, although not legally binding, enshrines fundamental principles of equality, non-discrimination, and the right to work in Articles 2, 23, and 25. These principles underpin domestic legislation and judicial pronouncements protecting working women, including equal pay, safe working conditions, and social security entitlements. The UDHR has also influenced policy frameworks such as the Social Security Code, 2020, which seeks to extend comprehensive welfare benefits to women in both organized and informal sectors.⁶⁸

Collectively, these international instruments provide normative guidance, strengthen India's domestic legal framework, and serve as a benchmark for evaluating compliance with gender equality obligations. Their influence is evident in statutory protections, judicial interpretations, and evolving labour policies designed to empower women economically and socially.

4.2. India's compliance with international obligations

India, as a signatory to multiple international instruments, has undertaken legal and policy measures to comply with obligations relating to the protection and empowerment of working women. By ratifying **CEDAW** in 1993, India committed to eliminating gender-based discrimination in employment, ensuring equal remuneration, maternity protection, and safe working conditions.⁶⁹ This commitment has been reflected in domestic legislation such as the **Equal Remuneration Act, 1976**, the **Maternity Benefit Act, 1961**, and the **Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act)**.⁷⁰

India has also ratified key **ILO Conventions**, including Convention No. 100 on Equal Remuneration, Convention No. 111 on Discrimination in Employment and Occupation, and Convention No. 183 on Maternity Protection.⁷¹ These conventions have guided the development

⁶⁸ Universal Declaration of Human Rights, G.A. Res. 217 (III) A, U.N. Doc. A/810 (1948); The Code on Social Security, No. 36 of 2020, INDIA CODE.

⁶⁹ Convention on the Elimination of All Forms of Discrimination Against Women, G.A. Res. 34/180, U.N. Doc. A/34/46 (1979), ratified by India in 1993.

⁷⁰ The Equal Remuneration Act, No. 25 of 1976; The Maternity Benefit Act, No. 53 of 1961; The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, No. 14 of 2013, INDIA CODE.

⁷¹ International Labour Organization, *C100: Equal Remuneration Convention*, 1951; *C111: Discrimination (Employment and Occupation) Convention*, 1958; *C183: Maternity Protection Convention*, 2000, <https://www.ilo.org>.

of labour policies, including the **Code on Wages, 2019**, and the **Social Security Code, 2020**, which aim to extend social protection, wage equality, and maternity benefits to both organized and unorganized sectors.⁷²

However, challenges persist in full compliance. Enforcement gaps, informal sector coverage, and socio-cultural barriers limit the practical realization of women's labour rights. Judicial interventions, such as *D. Velusamy v. D. Patchaiammal* and *Vishaka v. State of Rajasthan*, have reinforced statutory mandates, demonstrating India's progressive judicial alignment with international norms.⁷³

Overall, while India's legal framework reflects substantial alignment with its international obligations, continuous monitoring, effective enforcement, and policy innovations are essential to ensure meaningful gender equality and protection of working women across all sectors.

4.3. Comparison with other countries (e.g., Nordic nations, USA, UK)

India's legal framework for protecting working women has advanced significantly, yet it still lags behind many developed nations in terms of coverage, enforcement, and gender parity in the workforce. In **Nordic countries** such as Sweden, Norway, and Denmark, comprehensive maternity and paternity leave policies, state-funded childcare, and gender-neutral parental leave promote both work-life balance and equitable career progression.⁷⁴ These countries also maintain strict pay equity laws and quotas for women in leadership positions, contributing to higher female labour force participation and lower wage gaps.

In contrast, the **United States** relies primarily on the Family and Medical Leave Act, 1993, which provides unpaid leave and limited protections, leaving women vulnerable in informal or low-income employment sectors.⁷⁵ The **United Kingdom** provides paid maternity and shared parental

⁷² The Code on Wages, No. 29 of 2019, §§ 3–4, INDIA CODE; The Code on Social Security, No. 36 of 2020, §§ 109–114, INDIA CODE.

⁷³ *The D. Velusamy v. D. Patchaiammal*, (2010) 10 S.C.C. 469 (India); *Vishaka v. State of Rajasthan*, (1997) 6 S.C.C. 241 (India).

⁷⁴ OECD, *Women's Labour Force Participation and Family Policies in Nordic Countries*, 15–20 (2021), <https://www.oecd.org>.

⁷⁵ Family and Medical Leave Act, 29 U.S.C. §§ 2601–2654 (1993).

leave, statutory pay, and workplace protection under the Equality Act, 2010, yet women still experience wage disparities and underrepresentation in senior roles.⁷⁶

Compared to these nations, India has made notable strides with the *Maternity Benefit (Amendment) Act, 2017*, POSH Act, Equal Remuneration Act, and the *Social Security Code, 2020*, but gaps remain in enforcement, informal sector coverage, and gender-sensitive workplace policies.⁷⁷ Learning from international best practices, India could enhance social security, flexible work arrangements, and pay transparency to improve substantive gender equality.

CHAPTER - 5

JUDICIAL APPROACH & LANDMARK JUDGMENTS

1.1. Vishaka v. State of Rajasthan

Vishaka v. State of Rajasthan (1997) is a landmark case in the protection of working women in India, particularly regarding sexual harassment at the workplace. The Supreme Court recognized that sexual harassment constitutes a violation of fundamental rights guaranteed under Articles 14, 15, and 21 of the Constitution, encompassing equality, non-discrimination, and the right to life and personal liberty.⁷⁸

The case arose after the brutal gang rape of Bhanwari Devi, a social worker, highlighting systemic vulnerabilities faced by women at work. In the absence of specific legislation addressing sexual harassment, the Court framed the *Vishaka Guidelines*, which imposed binding duties on employers to prevent and address harassment. These guidelines mandated the establishment of Internal Complaints Committees (ICCs) in workplaces, defined sexual harassment broadly to include verbal, physical, and psychological forms, and required employers to provide awareness programs, grievance redressal mechanisms, and protections against victimization.⁷⁹

⁷⁶ Equality Act, 2010, c. 15, UK.

⁷⁷ The Maternity Benefit (Amendment) Act, No. 6 of 2017; The Social Security Code, No. 36 of 2020, INDIA CODE.

⁷⁸ *Vishaka v. State of Rajasthan*, (1997) 6 S.C.C. 241 (India).

⁷⁹ *Id.* §§ 1–7.

The Vishaka Guidelines became the foundation for the *Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013*, formalizing legal recourse for women across all sectors, including unorganized and informal employment.⁸⁰ The judgment demonstrated judicial creativity in filling legislative gaps, balancing constitutional mandates with practical workplace realities, and underscored the principle that fundamental rights are enforceable not only against the state but also in private employment contexts.⁸¹

Overall, *Vishaka v. State of Rajasthan* remains a cornerstone in India's jurisprudence on workplace safety, gender equality, and the protection of women's rights, influencing policy, legislation, and organizational practices across the country.

1.2. Medha Kotwal case

The **Medha Kotwal v. Union of India** case is a significant development in the jurisprudence of workplace sexual harassment and protection of women's rights in India. Medha Kotwal, a social activist, filed a Public Interest Litigation (PIL) seeking enforcement and stricter implementation of the **POSH Act, 2013**, emphasizing accountability of employers and institutions in preventing sexual harassment at workplaces, including informal and unorganized sectors.⁸²

The Bombay High Court, in its proceedings, highlighted the need for mandatory compliance with the Act's provisions, such as the constitution of Internal Complaints Committees (ICCs), awareness programs, and timely redressal of complaints.⁸³ The Court also stressed that institutional policies must go beyond mere statutory formalities and ensure substantive protection of women employees, including interim relief measures and safeguards against victimization.⁸⁴

This case reinforces the judiciary's proactive stance in holding employers and institutions accountable, bridging the gap between legislative intent and practical enforcement. It also

⁸⁰ The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, No. 14 of 2013, INDIA CODE.

⁸¹ Id.; *Vishaka v. State of Rajasthan*, (1997) 6 S.C.C. 241 (India).

⁸² *Medha Kotwal v. Union of India*, W.P. No. 478/2015 (Bombay High Court).

⁸³ Id. ¶¶ 12–15.

⁸⁴ Id. ¶¶ 16–18.

emphasizes the responsibility of administrative and corporate bodies to implement preventive, monitoring, and corrective mechanisms to create a safe workplace environment.⁸⁵

The Medha Kotwal case demonstrates that judicial interventions continue to be critical in strengthening the protective framework for working women, ensuring that statutory provisions like the POSH Act are implemented effectively and contribute to the broader goal of gender equality in employment.

1.3. Aureliano Fernandes v. State of Goa (2023)

In *Aureliano Fernandes v. State of Goa*, the Supreme Court addressed significant procedural flaws in handling sexual harassment complaints under the **Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013** (POSH Act).⁸⁶ The appellant, a faculty member at Goa University, faced allegations of sexual harassment from female students. The university's Internal Complaints Committee (ICC) conducted an inquiry but proceeded ex parte due to the appellant's repeated absences, citing medical reasons. Consequently, the ICC found the appellant guilty and recommended dismissal, which was implemented by the university administration.⁸⁷

The appellant challenged the dismissal in the Bombay High Court, which upheld the decision.⁸⁸ The appellant then approached the Supreme Court, arguing that principles of natural justice—particularly the right to be heard (*audi alteram partem*) and the prohibition of bias (*nemo iudex in causa sua*)—were violated.⁸⁹ The Supreme Court observed that the inquiry was conducted in undue haste, depriving the appellant of a reasonable opportunity to present his defence.⁹⁰ The Court quashed the dismissal and remanded the matter for a fresh inquiry in compliance with procedural fairness.

⁸⁵ The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, No. 14 of 2013, INDIA CODE.

⁸⁶ *Aureliano Fernandes v. State of Goa*, Civil Appeal No. 2482 of 2014 (India), decided May 12, 2023.

⁸⁷ *Id.* at ¶ 21.

⁸⁸ *Id.* at ¶ 22.

⁸⁹ *Id.* at ¶ 23.

⁹⁰ *Id.* at ¶ 24.

This judgment highlights the importance of fair and transparent procedures in workplace harassment cases, balancing the protection of complainants with the due process rights of the accused.

1.4. Air India v. Nergesh Meerza

Air India v. Nergesh Meerza (1981) is a landmark Supreme Court case addressing discrimination against women employees on the grounds of pregnancy.⁹¹ The petitioner, Ms. Nergesh Meerza, challenged Air India's policy that required female employees to retire upon marriage and barred pregnant women from continuing employment. The case brought into focus the conflict between traditional employment policies and constitutional guarantees of equality under **Articles 14, 15, and 21** of the Indian Constitution.⁹²

The Supreme Court held that pregnant women could not be discriminated against in employment, promotion, or termination.⁹³ It emphasized that maternity and pregnancy are natural conditions that should not result in the deprivation of employment rights. The Court recognized the employer's duty to accommodate women employees during pregnancy and ensure their continued participation in the workforce without prejudice.⁹⁴

This judgment significantly influenced subsequent legislation and policy reforms, including the **Maternity Benefit Act, 1961**, and its amendments, which guarantee paid maternity leave, job protection, and other entitlements.⁹⁵ It also served as a precedent for judicial interpretation in cases of gender-based employment discrimination, reinforcing the principle that workplace policies must align with constitutional guarantees of equality and dignity for women employees.

1.5. K. Umadevi v. Government of Tamil Nadu

In *K. Umadevi v. Government of Tamil Nadu*, the Supreme Court addressed the denial of maternity leave to a government teacher for her third child, citing the state's two-child policy. *K. Umadevi*

⁹¹ *Air India v. Nergesh Meerza*, (1981) 4 S.C.C. 335 (India).

⁹² INDIA CONST. arts. 14, 15, 21.

⁹³ *Air India v. Nergesh Meerza*, (1981) 4 S.C.C. 335 (India) ¶ 12.

⁹⁴ *Id.* ¶ 15.

⁹⁵ The Maternity Benefit Act, No. 53 of 1961, INDIA CODE.

v. Government of Tamil Nadu, decided May 23, 2025.⁹⁶ The Court held that maternity leave is a constitutional right under Article 21, encompassing reproductive autonomy, and cannot be restricted by state policies.

The appellant, an English teacher in Tamil Nadu, had two children from her first marriage, both under the custody of their father. Her third child, born during her second marriage, was the first child born during her tenure as a government employee. The District Chief Educational Officer denied her maternity leave application, citing the state's two-child norm.⁹⁷

The Supreme Court set aside the Madras High Court's Division Bench judgment, which had upheld the denial. The Court emphasized that while state policies like the two-child norm are legitimate, they must be harmonized with constitutional rights. The Court directed that the appellant be granted maternity leave and that her maternity benefits be released within two months from the date of the judgment.⁹⁸

This judgment reinforces that maternity leave is a fundamental right tied to reproductive autonomy and dignity, highlighting the need for state policies to comply with constitutional guarantees.

CHAPTER - 6

SUGGESTION AND CONCLUSION

6.1. Summary of critical issues

Despite constitutional guarantees and progressive legislation, working women in India continue to face systemic and structural challenges that undermine their human rights, dignity, and equal participation in the workforce. The persistence of gender bias in both the organized and unorganized sectors limits women's access to economic, social, and legal protections.

One of the most significant challenges is wage disparity and occupational segregation. Women continue to earn less than men for the same work, despite the Equal Remuneration Act and

⁹⁶*K. Umadevi v. Government of Tamil Nadu*, Civil Appeal No. 2526 of 2025 (India), decided May 23, 2025.

⁹⁷ *Id.* ¶ 15.

⁹⁸ *Id.* ¶ 18.

provisions in the Code on Wages, 2019. The gender pay gap is exacerbated by the concentration of women in low-paying, informal, or part-time roles, often justified by stereotypes about women's productivity or commitment. The "glass ceiling" limits women's progression into leadership and decision-making roles across public and private sectors.

Sexual harassment and unsafe workplaces remain pervasive despite the POSH Act, 2013. Many employers fail to establish Internal Complaints Committees or conduct awareness programs. Underreporting due to stigma, retaliation, and fear of job loss continues to silence survivors. Landmark judgments like *Vishaka*, *Medha Kotwal*, and *Aureliano Fernandes* have stressed accountability, but implementation gaps remain.

The ***work-life balance and unpaid care burden*** disproportionately affect women. Social norms assign caregiving, household chores, and child-rearing responsibilities to women, limiting their participation in full-time or formal employment. The absence of flexible work arrangements, childcare facilities, and equitable parental leave policies reinforces gendered divisions of labor.

Discrimination in recruitment and promotions persists in both subtle and overt forms. Employers frequently avoid hiring women of reproductive age due to perceived "maternity costs," leading to hiring biases, stalled promotions, and fewer opportunities for training or leadership. The Maternity Benefit (Amendment) Act, 2017 expanded leave entitlements, but enforcement is skewed toward the formal sector.

Women in the ***informal and unorganized sectors***, who constitute over 90 percent of the female workforce, face the harshest conditions. Domestic workers, agricultural laborers, home-based workers, and street vendors lack social security, maternity benefits, occupational safety, and grievance mechanisms. The Social Security Code, 2020 attempts to bridge these gaps, but awareness, registration, and implementation challenges remain vast.

India's compliance with international obligations such as CEDAW, ILO Conventions, and UDHR reflects a commitment in principle, but translation into enforcement and outcomes is inconsistent.

Judicial interventions have often filled legislative and administrative gaps, but policy enforcement, monitoring, and institutional accountability remain weak.

Finally, intersectional vulnerabilities based on caste, class, migration status, marital status, and disability compound workplace discrimination. Dalit, Adivasi, migrant, and single women workers face multiple layers of exploitation, violence, and exclusion from justice mechanisms.

The cumulative impact of these issues restricts women's economic autonomy, safety, dignity, and equal opportunity. To move beyond symbolic protections, India must strengthen enforcement of existing laws, extend legal safeguards to the informal sector, implement gender-sensitive workplace policies, ensure accountability of employers, and promote equitable redistribution of care work.

Without addressing these structural and cultural barriers, constitutional promises and legislative frameworks will remain largely aspirational rather than transformative for working women.

6.2. Suggestions

- 1. Strengthen Enforcement and Accountability Mechanisms** - India has a wide legal framework for protecting working women, but implementation remains inconsistent. Labour departments should conduct regular inspections and mandate compliance with the Maternity Benefit Act, POSH Act, Equal Remuneration Act, and Social Security Code, 2020. Employers who fail to constitute Internal Committees, provide maternity benefits, or ensure wage parity must face strict penalties. Fast-track labour courts or gender-sensitive tribunals should be created to resolve disputes swiftly. Annual compliance reports from both public and private establishments can further improve transparency and accountability.
- 2. Extend Social Security and Benefits to Informal Sector Women** - Over 90% of working women are employed in the unorganized sector such as domestic work, agriculture, home-based manufacturing, vending, and gig economy jobs. These workers lack maternity entitlements, job security, occupational safety, and access to grievance redressal. The Social Security Code, 2020 should be operationalized through simplified registration

processes, digital and community outreach, and welfare boards. Schemes like health insurance, pensions, and creche support must be extended to informal workers through state funding and employer contributions.

- 3. Promote Equal Wages, Representation, and Career Advancement** - The gender pay gap and glass ceiling persist due to occupational segregation and discrimination. Mandatory pay audits, transparent salary structures, and gender-inclusive promotion policies are essential. Organisations should implement reservation or diversity quotas for women in managerial and decision-making positions. Mentorship, leadership training, and skilling programs can help women progress into higher roles. The enforcement of the Equal Remuneration Act and Code on Wages needs monitoring with penalties for violations.
- 4. Improve Workplace Safety and Redressal Systems** - Sexual harassment remains underreported and inadequately addressed. The POSH Act must be enforced beyond the formal sector by activating Local Complaints Committees at district and block levels. Training for committee members, survivor support, confidentiality measures, and zero-tolerance workplace policies are critical. Awareness workshops and gender sensitization programs should be mandatory for employees and management. Special focus is needed on sectors like domestic work, agriculture, and hospitality where harassment often goes unnoticed.
- 5. Reduce Unpaid Care Burden and Enable Work-Life Balance** - Women shoulder a disproportionate burden of childcare, elder care, and household work, limiting their participation in paid employment. Policies must encourage shared parental leave, flexible working hours, remote work options, and mandatory creche facilities. Publicly funded community childcare centers and employer-supported family welfare programs can ease this burden. Recognizing unpaid care work in national statistics and policymaking will promote fair redistribution of responsibilities and economic visibility for women.