



SAI SINDHU INTERNATIONAL JOURNAL OF RESEARCH (SSIJR)

www.ssijsr.org

EQUAL PAY FOR EQUAL WORK IN INDIA: A CONSTITUTIONAL AND LEGISLATIVE PERSPECTIVE

U.A. MUMTAJ BEGUM

Assistant Professor, Government Law College, Vellore.

ABSTRACT

Equality is a basic human right that should not be restricted based on 'gender', 'race', or 'caste'. Employment opportunities must not be influenced by sex. For every individual to live a dignified life with fair compensation, access to employment is essential. The motto of the ILO is "Decent work for a decent life" for workers, which aims to prevent 'wage discrimination' between men and women; to support this, the ILO established the "Equal Remuneration Convention" in 1951, which is designated as Convention No. 100. In India, the spirit of this convention is reflected in Article 39(d) of the Constitution. Furthermore, the "Equal Remuneration Act of 1976" was enacted by the Indian Parliament in 1976. Despite the various ILO conventions and the incorporation of these principles into the "Directive Principles of State Policy" and "fundamental rights" of the Indian Constitution along with the enactment of the Indian Act, the pay gap between genders has not diminished to the expected level. In this article, the researcher will explore international conventions, national legislations, and judicial interpretations aimed at eliminating gender discrimination in terms of "equal pay for equal work".

KEYWORDS: Gender, Non-Discrimination, Equal pay for Equal work, Remuneration.

INTRODUCTION

Since the nineteenth century, the industrial revolution has led to a higher demand for labour, and subsequent world wars created a gap in male employment, paving the way for women's participation in various fields. This increase in the workforce involvement

of women has grown steadily and significantly contributed to development today. However, the rise of women in the labour force has also brought various challenges, including inadequate wages, safety concerns for women, restrictions on maternity rights, and violations of women's

human rights. “The International Labour Organization (ILO)” is an international body established to safeguard labour rights and to resolve workplace issues in a constructive manner. The ILO has introduced numerous conventions and recommendations to address labour challenges globally, which have been ratified by various countries, including India.

To protect women's rights, the ILO has established various conventions and recommendations regarding “equal pay for equal work”. The advocacy for women’s rights and responsibilities in the workplace has been supported by various international organizations such as the ILO, ICRW, Equality Now, as well as Indian organizations like the ICTU. Achieving gender equality is a crucial aspect of society, ensuring social justice and promoting women's participation at all levels, which leads to increased productivity and cost-effectiveness. The economic advancement of women in society has a positive impact on reducing domestic violence, sexual harassment, and fostering a healthier community.

Women serve as a fundamental unit of a family, and since families are the

backbone of society, the economic empowerment of women leads to a better society overall. “With the gradual decay of the joint family concept, the unfortunate widows, the dependent and uneducated women began to seek employment in the agricultural and allied industries. Plantations, mining, building and construction industries also provided employment to such women. Women were employed in large numbers on ‘unfair wages’ and ‘exploited’ by the employers because they were aware of circumstances under which they had to seek employment”.¹ In **Randhir Singh v. Union of India**,² Justice O.Chinappa Reddy observed the principle of “equal pay for equal” work is not expressly declared by our constitution to be a fundamental right.” But, it certainly constitutional goal and therefore capable of enforcement through constitutional remedies under Article 32 of the constitution.

For thousands of years, numerous forms of discrimination have manifested in society, prompting countless voices to advocate for the vulnerable genders who lack representation. However, there remains a significant gap and imbalance in the understanding of equality based on

¹ Prof. (Dr.) V.G. Goswami, *Labour and Industrial Laws* 762 (Central Law Agency, Allahabad, 11th edn., 2019).

² *Randhir Singh v. Union of India*, AIR 1982 SC 879.

gender. Discriminatory practices still persist regarding wage payments for female employees. When both men and women perform the same tasks and work equally, they should receive equal pay; however, gender discrimination remains a significant obstacle. The ongoing exploitation of women concerning equal pay for equal work continues to require urgent attention.

DEVELOPMENT OF THE CONCEPT OF EQUAL REMUNERATION

In every year 8th of March, the world celebrating women's day it's an outcome of women workers raised their voice against various unjust practices in employment including in pay gap. Article 14, 15 and 21 are basis of the equal remuneration Act. To understand more, equality, discrimination based on gender and right to decent life are essential ingredients of equal remuneration. It was clearly established in Article 39 (d) which says that there is "equal pay for equal work" for both men and women³; Article 39 (a) says that the citizens, men and women equally, have the right to an "adequate means to livelihood"⁴. In *Associate Bank Officers Association Vs State Bank of India*,⁵ Justice Sujatha v. Manohar

observed: has discussed the origin of the concept of "Equal pay for Equal work".

The phrase "equal pay for equal work" has historically been a key demand of the women's movement. As a result, laws aimed at ensuring equal pay typically address gender-based discrimination in salary structures for men and women performing the same or similar roles within an organization. "The Equal Remuneration Act" prohibits discrimination based on sex, specifically protecting women in employment-related matters.

ILO ON EQUAL PAY FOR EQUAL WORK

"The International Labour Organization (ILO)" has played a critical role in promoting "equal remuneration for work of equal value", particularly between men and women. Central to its efforts is the "Equal Remuneration Convention, 1951 (No. 100)"⁶, one of the ILO's core conventions. This convention obliges ratifying member states to ensure that men and women receive "equal pay for work of equal value". It emphasizes not only identical jobs but also jobs that may differ in nature but are of equal worth in terms of skill, responsibility, and effort. The

³ The Constitution of India, art. 39(d).

⁴ *Id.*, 39(a).

⁵ *Associate Bank Officers' Association v. State Bank of India*, (1998) 1 SCC 273.

⁶ International Labour Organization, Equal Remuneration Convention, 1951 (No. 100).

Convention requires that this principle be applied through national laws, collective agreements, wage determination processes, and employer practices.

In addition to Convention No. 100, the ILO has also issued the “Equal Remuneration Recommendation, 1951 (No. 90)”, which provides further guidance to help member states implement the principles enshrined in the convention. The recommendation encourages governments to conduct job evaluations free of gender bias, to engage in dialogue with employers' and workers' organizations, and to collect gender-disaggregated wage data. Together, these instruments form a comprehensive framework for addressing wage inequality, supporting the broader goal of “gender equality” in the workplace.

Through these standards, the ILO aims to eliminate discriminatory wage practices and promote fairness in labor markets globally. The organization continues to monitor the implementation of these instruments and supports member states in building inclusive wage policies and institutional mechanisms to achieve pay equity.

THE UNIVERSAL DECLARATION OF HUMAN RIGHTS ON EQUAL REMUNERATION

“The Universal Declaration of Human Rights (UDHR)”, adopted by the

United Nations General Assembly in 1948, affirms the principle of “equal remuneration” through its commitment to equality and non-discrimination in employment. Article 23 of the UDHR is particularly relevant to this issue. It states that “everyone has the right to work, to free choice of employment, to just and favourable conditions of work, and to protection against unemployment”. More importantly, Article 23(2) explicitly declares that “everyone, without any discrimination, has the right to equal pay for equal work.” This provision establishes the fundamental human right to be compensated fairly, regardless of ‘gender’, ‘race’, or other status.

Furthermore, Article 23(3) supports the right to just and favourable remuneration that ensures an existence worthy of ‘human dignity’ for the worker and their family. The inclusion of these articles underscores the UDHR’s recognition of economic rights as essential to ‘human dignity’ and equality. By embedding the “right to equal pay” within its framework, the UDHR provides a moral and legal foundation for international and national efforts to eliminate wage discrimination and ensure fair labour practices for all individuals.

THE UNITED NATIONS ORGANISATION ON EQUAL PAY FOR EQUAL WORK

“Equal pay for men and women for the same work” is a fundamental principle enshrined in the “Universal Declaration of Human Rights (UDHR)”, adopted unanimously by the United Nations General Assembly on December 10, 1948⁷. It emphasizes that all individuals, regardless of any distinctions, deserve fair compensation for their equivalent efforts. This principle was further strengthened by the 1963 U.S. legislation that required “equal pay for equal work”, with the goal of eliminating gender-based disparities. In 1942, the National War Labour Board put forth a proposal for equal pay, which was later followed by a proposed “Equal Pay Act” in 1945. On June 10, 1963, President Kennedy took a significant step by signing The Equal Pay Act into law. This act amended the Fair Labour Standards Act of 1938, which is responsible for regulating minimum wages, overtime, and child labour.⁸

In the past, the justification for unequal pay included factors like higher turnover rates among working women because of family obligations, state laws

that restricted women from working at night, and limitations on the number of hours or weight they could handle. In the 1950s, when the majority of families relied on a male breadwinner and a stay-at-home wife, a woman's income was frequently considered unnecessary for the household. The Equal Pay Act (EPA) ensures that individuals in positions with comparable skill, effort, responsibility, and working conditions are entitled to equal compensation. The EPA acknowledges that variations in wages can be attributed to factors such as seniority, merit, quality, or quantity of production, among other non-gender related considerations. Plaintiffs in EPA cases need to establish that there was a disparity in pay between women and men for work that was essentially the same. At first, between 1963 and 1972, employees in executive, administrative, or professional roles were not covered by EPA protection because of exemptions under the Fair Labour Standards Act. Nevertheless, enforcement was transferred to the “Equal Employment Opportunity Commission” in 1979.

The UK's “Equal Pay Act ,1970”,⁹ which draws inspiration from the U.S.'s “Equal Pay Act 1963”¹⁰, ensures that men and women are treated equally in terms of

⁷ The Universal Declaration of Human Rights, 1948.

⁸ The Convention on the Elimination of All Forms of Discrimination Against Women, 1979, art. 23.

⁹ The Equal Pay Act, 1970 (United Kingdom).

¹⁰ The Equal Pay Act, 1963 (United States).

payment and conditions of employment. In order to make a claim under this Act, an employee is required to demonstrate that their work is equivalent, similar, or of comparable value to that of a comparator. Once fairness in the workplace is established, employers are required to demonstrate that any discrepancies in pay are based on factors unrelated to gender. In many countries, such as the UK and the U.S., there are laws in place to promote “equal pay”. However, it is still a concerning issue that women workers, particularly in unorganized sectors, consistently earn lower wages than their male colleagues. Addressing the issue of wage disparity continues to be a complex task, necessitating continuous endeavours to uphold current legislation and foster workplace gender parity.

CEDAW ON EQUAL PAY FOR EQUAL WORK

India, being a signatory to the UN special charters, adheres to the principles set forth in the Equal Remuneration Act. This act is in line with the guidelines established by the “Universal Declaration of Human Rights (UDHR)”, the “International Labour Organization (ILO)”, and the “Convention on the Elimination of All Forms of Discrimination Against

Women, 1979 (CEDAW)”¹¹. According to the UDHR, Article 23 guarantees that all individuals are entitled to fair compensation for their work, regardless of any form of discrimination.¹² The ILO’s “Convention on Equal Remuneration for Men and Women Workers for Work of Equal Value” in 1951, its 100th convention, enables signatory States to pursue its objectives through various means such as legislation, wage determination mechanisms, or collective bargaining agreements. It places a strong emphasis on the fundamental principle of ensuring “equal pay for equal work”. The CEDAW, signed in 1979, is focused on preventing discrimination against women, particularly in the labour force. It is highly recommended that signatories prioritise the integration of gender equality into their legal systems. They should work towards the abolition of discriminatory laws and the establishment of tribunals and institutions dedicated to the protection of women. Additionally, it is crucial to eradicate all forms of discrimination, whether it is perpetrated by individuals, organizations, or enterprises. These international agreements highlight India's dedication to promoting gender equality and eradicating workplace discrimination against women.

¹¹ The Convention on the Elimination of All Forms of Discrimination Against Women, 1979.

¹² *Id.*, art. 23.

RATIFICATION OF INDIA AND CONSTITUTIONAL REFLECTION OF “EQUAL PAY FOR EQUAL WORK”

Social Justice is the basic principle enshrined in the constitution of India. “Article 14” of the Constitution of India states “equality before law”. It is a fundamental concept of ‘rule of law’ and it permits reasonable classification-based inequalities or characteristics of persons recruited and grouped together, as against those who were left out.¹³

In the case of *All India Customs and central excise stenographers (recognised) v. Union Of India* it was observed “Equal pay for equal work is not be judged by the mere volume of work there may be qualitative difference as regards reliability and responsibility. Functions may be equal, but responsibilities make a difference”.¹⁴

*State of Haryana v. Charanjit Singh*¹⁵ workers recruited on contract cannot entitle for same pay. Article 15 deals with eradicating discrimination based on sex in employment.

In the case of state of *Haryana v. Rajpal Sharma*, the Apex Court made it clear teachers working in aided schools in Haryana eligible for “same remuneration” and “dearness allowance” as paid to teachers employed in government schools of state of Haryana.¹⁶ Providing “equal pay for equal value of work” is not a fundamental right it’s a constitutional goal enshrined in the “Directive principle of State policy” under “Article 39(d)” especially directs the states to obtain equal pay for equal work for both men and women to ascertain this constitutional mandate the legislature enacted the “Equal Remuneration Act 1976”.

THE EQUAL REMUNERATION ACT, 1976

“The Equal Remuneration Act”, enacted in 1976, strives to guarantee fair compensation for workers regardless of their gender and prohibits any form of gender-based discrimination in employment. The definition of “remuneration” encompasses the base wage or salary, as well as any other forms of compensation, whether in cash or in kind, that are provided for work performed under the employment agreement. The Act

¹³C.K. Takwani, *Textbook on Constitutional Law of India* 509 (Whytes & Co., New Delhi, 5th edn., 1998).

¹⁴ *All India Customs and Central Excise Stenographers (Recognised) v. Union of India*, 1988 SCC (L&S) 673.

¹⁵ *State of Haryana v. Charanjit Singh*, AIR 2006 SC 161, 169–171.

¹⁶ *State of Haryana v. Rajpal Sharma*, AIR 1997 SC 449.

provides a clear definition of "same work or work of similar nature." It states that such work involves the same level of skill, effort, and responsibility, and is performed under similar working conditions. The Act also emphasizes that any differences in requirements between men and women should not have any practical significance when it comes to terms of employment.

Ensuring "equal pay for equal work" irrespective of gender in section 4 mandates that employers must pay equal remuneration to men and women workers for the "same work or work of a similar nature". The phrase "same work or work of a similar nature" refers to jobs that require similar skill levels, effort, responsibilities, and are performed under similar working conditions. The aim is to prevent wage discrimination that arises from assigning unequal pay for work that is essentially equivalent in value.

The principle dealt with in this section is the elimination of gender-based wage discrimination, reflecting a commitment to both "equality before the law" and "non-discrimination" in employment practices. It ensures that gender cannot be a factor in determining the remuneration of workers performing

similar duties. This aligns with constitutional guarantees under Article 14 (equality before the law) and Article 16 (equality of opportunity in matters of public employment) of the Indian Constitution.¹⁷

Furthermore, this act focused on ensuring equal opportunities in recruitment, taking into account any legal restrictions on the employment of women in certain roles.¹⁸ In addition to that it establishes an "advisory committee" aimed at enhancing employment opportunities for women¹⁹. This act also allows the government to designate an adjudicating authority to handle and resolve complaints regarding nonpayment of equal pay²⁰. The following are certain significant features of the act:

- The authority's decisions can be appealed.
- The Act acknowledges the possibility of variations in compensation that are not related to gender, and amendments made in 1987 empower courts to address grievances filed by accredited organizations.
- These amendments also aim to address any loopholes and ambiguity in the Act, resulting in stricter penalties.

¹⁷ The Equal Remuneration Act, 1976 (Act 25 of 1976), s. 4.

¹⁸ *Id.*, s. 5.

¹⁹ *Id.*, s. 6.

²⁰ *Id.*, s. 7.

- Over the years, certain shortcomings and gaps have been identified in the Act, despite its provisions. The 1987 amendment aimed to tackle these concerns and enhance the Act's efficacy in guaranteeing fair pay for individuals of all genders.
- The Act aims to ensure equal treatment for female labourers, in accordance with the United Nations “Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)”.
- This policy ensures that female employees are compensated equally to their male counterparts, promoting fairness and the principle of “equal pay for equal work”.
- The Act is applicable across India and extends its coverage to all female employees, irrespective of the length of their employment.
- Employers must ensure that the terms and conditions in employment contracts align with the Equal Remuneration Act and the principle of “*equal work for equal pay*”.
- Any condition or settlement imposed by the employer that is harmful to the employee is considered invalid.
- The Ministry of Labour and the Central Advisory Committee are responsible for enforcing the Act.
- The Act emphasizes the importance of considering various factors such as experience, responsibilities, qualifications, and reliability when determining equality of work.
- It ensures that comparisons are made only among employees who share similar characteristics.
- Violating the Act's provisions can lead to serious consequences for employers, such as criminal liability, fines, imprisonment, or both.

CONSTITUTION AND THE EQUAL REMUNERATION ACT, 1976

“The Equal Remuneration Act, 1976” is in accordance with various fundamental principles upheld in the Indian Constitution, which uphold the rights of citizens. The rights are clearly stated in multiple articles and directives, highlighting the importance of fairness, equality, and avoiding discrimination.

Firstly, the opening statement of the Constitution establishes a foundation of fairness and equal treatment for every person. Article 14 guarantees “equal

treatment” under the law²¹, while Article 15 prohibits any form of gender-based discrimination²². Article 15(3) acknowledges the importance of addressing gender disparities and promoting equality between men and women in all areas²³.

Article 16 ensures that all individuals have an equal chance to secure employment in public offices, regardless of their gender²⁴. Regarding the “Directive Principles of State Policy”, Article 39(a) emphasizes the importance of ensuring that both men and women have “sufficient means of livelihood”. Article 39(d) emphasizes the importance of ensuring “equal pay for equal work”, promoting fairness and non-discrimination.²⁵ In addition, Article 42 emphasizes the importance of providing suitable working conditions and support for maternity, recognizing the specific difficulties that women encounter in their professional lives.²⁶ Although the doctrine of “equal pay for equal work” is not explicitly recognized as a “Fundamental Right”, it is widely regarded as a Constitutional Right because it aligns with fundamental principles. “The Equal Remuneration Act, 1976” was enacted to uphold the principles of fairness,

equality, and inclusivity in the workforce. It ensures that all employees, regardless of gender, have the right to receive equal remuneration, aligning with the spirit of “Article 39” of the Constitution²⁷.

In *M/S Mackenzie and Co. Ltd. v. Audrey D’ Costa & Anr.*,²⁸ justice E.Venkataramiah observed: “It cannot be suggested that there can be no discrimination at all between men and women in the matter of remuneration and the basis of nature of work which women may not be able to undertake but in such cases, there cannot be any discrimination on the ground of sex. Discrimination arises only where men and women doing the same or similar kind of work are paid differently. Wherever sex discrimination is alleged, there should be a proper job evaluation before any further enquiry is made. If the two jobs in an establishment are accorded an equal value by the application of those criteria which are themselves non-discrimination as distinct from criteria which set out different values for men and women on the same demand and it is found that a man and woman employed on these two jobs are paid differently then sex discrimination clearly arises”.

²¹ The Constitution of India, art. 14.

²² *Id.*, art. 15.

²³ *Id.*, art. 15(3).

²⁴ *Id.*, art. 16.

²⁵ *Id.*, art. 39(d).

²⁶ *Id.*, art. 42.

²⁷ *Id.*, art. 39.

²⁸ *M/s Mackenzie and Co. Ltd. v. Audrey D’Costa and Anr.*, (1987) 1 LLJ 536 (SC).

ERADICATION OF SEX BASED PAY GAP DISCRIMINATION

The employer of the establishment at the time of recruitment should not deny any persons on account of their sex as a disqualification of employment until restricted by law. An opportunity of employment should not be denied based on a ground of candidates are women²⁹. As per the Latin maxim "*Generalia specialibus non derogant*", this legislation is a special legislation deals with equal remuneration and the provisions mentioned in this Act should apply for the just and fair practices of pay. This Act made any other Act or law or contract or in the terms of any award or agreement in motion which are inconsistent or against become invalid.³⁰ In simple term it's known as "notwithstanding clause" this clause protecting other legislation from encroachment or abuse of this Act; it makes the Act to achieve the main object of this statute which ensures the non-discrimination of gender on payment of wages.

CONSEQUENCE OF VIOLATION OF THE PROVISIONS OF THIS ACT

Section 10 deals with penalties against the employer whom delinquently violates the provisions of this act in this provision divided into two parts one is failed to or omits to maintain or produce any registrar

or any other documents relevant to list of empanelment of workers or refuses to give any evidence or prevents his administrative staffs or workers from giving evidence. Another is if the employer makes employment against or controversy to the provisions of this act or unequal rates of pay to men and women workers or makes any other discrimination which are restricted and prevented by this act. Employment of women workers as per the advisory committee's advice under section 6 of this act is punishable with imprisonment which extend for one month or fine which extend to ten thousand rupees or both.

Section 11 deals with the offences by company that means any act done against a provision of this Act by all persons engaged and acted behalf of the company or the controversy done with consent of directors or directors acts are attributable to contrary of this Act are liable to the penalties mentioned under the Equal Remuneration Act.

EQUAL PAY FOR EQUAL WORK UNDER THE CODE ON WAGES, 2019

The principle of "equal pay for equal work" represents one of the most fundamental ideals of labour justice and social equality. The enactment of the "Code on Wages, 2019" marks a significant shift in India's

²⁹ *Supra*, note 17, s. 5.

³⁰ *Supra*, note 17, s. 3.

labour law regime. By consolidating multiple wage-related legislations into a single comprehensive framework, the Code attempts to simplify, modernize, and strengthen wage regulation. One of its most important contributions is reinforcing the principle of “equal pay for equal work” in a gender-neutral and more inclusive manner.

The principle of “equal pay for equal work” is primarily embedded in Section 3 which deals with prohibition of discrimination on grounds of gender and Section 4 which deals with decision as to disputes with regard to “same or similar nature of work”. These provisions collectively aim to eliminate wage discrimination and ensure equitable remuneration practices.

PROHIBITION OF GENDER DISCRIMINATION

Section 3 of the “Code on Wages, 2019” is the central provision governing equal pay. It explicitly prohibits ‘discrimination’ on the ground of ‘gender’ in matters of “wages, recruitment and conditions of employment”³¹. It lays down a clear and mandatory rule that no employer shall discriminate between employees on the ground of gender in matters relating to

wages when they are performing the “same work or work of a similar nature”³². The provision seeks to eliminate systemic wage disparities and reinforces the broader constitutional goal of equality in employment.

The “Code on Wages, 2019” strengthens this protection by placing specific obligations on employers³³. Firstly, under clause (i), it prohibits employers from reducing the wages of any employee as a means of achieving compliance with the principle of equal pay. In other words, an employer cannot equalize wages by bringing higher-paid employees down; instead, they must raise the wages of those who are paid less. Secondly, clause (ii) expands the scope of non-discrimination beyond wages to include recruitment and conditions of employment. It clearly mandates that employers must not discriminate on the basis of sex while hiring employees for the same or similar work or while determining their service conditions such as promotions, transfers, or benefits. However, an exception is provided where the employment of women is restricted or prohibited under any existing law, thereby

³¹ PRS Legislative Research, “The Code on Wages, 2019”, available at <https://prsindia.org/billtrack/the-code-on-wages-2019> (last visited on March 24, 2026).

³² The Code on Wages, 2019 (Act 29 of 2019), s. 3(1).

³³ The Code on Wages, 2019 (Act 29 of 2019), s. 3(1).

acknowledging certain protective labour legislations.

DISPUTES WITH REGARD TO SAME OR SIMILAR NATURE OF WORK

Section 4 complements Section 3 by addressing practical challenges that may arise in its implementation. Since disputes often occur regarding whether two jobs can be considered the “same or of a similar nature”, this provision authorizes the appropriate government to designate a competent authority to resolve such disputes. This ensures that questions relating to job comparability are not left to arbitrary employer discretion but are instead decided through a structured and legally recognized mechanism. Together, these provisions create a comprehensive framework that not only prohibits gender-based wage discrimination but also provides a method for resolving ambiguities, thereby strengthening the enforcement of the principle of “equal pay for equal work”.

CHALLENGES IN EFFECTIVE IMPLEMENTATION

Despite its progressive provisions, the Code faces several challenges in effective implementation. They are as follows:³⁴

- The continued reliance on “same or similar work” may limit the effectiveness of the law, as it does not fully capture the concept of “work of equal value.”
- Many workers, particularly in rural and informal sectors, are ‘unaware’ of their rights under the Code.
- Implementation remains a major challenge due to limited inspections, administrative inefficiencies and employer resistance. Unlike the earlier Act, the Code focuses primarily on wages and does not comprehensively address discrimination in all employment.

The principle of “equal pay for equal work” is central to achieving “social and economic justice”. The Code on Wages, 2019 reinforces this principle by prohibiting “gender-based discrimination” in wages, recruitment, and employment conditions. Sections 3 and 4 of the Code play a pivotal role in ensuring wage equality by mandating equal remuneration and establishing a standardized wage framework. While the Code represents a progressive step forward, challenges in

³⁴ AMLEGALS, “Equal Pay for Equal Work: The Impact of the Code on Wages Act, 2019”, available at <https://amlegals.com/equal-pay-for-equal-work->

[the-impact-of-the-code-on-wages-act-2019](https://amlegals.com/equal-pay-for-equal-work-the-impact-of-the-code-on-wages-act-2019) (last visited on March 24, 2026).

implementation and interpretation continue to hinder its full realization.

ROLE OF JUDICIARY IN “EQUAL PAY FOR EQUAL WORK”

Equality is the basic right of human being. Even if there is impartiality in treatment among employees, made to tolerable by the ill-treatment employee because of their poverty and livelihood The ups and downs in salaries among the labours who are providing the same services for the purpose of affordable remuneration which creates in-equality of life. Despite substantial progressive in gender equality over the earlier era, reducing gender gaps remains slow and far from being a reality for many women when compared with men. Indian judiciary played vital role in ensuring the “equal pay for equal work”. The Indian Constitution from its preamble initiates bunch of provisions which ensuring the social justice. Art 14 of Indian constitution directly not attracting the “equal pay for equal work” but, wherever inequality in pay and such classification is ‘unreasonable’ the principle of equality applicable for guaranteeing fair pay.³⁵

The Judiciary invoked a principle that temporary employees discharging the same work as permanent employees are entitled to the same pay. “Equal pay for equal work” for both men and women’ means equal pay for equal work for everyone and as between sex in the case of **Randhir Singh v. Union of India**³⁶. The word ‘socialist’ in the preamble of the constitution, its relative meaning is ‘equal pay for equal work’. The Directive Principle has to be read with the ‘fundamental rights’ as a matter of interpretation. According to the Article 14 and 15 ensuring to eradicate a gender pay gap for same nature of work and enforcing Art 39 (d) which deals with equal pay for equal work. The object of Art 39 (d) is to set social and economic target to prevent discrimination between the citizens and engaged in the same work ensures the guarantee in matters relating to equal remuneration.³⁷

The principle that woman workers are entitled for same pay for similar nature of work held in **Mackinnon Mackenzie and co. Ltd v. Audrey D’Costa** irrespective of their sex a refusal of equal pay is ‘discrimination’ based on sex is a violation

³⁵ *Supreme Court Employees’ Welfare Association v. Union of India*, (1989) 4 SCC 187.

³⁶ *Randhir Singh v. Union of India*, AIR 1982 SC 879.

³⁷ *Jaipal v. State of Haryana*, AIR 1988 SC 1504, 1988 SCR (3) 617, (1988) 3 SCC 354.

under section 4(1) of “Equal Remuneration Act, 1976”.³⁸

Furthermore, the Judiciary upheld that employee should not be denied his “equal pay for equal work,” in part of explaining the court observed equal work employed by central Government in **Surinder Singh and Another v. Engineer-in-chief and others**³⁹, but in different ways, one is permanent and another is on contract and cannot be differentiated between payment and other services.

The supreme court also reaffirmed the principle of the “Equal Pay” in the case **Secretary, State of Karnataka v. Uma Devi**⁴⁰, a five-judge Constitution Bench of the Supreme Court of India on 10, April, 2006 decided that “the primary focus of this case was on the regularization of services of temporary hand workers, buttressing that temporary workers should not be treated unfairly in terms of remuneration.”

The principle of “minimal scale pays” explained in the case **Sita Mundu & Ors. v. All India Institute of Medical Sciences**⁴¹, In this case the suppliant has working staff nurses on contractual base in the replier

points, who perform analogous duties and have analogous liabilities of their regular counterparts. The Division Bench of the Delhi High Court has held that the contractual staff nurses are also entitled to minimal pay scale of the post along with honey allowance.

The principle of “equal pay for equal work” constitutes a clear and unequivocal right and is vested in every hand said in the case of the **State of Punjab & Ors. v. Jagjit Singh & Ors**⁴². In this literal judgement the Apex Court was editorialized that “there's no escape from the obligation, in view of different vittles of the Constitution appertained in the judgment, and in view of the law declared by this Court under Composition 141 of the Constitution of India, whether engaged on a regular or temporary base”. The Court has expressed his view that the fallacious to determine artificial parameters to deny fruits of labour. A person engaged for the ‘same work’, cannot be paid lower than another, who performs the same duties and liabilities. clearly not, in a weal state. Such an action besides being slighting, strikes at the very foundation of ‘mortal quality’. Any one, who's impelled to work at a lower

³⁸ *Mackinnon Mackenzie & Co. Ltd. v. Audrey D'Costa*, AIR 1987 SC 1281.

³⁹ *Surinder Singh and Another v. Engineer-in-Chief and Others*, AIR 1986 SC 584.

⁴⁰ *Secretary, State of Karnataka v. Uma Devi*, (2004) 4 SCC 1.

⁴¹ *Sita Mundu & Ors. v. All India Institute of Medical Sciences*, WP (C) No. 6282 of 2016 (decided on October 5, 2023).

⁴² *State of Punjab & Ors. v. Jagjit Singh & Ors.*, (2017) 9 SCC 86.

pay envelope, doesn't do so freely. He does so, to give food and sanctum to his family, at the cost of his tone- respect and quality, at the cost of his tone- worth, and at the cost of his integrity. For he knows, that his dependents would suffer immensely, if he does not accept the lower pay envelope. Any act, of paying lower stipend, as compared to others also stick, constitutes an act of exploitative servility, arising out of a tyrannous position. really, the action is rough, suppressive and coercive, as it compels involuntary subjection. The Court held that all the temporary workers i.e. (diurnal pay envelope workers, ad- hoc nominees, hand appointed on casual base, contractual workers and like) are entitled to draw stipend at the “Minimum of the Pay scale” at smallest grade in the regular pay scale extended to regular workers holding the same post. The right of the “minimum of the pay scale” will be from the date of temporary or contractual appointment.

The principle “same pay for same work” explained in the case **Dhirendra Chamoli and another v. State of Uttar Pradesh**⁴³ it was held that “same pay for the same work of the employee should not be denied on the ground that the employee in employment with full knowledge of pay and after agreement to receive daily wages

and their right of equal pay cannot be denied”.

In addition, provided that in the case of **state of Madhya Pradesh v. RD Sharma** states that equal pay for equal work is not a fundamental right given to any employee, but is certainly a constitutional aim that is to be achieved and safeguarded by the government.⁴⁴

The above said judicial interpretations clearly emphasize “equal pay for equal work” is not to be enforced under ‘fundamental right’ but it is part of constitutional goals, Equal Remuneration Act is ideological development of constitutional goals in turn have more importance in the corporate era.

COMPARATIVE ANALYSIS WITH UK

India and the United Kingdom have both enacted legal frameworks to promote equal remuneration and eliminate gender-based discrimination in the workplace, yet their approaches reflect differing socio-economic contexts. In India, the “Equal Remuneration Act, 1976”, mandates equal pay for men and women performing the same or similar work, and prohibits discrimination during recruitment. Despite this, implementation remains inconsistent

⁴³ *Dhirendra Chamoli and Another v. State of Uttar Pradesh*, (1986) 1 SCC 637.

⁴⁴ *State of Madhya Pradesh v. R.D. Sharma*, 2022 LiveLaw (SC) 97.

due to societal norms and a lack of robust enforcement mechanisms. On the other hand, the UK enforces the “Equality Act 2010”⁴⁵, which consolidates various anti-discrimination laws and actively addresses pay gaps through more transparent reporting requirements, especially for companies with over 250 employees. The UK also emphasizes policy-driven initiatives and cultural shifts towards workplace equality, supported by trade unions and advocacy groups. While both nations recognize the importance of gender parity, the UK demonstrates more systematic enforcement and public accountability, whereas India continues to struggle with practical challenges in translating legal provisions into workplace reality.

Despite both India and the UK sharing a legal commitment to gender equality in remuneration, the effectiveness of these frameworks varies significantly. In the UK, the introduction of mandatory gender pay gap reporting in 2017 has significantly increased corporate accountability and public awareness, prompting many organizations to actively work towards narrowing the gap. Moreover, the UK's legal system allows individuals to challenge discriminatory pay

practices with greater support, including access to legal aid and specialized tribunals. Conversely, in India, while laws such as the “Equal Remuneration Act” and provisions under the Code on Wages, 2019⁴⁶ exist, the lack of comprehensive data and limited awareness among workers hinder progress. Cultural and structural barriers, such as occupational segregation and limited female participation in high-paying sectors, exacerbate wage disparities. Furthermore, enforcement agencies in India often lack the resources and autonomy to ensure compliance. Therefore, while the UK moves toward a more proactive stance on gender equality in pay through monitoring and policy reform, India continues to face systemic challenges that slow the realization of true pay equity across genders.

INEQUALITY REPORT OF 2022

The world inequality report 2022 provides the first estimates of the “gender inequality” in global earnings. Overall, women’s share of total incomes from work neared 30% in 1990 and stands at less than 35% today. Current “gender earnings inequality” remains very high, in a gender equal world, women would earn 50% of all labour income. In 30 years, progress has been very slow at the global level, and dynamics have been different across

⁴⁵ The Equality Act, 2010 (United Kingdom).

⁴⁶ The Code on Wages, 2019 (Act 29 of 2019).

countries, with some recording progress but others seeing reductions in women's share of earnings.⁴⁷

The ILO in its wage report 2022 stated that in India there is pay disparity between male and female workers. This gender pay gap can be observed among all types of worker groups, the average daily wages of casual rural female workers is the lowest.⁴⁸

CONCLUSION AND SUGGESTIONS

According to Nell Telegar of Netherlands, a Trade Unionist, "equality of pay for equal work" has proved a hard goal to achieve. The fight for equal remuneration was originated ten decades ago and it has still not been won. There is no ready way remedies to the problems. The Employer before appointing a female worker in advance analyse the nature of employment and pay was essential for her livelihood and inquiring about her family background and the present scenario of her day-to-day life need considering the facts to the fixation wages. In this background of verification that a woman is economically distressed and the employer cannot take advantage as opportunity in selecting women and appointing them for unjust wages. The female employees because of poverty and

economic deprived circumstance, without bargaining for fair wages, quietly accept unfair wages.

Need of Government agents and organisations appointed by central and state governments to ensure 'fair practice' in employment in regard of payment of wages and continuous monitoring of employing agencies and spreading awareness about this act among the working class make more efficient result to achieve the object of this act. Society itself should understand This Act is not a grant, is a rights for their labour and help to achieve goal of this act makes in future a chance to create a society of equality providing "equal pay for equal work" for both men and women without discrimination in "similar and same nature of work." The following suggestions are made for ensuring "equal pay for equal work" between men and women and to eliminate gender discrimination.

1. Organizations should institutionalize transparent pay structures where job roles, responsibilities, and remuneration criteria are clearly defined and openly communicated. Such transparency minimizes the scope

⁴⁷ World Inequality Lab, *World Inequality Report 2022* (2022).

⁴⁸ International Labour Organization, *India Wage Report: Wage Policies for Decent Work and Inclusive Growth* (ILO, 2018).

for subjective decision-making and unconscious biases that often disadvantage women. Regular pay audits and gender-disaggregated data collection are indispensable tools to monitor wage disparities and initiate corrective measures promptly.

2. Furthermore, promoting gender-neutral job evaluations can ensure that remuneration is based solely on the demands and responsibilities of the position rather than the gender of the individual occupying it. It is equally important to foster a workplace culture that values diversity and inclusion through continuous training programs aimed at sensitizing managers and employees about unconscious biases and the significance of equitable treatment. Educational campaigns targeted at both employers and employees can enhance awareness of the principles of 'equal remuneration' and the legal rights associated with it.
3. Encouraging women's representation in leadership positions and high-paying industries, traditionally dominated by men, is critical to dismantling structural barriers that perpetuate wage gaps. Mentorship programs,

leadership training, and flexible work arrangements can empower women to ascend to roles of greater responsibility and remuneration.

4. Additionally, establishing accessible grievance redressal mechanisms is vital to provide employees with a safe platform to report instances of discrimination without fear of retaliation or victimization. Collaboration among government agencies, private sector organizations, trade unions, and civil society groups can amplify efforts toward achieving pay equity by sharing best practices, promoting advocacy, and monitoring progress.
5. Addressing intersectionality is also essential, as women from marginalized communities often experience compounded discrimination, leading to wider pay disparities. Research initiatives should be encouraged to continuously assess the evolving dynamics of gender pay gaps and to design evidence-based interventions.
6. Finally, fostering a societal shift in perceptions regarding gender roles is crucial for the long-term success of equal remuneration efforts. Media campaigns, public education, and policy initiatives should work

together to challenge traditional stereotypes that influence occupational choices and wage expectations. By adopting a holistic and sustained approach that combines legislative action, organizational reforms, and cultural transformation, the vision of achieving equal remuneration and eliminating gender discrimination can move closer to reality.

REFERENCES

1. C.K. Takwani, Textbook on Constitutional Law of India 509 (Whytes & Co., New Delhi, 5th edn., 1998).
2. Prof. (Dr.) V.G. Goswami, Labour and Industrial Laws 762 (Central Law Agency, Allahabad, 11th edn., 2019).
3. The Constitution of India, 1950
4. International Labour Organization, Equal Remuneration Convention, 1951 (No. 100).
5. International Labour Organization, India Wage Report: Wage Policies for Decent Work and Inclusive Growth (ILO, 2018).
6. The Equal Remuneration Act, 1976 (Act 25 of 1976).
7. The Code on Wages, 2019 (Act 29 of 2019)