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Reproductive Rights, Employment, and Gender Equality: A Legal Study of Workplace Policies in India

SAMIDHA GUPTA¹

ABSTRACT

This article analyses the intersection among employment, reproductive rights and gender equality in the context of workplace policies and legislation in India. The paper employs a doctrinal and critical legal approach, the paper examines constitutional provisions, labour statutes such as the Maternity Benefit Act, 1961 and the Sexual Harassment of Women at Workplace (POSH) Act, 2013 and recent labour code reforms to assess how women's reproductive autonomy and their participation in the formal workforce is regulated by Indian laws. It highlights protective measures like maternity leave, crèche facilities, and ensuring equal pay for equal work. It also points out the existence gaps in implementation, enforcement, and coverage, particularly for marginalized women and those working in informal sector. The paper contends that rigid workplace norms, patriarchal attitudes, and inadequate support for caregiving responsibilities continue to undermine substantive gender equality, despite a relatively progressive legal framework. It concludes by proposing policy recommendations such as longer parental leave, stricter enforcement mechanisms, and workplace redesigned to promote sensitivity which will better align with Indian employment practices with reproductive rights and the goal of transformative gender equality.

Keywords: *Employment, Gender Equality, International Conventions, Maternity Benefits, Reproductive Rights.*

I. INTRODUCTION

Women's reproductive rights include their right to make reproductive choices without fearing workplace discrimination or gender-driven hindrances in achieving financial independence and further advancing their careers. Policies addressing maternity, reproductive health, childcare, and bodily autonomy are indispensable for women to work equally alongside men. In India, despite constitutional guarantees and positive judicial interpretations, reproductive rights still face socio-legal and structural challenges in employment.

¹ Author is an Advocate at Civil court Roorkee, Uttarakhand, India.

In order to attain our goal of equality in workplace, biological distinctions related to reproduction must not be a reason for exclusion, disadvantage, or unequal treatment. It has been highlighted in the feminist legal theory that mere formal equality is not sufficient enough, rather real equality requires actions that acknowledge women's reproductive roles without reinforcing stereotypes or limiting opportunities.²

This article examines the Code on Social Security, 2020 and related labour laws through the lens of reproductive rights, assessing whether the new framework adequately protects informal and gig workers in accordance with constitutional and international obligations

II. NATIONAL AND INTERNATIONAL FRAMEWORK FOR REPRODUCTIVE RIGHTS AND GENDER EQUALITY

Indian Constitution provides a strong legal foundation for reproductive rights and gender equality by ensuring equality, non-discrimination, and social justice, as guaranteed in Parts III and IV. These constitutional guarantees, when interpreted together by the judiciary, require the state to ensure that women are not disadvantaged in employment due to their reproductive roles. India's commitment to reproductive rights and gender equality is also supported by its duties under international human rights and labor laws.

A. Constitutional Framework and Judicial Interpretation in India

Article 14 of the Constitution guarantees the right to equality before law and equal protection of the law, forming the cornerstone of gender justice in India. Any workplace policy or employment practice that discriminates against women on the basis of pregnancy, maternity, or reproductive capacity violates the principle of equality enshrined under this provision.³ Article 15(1) further strengthens this guarantee by expressly prohibiting discrimination on the ground of sex, while Article 15(3) permits the state to make special provisions for women. This enabling clause constitutionally validates affirmative legislations dealing with maternity benefits and reproductive health protections without violating the principle of formal equality.⁴ The Supreme Court in *Air India v. Nargesh Mirza*⁵ ruled that termination of employment due to pregnancy is arbitrary and violates the equality guaranteed under Articles 14 and 15.

² Savitri W. E. Goonesekere, *The Concept of Substantive Equality and Gender Justice in South Asia*, 2015, https://asiapacific.unwomen.org/sites/default/files/Field%20Office%20ESEA/Docs/Publications/2015/southasia/reportstudies/05_human%20rights/The-Concept-of-Substantive-Equality-final-31-12-072%20pdf.pdf

³ The Constitution of India, art. 14.

⁴ The Constitution of India, art. 15 (1) and 15(3).

⁵ *Air India v. Nargesh Mirza*, AIR 1981 SC 1829.

Similarly, in the case of *Anuj Garg v. Hotel Association of India*⁶, the Court rejected paternalistic restrictions rooted in gender stereotypes, emphasizing substantive equality.

Article 16 ensures equality of opportunity in public employment and protects women from exclusion, denial to promotion, or termination due to pregnancy. Thereby, making discriminatory employment practices based on reproductive status violative of fundamental rights of an individual.⁷ In the case of *C.B. Muthamma v. Union of India*, the court ruled that service rules disadvantaging women based on marital status must be struck down, reinforcing that indirect gender discrimination in employment is not permissible.⁸

Article 21 of the Constitution, which guarantees the right to life and personal liberty, provides the most significant constitutional basis for reproductive rights. Judicial interpretation has expanded the horizons of Article 21 to include the right to dignity, health, privacy, bodily integrity, and reproductive autonomy⁹. In the case of *Suchita Srivastava v. Chandigarh Administration*¹⁰, the Supreme Court explicitly recognized a woman's right to make reproductive choices as a dimension of personal liberty under Article 21. This interpretation establishes that reproductive autonomy is a fundamental right and therefore, obligates the State to protect it within the workplace.

Directive Principles of State Policy comprised in Part IV of the Constitution further reinforce these guarantees under Article 39(a) which directs the State to ensure adequate means of livelihood for all its citizens, while Article 39(d) mandates equal pay for equal work for men and women in the same nature of employment. Article 39(e) requires the State to protect the health and strengthen workers, particularly women, against abuse. These are the guiding principles in the formulation of labour and social welfare legislation aimed at safeguarding reproductive health and economic security.¹¹

Article 42 specifically directs the State to make provisions for just and humane conditions of work and for maternity relief. This provision serves as the constitutional foundation for maternity-related labour legislation in India, including the Maternity Benefit Act of 1961. The Supreme Court has interpreted maternity relief not as a matter of charity but as a constitutional obligation rooted in social justice.¹²

⁶ *Anuj Garg v. Hotel Association of India*, AIR 2008 SC 663.

⁷ The Constitution of India, art 16.

⁸ *C.B. Muthamma v. Union of India*, 1980 SCR (1) 668.

⁹ The Constitution of India, art. 21.

¹⁰ *Suchita Srivastava v. Chandigarh Administration*, (2009) 9 SCC 1.

¹¹ The Constitution of India, art 39(a), art 39(d), art 39(e).

¹² The Constitution of India, art 42.

Judicial decisions have consistently reinforced the constitutional commitment to reproductive rights and gender equality in employment related matters. In *Municipal Corporation of Delhi v. Female Workers (Muster Roll)*¹³, the apex court extended maternity benefits to casual and daily wage workers, holding that denial of such benefits would violate Articles 14, 15, and 21 of the Constitution. More recently, the recognition of privacy and bodily autonomy in *K.S. Puttaswamy v. Union of India*¹⁴, has further strengthened the constitutional protection of reproductive choice and decisional autonomy.

In the case of *X v. Principal Secretary, Health and Family Welfare Department, Government of NCT of Delhi*, the Court ruled that unmarried women are equally entitled to access safe abortion services as a married women under the *Medical Termination of Pregnancy Act, 1971* (as amended in 2021).¹⁵ The Court emphasized that marital status cannot restrict a woman's reproductive autonomy and stated that the law must be viewed through the lens of constitutional principles like equality, dignity, and privacy, reflecting the inclusive nature of the Constitution. Further, in the case of *A (Mother of X) v. State of Maharashtra*,¹⁶ the Supreme Court reaffirmed that a woman's consent is critical in decisions about terminating a pregnancy and criticized delays that undermine statutory rights. The Court emphasized that access to reproductive healthcare is a constitutional obligation of the State and should not be hindered by procedures or moral considerations. These decisions indicate a significant shift from a protection-oriented approach to one focused on autonomy and choice. These decisions reflect a clear shift from a protectionist approach to one centered on autonomy and choice.

In *Hamsa Nandini Nanduri v. Union of India*¹⁷, the apex Court of India delivered an important ruling that brings sensitivity to the issues of adoptive motherhood. the Court ruled that adoptive mothers are entitled to 12 weeks of maternity leave, regardless of the child's age, removing the previous restriction that limited maternity leave to those who adopt children below the age of three months, stating that this condition was both unreasonable and unconnected from the real challenges of adoption.

These legal precedents represent that reproductive rights obligate the State, especially regarding employment that impacts women's health, dignity, and financial security.

However, many obstacles still exist despite legal recognition. Cultural norms, lack of

¹³ *Municipal Corporation of Delhi v. Female Workers (Muster Roll)* (2000) 3 SCC 224.

¹⁴ *Justice K.S. Puttaswamy v. Union of India* AIR 2017 SC 4161.

¹⁵ *X v. Principal Secretary, Health and Family Welfare Department, Government of NCT of Delhi*, (2022) 10 SCC 1 (India).

¹⁶ *A (Mother of X) v. State of Maharashtra*, (2023) 9 SCC 433.

¹⁷ *Hamsanandini Nanduri v. Union of India*, Writ Petition (C) No. 960 of 2026 (India S.C. Mar. 17, 2026).

awareness, limited healthcare resources, and power imbalances prevent effective access to reproductive rights. Marginalized women, especially those from rural, poor, or minority backgrounds, encounter additional barriers, pointing to the need for a legal approach that considers these intersecting issues. Ongoing structural inequalities and exclusionary practices emphasize the need for better implementation and expansion of constitutional protections for all types of work, including informal and non-standard jobs.

B. International Legal Framework

India has ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) which requires nations to eliminate discrimination against women in employment and ensure protection regarding pregnancy, maternity, and reproductive health. Article 11 of CEDAW makes it the duty of the States to grant paid maternity leave, protect employment during pregnancy, and provide access to social security benefits.¹⁸ Most notably in *Vishakha v. State of Rajasthan*¹⁹, the Supreme Court stated that international conventions such as CEDAW can be used to interpret fundamental rights when domestic law lacks clarity.²⁰

The International Covenant on Economic, Social and Cultural Rights (ICESCR) recognizes the right to work under fair conditions and the right to achieve the highest possible standard of physical and mental health, which includes maternal and reproductive health.²¹ The states are duty-bound to make legislations and policies that protect women from discrimination in the workplace.

The International Labour Organization's Maternity Protection Convention, 2000 (No. 183) requires maternity leave, health protection, job security, and non-discrimination for pregnant workers and new mothers.²² Although India has not ratified Convention No. 183, its principles still influence domestic labour laws and policies. Additionally, the International Labour Organization Discrimination (Employment and Occupation) Convention, 1958 (No. 111) obligates states to eliminate sex and pregnancy based discrimination in employment.²³

These international agreements, read alongside constitutional protections, show that reproductive rights are enforceable human rights connected to equality, dignity, and decent

¹⁸ Convention on the Elimination of All Forms of Discrimination Against Women art. 11, Dec. 18, 1979, 1249 U.N.T.S. 13.

¹⁹ *Vishakha v. State of Rajasthan*, AIR 1997 SC 3011.

²⁰ International Covenant on Economic, Social and Cultural Rights arts. 6, 7 & 12, Dec. 16, 1966, 993 U.N.T.S. 3.

²¹ International Labour Organization, Maternity Protection Convention (No. 183), 2000.

²² International Labour Organization, Discrimination (Employment and Occupation) Convention (No. 111), June 25, 1958.

²³ International Labour Organization, Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

work. They place an obligation on the State to gradually achieve gender-equal workplace policies, especially for women in informal and non-standard forms of employment. The Supreme Court of India has acknowledged the importance of international conventions in reinforcing constitutional guarantees in India, indicating that international agreements like CEDAW can guide the interpretation of fundamental rights when domestic laws are unclear or lacking.²⁴

III. STATUTORY FRAMEWORK GOVERNING REPRODUCTIVE RIGHTS AT THE WORKPLACE

The shift in India's labour market toward informal and platform-based work has created significant challenges for traditional labour laws as the laws are not as fast as the change in employment trends. Women make up a large portion of the informal workforce and are increasingly becoming part of the gig economy, however they are still at a greater risk of economic insecurity, lack of maternity protection, and inadequate social security. In response to these realities, Parliament passed four consolidated labour codes. Among these, the Code on Social Security, 2020 (CSS, 2020) is particularly important for informal and gig workers.

The Medical Termination of Pregnancy (Amendment) Act, 2021 improved access to abortion by increasing gestational limits and acknowledging the reproductive rights of single/ unmarried women.²⁵ Similar laws, such as the Pre-Conception and Pre-Natal Diagnostic Techniques (PCPNDT) Act, 1994, aim to combat gender-based discrimination by abolishing practices related to sex-selection²⁶. However, implementing these laws reveals tensions between ensuring women's rights and increasing state surveillance of their bodies.

A. Maternity Benefit Act, 1961

In India, Maternity Benefit Act, 1961 is a crucial social welfare legislation which aims to protect women's dignity and ensure that they do not face job discrimination due to their ability to reproduce. Based on Articles 15(3), 39(e), 42, and 21 of the Constitution, the 1961 Act aim to balance women's reproductive roles with their workforce participation. Although it provides significant protection to women in formal jobs, its narrow applicability exposes notable gaps for women in the informal sector and the expanding gig economy. India's gig economy is

²⁴ *Vishakha*, supra note 18 at 5.

²⁵ The Medical Termination of Pregnancy (Amendment) Act, No. 8 of 2021.

²⁶ The Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, No. 57 of 1994.

projected to more than double in size, growing from about 10 million workers in 2024–25 to around 23.5 million by 2029–30.²⁷

The 2017 amendment increased maternity leave to 26 weeks for women with up to two surviving children and introduced crèche facilities for businesses. While this is a positive step, the 1961 Act mainly applies to the formal sector, leaving many workers in informal, contractual, and gig jobs unprotected.

The major objectives of the Act are as follows:

1. To regulate women's employment during pregnancy and post-childbirth.
2. To ensure paid maternity leave and related benefits are provided.
3. To protect women's health and ensure financial security during maternity.

B. Code on Social Security, 2020

The Code on Social Security consolidates various social security laws and extend certain benefits to unorganized, gig, and platform workers. It marks a significant shift from previous labour laws by formally recognizing worker categories that have historically lacked labour protection. Sections 2(35), 2(60), 2(61), and 2(86) of the Code establish important classifications central to understanding women's work, reproductive vulnerability, and access to social security.

- a) **Unorganised Worker**²⁸ - Section 2(86) defines an “unorganized worker” as: “a home-based worker, self-employed worker, or wage worker in the unorganized sector and includes a worker in the organized sector who is not covered by any of the Acts mentioned in Schedule I of this Code.”
 - i. **Home-based workers**²⁹- Women involved in domestic production, piece-rate work, care work, and informal manufacturing—often overlooked in labour law—fit into this category
 - ii. **Self-employed workers**³⁰- Women street vendors, agricultural workers, home-based entrepreneurs, and care providers are included, even without an employer providing wages.

²⁷ Ministry of Labour & Employment, Ministry of Labour and Employment Urges Platform Workers to Register on e-Shram Portal for Formal Recognition and Access to AB-PMJAY Benefits, Press Information Bureau, (Government of India, New Delhi, 08 March 2025). <https://www.pib.gov.in/PressReleasePage.aspx?PRID=2109421®=3&lang=2>

²⁸ Code on Social Security, 2020(No. 36 of 2020), § 2 cl. 86.

²⁹ Code on Social Security, 2020(No. 36 of 2020), § 2 cl. 35.

³⁰ Code on Social Security, 2020(No. 36 of 2020), § 2 cl. 75.

- iii. **Wage workers in the unorganised sector-** Casual, daily-wage, seasonal, and contractual workers who lack statutory coverage under traditional labour laws.

This definition shows a legislative recognition of how employment relations are changing in India, characterized by contracts, informal employment, and exclusion from formal social security. Including workers from the organized sector who are not covered under Schedule I broadens the scope, acknowledging that being in the formal sector does not guarantee protection.

The importance of this provision lies in its broad scope, which goes beyond the typical distinction between organized and unorganized sectors. By encompassing those outside the protective reach of existing labour laws, Section 2(86) aims to fill gaps in social security coverage. From a gender standpoint, this section is especially significant because:

- Women make up a large part of unorganized workers, particularly in home-based, care, and service work sectors, which are marked by economic instability and lack maternity and health protections.
- Pregnancy and childbirth disproportionately impact women in informal jobs because of the absence of paid leave and healthcare.
- The definition allows maternity and health programs under Section 6 to reach women who were previously excluded from the Maternity Benefit Act, 1961.

However, no automatic rights to maternity benefits arise from this definition. The effectiveness of Section 2(86) relies on proper implementation. While the definition allows for inclusion, access to benefits hinges on how the state formulates and announces welfare schemes. The lack of enforceable rights restricts its potential for change. Nevertheless, Section 2(86) is a vital provision that can promote social justice and gender equality if supported by well-designed gender-sensitive policies and effective execution.

b) Gig Worker- Section 2(35) defines a “gig worker” as:

“a person who performs work or participates in a work arrangement and earns from such activities outside of the traditional employer-employee relationship.”³¹

This definition is based on the relationship, not the sector, recognizing that today’s work often occurs outside of formal contracts. Key points include:

- Lack of a traditional employer-employee relationship

³¹ Code on Social Security, 2020(No. 36 of 2020), § 2 cl. 35.

- Task-based or assignment-based pay
- High flexibility alongside economic instability

This definition avoids categorizing gig workers as “employees,” reflecting the State’s hesitance to impose full labour responsibilities on job-sharing platforms.

c) Platform workers- Section 2(61) defines “platform workers” as:

“a person engaged in or undertaking platform work.”³²

Platform work is further explained in Section 2(61) as:

“a work arrangement outside of a traditional employer-employee relationship in which organizations or individuals use an online platform to connect with others to solve specific problems, provide specific services, or engage in other activities as will be identified by the Central Government.”³³

For women, platform work brings new forms of reproductive discrimination:

- Pregnancy-related inactivity lowers ratings.
- Algorithms do not meet maternity needs.
- There is no legal protection against pregnancy-based deactivation.

Although platforms are recognized, they are not treated as employers, which shields them from maternity responsibilities under the Maternity Benefit Act.

Category	Recognition	Enforceable Maternity Rights
Unorganised worker	Yes	Scheme-based
Gig worker	Yes	Discretionary
Platform worker	Yes	Indirect only

The legal acknowledgment of gig workers in the Code on Social Security, 2020, is symbolically important but has significant implications for women’s reproductive freedom in unstable economic conditions. Pregnant gig workers often face an immediate loss of income because they do not have paid maternity leave, income replacement, or job security. Platform-based work is managed by algorithmic systems that punish inactivity, including time off for

³² Code on Social Security, 2020(No. 36 of 2020), § 2 cl. 60.

³³ Code on Social Security, 2020(No. 36 of 2020), § 2 cl. 61.

pregnancy, childbirth, and recovery. This leads to women who cannot log in or complete tasks during maternity phases suffering reduced work visibility, lower ratings, or even deactivation without proper grievance mechanisms or legal recourse.

This structural vulnerability serves as a form of economic and reproductive pressure, forcing women to delay or avoid pregnancy due to fears of losing income and job security. Such pressure undermines the Supreme Court's view of reproductive choice as a fundamental part of personal freedom, dignity, and bodily autonomy as stated in Article 21 of the Constitution.

In the case of *Suchita Srivastava v. Chandigarh Administration*, the Court ruled that a woman's right to make reproductive choices is inherent to her autonomy and cannot be limited by external pressures, including those imposed by socio-economic factors from the State or institutions.³⁴ Similarly, in *K.S. Puttaswamy v. Union of India*, the Court acknowledged that personal autonomy over intimate choices is central to privacy rights, warning that autonomy becomes meaningless when structural conditions restrict genuine choice.³⁵ When combined with *Municipal Corporation of Delhi v. Female Workers (Muster Roll)*—which established that maternity benefits come from constitutional rights to dignity rather than formal employment status—the exclusion of gig workers from enforceable maternity rights shows a constitutional contradiction.³⁶

The legal definition of “gig worker” under the Code recognizes women's vulnerability but fails to address fundamental instability that limits their reproductive freedom. This results in acknowledgment without rights that lack enforcement. The reproductive benefits in the Code remain largely aspirational because of ineffective implementation and unclear employer responsibilities. Thus, while the CSS, 2020 recognizes unorganised sector workers, it does not ensure platform accountability for reproductive issues.

Other Relevant Laws

- i. Factories Act, 1948: Aims to protect women workers' health and safety.
- ii. Equal Remuneration Act, 1976 (now part of the Code on Wages): Ensures pay parity and deals with gender-based discrimination in workplace.
- iii. POSH Act, 2013: Primarily focused on sexual harassment including both physical and emotional aspects of harassment, thereby indirectly impacting reproductive freedom by promoting safe work environments.

³⁴ *Suchita Srivastava*, supra note 9 at 3.

³⁵ *Puttaswamy*, supra note 13 at 4.

³⁶ *Municipal Corporation of Delhi*, supra note 12 at 4.

IV. WOMEN AS INFORMAL AND GIG WORKERS: GAPS AND LEGAL CONSEQUENCES

Many women in India work in informal setups or as gig and platform workers, which poses various challenges to their reproductive and employment rights. One major issue faced by such women is the lack of adequate legal protection. Laws such as the Maternity Benefit Act, 1961 were created for formal employment, leaving many women in informal or gig jobs without maternity leave or social security benefits. The International Labour Organization highlights that many women working in informal sector globally lack paid maternity leave or even basic protections such as sick leave, making it hard for them to make reproductive decisions without worrying about financial loss.³⁷

Another problem arises when programs exist to cover these workers; accessing them is not always straightforward. Complicated registration processes, lack of awareness, and implementation gaps frequently stop women from gaining these benefits.³⁸

Moreover, the unpredictable nature of gig and informal work adds to the stress. Without job security, many women risk losing their income, work opportunities, or even their place on digital platforms during pregnancy. This insecurity can deeply impact personal choices, such as when to have children, raising doubts about the freedom of these decisions.³⁹

V. RECOMMENDATIONS AND CONCLUSION

Historically, women's reproductive roles have been seen as obstacles to their equal participation in paid work. Pregnancy and caregiving duties often lead to workplace exclusion, reinforcing gender-specific labour markets and economic dependency. Therefore, Reproductive rights hold a critical position where gender justice meets labour law. In India, constitutional protections and judicial interpretations have generally recognized that reproductive capacity shall become a reason for discrimination in employment. Following are some recommendations:

- a) **Extending maternity and reproductive benefits to informal and gig workers-** The Maternity Benefit Act, 1961 needs amendments to cover all women workers, irrespective of their employment type. This change is constitutionally required; the Supreme Court noted in *Municipal Corporation of Delhi v. Female Workers (Muster Roll)*⁴⁰ that maternity benefits arise from constitutional rights to dignity and equality under Articles 14, 15, and

³⁷ International Labour Organization, *Women and Men in the Informal Economy: A Statistical Picture* (3rd edn., 2018).

³⁸ NITI Aayog, *India's Booming Gig and Platform Economy* (2022).

³⁹ International Labour Organization, *World Employment and Social Outlook 2021: The Role of Digital Labour Platforms* (2021).

⁴⁰ *Municipal Corporation of Delhi*, supra note 12 at 3.

21 and are not based on formal employment status. Thus, limiting coverage to organized sector workers is constitutionally unsound.

- b) **Improving implementation of the Social Security Code-** Central and State governments must promptly notify and activate welfare schemes for unorganized, gig, and platform workers under the Code. Legal recognition without proper action leads to acknowledgment without rights, a gap identified as a primary flaw in the current framework. Clear timelines, dedicated funding, and simpler registration processes are crucial to making statutory rights a tangible reality.
- c) **Ensuring platform accountability for reproductive issues-** Platforms and aggregators should be covered under reproductive laws that discourage gender discrimination. This requires either changing the legislation to classify ‘platforms’ as ‘employers’ for this purpose or creating sector-specific regulations that mandate clear deactivation policies, non-discrimination during the pregnancy period, and a minimum income as an economic safeguard during maternity. It is the state's constitutional obligation to protect women's reproductive autonomy under Article 21 which cannot be fulfilled by merely shifting employment relationships to algorithms that avoid legal responsibility.
- d) **Introducing gender-neutral parental leave-** Frameworks that are maternity-focused tend to reinforce the idea that childcare is solely and entirely a woman's job, further perpetuating stereotypes that social equality intends to eliminate. Creating gender-neutral parental leave shared by both parents regardless of their gender—would fairly distribute caregiving duties and lessen the employment penalties often faced by women. This change aligns with India’s commitments under CEDAW Article 5⁴¹, which urges states to address stereotypical gender roles in family and social settings.

Judicial strategies that honour the separation of powers while safeguarding rights may include:

- a) **Rights-based declaratory relief-** Courts should affirm that reproductive freedom is part of constitutional dignity and privacy. Courts must clarify that employment practices (including those by platforms) that penalize pregnancy or silence reproductive choices may be constitutionally unacceptable.
- b) **Individual remedies in emergencies-** Courts should continue to provide tailored medical and relief orders when statutory limits or administrative refusals threaten health or safety.⁴²

⁴¹ **Convention on the Elimination of All Forms of Discrimination against Women, art. 5, Dec. 18, 1979, 1249 U.N.T.S. 13.**

⁴² Medical dialogues, Bombay HC allows Women to terminate 25- week pregnancy at private hospital despite legal

- c) **Directives for inclusive social protection-** In cases of systemic deprivation, courts should issue reasoned directives with timelines to executive authorities to create inclusive programs for informal and gig workers, such as maternity cash transfers, or require platforms to adopt basic non-discrimination and grievance processes. Such directives should rely on evidence and be adjusted to fit administrative capabilities.
- d) **Promoting regulatory innovation for platforms:** Courts might require regulatory agencies to examine platform responsibilities (like clear deactivation rules and non-discrimination policies) as part of labour and social security regulations.

The basic structure of Indian Constitution lays a strong foundation for privacy and dignity enshrined in Article 21 which courts can use to protect reproductive autonomy. Yet, for informal and gig workers, substantive equality requires social protection and employment safeguards that can be sustainably delivered through legislation and administration. Courts should act as a protective backstop, enforcing autonomy in concrete cases, setting principled boundaries for employers and platforms, and prompting inclusive law-making. Complementary legislative action extending maternity protections, portable social insurance, and platform accountability are essential to translate judicial principles into real protections for the vast majority of women working informally or in the gig economy.
