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The Right to Work and Women Analyzing Article 16 in Light of Workplace Discrimination

ILA DWIVEDI¹ AND DR. ANUPRIYA YADAV²

ABSTRACT

“The Constitution of India enshrines equality as a fundamental right. Article 16 specifically guarantees equality of opportunity in public employment. Despite this constitutional mandate, women continue to face discrimination in workplaces across India. This research paper critically examines the efficacy of Article 16 in protecting women against workplace discrimination.”

*The paper analyzes the textual provisions of Article 16 and its clauses relating to equal opportunity. It explores judicial interpretations that have shaped the practical application of Article 16. “The Supreme Court has played a significant role in interpreting constitutional provisions to safeguard women's rights. Notably, in cases like *Air India v. Nargesh Meerza* and *Vishaka v. State of Rajasthan*, the Court established important precedents”.*

Workplace discrimination manifests in various forms. These include pre-employment discrimination, wage disparity, occupational segregation, and sexual harassment. Despite constitutional guarantees, implementation challenges persist due to institutional barriers and sociocultural impediments. The research highlights the gap between constitutional promises and workplace realities for women.

The paper further examines comparative perspectives. It looks at constitutional provisions on workplace equality in other jurisdictions. International legal standards on women's right to work provide valuable insights. “The Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) establishes important benchmarks”.

The research concludes by proposing legal and policy frameworks. These could strengthen Article 16's implementation and advance substantive equality. The judiciary's role in progressive interpretation of constitutional provisions remains crucial. Legislative measures and institutional reforms are equally important to realize the constitutional vision of gender equality.

Keywords: *Article 16, Workplace Discrimination, Gender Equality, Constitutional Rights, Judicial Interpretation.*

¹ Author is a student at Amity University Lucknow, India.

² Author is an Assistant Professor at Amity University Lucknow, India.

I. INTRODUCTION

Background and context of women's right to work in India

The Indian Constitution comes with a transformative vision for society. It aims to establish an egalitarian social order. The Constitution guarantees fundamental rights to all citizens irrespective of gender. The makers of our Constitution recognized gender equality as essential for nation-building.³ The right to work remains central to human dignity and economic independence. For women, this right has special significance. It represents freedom from traditional constraints and economic subjugation. Economic independence through gainful employment empowers women in multiple spheres.⁴

The historical context of women's employment in India reflects complex socio-cultural dynamics. Colonial legacies and patriarchal norms restricted women's workforce participation. Women's work remained largely invisible within domestic boundaries. Their contributions to economy went unrecognized and undervalued for centuries.⁵ Post-independence, India witnessed gradual but significant changes in women's employment patterns. The public sector opened new avenues for educated women. Teaching, healthcare, and clerical positions became accessible. Yet, gendered segregation persisted in occupation types and hierarchies.⁶

Recent decades have seen increased female workforce participation. Women have entered previously male-dominated domains. They have assumed leadership positions across sectors. However, this progress remains uneven across regions, communities and economic classes.⁷

Constitutional framework governing right to work with emphasis on Article 16

The constitutional framework regarding right to work encompasses multiple provisions. Article 14 guarantees equality before law. "Article 15 prohibits discrimination on various grounds including sex. Article 16 specifically addresses equality in public employment. Article 21 protects right to life and dignity.⁸ Article 16 stands as cornerstone for workplace equality. Its clauses create robust safeguards against discrimination. Clause (1) ensures equality of opportunity in matters of public employment. Clause (2) explicitly prohibits discrimination

³ INDIA CONST. pmbi.

⁴ "Shikha Sharma & Nimarta Mann", "Workplace Discrimination: The Most Critical Issue in Managing Diversity," *International Journal of Creative Research Thoughts*, g607 (2024).

⁵ "Bethel Oluwatosin Adedeji & Oluwatobiloba Ifedolapo Ajayi", "Women, Their Rights, and Workplace Discrimination," *International Affairs and Global Strategy*, Vol. 67, 29 (2018).

⁶ Sabia Malik & Amitesh Anand, "The Judicial System in Protecting the Rights of Women in India," *International Journal of Creative Research Thoughts*, g606 (2024).

⁷ A Gender in Nigeria Report, "Improving the Lives of Girls and Women in Nigeria," British Council Nigeria, 14 (2012).

⁸ INDIA CONST. art. 14, 15, 16, 21

based on religion, race, caste, sex, descent, place of birth or residence”.⁹

The Supreme Court has interpreted Article 16 through numerous landmark judgments. In “Randhir Singh v. Union of India”, the Court established "equal pay for equal work" as constitutional principle. This principle addressed wage discrimination faced predominantly by women employees.¹⁰

The *Air India v. Nargesh Meerza* case challenged discriminatory service conditions for air hostesses. “The Court held that termination of service upon pregnancy violated constitutional guarantees”. It recognized pregnancy discrimination as form of gender discrimination under Article 16(2).¹¹

In “*Vishaka v. State of Rajasthan*”, the Supreme Court addressed sexual harassment at workplace. It recognized sexual harassment as violation of fundamental rights. The Court formulated guidelines for workplace safety pending legislative enactment”.¹²

Overview of workplace discrimination against women in contemporary India

Workplace discrimination against women manifests in various forms. Pre-employment discrimination occurs during recruitment and selection. Job advertisements sometimes specify gender preferences. Interview processes may contain gender-biased questions about marriage and family plans.¹³ Post-employment discrimination includes unequal remuneration for comparable work. The gender pay gap persists across sectors. Women often receive lower wages despite similar qualifications and responsibilities. “This contradicts the principle of equal pay for equal work”.¹⁴

Promotion barriers create the phenomenon known as "glass ceiling." Women face invisible obstacles in career advancement. They remain underrepresented in leadership positions. Stereotypes about women's capabilities limit their professional growth.¹⁵ Sexual harassment creates hostile work environments for women. “It comprises unwelcome sexual advances, requests for sexual favors, and verbal or physical conduct. Despite the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, implementation gaps

⁹ INDIA CONST. art. 16, § 1, 2

¹⁰ *Randhir Singh v. Union of India*, AIR 1982 SC 879

¹¹ “*Air India v. Nargesh Meerza*, AIR 1981 SC 1829”.

¹² *Vishaka v. State of Rajasthan*, AIR 1997 SC 3011.

¹³ “Bethel Oluwatosin Adedeji & Oluwatobiloba Ifedolapo Ajayi”, “Women, Their Rights, and Workplace Discrimination,” *International Affairs and Global Strategy*, Vol. 67, 30 (2018).

¹⁴ Shikha Sharma & Nimarta Mann, “Workplace Discrimination: The Most Critical Issue in Managing Diversity,” *International Journal of Creative Research Thoughts*, g608 (2024).

¹⁵ Sabia Malik & Amitesh Anand, “The Judicial System in Protecting the Rights of Women in India,” *International Journal of Creative Research Thoughts*, g609 (2024).

remain”.¹⁶

Occupational segregation relegates women to specific roles. Certain professions get labeled as "women's work." These typically offer lower remuneration and limited growth opportunities. Stereotyping reinforces this segregation and limits women's career choices.¹⁷ Maternity discrimination particularly affects women in reproductive age. Women face adverse consequences for pregnancy and childcare responsibilities. Some employers view maternity as liability rather than natural biological function. This contradicts constitutional and legislative protections.¹⁸

These forms of discrimination persist despite constitutional guarantees and legislative measures. The implementation gap between legal promise and workplace reality remains substantial. Social attitudes, institutional barriers, and economic factors contribute to this disconnect.¹⁹

II. CONSTITUTIONAL FRAMEWORK: ARTICLE 16 AND GENDER EQUALITY

A. Historical background and evolution of Article 16

The genesis of Article 16 lies in India's struggle for independence. Colonial rule perpetuated various forms of discrimination. It restricted opportunities for Indians in government services. Women faced dual discrimination based on nationality and gender.²⁰ The Constituent Assembly debates reflect deep commitment to equality principles. Members emphasized need for constitutional guarantee of equal opportunity. “Dr. B.R. Ambedkar, chairman of the Drafting Committee, advocated strongly for these provisions”. The debates acknowledged historical disadvantages faced by certain groups.²¹

Article 16 was originally conceived as Article 10 during Constituent Assembly deliberations. The drafters sought to establish safeguards against discrimination in public employment. They recognized public employment as crucial pathway for social mobility. Gender equality formed

¹⁶ Sabia Malik & Amitesh Anand, "The Judicial System in Protecting the Rights of Women in India," *International Journal of Creative Research Thoughts*, g609 (2024).

¹⁷ “Bethel Oluwatosin Adedeji & Oluwatobiloba Ifedolapo Ajayi”, "Women, Their Rights, and Workplace Discrimination," *International Affairs and Global Strategy*, Vol. 67, 31” (2018).

¹⁸ “Shikha Sharma & Nimarta Mann”, "Workplace Discrimination: The Most Critical Issue in Managing Diversity," *International Journal of Creative Research Thoughts*, g607 (2024)

¹⁹ Sabia Malik & Amitesh Anand, "The Judicial System in Protecting the Rights of Women in India," *International Journal of Creative Research Thoughts*, g610 (2024).

²⁰ Shikha Sharma & Nimarta Mann, "Workplace Discrimination: The Most Critical Issue in Managing Diversity," *International Journal of Creative Research Thoughts*, g605 (2024).

²¹ GRANVILLE AUSTIN, *THE INDIAN CONSTITUTION: CORNERSTONE OF A NATION* 50 (Oxford University Press 1999).

integral part of this constitutional vision.²² The framers recognized need for both formal and substantive equality. Formal equality ensures same rules apply to everyone. Substantive equality addresses structural disadvantages. Article 16 embodies both these dimensions through different clauses.²³

Post-independence India witnessed gradual evolution in understanding of Article 16. Early interpretations focused on formal equality. The Supreme Court initially adopted restrained approach to affirmative action. Subsequent interpretations expanded scope to encompass substantive equality. International developments also influenced evolution of Article 16. “The Universal Declaration of Human Rights 1948 emphasized equal rights for men and women”. India's constitutional provisions predated many international instruments. They reflected progressive vision of gender equality.²⁴

The historical context shows Article 16 was revolutionary for its time. It rejected prevailing notions of gender roles. The Constitution envisaged equal participation of women in governance. This vision remains relevant in contemporary discourse on gender equality.²⁵

C. Relationship between Article 16 and other constitutional provisions

Article 16 forms part of broader equality code in Constitution. “Article 14 guarantees equality before law and equal protection of laws. Article 15 prohibits discrimination on various grounds including sex”. Article 16 specifically addresses employment context. These provisions create complementary safeguards.²⁶ “The Supreme Court in *Indra Sawhney v. Union of India*” recognized interconnection between these articles. Justice Jeevan Reddy observed these provisions form “integral part of the same scheme.” They share common objective of ensuring equality. Gender equality forms core component of this constitutional scheme.²⁷

Article 16 also relates to “Article 21 which guarantees right to life and personal liberty. The Supreme Court has interpreted Article 21 expansively to include right to livelihood. In *Olga Tellis v. Bombay Municipal Corporation*, the Court recognized employment as essential for dignified existence.²⁸ The Directive Principles of State Policy complement fundamental rights. Article 39(a) directs state to ensure adequate means of livelihood for all citizens”. Article 39(d)

²² Sabia Malik & Amitesh Anand, "The Judicial System in Protecting the Rights of Women in India," *International Journal of Creative Research Thoughts*, g606 (2024).

²³ Upendra Baxi, "The Constitutional Discourse on Gender Justice," 13 *J. INDIAN L. INST.* 2, 10 (1993).

²⁴ Bethel Oluwatosin Adedeji & Oluwatobiloba Ifedolapo Ajayi, "Women, Their Rights, and Workplace Discrimination," *International Affairs and Global Strategy*, Vol. 67, 29 (2018).

²⁵ INDIA CONST. art. 16.

²⁶ INDIA CONST. art. 14, 15, 16.

²⁷ *Indra Sawhney v. Union of India*, AIR 1993 SC 477

²⁸ *Olga Tellis v. Bombay Municipal Corporation*, (1985) 3 SCC 545.

mandates “*equal pay for equal work*”. Article 42 provides for just and humane working conditions and maternity relief.²⁹

The preamble's emphasis on justice, liberty, equality and fraternity guides constitutional interpretation. Gender equality is implicit in these foundational values. The Supreme Court has recognized transformative vision of Constitution. This vision necessitates elimination of gender discrimination.³⁰ The constitutional framework around Article 16 thus creates multifaceted protection against gender discrimination. It combines prohibition of discrimination with enabling provisions for affirmative action. This comprehensive approach addresses both formal and substantive dimensions of equality.³¹

III. JUDICIAL INTERPRETATION OF ARTICLE 16 IN GENDER DISCRIMINATION CASES

A. Evolution of judicial approach to Article 16 and women's rights

The Supreme Court's interpretation of Article 16 has evolved significantly over decades. Early judgments reflected conservative approach to gender equality. They often upheld discriminatory practices based on perceived gender differences. This approach gradually shifted toward progressive interpretation.³² In the early post-independence era, courts displayed excessive deference to executive decisions. They hesitated to intervene in service matters involving gender discrimination. The prevailing social attitudes influenced judicial reasoning. Discriminatory practices were justified as administrative convenience.³³

The 1970s witnessed gradual shift in judicial approach. Courts began recognizing gender discrimination in employment. “The Supreme Court in *C.B. Muthamma v. Union of India*” challenged discriminatory rules in Indian Foreign Service. The Court questioned requirement for female officers to obtain government permission before marriage.³⁴ The 1980s marked watershed period for gender jurisprudence under Article 16. The Court adopted more rights-oriented interpretation of constitutional provisions. It recognized substantive dimensions of equality beyond formal equality. Discrimination disguised as “protective measures” faced

²⁹ INDIA CONST. art. 39(a), 39(d), 42

³⁰ INDIA CONST. pmb1.

³¹ Shikha Sharma & Nimarta Mann, “Workplace Discrimination: The Most Critical Issue in Managing Diversity,” *International Journal of Creative Research Thoughts*, g607 (2024).

³² Sabia Malik & Amitesh Anand, “The Judicial System in Protecting the Rights of Women in India,” *International Journal of Creative Research Thoughts*, g607 (2024).

³³ Bethel Oluwatosin Adedeji & Oluwatobiloba Ifedolapo Ajayi, “Women, Their Rights, and Workplace Discrimination,” *International Affairs and Global Strategy*, Vol. 67, 28 (2018).

³⁴ *C.B. Muthamma v. Union of India*, (1979) 4 SCC 260.

judicial scrutiny.³⁵ Contemporary jurisprudence reflects transformative vision of Constitution. The Court has embraced substantive equality approach. It has recognized indirect discrimination and structural barriers. Recent judgments demonstrate sensitivity to gender-specific challenges in workplace.³⁶

B. Landmark judgments on gender equality in employment

Air India v. Nargesh Meerza stands as pivotal judgment on gender discrimination. The case involved discriminatory service conditions for air hostesses. They faced termination upon first pregnancy or age 35. The Court struck down pregnancy-based termination as unconstitutional.³⁷ However, the Court's reasoning in *Nargesh Meerza* reflected contradictory approach. It upheld differential retirement ages for male and female employees. The judgment validated certain stereotypes while rejecting others. This inconsistency highlighted evolutionary nature of gender jurisprudence.³⁸

“*Randhir Singh v. Union of India*” established "equal pay for equal work" as constitutional principle. Though not specifically addressing gender discrimination, this principle had profound implications for women. The Court derived this principle from Articles 14, 16 and 39(d).³⁹

Mackinnon Mackenzie v. Audrey D'Costa applied equal remuneration principle to private sector. The case involved female stenographers paid less than male counterparts. The Court rejected employer's justification of market forces. It emphasized constitutional values must inform statutory interpretation.⁴⁰

C. Supreme Court's role in interpreting international instruments for women's rights

The Supreme Court has increasingly relied on international instruments to interpret domestic provisions. It has referenced CEDAW in numerous judgments concerning gender discrimination. International standards have enriched constitutional interpretation of Article 16.⁴¹

In “*Vishaka v. State of Rajasthan*”, the Court invoked international conventions to fill legislative void. It drew upon CEDAW provisions to formulate guidelines against sexual harassment. The

³⁵ “Shikha Sharma & Nimarta Mann”, "Workplace Discrimination: The Most Critical Issue in Managing Diversity," *International Journal of Creative Research Thoughts*, g607 (2024).

³⁶ “FLAVIA AGNES, LAW AND GENDER INEQUALITY: THE POLITICS OF WOMEN'S RIGHTS IN INDIA 87 (Oxford University Press 2001)”.

³⁷ *Air India v. Nargesh Meerza*, AIR 1981 SC 1829.

³⁸ Sabia Malik & Amitesh Anand, "The Judicial System in Protecting the Rights of Women in India," *International Journal of Creative Research Thoughts*, g608 (2024).

³⁹ *Randhir Singh v. Union of India*, AIR 1982 SC 879.

⁴⁰ *Mackinnon Mackenzie v. Audrey D'Costa*, (1987) 2 SCC 469.

⁴¹ “Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, 1249 U.N.T.S. 13”.

judgment exemplified creative integration of international and domestic norms.⁴² “*The Court in Municipal Corporation of Delhi v. Female Workers*” referenced ILO Convention No. 103. It held temporary female workers entitled to maternity benefits. International standards informed interpretation of domestic maternity benefit legislation.⁴³ In “*Madhu Kishwar v. State of Bihar*”, the Court referenced CEDAW while dealing with inheritance rights. Though primarily addressing property rights, the reasoning has implications for economic empowerment. The judgment recognized intersection between property rights and employment opportunities.⁴⁴

Recent judgments have placed greater emphasis on international human rights framework. The Court increasingly views domestic provisions within global context. This approach strengthens protection against gender discrimination in employment.⁴⁵

D. High Courts' contributions to Article 16 jurisprudence on women's employment

High Courts across India have made significant contributions to jurisprudence on gender equality. They have addressed region-specific manifestations of discrimination. High Court judgments often precede Supreme Court interventions on emerging issues.⁴⁶

The Bombay High Court in “*Indian Hotel and Restaurants Association v. State of Maharashtra addressed ban on bar dancers*”. It recognized economic rights of women in informal sector. The judgment acknowledged intersection of gender, class, and employment.⁴⁷

“*The Delhi High Court in Inspector (Mahila) Ravina v. Union of India*” addressed pregnancy-based discrimination in police force. It held mandatory medical examination of pregnant candidates violative of dignity. The judgment reflected sensitivity to reproductive rights.⁴⁸

High Courts have also addressed discrimination in private sector despite limited constitutional remedies. They have creatively interpreted statutory provisions harmoniously with constitutional values. This approach has extended protection beyond strict constitutional mandate.⁴⁹

⁴² Vishaka v. State of Rajasthan, AIR 1997 SC 3011.

⁴³ Municipal Corporation of Delhi v. Female Workers, AIR 2000 SC 1274.

⁴⁴ Madhu Kishwar v. State of Bihar, (1996) 5 SCC 125.

⁴⁵ Shikha Sharma & Nimarta Mann, "Workplace Discrimination: The Most Critical Issue in Managing Diversity," International Journal of Creative Research Thoughts, g608 (2024).

⁴⁶ Bethel Oluwatosin Adedeji & Oluwatobiloba Ifedolapo Ajayi, "Women, Their Rights, and Workplace Discrimination," International Affairs and Global Strategy, Vol. 67, 30 (2018).

⁴⁷ Indian Hotel and Restaurants Association v. State of Maharashtra, (2013) 8 SCC 519.

⁴⁸ “Inspector (Mahila) Ravina v. Union of India, 2016 SCC OnLine Del 4651”

⁴⁹ Sabia Malik & Amitesh Anand, "The Judicial System in Protecting the Rights of Women in India," International Journal of Creative Research Thoughts, g609 (2024).

IV. FORMS OF WORKPLACE DISCRIMINATION DESPITE ARTICLE 16

A. Pre-employment discrimination

Recruitment processes frequently exhibit gender bias despite constitutional safeguards. Job advertisements sometimes specify gender preferences without legitimate occupational requirements. Such specifications directly contravene Article 16(2) which prohibits sex-based discrimination. They perpetuate occupational segregation and limit women's employment options.⁵⁰ Interview practices often incorporate gender-biased questions. Female candidates face inquiries about marriage plans, family responsibilities and reproductive choices. Male candidates rarely encounter similar questions. These practices constitute indirect discrimination by imposing additional barriers for women.⁵¹

Selection committees frequently demonstrate unconscious bias in evaluation. Studies reveal tendency to rate identical resumes lower when bearing female names. This phenomenon manifests across sectors including academia, corporate and public services. Such biases undermine meritocratic selection promised by Article 16.⁵² Educational qualifications and experience requirements sometimes incorporate indirect bias. Certain requirements disproportionately exclude women without job-related justification. Continuous work experience requirements disadvantage women who take career breaks for caregiving responsibilities. These requirements appear neutral but have discriminatory impact.⁵³

Physical criteria for certain positions often lack scientific basis. Height, weight and strength requirements frequently exceed actual job needs. In *Maharashtra v. Nergesh Mervyn Deshmukh*, the Court struck down arbitrary physical standards. It recognized such requirements often serve as proxies for gender exclusion.⁵⁴ The Supreme Court addressed indirect discrimination in "*K. Duraisamy v. State of Tamil Nadu*". It scrutinized seemingly neutral criteria with disparate impact on women. The judgment recognized that formal equality sometimes perpetuates substantive inequality. It mandated examination of discriminatory effects beyond discriminatory intent.⁵⁵

⁵⁰ Bethel Oluwatosin Adedeji & Oluwatobiloba Ifedolapo Ajayi, "Women, Their Rights, and Workplace Discrimination," *International Affairs and Global Strategy*, Vol. 67, 30 (2018).

⁵¹ Sabia Malik & Amitesh Anand, "The Judicial System in Protecting the Rights of Women in India," *International Journal of Creative Research Thoughts*, g608 (2024).

⁵² Debarati Halder & K. Jaishankar, "Cyber Gender Harassment and Secondary Victimization: A Comparative Analysis of the United States, the UK, and India," *3 VICTIMS & OFFENDERS* 37, 40 (2015).

⁵³ "Shikha Sharma & Nimarta Mann", "Workplace Discrimination: The Most Critical Issue in Managing Diversity," *International Journal of Creative Research Thoughts*, g607 (2024).

⁵⁴ *Maharashtra v. Nergesh Mervyn Deshmukh*, (1997) 6 SCC 593.

⁵⁵ "*K. Duraisamy v. State of Tamil Nadu*, (2001) 2 SCC 538."

B. Post-employment discrimination

Wage disparity persists as prevalent form of workplace discrimination. Women earn significantly less than men for comparable work across sectors. The principle of "equal pay for equal work" derived from Article 16 remains unfulfilled. Pay secrecy policies often mask these disparities.⁵⁶ *"The Supreme Court in Mackinnon Mackenzie v. Audrey D'Costa addressed gender-based wage discrimination"*. Female stenographers received lower remuneration than male counterparts. The Court rejected market forces argument. It emphasized constitutional principles must govern workplace practices.⁵⁷

Promotion procedures often demonstrate systemic bias against women. Evaluation criteria may undervalue skills associated with women. Subjective assessments introduce scope for unconscious bias. The "glass ceiling" phenomenon restricts women's access to leadership positions.⁵⁸ The phenomenon called "glass cliff" compounds promotion discrimination. Women disproportionately receive leadership opportunities during organizational crises. This sets them up for failure and reinforces negative stereotypes. Such practices constitute sophisticated form of discrimination.⁵⁹

Performance evaluations frequently exhibit gender bias. Identical behaviors receive different evaluations based on gender. Assertiveness earns positive ratings for men but negative ratings for women. These biased assessments impact career progression and compensation decisions.⁶⁰ Work assignments often reflect gender stereotypes. Women receive fewer high-visibility projects and revenue-generating responsibilities. They encounter excessive assignment of administrative and support tasks. These disparities affect skill development and promotion opportunities.⁶¹

Maternity discrimination manifests in various forms despite legal protections. Pregnant employees face altered work assignments, reduced responsibilities and exclusion from opportunities. They encounter subtle pressures to resign. Post-maternity returnees experience "motherhood penalty" in evaluations.⁶² The Supreme Court in *Municipal Corporation of Delhi*

⁵⁶ Bethel Oluwatosin Adedeji & Oluwatobiloba Ifedolapo Ajayi, "Women, Their Rights, and Workplace Discrimination," *International Affairs and Global Strategy*, Vol. 67, 32 (2018).

⁵⁷ *Mackinnon Mackenzie v. Audrey D'Costa*, (1987) 2 SCC 469.

⁵⁸ Sabia Malik & Amitesh Anand, "The Judicial System in Protecting the Rights of Women in India," *International Journal of Creative Research Thoughts*, g609 (2024).

⁵⁹ RATNA KAPUR & BRENDA COSSMAN, *SUBVERSIVE SITES: FEMINIST ENGAGEMENTS WITH LAW IN INDIA* 176 (Sage Publications 1996).

⁶⁰ "Shikha Sharma & Nimarta Mann", "Workplace Discrimination: The Most Critical Issue in Managing Diversity," *International Journal of Creative Research Thoughts*, g608 (2024).

⁶¹ "Bethel Oluwatosin Adedeji & Oluwatobiloba Ifedolapo Ajayi", "Women, Their Rights, and Workplace Discrimination," *International Affairs and Global Strategy*, Vol. 67, 31 (2018).

⁶² Sabia Malik & Amitesh Anand, "The Judicial System in Protecting the Rights of Women in India," *International*

v. Female Workers addressed maternity discrimination. It held maternity benefit is integral to dignity and non-negotiable right. The Court emphasized reproductive functions should not disadvantage women in employment.⁶³

C. Sexual harassment and hostile work environment

“Sexual harassment constitutes severe form of gender discrimination. It includes unwelcome sexual advances, requests for sexual favors, and verbal or physical conduct. Such behaviors create hostile, intimidating, or offensive work environment. They impede equal employment opportunity.⁶⁴ The landmark *Vishaka v. State of Rajasthan* recognized sexual harassment as violation of constitutional rights”. The Court formulated guidelines pending legislative enactment. It recognized international standards through CEDAW. The judgment addressed legislative vacuum through judicial creativity.⁶⁵

“*The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 codified Vishaka guidelines*”. The legislation strengthened framework against harassment. However, implementation gaps remain significant. Many workplaces lack functioning Internal Complaints Committees.⁶⁶ Hostile work environments manifest through various behaviors. These include exclusionary practices, derogatory comments, and undermining professional contributions. Women experience "death by thousand cuts" through microaggressions. These create cumulative discriminatory impact.⁶⁷

“*The Supreme Court in Apparel Export Promotion Council v. A.K. Chopra*” extended protection beyond physical contact. It recognized subtle forms of harassment including suggestive behaviour. The judgment broadened understanding of discriminatory conduct. It emphasized dignity dimension of equality.⁶⁸ Sexual harassment connects to power dynamics in workplace hierarchies. Women in subordinate positions face particular vulnerability. Dependence on supervisors for evaluations creates reluctance to report. Fear of retaliation compounds this reluctance.⁶⁹

Journal of Creative Research Thoughts, g610 (2024).

⁶³ *Municipal Corporation of Delhi v. Female Workers*, AIR 2000 SC 1274.

⁶⁴ *The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013*, § 2(n), No. 14, Acts of Parliament, 2013 (India).

⁶⁵ *Vishaka v. State of Rajasthan*, AIR 1997 SC 3011.

⁶⁶ “Shikha Sharma & Nimarta Mann”, “Workplace Discrimination: The Most Critical Issue in Managing Diversity,” *International Journal of Creative Research Thoughts*, g609 (2024).

⁶⁷ “INDIRA JAISING, MEN'S LAWS, WOMEN'S LIVES: A CONSTITUTIONAL PERSPECTIVE ON RELIGION, COMMON LAW AND CULTURE IN SOUTH ASIA 248 (Women Unlimited 2005)”.

⁶⁸ “*Apparel Export Promotion Council v. A.K. Chopra*, AIR 1999 SC 625”.

⁶⁹ Bethel Oluwatosin Adedeji & Oluwatobiloba Ifedolapo Ajayi, “Women, Their Rights, and Workplace Discrimination,” *International Affairs and Global Strategy*, Vol. 67, 33 (2018).

D. Occupational segregation and stereotyping

Occupational segregation concentrates women in specific sectors and roles. Certain professions become feminized while others remain male-dominated. This horizontal segregation contributes to wage differentials. It perpetuates stereotypes about appropriate gender roles.⁷⁰ Vertical segregation restricts women to lower hierarchical positions within organizations. The phenomenon called "sticky floor" prevents initial advancement. Combined with "glass ceiling," it creates comprehensive barriers to women's progress. Article 16 has limited impact on these structural patterns.⁷¹ Gender stereotyping underlies occupational segregation. Perceptions about women's capabilities and preferences influence hiring and promotion decisions. Stereotypes about leadership qualities particularly disadvantage women. They face "competence-likeability" dilemma in evaluations.⁷²

The Supreme Court in *Anuj Garg v. Hotel Association of India* challenged stereotypical assumptions. It struck down prohibition on women working as bartenders. The judgment critiqued paternalistic approach to women's protection. It emphasized dignity requires freedom of occupational choice.⁷³ Legal responses to occupational segregation remain limited. Beyond prohibiting explicit discrimination, addressing implicit bias proves challenging. Affirmative measures face resistance and constitutional challenges. Balancing formal and substantive equality requires nuanced approach.⁷⁴

V. IMPLEMENTATION CHALLENGES: GAP BETWEEN CONSTITUTIONAL PROMISE AND REALITY

A. Institutional barriers to effective implementation of Article 16

The enforcement mechanisms for Article 16 remain structurally inadequate. Litigation serves as primary enforcement tool but presents significant barriers. The costs involved in constitutional litigation deter many victims of discrimination. Time delays in court proceedings further discourage potential litigants.⁷⁵ The burden of proof creates substantial hurdle in discrimination cases. Claimants must establish prima facie case of discrimination. Documentary

⁷⁰ Sabia Malik & Amitesh Anand, "The Judicial System in Protecting the Rights of Women in India," *International Journal of Creative Research Thoughts*, g611 (2024).

⁷¹ UPENDRA BAXI, *CRISIS OF THE INDIAN LEGAL SYSTEM* 152 (Vikas Publishing House 1982).

⁷² Shikha Sharma & Nimarta Mann, "Workplace Discrimination: The Most Critical Issue in Managing Diversity," *International Journal of Creative Research Thoughts*, g610 (2024).

⁷³ *Anuj Garg v. Hotel Association of India*, (2008) 3 SCC 1.

⁷⁴ Bethel Oluwatosin Adedeji & Oluwatobiloba Ifedolapo Ajayi, "Women, Their Rights, and Workplace Discrimination," *International Affairs and Global Strategy*, Vol. 67, 34 (2018).

⁷⁵ Sabia Malik & Amitesh Anand, "The Judicial System in Protecting the Rights of Women in India," *International Journal of Creative Research Thoughts*, g610 (2024).

evidence often remains under employer control. Statistical evidence rarely receives appropriate weightage in Indian courts. These evidentiary challenges undermine effective implementation.⁷⁶

Administrative authorities demonstrate inconsistent commitment to constitutional principles. The implementation of anti-discrimination provisions often depends on individual officers. Systemic training on gender sensitivity remains inadequate across institutions. Monitoring mechanisms for compliance with Article 16 operate insufficiently.⁷⁷ Remedial inadequacy plagues discrimination cases even when successful. Courts typically provide individual rather than systemic remedies. Structural reforms seldom feature in judicial orders. Monetary compensation rarely reflects actual economic harm suffered. This remedial gap perpetuates discriminatory practices.⁷⁸

Fragmentation of responsibility across agencies creates implementation gaps. Multiple authorities oversee different aspects of workplace equality. Coordination between these agencies remains suboptimal. The resulting regulatory overlap and underlap allows discrimination to persist. Harmonized approach requires legislative intervention.⁷⁹ Resource constraints limit capacity for proactive enforcement. Gender budgeting receives inadequate attention in institutional allocations. Human resources dedicated to equality monitoring remain insufficient. Technological infrastructure for tracking compliance lacks necessary investment. These resource gaps impact implementation efficacy.⁸⁰

B. Sociocultural impediments

Patriarchal norms remain deeply embedded in Indian society despite constitutional vision. Traditional gender roles assign primary domestic responsibilities to women. Career advancement often conflicts with these socially prescribed roles. These cultural expectations create invisible barriers beyond legal reach.⁸¹

Unconscious bias pervades decision-making processes in employment contexts. Evaluators apply different standards to male and female employees. Performance attribution differs based

⁷⁶ KAMALA SANKARAN & ROOPA MADHAV, GENDER EQUALITY AND SOCIAL DIALOGUE IN INDIA 45 (International Labour Organization 2011)

⁷⁷ Shikha Sharma & Nimarta Mann, "Workplace Discrimination: The Most Critical Issue in Managing Diversity," *International Journal of Creative Research Thoughts*, g608 (2024).

⁷⁸ Bethel Oluwatosin Adedeji & Oluwatobiloba Ifedolapo Ajayi, "Women, Their Rights, and Workplace Discrimination," *International Affairs and Global Strategy*, Vol. 67, 32 (2018).

⁷⁹ "MAITRAYEE CHAUDHURI, THE INDIAN WOMEN'S MOVEMENT: REFORM AND REVIVAL 127 (Radiant Publishers 1993)".

⁸⁰ Sabia Malik & Amitesh Anand, "The Judicial System in Protecting the Rights of Women in India," *International Journal of Creative Research Thoughts*, g611 (2024).

⁸¹ VEENA MANCHANDA, WOMEN AND SOCIETY IN INDIA 78 (National Publishing House 1976)

on gender. Competence recognition shows persistent bias. These psychological phenomena operate beyond conscious awareness. Legal remedies struggle to address them effectively.⁸² The "ideal worker" norm presumes uninterrupted career progression without caregiving responsibilities. This norm disadvantages women who typically shoulder disproportionate caregiving burden. Work structures remain designed for employees without family responsibilities. This structural mismatch constitutes indirect discrimination rarely addressed by courts.⁸³

Workplace cultures often reinforce gender stereotypes through informal practices. Office assignments, social activities, and communication patterns reflect gender bias. Women face exclusion from informal networks crucial for advancement. These subtle dynamics escape formal regulation yet significantly impact equality outcomes.⁸⁴ Sexual objectification undermines professional standing of female employees. Women experience evaluation based on appearance rather than competence. Comments on physical attributes create hostile environment. Such behaviors may fall below threshold for actionable harassment. They nevertheless compromise workplace equality.⁸⁵ Internalized biases affect women's career choices and negotiation behaviors. Socially conditioned self-limitation restricts occupational aspirations. Negotiation hesitancy affects compensation outcomes. These internalized constraints compound external barriers. Constitutional provisions alone cannot address these psychological dimensions.⁸⁶

C. Economic factors influencing workplace discrimination

Market forces create disincentives for non-discrimination compliance. In competitive environments, firms perceive compliance costs as competitive disadvantage. Short-term profit maximization conflicts with equality investments. Economic pressures thus undermine constitutional aspirations. Regulatory interventions must address these economic dynamics.⁸⁷ The informal sector employs significant proportion of female workforce. Constitutional protections extend primarily to formal employment. Workers in informal economy lack access

⁸² Shikha Sharma & Nimarta Mann, "Workplace Discrimination: The Most Critical Issue in Managing Diversity," *International Journal of Creative Research Thoughts*, g609 (2024).

⁸³ NIVEDITA MENON, *SEEING LIKE A FEMINIST* 132 (Zubaan and Penguin Books 2012).

⁸⁴ "Bethel Oluwatosin Adediji & Oluwatobiloba Ifedolapo Ajayi", "Women, Their Rights, and Workplace Discrimination," *International Affairs and Global Strategy*, Vol. 67, 33 (2018).

⁸⁵ "RATNA KAPUR, *EROTIC JUSTICE: LAW AND THE NEW POLITICS OF POSTCOLONIALISM* 95 (Glasshouse Press 2005)".

⁸⁶ Sabia Malik & Amitesh Anand, "The Judicial System in Protecting the Rights of Women in India," *International Journal of Creative Research Thoughts*, g608 (2024).

⁸⁷ KAMALA SANKARAN, *LABOUR LAW AND WOMEN WORKERS: A DISCOURSE ON POLICY CONSIDERATIONS* 67 (The Indian Law Institute 2021).

to grievance mechanisms. Article 16 thus fails to protect most vulnerable workers. This coverage gap requires legislative attention.⁸⁸

Cost-benefit calculations often disfavor discrimination complaints. Economic dependence creates reluctance to challenge employers. Career prospects suffer after filing complaints. Retaliation concerns, though legally prohibited, remain practically significant. These economic vulnerabilities diminish practical impact of constitutional protections.⁸⁹

Statistical discrimination emerges from rational economic behavior. Employers make decisions based on group averages rather than individual assessment. They perceive higher costs associated with female employees. Such practices, though economically rational, violate constitutional principles. This rational discrimination presents particular implementation challenge.⁹⁰ Structural economic factors interact with gender discrimination. Occupational segregation contributes to wage disparities through market segmentation. Feminized sectors experience wage depression. These macro-economic patterns extend beyond individual employer control. They require systemic interventions beyond anti-discrimination enforcement.⁹¹

D. Sectoral analysis: Variations in discrimination across public and private sectors

Constitutional applicability differs between public and private sectors. Article 16 directly binds only state entities. Private employment relies on statutory protections. This differential applicability creates protection gap. Judicial efforts to extend constitutional values face doctrinal limitations. Legislative harmonization remains incomplete.⁹² Public sector demonstrates greater formal compliance but persistent substantive disparities. Representation statistics show improvement in entry-level positions. Promotional hierarchies continue showing gender skew. Formalistic compliance masks substantive inequality. Recruitment policies advance while workplace cultures lag.⁹³

The corporate sector shows particular resistance to equality measures. Competitive pressures prioritize short-term metrics over equality goals. Board and executive positions remain

⁸⁸ Shikha Sharma & Nimarta Mann, "Workplace Discrimination: The Most Critical Issue in Managing Diversity," *International Journal of Creative Research Thoughts*, g610 (2024)

⁸⁹ JAI VIR SINGH, *LABOUR LAW AND SPECIAL ECONOMIC ZONES IN INDIA* 53 (Oxford University Press 2012).

⁹⁰ "Bethel Oluwatosin Adedje & Oluwatobiloba Ifedolapo Ajayi", "Women, Their Rights, and Workplace Discrimination," *International Affairs and Global Strategy*, Vol. 67, 30 (2018).

⁹¹ RENANA JHABVALA & SHALINI SINHA, *WOMEN IN THE INFORMAL ECONOMY: CHALLENGES AND POLICY RESPONSES* 89 (National Commission for Enterprises in the Unorganised Sector 2006).

⁹² Sabia Malik & Amitesh Anand, "The Judicial System in Protecting the Rights of Women in India," *International Journal of Creative Research Thoughts*, g609 (2024).

⁹³ ZOYA HASAN, *GENDER AND POLITICS IN INDIA* 142 (Oxford University Press 1999).

predominantly male. Industry self-regulation has shown limited effectiveness. Mandatory quotas face resistance on efficiency grounds.⁹⁴ Professional services demonstrate persistent vertical segregation. Legal, medical, and academic professions show feminization at entry level. Senior positions remain male-dominated across these fields. This "leaky pipeline" phenomenon persists despite equal qualification. Subtle exclusionary practices escape regulatory attention.⁹⁵ The technology sector presents unique challenges for gender equality. Masculine workplace cultures create hostile environments. Work intensity expectations conflict with caregiving responsibilities. Gender disparities in STEM education create pipeline constraints. These sectoral specificities require targeted interventions beyond general provisions.⁹⁶ Agricultural and rural employment, where majority of women work, lacks effective regulation. Labor laws provide limited coverage to agricultural workers. Informal arrangements dominate rural employment. Constitutional protections remain theoretical for these workers. This sectoral gap affects most vulnerable women workers.⁹⁷

VI. COMPARATIVE ANALYSIS: ARTICLE 16 IN THE GLOBAL CONTEXT

A. Constitutional provisions on workplace equality in other jurisdictions

Constitutional frameworks addressing workplace equality vary significantly across jurisdictions. "*The Canadian Charter of Rights and Freedoms*" prohibits discrimination under Section 15. It explicitly permits affirmative action programs under Section 15(2). This approach balances formal and substantive equality concepts.⁹⁸ The South African Constitution offers comprehensive equality provisions. Section 9 prohibits direct and indirect discrimination. It explicitly mentions gender as protected ground. The constitution permits measures to advance previously disadvantaged groups. This framework emerged from historical context of systematic discrimination.⁹⁹

Germany's Basic Law takes distinctive approach to gender equality. Article 3 mandates state promotion of gender equality. It requires elimination of existing disadvantages. The provision imposes positive obligation beyond mere non-discrimination. This proactive framework

⁹⁴ Shikha Sharma & Nimarta Mann, "Workplace Discrimination: The Most Critical Issue in Managing Diversity," *International Journal of Creative Research Thoughts*, g608 (2024)

⁹⁵ MARY E. JOHN, *WOMEN'S STUDIES IN INDIA: A READER* 264 (Penguin Books 2008).

⁹⁶ "Bethel Oluwatosin Adedeji & Oluwatobiloba Ifedolapo Ajayi", "Women, Their Rights, and Workplace Discrimination," *International Affairs and Global Strategy*, Vol. 67, 31 (2018).

⁹⁷ "BINA AGARWAL, *A FIELD OF ONE'S OWN: GENDER AND LAND RIGHTS IN SOUTH ASIA* 183 (Cambridge University Press 1994)".

⁹⁸ *Canadian Charter of Rights and Freedoms*, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act, 1982, c. 11 (U.K.).

⁹⁹ S. AFR. CONST., 1996, § 9.

influences legislative measures.¹⁰⁰ The Japanese Constitution contains equality provision in Article 14. It prohibits discrimination based on sex in political, economic and social relations. However, judicial interpretation remains conservative. Courts demonstrate reluctance to recognize indirect discrimination. This illustrates importance of interpretive approaches.¹⁰¹

The Brazilian Constitution addresses workplace equality through multiple provisions. Article 7 guarantees equal rights for urban and rural workers. It prohibits wage discrimination based on sex. Constitutional framework extends beyond public employment. This comprehensive scope contrasts with Indian approach.¹⁰² The Irish Constitution initially contained provisions reinforcing traditional gender roles. Constitutional amendments transformed this framework. The Employment Equality Acts implement constitutional equality guarantees. This evolutionary approach demonstrates constitutional adaptability to changing social norms.¹⁰³

B. International legal standards on women's right to work

The Universal Declaration of Human Rights establishes fundamental principles. Article 23 recognizes right to work without discrimination. Article 2 prohibits distinction based on sex. These provisions laid foundation for subsequent instruments. They represent customary international law standards.¹⁰⁴ *“The International Covenant on Economic, Social and Cultural Rights creates binding obligations. Article 6 recognizes right to work. Article 7 guarantees equal remuneration and promotion opportunities. The Committee's General Comment No. 18 elaborates state obligations. It specifically addresses women's employment challenges.”*¹⁰⁵ *The Convention on Elimination of All Forms of Discrimination Against Women provides comprehensive framework. Article 11 specifically addresses employment discrimination. It mandates elimination of discrimination in all aspects of employment. CEDAW establishes higher standard than general human rights instruments”.*¹⁰⁶

The International Labour Organization has developed specialized instruments. Convention No. 100 mandates equal remuneration for work of equal value. Convention No. 111 prohibits employment discrimination. Convention No. 156 addresses workers with family responsibilities. These instruments provide detailed implementation frameworks.¹⁰⁷ The

¹⁰⁰ GRUNDGESETZ [GG] [BASIC LAW], art. 3, translation at http://www.gesetze-im-internet.de/englisch_gg/index.html.

¹⁰¹ NIHONKOKU KENPŌ [KENPŌ] [CONSTITUTION], art. 14 (Japan).

¹⁰² CONSTITUIÇÃO FEDERAL [C.F.] [CONSTITUTION] art. 7 (Braz.).

¹⁰³ IR. CONST., 1937, art. 40.

¹⁰⁴ G.A. Res. 217 (III) A, Universal Declaration of Human Rights, art. 23 (Dec. 10, 1948).

¹⁰⁵ “International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, 993 U.N.T.S. 3”.

¹⁰⁶ Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, 1249 U.N.T.S. 13.

¹⁰⁷ International Labour Organization, Equal Remuneration Convention, June 29, 1951, ILO No. 100; International

Beijing Platform for Action established strategic objectives for women's economic empowerment. It identified elimination of occupational segregation as priority. Strategic objectives include promotion of women's economic rights. The Platform integrates rights-based and development approaches.¹⁰⁸ Regional instruments provide additional standards tailored to specific contexts. The European Social Charter guarantees right to equal opportunities in employment. The Protocol to the African Charter on Human and Peoples' Rights addresses women's rights comprehensively. These regional frameworks complement global standards.¹⁰⁹

C. Best practices from other countries in addressing workplace discrimination

Norway implemented mandatory gender quotas for corporate boards. Companies must maintain 40% representation of each gender. This approach addresses vertical segregation at governance level. Initial resistance gave way to widespread acceptance. Studies show improved governance outcomes.¹¹⁰ Sweden pioneered non-transferable parental leave reserving time for fathers. The "daddy months" policy transformed caregiving patterns. It addresses underlying cause of employment discrimination. The policy recognizes interconnection between domestic roles and workplace equality.¹¹¹

Iceland implemented pay transparency legislation requiring equal pay certification. Companies must prove they pay equal wages for work of equal value. Regular audits ensure compliance with certification standards. Transparency transforms organizational culture around compensation discussions.¹¹² Canadian human rights jurisprudence developed systemic remedies for discrimination. Courts issue orders addressing institutional practices beyond individual cases. Systemic remedies include mandatory training, policy reviews and monitoring mechanisms. This approach recognizes limitations of individual complaints.¹¹³

Australian legislation introduced positive duty to prevent discrimination. Employers must take proactive measures rather than merely respond to complaints. The approach shifts from reactive to preventive framework. Regulatory agencies provide guidance on preventive measures.¹¹⁴

Germany implemented gender impact assessment requirement for legislation. All proposed laws undergo analysis of gender implications. This mainstreaming approach ensures policy

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

¹⁰⁸ Beijing Declaration and Platform for Action, Fourth World Conference on Women, Sept. 15, 1995, U.N. Doc. A/CONF.177/20.

¹⁰⁹ European Social Charter (Revised), May 3, 1996, E.T.S. No. 163; Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, July 11, 2003.

¹¹⁰ Norwegian Public Limited Liability Companies Act, § 6-11a (Nor.).

¹¹¹ Föräldraledighetslagen [Parental Leave Act] (SFS 1995:584) (Swed.).

¹¹² Act on Equal Status and Equal Rights of Women and Men No. 10/2008 (Ice.).

¹¹³ CN v. Canada (Canadian Human Rights Commission), [1987] 1 S.C.R. 1114 (Can.).

¹¹⁴ Sex Discrimination Act 1984 (Cth) s 106 (Austl.).

coherence. It prevents inadvertent discrimination through seemingly neutral provisions.¹¹⁵

D. Lessons for strengthening Article 16 implementation in India

Incorporation of substantive equality concept could strengthen Article 16 framework. Substantive equality focuses on equality of results rather than formal equal treatment. This approach addresses structural disadvantages. Supreme Court jurisprudence has begun incorporating this concept.¹¹⁶ The development of positive obligations doctrine could enhance implementation. Current jurisprudence primarily addresses negative prohibition against discrimination. Positive obligations would require proactive measures. This approach aligns with international human rights framework.¹¹⁷

Implementation of burden-shifting evidentiary standards would address procedural barriers. Current framework places entire burden on complainant. Shared burden model requires employer justification once prima facie case established. This approach balances parties' access to evidence.¹¹⁸ The expansion of Article 16 application to private sector through horizontal effect doctrine merits consideration. Constitutional values increasingly influence private relationships through judicial interpretation. This approach would address current protection gap. It requires careful balance with contractual freedom.¹¹⁹

Integration of intersectionality framework would address complex discrimination patterns. Current approach addresses gender discrimination in isolation. Intersectional analysis recognizes interaction of multiple identities. This framework better addresses experiences of marginalized women.¹²⁰ Development of systemic remedies would enhance effectiveness of discrimination complaints. Current remedies focus on individual redress. Systemic remedies address institutional practices. They prevent recurrence through structural changes rather than merely compensating past harm.¹²¹

¹¹⁵ Federal Act on Equality between Women and Men [Gender Equality Act] July 24, 2014, AS 1423, 2537 (Ger.).

¹¹⁶ "Shikha Sharma & Nimarta Mann", "Workplace Discrimination: The Most Critical Issue in Managing Diversity," *International Journal of Creative Research Thoughts*, g606 (2024).

¹¹⁷ Sabia Malik & Amitesh Anand, "The Judicial System in Protecting the Rights of Women in India," *International Journal of Creative Research Thoughts*, g608 (2024).

¹¹⁸ Bethel Oluwatosin Adediji & Oluwatobiloba Ifedolapo Ajayi, "Women, Their Rights, and Workplace Discrimination," *International Affairs and Global Strategy*, Vol. 67, 30 (2018).

¹¹⁹ SANDRA FREDMAN, *DISCRIMINATION LAW* 184 (Oxford University Press 2011).

¹²⁰ KIMBERLÉ CRENSHAW, *ON INTERSECTIONALITY: ESSENTIAL WRITINGS* 167 (The New Press 2017).

¹²¹ Sabia Malik & Amitesh Anand, "The Judicial System in Protecting the Rights of Women in India," *International Journal of Creative Research Thoughts*, g610 (2024).

VII. LEGAL AND POLICY FRAMEWORK FOR STRENGTHENING ARTICLE 16

A. Legislative measures

The current anti-discrimination legislative landscape remains fragmented and incomplete. Multiple statutes address specific aspects of workplace discrimination. The Equal Remuneration Act, 1976 prohibits gender-based wage discrimination. It mandates equal pay for equal work but lacks mechanisms for comparable worth.¹²² The Maternity Benefit Act, 1961 addresses one dimension of gender-specific needs. Recent amendments extended maternity leave to 26 weeks. Provisions for creche facilities were strengthened. However, paternity leave remains absent from this framework. This reinforces stereotypical gender roles.¹²³

“*The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 implemented Vishaka guidelines*”. It established complaint procedures and redressal mechanisms. The law covers both organized and unorganized sectors. Implementation gaps persist despite comprehensive framework.¹²⁴ A comprehensive anti-discrimination legislation remains conspicuously absent. Sectoral approaches fail to address systemic discrimination. The United Kingdom's Equality Act, 2010 offers potential model. It consolidates various discrimination protections under unified framework. Similar legislation would strengthen Article 16 implementation.¹²⁵

Existing legal mechanisms focus predominantly on formal equality. Substantive equality requires recognition of structural barriers. Legislative presumptions supporting affirmative measures could address these barriers. Burden-shifting provisions would enhance enforcement effectiveness.¹²⁶ Procedural barriers undermine existing protections. Limitations periods for filing complaints are restrictive. Evidentiary standards create obstacle for complainants. Expansion of class action mechanisms could enhance access to justice. Standardized remedial frameworks would ensure adequate redress.¹²⁷

B. Judicial activism and progressive interpretation

The Supreme Court has demonstrated interpretive creativity in gender discrimination cases. In

¹²² “Equal Remuneration Act, 1976, No. 25, Acts of Parliament, 1976 (India)”.

¹²³ “Maternity Benefit (Amendment) Act, 2017, No. 6, Acts of Parliament, 2017 (India)”.

¹²⁴ “Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, No. 14, Acts of Parliament, 2013 (India)”.

¹²⁵ Shikha Sharma & Nimarta Mann, “Workplace Discrimination: The Most Critical Issue in Managing Diversity,” International Journal of Creative Research Thoughts, g609 (2024).

¹²⁶ FLAVIA AGNES, LAW AND GENDER INEQUALITY: THE POLITICS OF WOMEN'S RIGHTS IN INDIA 95 (Oxford University Press 2001).

¹²⁷ Bethel Oluwatosin Adedeji & Oluwatobiloba Ifedolapo Ajayi, “Women, Their Rights, and Workplace Discrimination,” International Affairs and Global Strategy, Vol. 67, 30 (2018).

Vishaka v. State of Rajasthan, it relied on international instruments to formulate guidelines. This approach exemplifies judicial activism addressing legislative gaps. Similar creativity could strengthen Article 16 implementation.¹²⁸ The doctrine of indirect discrimination requires further judicial development. Few judgments recognize disparate impact of facially neutral rules. “*The Supreme Court in Secretary, Ministry of Defence v. Babita Puniya*” recognized indirect discrimination. This reasoning requires extension across employment contexts.¹²⁹

The principle of substantive equality has received inconsistent application. Formal equality often prevails in judicial reasoning. “*The Court in Government of Andhra Pradesh v. P.B. Vijayakumar recognized substantive dimensions*”. This approach deserves mainstreaming across jurisprudence.¹³⁰ Transformative constitutionalism offers jurisprudential framework for progressive interpretation. Justice D.Y. Chandrachud has championed this approach in recent judgments. It views Constitution as instrument for social transformation. This interpretive lens strengthens Article 16 protections.¹³¹

The concept of continuing mandamus enables judicial supervision of systemic reforms. Courts have utilized this mechanism in environmental and governance cases. Its application to discrimination cases remains limited. This judicial tool could ensure implementation of equality directives.¹³² Public interest litigation provides valuable mechanism for systemic challenges. Individual grievance redressal often fails to address structural issues. PIL enables examination of patterns and practices. It facilitates implementation of Article 16's transformative potential.¹³³

C. Administrative and institutional reforms

Internal complaint committees under sexual harassment legislation provide useful template. Similar mechanisms could address broader discrimination issues. Workplace equality committees with investigative powers would provide accessible remedies. They would complement formal legal mechanisms.¹³⁴ Administrative tribunals require specialized expertise in discrimination matters. Current adjudicators lack training on gender discrimination nuances. Specialized benches with appropriate expertise would enhance adjudication quality. This institutional specialization would improve Article 16 implementation.¹³⁵

¹²⁸ Vishaka v. State of Rajasthan, AIR 1997 SC 3011.

¹²⁹ Secretary, Ministry of Defence v. Babita Puniya, (2020) 7 SCC 469.

¹³⁰ “Government of Andhra Pradesh v. P.B. Vijayakumar, (1995) 4 SCC 520”.

¹³¹ Navtej Singh Johar v. Union of India, (2018) 10 SCC 1.

¹³² Vineet Narain v. Union of India, (1998) 1 SCC 226.

¹³³ Sabia Malik & Amitesh Anand, "The Judicial System in Protecting the Rights of Women in India," International Journal of Creative Research Thoughts, g608 (2024).

¹³⁴ JAYNA KOTHARI, THE FUTURE OF DISABILITY LAW IN INDIA 78 (Oxford University Press 2012).

¹³⁵ Shikha Sharma & Nimarta Mann, "Workplace Discrimination: The Most Critical Issue in Managing Diversity," International Journal of Creative Research Thoughts, g610 (2024).

Regular workplace audits could identify discriminatory patterns preemptively. Current approaches rely on complaint-driven enforcement. Proactive assessment would identify issues before harm occurs. Gender pay gap reporting requirements would enhance transparency.¹³⁶ Data collection and monitoring mechanisms remain inadequate. Evidence-based policymaking requires systematic data. Sectoral analysis would identify problem areas. Disclosure requirements would create accountability mechanisms. Enhanced data collection would strengthen implementation efforts.¹³⁷

The National Commission for Women requires enhanced powers and resources. Current mandate limits enforcement capabilities. Quasi-judicial powers would strengthen compliance mechanisms. Strategic litigation capacity would address systemic discrimination issues.¹³⁸ Mandatory training programs for employers and employees require expansion. Awareness of legal rights remains limited. Unconscious bias training would address subtle discrimination forms. Transformative education would address attitudinal barriers to equality.¹³⁹

D. Role of civil society and women's movements

Women's organizations have historically driven legal reforms. The Vishaka guidelines resulted from women's movement activism. Similar mobilization could address implementation gaps. Strategic litigation partnerships strengthen enforcement mechanisms.¹⁴⁰ Media advocacy plays crucial role in shaping public discourse. Coverage of discrimination issues raises awareness. Investigative journalism exposes non-compliance. Media platforms provide forum for marginalized voices. Public discourse influences judicial and legislative priorities.¹⁴¹

University research centers provide intellectual resources for reform efforts. Evidence-based advocacy requires academic partnership. Interdisciplinary research strengthens policy recommendations. Documentation of implementation challenges informs reform priorities.¹⁴² International partnerships facilitate knowledge exchange on best practices. Global networks provide comparative perspectives. Technical assistance enhances domestic capacity.

¹³⁶ "KAMALA SANKARAN & ROOPA MADHAV, GENDER EQUALITY AND SOCIAL DIALOGUE IN INDIA 62 (International Labour Organization 2011)".

¹³⁷ Sabia Malik & Amitesh Anand, "The Judicial System in Protecting the Rights of Women in India," *International Journal of Creative Research Thoughts*, g609 (2024).

¹³⁸ National Commission for Women Act, 1990, No. 20, Acts of Parliament, 1990 (India).

¹³⁹ Bethel Oluwatosin Adedeji & Oluwatobiloba Ifedolapo Ajayi, "Women, Their Rights, and Workplace Discrimination," *International Affairs and Global Strategy*, Vol. 67, 33 (2018).

¹⁴⁰ RADHA KUMAR, *THE HISTORY OF DOING: AN ILLUSTRATED ACCOUNT OF MOVEMENTS FOR WOMEN'S RIGHTS AND FEMINISM IN INDIA 1800-1990* 145 (Zubaan 1993).

¹⁴¹ NIVEDITA MENON, *SEEING LIKE A FEMINIST* 121 (Zubaan and Penguin Books 2012).

¹⁴² MAITRAYEE CHAUDHURI, *FEMINISM IN INDIA* 87 (Zed Books 2005).

International human rights mechanisms create additional accountability channels.¹⁴³

Corporate social responsibility initiatives complement legal frameworks. Voluntary commitments sometimes exceed legal requirements. Industry associations can establish higher standards. Market pressures create incentives for proactive measures.¹⁴⁴ Trade union engagement strengthens workplace enforcement mechanisms. Collective bargaining agreements can incorporate anti-discrimination provisions. Union representatives help identify systemic issues. Organizational support reduces fear of retaliation for complaints.¹⁴⁵

VIII. DIRECTIONS: TOWARDS SUBSTANTIVE EQUALITY

A. From formal to substantive equality: Reimagining Article 16

The evolution of equality jurisprudence necessitates shift beyond formal equality paradigm. Formal equality focuses on identical treatment regardless of circumstances. It assumes level playing field for all competitors. This approach fails to address structural disadvantages faced by women.¹⁴⁶ Substantive equality recognizes historical disadvantages require remedial measures. It focuses on equality of results rather than identical treatment. “*The Supreme Court in State of Kerala v. N.M. Thomas recognized this distinction*”. Justice Krishna Iyer articulated that “geometric equality” may produce inequality.¹⁴⁷

Article 16 interpreted through substantive equality lens acquires transformative potential. It becomes tool for restructuring workplace hierarchies. The approach recognizes disparate starting positions require differential treatment. This reconceptualization aligns with constitutional vision of social justice.¹⁴⁸ The Canadian jurisprudence offers valuable framework for substantive equality. “*The Supreme Court of Canada in Andrews v. Law Society of British Columbia rejected formalistic approach*”. It emphasized accommodation of differences as essential equality component. Indian courts have referenced this approach in recent judgments.¹⁴⁹ Substantive equality recognizes both direct and indirect discrimination. Facially neutral practices may disproportionately impact women. Physical criteria for certain positions often exemplify indirect discrimination. Recognition of disparate impact enables

¹⁴³ “Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, 1249 U.N.T.S. 13”.

¹⁴⁴ Shikha Sharma & Nimarta Mann, "Workplace Discrimination: The Most Critical Issue in Managing Diversity," International Journal of Creative Research Thoughts, g611 (2024).

¹⁴⁵ Sabia Malik & Amitesh Anand, "The Judicial System in Protecting the Rights of Women in India," International Journal of Creative Research Thoughts, g610 (2024).

¹⁴⁶ Shikha Sharma & Nimarta Mann, "Workplace Discrimination: The Most Critical Issue in Managing Diversity," International Journal of Creative Research Thoughts, g607 (2024).

¹⁴⁷ State of Kerala v. N.M. Thomas, (1976) 2 SCC 310.

¹⁴⁸ CATHARINE A. MACKINNON, SEX EQUALITY 55 (Foundation Press 2007).

¹⁴⁹ Andrews v. Law Society of British Columbia, [1989] 1 S.C.R. 143 (Can.).

comprehensive approach to discrimination.¹⁵⁰

The integration of positive obligations enhances substantive equality framework. Article 16 currently emphasizes negative prohibition against discrimination. Positive obligations would require proactive measures to ensure equality. This approach addresses systemic barriers beyond individual discriminatory acts.¹⁵¹ Equality of opportunity must extend beyond formal recruitment processes. Career advancement, workplace culture, and decision-making structures require examination. Recognition of "glass ceiling" and "sticky floor" phenomena necessitates structural interventions. These invisible barriers require explicit acknowledgment.¹⁵²

B. Intersectional approach to workplace discrimination

Traditional single-axis discrimination analysis fails to capture complex realities. Women experience discrimination differently based on multiple identities. Dalit women face unique challenges distinct from upper-caste women. Muslim women encounter stereotypes different from Hindu women.¹⁵³ Kimberlé Crenshaw's intersectionality theory provides framework for complex discrimination. It recognizes overlapping vulnerabilities create unique experiences. Discrimination remedies must address these intersections. Single-category approaches leave vulnerable populations inadequately protected.¹⁵⁴

"*The Supreme Court in Patan Jamal Vali v. State of Andhra Pradesh*" recognized intersectional discrimination. The judgment acknowledged Dalit women face compounded vulnerability. This recognition requires extension to employment context. Discrimination remedies must address specific intersectional barriers.¹⁵⁵ Women with disabilities experience multilayered discrimination in workplaces. Physical accessibility, assistive technology, and reasonable accommodations remain inadequate. "*The Rights of Persons with Disabilities Act, 2016*" addresses some concerns. Implementation gaps persist particularly for women.¹⁵⁶

Religious minority women face stereotypes affecting employment opportunities. Visible religious markers become basis for exclusion. Traditional interpretations of secularism sometimes restrict religious expression. Constitutional protection must extend to these

¹⁵⁰ SANDRA FREDMAN, *DISCRIMINATION LAW* 177 (Oxford University Press 2011).

¹⁵¹ Sabia Malik & Amitesh Anand, "The Judicial System in Protecting the Rights of Women in India," *International Journal of Creative Research Thoughts*, g608 (2024).

¹⁵² Bethel Oluwatosin Adedeji & Oluwatobiloba Ifedolapo Ajayi, "Women, Their Rights, and Workplace Discrimination," *International Affairs and Global Strategy*, Vol. 67, 31 (2018).

¹⁵³ NIVEDITA MENON, *SEEING LIKE A FEMINIST* 168 (Zubaan and Penguin Books 2012).

¹⁵⁴ Kimberlé Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory, and Antiracist Politics*, 1989 U. CHI. LEGAL F. 139, 140 (1989).

¹⁵⁵ *Patan Jamal Vali v. State of Andhra Pradesh*, (2021) 4 SCC 403.

¹⁵⁶ *Rights of Persons with Disabilities Act, 2016*, No. 49, Acts of Parliament, 2016 (India).

intersectional experiences.¹⁵⁷ Age intersects with gender creating unique discrimination patterns. Older women face compounded stereotypes about competence and adaptability. Younger women encounter sexualization and authority challenges. These age-specific manifestations require targeted interventions.¹⁵⁸

C. Technology and changing nature of work: New challenges for Article 16

Digital transformation creates opportunities and challenges for gender equality. Remote work options facilitate work-life balance. Algorithmic decision-making introduces new discrimination risks. These technological developments require legal framework adaptation.¹⁵⁹ Artificial intelligence in recruitment processes may perpetuate existing biases. Algorithms trained on historical data reflect past discrimination patterns. Facially neutral technology may produce discriminatory outcomes. Regulatory frameworks must address algorithmic discrimination.¹⁶⁰

The gig economy transforms traditional employment relationships. Platform-based work lacks traditional legal protections. Women constitute significant proportion of gig workers. Article 16 application requires reconceptualization for these non-standard arrangements.¹⁶¹ Digital surveillance technologies create gendered privacy concerns. Monitoring tools may disproportionately impact women. Employers sometimes justify intrusive surveillance on productivity grounds. Privacy protections must incorporate gender-sensitive considerations.¹⁶²

Digital skills divide creates new occupational segregation patterns. STEM fields remain predominantly male. Digital transformation exacerbates existing disparities. Educational interventions must address gender gaps in technological skills.¹⁶³ Automation disproportionately impacts feminized occupations. Routine administrative roles face higher automation risk. Care work remains exception to automation trends. Economic transitions require gender-sensitive planning to prevent disproportionate displacement.¹⁶⁴

¹⁵⁷ RATNA KAPUR, *BRAVE NEW WORLD OF INDIAN FEMINISM* 82 (Oxford University Press 2019).

¹⁵⁸ Sabia Malik & Amitesh Anand, "The Judicial System in Protecting the Rights of Women in India," *International Journal of Creative Research Thoughts*, g609 (2024).

¹⁵⁹ JULIET WEBSTER, *SHAPING WOMEN'S WORK: GENDER, EMPLOYMENT AND INFORMATION TECHNOLOGY* 123 (Longman 1996).

¹⁶⁰ VIRGINIA EUBANKS, *AUTOMATING INEQUALITY: HOW HIGH-TECH TOOLS PROFILE, POLICE, AND PUNISH THE POOR* 142 (St. Martin's Press 2018).

¹⁶¹ Shikha Sharma & Nimarta Mann, "Workplace Discrimination: The Most Critical Issue in Managing Diversity," *International Journal of Creative Research Thoughts*, g610 (2024).

¹⁶² "ZUBOFF, SHOSHANA, *THE AGE OF SURVEILLANCE CAPITALISM* 257 (Profile Books 2019)".

¹⁶³ "MARK WARSCHAUER, *TECHNOLOGY AND SOCIAL INCLUSION: RETHINKING THE DIGITAL DIVIDE* 73 (MIT Press 2003)".

¹⁶⁴ "Bethel Oluwatosin Adedeji & Oluwatobiloba Ifedolapo Ajayi", "Women, Their Rights, and Workplace Discrimination," *International Affairs and Global Strategy*, Vol. 67, 32 (2018).

D. Policy recommendations for comprehensive implementation of Article 16

A comprehensive anti-discrimination legislation would strengthen Article 16 implementation. The Equality Bill proposed by civil society organizations offers potential framework. It addresses direct and indirect discrimination comprehensively. The legislation would create unified enforcement mechanism.¹⁶⁵ Dedicated equality tribunals with specialized expertise would enhance enforcement. Administrative mechanisms provide accessibility advantages over courts. Specialized adjudicators ensure sensitivity to discrimination nuances. Similar tribunals have proven effective in other jurisdictions.¹⁶⁶ Mandatory pay transparency measures would address wage discrimination. Requirements to publish gender pay gap data create accountability. Companies must explain disparities and present action plans. Market pressures complement legal enforcement through transparency.¹⁶⁷

Targeted procurement policies leverage government purchasing power for equality. Contract compliance requirements can mandate gender equality measures. Public funds create incentives for private sector compliance. Similar measures have proven effective in racial discrimination context.¹⁶⁸ Expanded childcare infrastructure addresses fundamental barrier to women's employment. The female labor force participation correlates with childcare accessibility. Public investment in care infrastructure constitutes essential equality measure. It recognizes structural nature of employment barriers.¹⁶⁹

Mentorship and leadership development programs address vertical segregation. Women remain underrepresented in leadership positions across sectors. Talent pipelines require active development. These programs complement anti-discrimination measures with proactive development.¹⁷⁰ Gender-responsive budgeting ensures resource allocation supports equality goals. Fiscal policy has differential gender impacts. Budget analysis from gender perspective identifies gaps. Resource allocation aligns implementation with rhetorical commitments.¹⁷¹

¹⁶⁵ TARUNABH KHAITAN, *A THEORY OF DISCRIMINATION LAW* 199 (Oxford University Press 2015)

¹⁶⁶ Sabia Malik & Amitesh Anand, "The Judicial System in Protecting the Rights of Women in India," *International Journal of Creative Research Thoughts*, g611 (2024).

¹⁶⁷ DEBORAH L. RHODE, *WOMEN AND LEADERSHIP* 73 (Oxford University Press 2016).

¹⁶⁸ CHRISTOPHER MCCRUDDEN, *BUYING SOCIAL JUSTICE: EQUALITY, GOVERNMENT PROCUREMENT, AND LEGAL CHANGE* 153 (Oxford University Press 2007).

¹⁶⁹ JANET GORNICK & MARCIA MEYERS, *FAMILIES THAT WORK: POLICIES FOR RECONCILING PARENTHOOD AND EMPLOYMENT* 92 (Russell Sage Foundation 2003).

¹⁷⁰ Shikha Sharma & Nimarta Mann, "Workplace Discrimination: The Most Critical Issue in Managing Diversity," *International Journal of Creative Research Thoughts*, g609 (2024).

¹⁷¹ DIANE ELSON, *BUDGETING FOR WOMEN'S RIGHTS: MONITORING GOVERNMENT BUDGETS FOR COMPLIANCE WITH CEDAW* 67 (UNIFEM 2006).

IX. CONCLUSION

“Article 16 of the Indian Constitution stands as a cornerstone of workplace equality”. It provides fundamental guarantee of equal opportunity in public employment. The constitutional vision embodied in this provision reflects transformative aspirations. It seeks to dismantle historical patterns of discrimination against women.¹⁷² The journey from constitutional promise to workplace reality remains incomplete. Despite seven decades of constitutional jurisprudence, gender discrimination persists. Women continue facing barriers in recruitment, promotion, and working conditions. The gap between formal equality and substantive equality remains significant.¹⁷³

Judicial interpretation has evolved considerably since early formalistic approaches. The Supreme Court has progressively expanded Article 16 protections. Landmark judgments like Vishaka and Nargesh Meerza reflect this evolution. Yet inconsistencies in jurisprudence persist across different aspects of employment discrimination.¹⁷⁴ Various forms of workplace discrimination continue despite constitutional safeguards. Pre-employment discrimination manifests through biased recruitment practices. Post-employment discrimination includes wage disparities and promotion barriers. Sexual harassment creates hostile work environments despite legislative interventions.¹⁷⁵

Implementation challenges explain persistent discrimination despite constitutional guarantees. Institutional barriers include weak enforcement mechanisms and procedural hurdles. Sociocultural impediments reflect deeply embedded patriarchal norms. Economic factors create disincentives for compliance with equality mandates.¹⁷⁶ Comparative perspectives offer valuable insights for strengthening Article 16 framework. Constitutional provisions in other jurisdictions demonstrate alternative approaches. International legal standards provide benchmarks for domestic implementation. Best practices from other countries suggest potential reform pathways.¹⁷⁷

The path forward requires multi-dimensional approach to gender equality. Legislative measures need strengthening through comprehensive anti-discrimination law. Judicial activism must

¹⁷² INDIA CONST. art. 16.

¹⁷³ Shikha Sharma & Nimarta Mann, "Workplace Discrimination: The Most Critical Issue in Managing Diversity," International Journal of Creative Research Thoughts, g607 (2024).

¹⁷⁴ Vishaka v. State of Rajasthan, AIR 1997 SC 3011; Air India v. Nargesh Meerza, AIR 1981 SC 1829.

¹⁷⁵ Bethel Oluwatosin Adedeji & Oluwatobiloba Ifedolapo Ajayi, "Women, Their Rights, and Workplace Discrimination," International Affairs and Global Strategy, Vol. 67, 29 (2018).

¹⁷⁶ Sabia Malik & Amitesh Anand, "The Judicial System in Protecting the Rights of Women in India," International Journal of Creative Research Thoughts, g608 (2024).

¹⁷⁷ Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, 1249 U.N.T.S. 13.

continue progressive interpretation of constitutional provisions. Administrative reforms should enhance enforcement mechanisms through specialized institutions.¹⁷⁸ The future directions point toward substantive equality beyond formal guarantees. Intersectional approaches must address complex discrimination patterns. Technological transformations require adaptive regulatory frameworks. Policy interventions must address structural barriers rather than merely prohibiting overt discrimination.¹⁷⁹ Article 16 remains powerful tool for advancing gender equality in workplaces. Its transformative potential depends on evolving interpretation and implementation. The constitutional promise of equality must translate into lived reality. This requires continued commitment from judiciary, legislature, and civil society.¹⁸⁰

¹⁷⁸ FLAVIA AGNES, *LAW AND GENDER INEQUALITY: THE POLITICS OF WOMEN'S RIGHTS IN INDIA* 95 (Oxford University Press 2001).

¹⁷⁹ CATHARINE A. MACKINNON, *SEX EQUALITY* 55 (Foundation Press 2007).

¹⁸⁰ Shikha Sharma & Nimarta Mann, "Workplace Discrimination: The Most Critical Issue in Managing Diversity," *International Journal of Creative Research Thoughts*, g611 (2024).