



# ILE MULTIDISCIPLINARY JOURNAL

VOLUME 4 AND ISSUE 1 OF 2025

INSTITUTE OF LEGAL EDUCATION



ILE MULTIDISCIPLINARY  
JOURNAL

WHILE THERE'S RESEARCH THERE'S HOPE

ILE MULTIDISCIPLINARY JOURNAL

APIS – 3920 – 0007 | ISSN – 2583-7230

(OPEN ACCESS JOURNAL)

**Journal's Home Page – <https://mj.iledu.in/>**

**Journal's Editorial Page – <https://mj.iledu.in/editorial-board/>**

**Volume 4 and Issue 1 (Access Full Issue on – <https://mj.iledu.in/category/volume-4-and-issue-1-of-2025/>)**

### **Publisher**

Prasanna S,

Chairman of Institute of Legal Education

No. 08, Arul Nagar, Seera Thoppu,

Maudhanda Kurichi, Srirangam,

Tiruchirappalli – 620102

Phone : +91 94896 71437 – [info@iledu.in](mailto:info@iledu.in) / [Chairman@iledu.in](mailto:Chairman@iledu.in)



© Institute of Legal Education

**Copyright Disclaimer:** All rights are reserve with Institute of Legal Education. No part of the material published on this website (Articles or Research Papers including those published in this journal) may be reproduced, distributed, or transmitted in any form or by any means, including photocopying, recording, or other electronic or mechanical methods, without the prior written permission of the publisher. For more details refer <https://mj.iledu.in/terms-and-condition/>



## CONSTITUTIONAL FOUNDATIONS OF 'EQUAL PAY FOR EQUAL WORK': EXAMINING ARTICLE 39(D) AS A DIRECTIVE PRINCIPLE OF STATE POLICY

**AUTHOR** – INIYAN.J, STUDENT AT TAMILNADU DR.AMBEDKAR LAW UNIVERSITY, SCHOOL OF EXCELLENCE IN LAW

**BEST CITATION** – INIYAN.J, CONSTITUTIONAL FOUNDATIONS OF 'EQUAL PAY FOR EQUAL WORK': EXAMINING ARTICLE 39(D) AS A DIRECTIVE PRINCIPLE OF STATE POLICY, ILE MULTIDISCIPLINARY JOURNAL, 4 (1) OF 2025, PG. 867-876, APIS – 3920-0007 | ISSN – 2583-7230.

### ABSTRACT:

This research paper explores the constitutional foundations of the 'equal pay for equal work' principle in India by thoroughly examining Article 39(d) of the Constitution. Initially viewed as a non-enforceable Directive Principle of State Policy, Article 39(d) has experienced a notable legal transformation into an enforceable right through judicial interpretation. The research traces the historical roots of this principle from discussions in the Constituent Assembly and investigates how international labour standards played a role in its integration into the Indian Constitution. The study looks into the intricate relationship between Article 39(d) and fundamental rights, particularly Articles 14 and 16, emphasizing how the Supreme Court has created a "harmonious construction" approach to connect the traditional divide between justiciable and non-justiciable constitutional provisions. Landmark rulings such as *Randhir Singh v. Union of India* illustrate the Court's creative method in elevating this directive principle to an actionable right based on constitutional equality guarantees. A critical evaluation of legislative responses to Article 39(d), primarily through the Equal Remuneration Act of 1976, aims to uncover discrepancies between constitutional ambitions and statutory enforcement. The study also conducts a comparative constitutional analysis to position India's methodology against global standards for equal pay protection. In spite of notable judicial progress, this research highlights ongoing challenges in the practical enforcement of equal pay principles, including difficulties in enforcement stemming from the originally non-enforceable nature of directive principles, state pushback due to budgetary limitations, and judicial reluctance in economic policy issues. Current challenges discussed include applying the equal pay doctrine to new employment scenarios such as contract labour, temporary jobs, and the gig economy, where conventional protections frequently fall short. The paper concludes by suggesting remedial measures to fortify the constitutional basis for equal pay, which may include possible amendments, adaptive interpretations that respond to evolving economic conditions, and compliance with international commitments. This research enhances the understanding of how a constitutional aspiration has developed into a significant legal doctrine while recognizing the ongoing challenges in realizing wage equality in practice.

**Key Words:** Equal Pay for Equal Work, Economic Justice, Social Justice, Wage Discrimination, Labour Welfare.

### INTRODUCTION:

The concept of "Equal Pay for Equal Work" is a critical principle of social equity and economic justice, embedded within the Indian

constitutional structure as a Directive Principle of State Policy under Article 39(d). This principle requires the State to ensure that men and women alike are compensated equally for



performing the same work, demonstrating India's dedication to addressing wage inequalities and promoting a just labour market. Although Directive Principles cannot be enforced through courts, they act as guiding values for governance and policy formation, shaping legislative measures and judicial interpretations over the years. The incorporation of Article 39(d) in the Constitution reflects the vision of its framers for a socio-economic system where gender-based or other forms of economic exploitation are diminished. Nevertheless, despite its constitutional acknowledgment, achieving this principle effectively has posed a challenge due to socio-economic disparities, discriminatory practices, and deficiencies in labour regulations. The Indian courts have been instrumental in upholding the essence of Article 39(d), evident in landmark cases such as **Randhir Singh v. Union of India (1982)**, where the Supreme Court affirmed "Equal Pay for Equal Work" as a constitutional right, drawing enforceability from Articles 14, 16, and 39(d). Over the years, judicial decisions have reinforced the legal significance of this principle, broadening its application beyond gender discrimination to encompass various forms of employment disparities. This paper provides a critical analysis of the constitutional basis of Article 39(d) as a Directive Principle and its relationship with fundamental rights, examining its impact on labour policies, wage regulations, and judicial interpretations. Furthermore, it investigates the obstacles to its effective application, particularly in the informal sector, where wage discrimination persists despite existing legal protections. By tracing the development of the "Equal Pay for Equal Work" principle through constitutional provisions, legislative progress, and judicial actions, this study intends to evaluate the influence of Article 39(d) on India's labour jurisprudence. The research also considers comparative insights from international labour standards and their significance to India's legal context. Through this examination, the paper aims to offer a thorough

understanding of how constitutional directives influence employment equity and what additional steps are necessary to close the existing wage gaps in India's labour market.

### HISTORICAL EVOLUTION OF THE PRINCIPLE IN CONSTITUTIONAL DEBATES:

The concept of "Equal Pay for Equal Work" has developed over many years, influenced by social movements, economic changes, and discussions around constitutional principles. This idea became more prominent during the Industrial Revolution, when labor rights emerged as crucial topics in social and political debates. Significant advancements occurred in the early 20th century, especially with the founding of the International Labour Organization (ILO) in 1919, which advocated for equitable wages irrespective of gender or job type. This initiative established a basis for international labor standards that impacted constitutional drafters across the globe. In India, the conversation about equal pay became particularly significant during the drafting of the Constitution. The Constituent Assembly, acknowledging the existing socio-economic inequalities, aimed to incorporate principles that would guide the nation towards social justice. Article 39(d) was added to the Directive Principles of State Policy (DPSP) in the Indian Constitution, symbolizing a commitment to achieving economic equality and safeguarding labor rights. The framers, including Dr. B.R. Ambedkar and Jawaharlal Nehru, stressed that although DPSPs could not be enforced by courts, they played a crucial role in informing policies aimed at lessening disparities.

The addition of Article 39(d) was shaped by both international labor standards and national issues concerning wage discrimination, particularly affecting women and marginalized communities. Discussions during the constitutional debates underscored the necessity for state involvement to address systemic inequalities and encourage fair labor practices. Over the years, judicial interpretations and legislative initiatives have bolstered this





principle, embedding it into legal frameworks like the Equal Remuneration Act of 1976. Despite the progress achieved, continuous legal and policy conversations are shaping the practical implementation of "Equal Pay for Equal Work," reaffirming its importance in India's constitutional and socio-economic context.

#### REVIEW OF LITERATURE:

1. **Kumar, A. (2018). "The Evolution of Equal Pay Jurisprudence in India."** This research explores the historical development of wage equality in India, with a focus on Article 39(d) of the Constitution. It follows the judicial interpretations and legislative actions that seek to reduce the gender wage disparity. The study emphasizes the importance of Directive Principles of State Policy (DPSP) in shaping labour legislation, while also pointing out the difficulties in enforcing these measures within informal labour markets.
2. **Sharma, R. (2020). "Directive Principles and Socio-Economic Justice: A Legal Perspective."** This study explores the constitutional duty of Directive Principles of State Policy (DPSPs), specifically Article 39(d), as a means to achieve wage equality. It assesses Supreme Court decisions that have upheld the concept of 'Equal Pay for Equal Work' and examines their influence on labour legislation. The analysis contends that despite the non-binding nature of DPSPs, they significantly contribute to legal interpretations.
3. **Patel, M. (2016). "Gender Pay Gap and the Indian Legal Framework."** In order to resolve wage inequities, the author investigates how labour regulations and constitutional provisions connect. The report highlights the judiciary's proactive approach to improving the efficacy of Article 39(d) by examining legal precedents. It also examines the current implementation methods in India's work sector and highlights case laws that have influenced the conversation on equal pay.
4. **Das, S. (2021). "The Role of Judiciary in Strengthening Equal Pay Rights."** The interpretation and extension of Article 39(d) by the Indian judiciary is the main topic of this

study. It looks at important instances that helped establish wage equality as a fundamental right, like *Randhir Singh v. Union of India*. Although courts have made a substantial contribution, the report contends that loopholes in legislative enforcement are still a major issue.

5. **Nair, P. (2017). "Labour Rights and Constitutional Mandates in India."** The article offers a thorough examination of the constitutional conception of social justice, with a focus on Article 39(d). It looks at DPSP-influenced labour policies and evaluates how they affect wage structures. The research criticises the inadequate application of equal pay laws and recommends changes to the law to improve adherence in the public and private sectors of employment.

#### RESEARCH OBJECTIVES:

- To analyse the constitutional basis of the principle of "Equal Pay for Equal Work" in India.
- To examine the judicial interpretation and evolution of Article 39(d).
- To evaluate the effectiveness of legislative and policy measures adopted in India.

#### COMPARATIVE ANALYSIS WITH INTERNATIONAL LEGAL FRAMEWORKS (ILO CONVENTIONS, UN TREATIES)

The concept of "Equal Pay for Equal Work" has a strong foundation in international legal frameworks, particularly in the conventions of the **International Labour Organization (ILO)** and treaties from the United Nations (UN). The ILO's Convention No. 100 on Equal Remuneration (1951) clearly requires that countries provide equal pay for men and women performing work of equal value, establishing a standard for national policies. Likewise, Convention No. 111 on Discrimination (Employment and Occupation) (1958) forbids wage discrimination based on gender, reinforcing principles of fairness in employment. These conventions have significantly influenced legal discussions around pay equity, shaping labour laws in various jurisdictions, including India's constitutional framework.



The UN also supports the principle of pay equity through its various human rights instruments. **The Universal Declaration of Human Rights (UDHR)** (1948), in Article 23(2), states the right to equal pay for equal work. Additionally, the **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)** (1979) requires member states to close wage gaps and secure pay parity for genders. Article 7 of the **International Covenant on Economic, Social and Cultural Rights (ICESCR)** (1966) enshrines the right to fair wages and equal remuneration as well. These instruments offer a wider human rights perspective that complements the mandate of India's constitution under Article 39(d). Although India's Directive Principle under Article 39(d) reflects these international commitments, its non-justiciable status restricts its enforceability.

Nevertheless, judicial interpretations, particularly in the case of **Randhir Singh v. Union of India (1982)**, have granted constitutional significance to the principle, aligning it more closely with international standards. By incorporating global norms, India has progressively enhanced its legislative framework, including the Equal Remuneration Act of 1976. Despite these advancements, ongoing gender and occupational wage disparities underscore the necessity for more robust enforcement mechanisms, learning from international best practices. Therefore, harmonizing constitutional directives with global labour standards can advance India's commitment to wage equality.

#### RELATIONSHIP BETWEEN FUNDAMENTAL RIGHTS AND DIRECTIVE PRINCIPLES IN ENSURING WAGE EQUALITY:

The connection between Fundamental Rights and Directive Principles of State Policy (DPSP) is vital for achieving wage equality in India. Article 39(d) of the Constitution, which forms part of the DPSP, requires the State to guarantee "equal pay for equal work" for both genders<sup>594</sup>. While DPSPs cannot be enforced in

courts, they serve as important frameworks for governance and policy development. Conversely, Fundamental Rights, especially Article 14 (Right to Equality) and Article 16 (Equality of Opportunity in Public Employment), provide enforceable protections against discrimination, including wage inequality.<sup>595</sup> The judiciary has been instrumental in reconciling these two constitutional provisions to promote wage equality. In the notable case of **Randhir Singh v. Union of India**<sup>596</sup>, the Supreme Court determined that although Article 39(d) is a Directive Principle, its core can be inferred from Articles 14 and 16, thereby rendering "equal pay for equal work" a fundamental right in effect. Likewise, in the **D.S. Nakara v. Union of India** case<sup>597</sup>, the Court emphasized that economic justice, as outlined by the DPSPs, should be interpreted alongside Fundamental Rights. Furthermore, the interaction between these provisions has resulted in important legislative and policy initiatives. The Equal Remuneration Act of 1976 was established to close wage disparities, drawing inspiration from the constitutional mandate of Article 39(d). The judiciary has consistently highlighted that DPSPs, while non-justiciable, are essential for governance and must be progressively actualized to achieve the constitutional objective of social justice.<sup>598</sup> Therefore, the synergistic effect of Fundamental Rights and DPSPs ensures that wage equality is not just a goal to strive for but a principle that is legally and morally enforceable, aimed at eradicating discrimination and fostering economic justice in India.

#### ROLE OF ARTICLES 14, 15, AND 16 IN REINFORCING THE PRINCIPLE:

The constitutional assurance of "Equal Pay for Equal Work" as stated in Article 39(d) of the Directive Principles of State Policy (DPSP) is fundamentally supported by the principles of equality established in Articles 14, 15, and 16 of

<sup>594</sup> Article 39(d), Constitution of India, 1950.

<sup>595</sup> Articles 14 & 16, Constitution of India, 1950.

<sup>596</sup> **Randhir Singh v. Union of India**, AIR 1982 SC 879.

<sup>597</sup> **D.S. Nakara v. Union of India**, AIR 1983 SC 130.

<sup>598</sup> Equal Remuneration Act, 1976.



the Indian Constitution. Article 14 guarantees equality before the law and equal protection of the laws, serving as a foundation against arbitrary distinctions that could result in wage inequalities among workers doing the same job. The Supreme Court has interpreted this article to forbid unfair discrimination in employment and compensation, further endorsing the principle that men and women should receive equal pay for equal work done under comparable conditions.<sup>599</sup> Moreover, Article 15 prevents discrimination based on religion, race, caste, sex, or place of birth. This provision is essential in ensuring that wage gaps attributed to gender do not continue. The explicit mention of "sex" as a basis for non-discrimination directly supports the equal pay principle, aligning with India's commitment to gender equality.<sup>600</sup> Additionally, Article 15(3) allows the state to make special provisions for women, which can be seen as a constitutional directive to tackle existing wage inequalities and promote real equality in employment.<sup>601</sup>

Article 16 enhances this structure by ensuring equality of opportunity in public employment matters. It states that no citizen shall face discrimination in state employment due to religion, race, caste, sex, descent, place of birth, or residence. This provision is particularly important for preventing wage discrimination in public sector roles, guaranteeing that individuals receive equal pay for the same work irrespective of their background.<sup>602</sup> Through these fundamental rights, the constitutional requirement for equal pay acquires legal authority, reinforcing Article 39(d) and rendering it enforceable through judicial interpretation.<sup>603</sup>

## 2. JUDICIAL INTERPRETATION AND EVOLUTION OF ARTICLE 39(d):

### LANDMARK JUDGMENTS SHAPING THE DOCTRINE:

<sup>599</sup> *Randhir Singh v. Union of India*, AIR 1982 SC 879.

<sup>600</sup> *Mackinnon Mackenzie & Co. Ltd. v. Audrey D'Costa*, (1987) 2 SCC 469.

<sup>601</sup> *Indra Sawhney v. Union of India*, AIR 1993 SC 477.

<sup>602</sup> *State of Punjab v. Jagjit Singh*, (2017) 1 SCC 148.

<sup>603</sup> M. P. Singh, *V. N. Shukla's Constitution of India*, 13th ed. (Lucknow: Eastern Book Company, 2017).

The principle of "Equal Pay for Equal Work" outlined in Article 39(d) has been notably influenced by judicial rulings, where the Indian judiciary has played an essential role in evolving this Directive Principle into an enforceable legal right. The pivotal judgment in this context was **Randhir Singh v. Union of India (1982)**, in which the Supreme Court determined that while Article 39(d) is a Directive Principle, it can be enforced through Articles 14 and 16 of the Constitution. The Court asserted that the concept of equal pay is embedded in the right to equality, thereby rendering it a fundamental right.<sup>604</sup> Another crucial case was **Mackinnon Mackenzie & Co. Ltd. v. Audrey D'Costa (1987)**, where the Supreme Court reiterated that wage discrimination based on gender is unconstitutional. The Court determined that women engaged in the same work as men within an organization cannot receive lower pay solely due to their gender, thus reinforcing the constitutional prohibition against discrimination as stated in Article 15.<sup>605</sup>

The doctrine was further solidified in **State of Punjab v. Jagjit Singh (2017)**, where the Supreme Court broadened the principle to include contractual and temporary workers. The Court ruled that individuals performing equivalent tasks to regular employees are entitled to the same pay, as denying them equal wages would breach Article 14.<sup>606</sup> This ruling represented a crucial advancement in ensuring that the equal pay principle applies not only to permanent government staff but to all workers carrying out similar roles under comparable circumstances.

Furthermore, in **D. S. Nakara v. Union of India (1983)**, the Supreme Court affirmed that discrimination in pension benefits based on arbitrary distinctions was unconstitutional, thereby indirectly reinforcing the idea that equal work should result in equal rewards, including salary and post-retirement benefits.<sup>607</sup>

<sup>604</sup> *Randhir Singh v. Union of India*, AIR 1982 SC 879.

<sup>605</sup> *Mackinnon Mackenzie & Co. Ltd. v. Audrey D'Costa*, (1987) 2 SCC 469.

<sup>606</sup> *State of Punjab v. Jagjit Singh*, (2017) 1 SCC 148.

<sup>607</sup> *D. S. Nakara v. Union of India*, AIR 1983 SC 130.





These landmark decisions have gradually converted Article 39(d) from a simple directive into a justiciable right through legal interpretation. By connecting the principle of equal pay to fundamental rights concerning equality and non-discrimination, the judiciary has guaranteed its relevance across diverse employment sectors, thus promoting social and economic justice in India.<sup>608</sup>

### EXPANSION OF THE PRINCIPLE THROUGH PILS AND SUPREME COURT INTERVENTIONS:

The concept of "Equal Pay for Equal Work" as outlined in Article 39(d) of the Indian Constitution has experienced considerable growth through judicial involvement, especially through Public Interest Litigations (PILs). Although Article 39(d) is part of the Directive Principles of State Policy (DPSP) and is not immediately enforceable, the judiciary has been instrumental in its application through the interpretation and enforcement of Article 14 (Right to Equality) and Article 16 (Equality in Public Employment) of the Constitution. The Supreme Court has repeatedly emphasized this principle by acknowledging its essential role in promoting social justice. In the case of **Randhir Singh v. Union of India (1982)**, the Court concluded that the equal pay principle is not just a guideline but is enforceable under the constitutional provisions of Articles 14 and 16. This pivotal ruling established a foundation for further legal interpretations advocating for wage equality. Likewise, in **Dhirendra Chamoli v. State of U.P. (1986)**, the Court expanded the principle to include temporary and casual workers, ensuring they are not unfairly discriminated against concerning pay.

PILs have been vital in promoting wage equality. In cases such as **State of Punjab v. Jagjit Singh (2016)**, the rights of contractual and temporary employees were upheld, asserting that they are entitled to equal remuneration for equal work. The ruling highlighted that arbitrary distinctions between

permanent and temporary workers doing the same tasks contravene the constitutional values of fairness and equality. Such judicial actions have urged both the state and employers to acknowledge and implement wage equality. These rulings illustrate the progressive evolution of the equal pay principle, transforming it from a simple directive into an enforceable right through constitutional interpretation. The interaction between PILs and Supreme Court decisions has ensured that Article 39(d) is not just an aspirational guideline but an integral part of India's legal structure for labour justice.

### CHALLENGES IN IMPLEMENTATION AS HIGHLIGHTED BY JUDICIAL DECISIONS:

The concept of "Equal Pay for Equal Work," which is contained in Article 39(d) of the Indian Constitution as a Directive Principle of State Policy (DPSP), has encountered numerous obstacles in its implementation, as shown by various judicial decisions. Although the Supreme Court has been instrumental in supporting this principle, its enforcement remains uneven due to legal, administrative, and socio-economic challenges. A significant obstacle is the non-justiciable nature of DPSPs. While courts have gradually interpreted equality principles into enforceable rights under Articles 14 and 16, the lack of a direct statutory provision often results in incomplete or delayed implementation<sup>609</sup>. In the case of **Randhir Singh v. Union of India**, the Supreme Court acknowledged "Equal Pay for Equal Work" as a constitutional objective, broadening its reach to public employment<sup>610</sup>. Nevertheless, its application still depends on the executive's discretion and judicial interpretation, causing discrepancies in enforcement. Another challenge stems from how workers and their employment conditions are classified. In the case of **State of Punjab v. Jagjit Singh**, the Supreme Court reaffirmed that temporary and contractual workers performing the same roles

<sup>608</sup> M. P. Singh, *V. N. Shukla's Constitution of India*, 13th ed. (Lucknow: Eastern Book Company, 2017).

<sup>609</sup> *Minerva Mills Ltd. v. Union of India*, AIR 1980 SC 1789.

<sup>610</sup> *Randhir Singh v. Union of India*, AIR 1982 SC 879.





as permanent staff should receive equal compensation<sup>611</sup>. However, employers often sidestep the ruling by modifying job descriptions or contractual agreements, thus undermining the practical impact of the principle. Moreover, private-sector jobs, which represent a significant segment of the workforce, largely fall outside the direct jurisdiction of such decisions, restricting the extent of judicial intervention. Administrative shortcomings and the absence of comprehensive labour laws further impede implementation. Although the Equal Remuneration Act, 1976, aims to tackle wage disparity, it has been plagued by ineffective enforcement mechanisms. Courts have frequently intervened to fill legislative voids, yet without rigorous oversight, compliance remains inconsistent. Therefore, despite strong backing from the judiciary, the pursuit of "Equal Pay for Equal Work" continues to be obstructed by legislative shortcomings, employer opposition, and enforcement challenges. To overcome these issues, a combination of judicial activism and effective policy measures is needed to transform constitutional principles into actual labour rights.

### 3. LEGISLATIVE AND POLICY MEASURES FOR ENSURING EQUAL PAY:

#### THE EQUAL REMUNERATION ACT, 1976: KEY PROVISIONS AND EFFECTIVENESS:

The Equal Remuneration Act of 1976 was introduced to fulfill the constitutional requirement of Article 39(d) of the Directive Principles of State Policy, which supports the principle of equal pay for equal work for both genders. This law aims to eradicate wage disparities based on gender and to guarantee fair compensation in the workplace. A key aspect of the Act is its prohibition of wage and recruitment discrimination. According to

Section 4, it requires employers to provide equal pay to men and women for the same or similar roles, thereby averting discrimination based solely on gender<sup>612</sup>. Furthermore, Section 5 prevents employers from treating women unfairly in hiring or employment conditions, except in scenarios where specific job requirements necessitate hiring based on gender.<sup>613</sup> The Act also sets up frameworks for enforcement and adherence. It empowers the appointment of authorities to address and resolve complaints related to non-compliance. Employers who breach the provisions of the Act may incur penalties as specified in Sections 10 and 11. Additionally, the Act authorizes inspectors to review wage records and examine potential violations to ensure compliance with its regulations.<sup>614</sup> Nonetheless, the effectiveness of the Equal Remuneration Act is still a topic of debate. While the law has played a role in increasing awareness about wage equality, gender-based wage gaps continue to exist across different sectors due to factors such as occupational segregation, informal work, and inadequate enforcement.<sup>615</sup> The Act does not fully tackle the structural inequalities contributing to wage disparities, including the unpaid care work largely performed by women and societal biases impacting career progression. Judicial rulings and policy actions, such as the Code on Wages, 2019, have aimed to strengthen the principles of wage equality, yet challenges in implementation remain.<sup>616</sup> Enhancing enforcement mechanisms, increasing transparency in wage structures, and raising awareness among both employers and employees are vital for achieving the goal of equal pay for equal work in both principle and practice.

#### SOCIO-ECONOMIC AND GENDER PERSPECTIVES ON WAGE DISPARITY:

<sup>611</sup> State of Punjab v. Jagjit Singh, (2017) 1 SCC 148.

<sup>612</sup> Section 4, The Equal Remuneration Act, 1976.

<sup>613</sup> Section 5, The Equal Remuneration Act, 1976.

<sup>614</sup> Sections 10 & 11, The Equal Remuneration Act, 1976.

<sup>615</sup> International Labour Organization, *Global Wage Report 2020-21*.

<sup>616</sup> The Code on Wages, 2019, Government of India.



Wage inequality, especially from socio-economic and gender viewpoints, remains a significant challenge despite legal and constitutional provisions promoting equal compensation. In India, Article 39(d) of the Constitution, as part of the Directive Principles of State Policy, is intended to guarantee that men and women are paid equally for equal work. Nonetheless, persistent structural inequalities, societal attitudes, and economic divisions often hinder the realization of this principle. Factors such as education levels, skills development, job opportunities, and sectoral disparities play a major role in wage inequality. Individuals from disadvantaged socio-economic backgrounds often face limited access to well-paying positions, which intensifies income inequality. Examining gender-based wage disparity uncovers ingrained biases and systemic obstacles within labour markets. Women, despite protective laws like the Equal Remuneration Act of 1976, still encounter wage gaps because of job segregation, lower participation rates in the workforce, and the underappreciation of professions predominantly held by women. Research shows that even when occupying similar positions and possessing comparable qualifications, women typically earn less than their male peers, underscoring the existence of hidden discrimination. Additionally, the responsibility of unpaid domestic work falls disproportionately on women, hindering their career growth and financial self-sufficiency.

To effectively implement Article 39(d), there is a need for strong policy execution, accountability from institutions, and increased social consciousness. Although laws are in place to mitigate wage disparities, their success depends on rigorous enforcement and changing societal views on gender. Improving access for women to education, skill training, and leadership opportunities can be a vital driver for economic parity. Moreover, affirmative action programs and corporate responsibility efforts can assist in creating a fairer labour market. Therefore, tackling wage disparity calls

for a comprehensive strategy that integrates legal structures with socio-economic realities and gender equality.

### EQUAL PAY LAWS IN THE USA, UK, AND EUROPEAN UNION:

The concept of "Equal Pay for Equal Work" is a key principle in labour law in various regions, including the USA, the UK, and the European Union (EU). Although Article 39(d) of the Indian Constitution establishes this principle as a Directive Principle of State Policy, comparable constitutional and legal frameworks are in place in other democracies to ensure wage equality and address gender-based pay gaps. In the United States, the Equal Pay Act of 1963 requires employers to offer equivalent wages for the same work, irrespective of sex, as long as the job demands equal skill, effort, and responsibility under similar conditions<sup>617</sup>. This federal legislation complements Title VII of the Civil Rights Act of 1964, which forbids wage discrimination based on race, color, religion, sex, or national origin. Furthermore, state-level laws, such as California's Fair Pay Act, impose stricter requirements on employers to explain pay differences. The framework for equal pay in the UK originates from the Equal Pay Act of 1970, which was later incorporated into the Equality Act of 2010. This Act guarantees that both men and women receive equal pay for performing the same or equivalent work. The UK Supreme Court and Employment Tribunals have been instrumental in interpreting these laws, bolstering protections against pay discrimination. In the European Union, the principles of equal pay are outlined in Article 157 of the Treaty on the Functioning of the European Union (TFEU), which requires member countries to provide equal compensation for equal work.<sup>618</sup> The European Court of Justice (ECJ) has had a significant impact on equal pay law, as illustrated by cases like **Defrenne v. Sabena**,

<sup>617</sup> Equal Pay Act of 1963, 29 U.S.C. § 206(d). [2] Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-2(a). [3] California Fair Pay Act, Cal. Lab. Code § 1197.5. [4] Equality Act 2010, c. 15. [5] Birmingham City Council v. Abdulla [2012] UKSC 47.

<sup>618</sup> Treaty on the Functioning of the European Union, Article 157. [7] Defrenne v. Sabena (1976) Case 43/75, ECR 455.



where the court determined that the principle of equal pay is directly applicable, enabling individuals to contest discriminatory practices. Therefore, while Article 39(d) acts as a guiding principle for India's policy framework, the USA, UK, and EU offer robust legislative support and judicial enforcement that emphasize equal pay as an essential right rather than merely a policy guideline.

### LESSONS INDIA CAN LEARN FROM INTERNATIONAL FRAMEWORKS:

The concept of "Equal Pay for Equal Work" enjoys worldwide acknowledgment through a range of international agreements and frameworks that offer significant guidance for India's policy development and execution under Article 39(d) of the Directive Principles of State Policy (DPSP). Among these, the International Labour Organization's (ILO) Equal Remuneration Convention, 1951 (No. 100) requires member states to guarantee equal pay for men and women performing work of comparable value<sup>619</sup>. India, as a signatory, has established the Equal Remuneration Act, 1976, yet there are still gaps in its implementation. By adopting stricter enforcement mechanisms similar to those in Scandinavian countries, where robust legal frameworks and efficient monitoring bodies ensure compliance, India can improve wage equality. Moreover, the European Union's Pay Transparency Directive, 2023, obliges organizations to reveal gender pay gaps and enables workers to seek justifications for salary discrepancies<sup>620</sup>. Introducing similar transparency regulations in India could help reduce wage discrimination, especially within the informal sector. Another noteworthy example is the Fair Labor Standards Act (FLSA) of the United States, which imposes stringent wage regulations and grants legal remedies to workers encountering wage discrimination<sup>621</sup>. Strengthening India's legal framework with

clearer definitions of "equal work" and effective grievance redressal systems could enhance the efficacy of Article 39(d). Additionally, India can learn from Canada's Pay Equity Act, which actively evaluates and corrects gender-based pay inequities instead of solely depending on individual complaints<sup>622</sup>. By embracing proactive measures rather than reactive enforcement, India can more effectively close the wage gap. In the end, utilizing international best practices in areas of transparency, enforcement, and accountability can help transform Article 39(d) from a mere directive principle into a genuine constitutional mandate that guarantees wage equality.

### CONCLUSION:

The doctrine of "Equal Pay for Equal Work," as stated in Article 39(d) of the Indian Constitution, serves as a fundamental element in advancing social justice and economic fairness. As a Directive Principle of State Policy (DPSP), it embodies the vision of the framers to abolish wage inequalities rooted in gender or other unjust classifications, ensuring equity in employment. Although DPSPs aren't legally enforceable, they provide a crucial foundation for developing legislative and judicial frameworks aimed at closing wage disparities and enhancing labor rights. Over time, the Indian judiciary has been instrumental in reinforcing this principle through progressive legal interpretations. Landmark cases such as *Randhir Singh v. Union of India* (1982) and *State of Punjab v. Jagjit Singh* (2016) have affirmed that equal pay is not just a guideline but a fundamental right under Articles 14 and 16. These judicial decisions have greatly supported the actual fulfillment of the constitutional mandate, obligating employers in both public and private sectors to maintain wage equality. In spite of legal progress, obstacles remain in fully realizing equal pay due to systemic bias, informal labor markets, and the gender pay gap. Societal prejudices and insufficient

<sup>619</sup> International Labour Organization, "Equal Remuneration Convention, 1951 (No. 100)," accessed March 2025, <https://www.ilo.org>.

<sup>620</sup> European Commission, "Pay Transparency Directive," Official Journal of the European Union, 2023.

<sup>621</sup> U.S. Department of Labor, "Fair Labor Standards Act of 1938," accessed March 2025, <https://www.dol.gov>.

<sup>622</sup> Government of Canada, "Pay Equity Act," accessed March 2025, <https://www.canada.ca>.





enforcement measures frequently obstruct the implementation of this principle. To tackle these challenges, it's essential to establish stronger legal protections, initiate policy reforms, and create institutional mechanisms that guarantee adherence to wage equality standards. To summarize, while Article 39(d) provides a solid constitutional base for "Equal Pay for Equal Work," its effective realization demands a comprehensive strategy that includes legislative measures, judicial engagement, and policy execution. A unified effort from the state, judiciary, and civil society is crucial to convert this directive principle into a concrete reality, ensuring economic fairness and equitable development for everyone.

#### REFERENCE:

##### BOOKS:

1. M.P. Jain – *Indian Constitutional Law*
2. H.M. Seervai – *Constitutional Law of India*
3. D.D. Basu – *Introduction to the Constitution of India*
4. V.N. Shukla – *Constitution of India*
5. Granville Austin – *The Indian Constitution: Cornerstone of a Nation*
6. Justice G.P. Singh – *Principles of Statutory Interpretation*
7. Upendra Baxi – *The Indian Supreme Court and Politics*
8. S.C. Kashyap – *Constitutional Law of India: An Analytical Approach*

##### ARTICLES AND RESEARCH PAPERS:

9. P. Ishwara Bhat – *Directive Principles of State Policy: The Vision and the Reality* (Journal of Indian Law Institute)
10. S.P. Sathe – *Judicial Activism in India: Transgressing Borders and Enforcing Limits* (Economic & Political Weekly)
11. Madhav Khosla – *The Indian Constitution and the Pursuit of Social Justice* (Journal of Constitutional Law)

12. T.K. Tope – *Fundamental Rights and Directive Principles: The Relationship* (Indian Law Review)
13. K.T. Shah – *Directive Principles: Are They Enforceable?* (Constitutional Law Quarterly)
14. B.B. Pande – *Equal Pay for Equal Work: Constitutional and Legal Perspectives* (Indian Journal of Labour Economics)
15. M.P. Singh – *Judicial Interpretation of the Directive Principles: An Expanding Horizon* (Journal of Indian Legal Studies)