PREFACE TO THE EDITION

The upcoming issue of the **International Journal of Judicial Science Research Studies (IJJSRS)** presents a collection of scholarly articles that engage with some of the most pressing legal, ethical, and socio-judicial challenges confronting contemporary societies. The contributions in this issue reflect the evolving nature of judicial science, where traditional legal frameworks increasingly intersect with technological innovation, human rights discourse, and changing socio-economic realities. Through doctrinal analysis, comparative perspectives, and critical evaluation of legal institutions, the authors collectively advance meaningful conversations about justice, governance, and the rule of law.

One of the prominent themes explored in this issue concerns the legal implications of technological advancement. An article examining the global development of Information and Communication Technology (ICT) highlights how digital platforms have transformed communication and commercial transactions while simultaneously introducing new vulnerabilities that may facilitate corrupt practices. By analysing the dual role of ICT as both an instrument of efficiency and a potential avenue for misuse, the study underscores the necessity for stronger regulatory mechanisms and adaptive anti-corruption strategies in the digital age. Complementing this discussion, another contribution investigates the legal and ethical implications of artificial intelligence in predictive policing. The study critically assesses how algorithmic decision-making challenges established principles such as due process, equal protection, and privacy rights, and calls for legal reforms that ensure transparency, accountability, and the protection of civil liberties in technologically mediated law enforcement.

Corporate governance and social responsibility also receive significant attention in this issue. A detailed examination of Corporate Social Responsibility (CSR) under India's Companies Act, 2013 analyses the transformation of CSR from a voluntary ethical practice into a statutory requirement. The article explores the complex balance between regulatory compliance and genuine corporate commitment to social welfare, highlighting both the progress achieved and the interpretive challenges that accompany the legal mandate.

Another set of contributions foregrounds the human dimension of justice systems. A comparative study of reformative theory in relation to women offenders in India and the United Kingdom investigates how criminal justice systems address the unique vulnerabilities faced by women in conflict with the law. By analysing rehabilitation policies, institutional structures, and gender-sensitive approaches, the study reveals both advancements and continuing gaps in the pursuit of humane and effective correctional policies.

Finally, the issue also engages deeply with labour rights and social justice. A thought-provoking article examines the conditions of workers in the unorganised sector, particularly within developing economies where informal employment dominates. By framing labour rights as fundamental human rights, the study highlights the structural challenges of informality, weak enforcement mechanisms, and social inequality, while advocating for a rights-based approach that promotes dignity, fairness, and inclusive development.

Taken together, the articles in this issue demonstrate the expanding scope of judicial science in addressing complex contemporary challenges. They illustrate how legal scholarship must continually evolve to respond to technological transformation, economic change, and the demands of social justice. The interdisciplinary insights presented here contribute not only to academic discourse but also to policy debates and institutional reforms aimed at strengthening legal systems and promoting equitable governance.

The editorial board of *IJJSRS* expresses its sincere appreciation to the authors for their valuable research contributions and to the reviewers for their thoughtful evaluations and guidance in maintaining the journal's scholarly standards. It is hoped that the studies presented in this issue will stimulate further research, dialogue, and critical reflection within the field of judicial and legal studies.

Dr. Dakshina Saraswathy
Chief Editor

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The Global Development of ICT: A Quest to Assess Uncertainty and Challenges in Combating Corruption

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Abstract

Information and Communication Technology (ICT) has brought about a monumental shift in the fabric of society, primarily through the establishment of innovative communication platforms. These platforms have revolutionised the way individuals interact and conduct business. A key aspect of this transformation is the facilitation of private communication, enabling people to connect and share information with unprecedented ease and speed. Furthermore, ICT has significantly enhanced telecommunication capabilities, particularly in the realm of commercial transactions, streamlining the electronic exchange of offers and acceptances, which are fundamental to contract law and business operations. However, alongside these remarkable advancements, the increased reliance on ICT also introduces new and complex challenges, most notably the emergence of novel avenues for corruption. While ICT offers numerous benefits, its inherent nature also makes it susceptible to misuse. This article examines whether the development of ICT introduces new challenges in combating and controlling corrupt activities. It also aims to propose new solutions for combating corruption. However, findings suggest that this same advancement introduces new challenges in the fight against corruption. Some loopholes allow public officials and individuals to engage in unlawful activities, which can obstruct various processes and procedures. The qualitative doctrinal method involves providing an overview of information technology, its development, and its characteristics. The modality of data collection combines primary and secondary sources in order to make an analysis, allowing nuances to merge from the collection material. This dual-source approach ensures a comprehensive exploration as to whether information technology presents a new challenge in combating corrupt transactions or if it serves another purpose.

Keywords: - Corruption, Corrupt Activities, Information Communication and Technology, Illicit, Transparency, Grand Corruption, Active Corruption.

I. INTRODUCTION

It has been years since Information Communication Technology (ICT) arrived to attract businesses with the promise of new opportunities. In the world of ICT, it is easy not only to create significant issues concerning the adequacy of terms presentation but also to succumb to the temptation of creating an incredibly one-sided financial flow. To make a genuine assessment of whether the development of ICT is a new challenge to fight against corrupt transactions or not, it is necessary to improve our understanding by presenting the conceptual framework of ICT, its development trends, and the characteristics to see the extent to which it facilitates a new challenge or not. This part aims to stipulate that electronic communications are merely another form of communication that shaped the process of globalisation by recognising their potential to accelerate Africa's economic integration and thereby its greatest prosperity and social transformation. The first aspect to be presented is the concept of ICT, as it illustrates how ICT is perceived globally. To provide a framework for reviewing the use of emerging technologies in the fight against corruption, an outline of the definitions of corruption has to be presented, as well as the different types of ICT tools to be reviewed, to indicate the link mechanisms linking the two concepts.

The recent and rapid expansion in ICT network connections, while indicative of progress and increased connectivity, has unfortunately been exploited by certain individuals and groups for engaging in illicit activities (The Global Surge of ICT: Assessing Growth and Diffusion 2023).

However, this growth has unfortunately been exploited by certain individuals and groups engaging in illicit activities. The anonymity and reach provided by these networks can be misused for various corrupt practices, posing a significant threat to ethical conduct and the integrity of digital interactions (The SADC Model Law on Electronic Transactions and Electronic Law 2013). This exploitation undermines the trust and security essential for the continued growth and beneficial use of ICT in society. It's been years since ICT emerged, attracting businesses with the promise of new opportunities. In the realm of ICT, it's not only easy to create significant issues concerning the adequacy of terms presented but also tempting to facilitate a one-sided financial flow. To genuinely assess whether the development of ICT presents a new challenge in combating corrupt transactions, we need to improve our understanding by presenting a conceptual framework of ICT, its development trends, and its characteristics. This analysis will help determine the extent to which ICT facilitates new challenges.

This section aims to demonstrate that electronic communications are simply another form of interaction that has shaped the process of globalisation. It recognises ICT's potential to accelerate Africa's economic integration, thus contributing to greater prosperity and social transformation. The first aspect to be discussed is the concept of ICT, illustrating how it is perceived globally. To create a framework for reviewing the use of emerging technologies in the fight against corruption, we must outline the definitions of corruption and the different types of ICT tools available, highlighting the mechanisms that link the two concepts. The integrity of digital interactions and ethical conduct are at risk due to various corrupt practices. By doing this, the trust and security that are essential for the continued growth and beneficial use of ICT in society are undermined.

1.1. The Idea Behind Information Communication Technology

ICT encompasses the vast array of digital technologies, resources, and infrastructural components that facilitate the creation, storage, effective management, seamless manipulation, and efficient information communication across various platforms and channels (the American National Standards Institute 1918). This broad field includes, but is not limited to, computers of all types and sizes, the expansive network of the internet, and diverse broadcasting technologies that transmit information to wide audiences (Kaware & Sain 2015, 25). In her insightful publication, Happy (2023) contends, "ICT fundamentally involves devices and systems designed to process input data and subsequently generate digital output, thereby transforming raw information into usable formats". The applications of ICT are remarkably diverse and pervasive, spanning a multitude of critical sectors including medicine and healthcare, aerospace engineering and exploration, the financial industry including banking and investment, various modes of communication, both personal and professional, and the ever-expanding realm of entertainment.

Additionally, Happy (2023) underscores the paramount importance of ICT in contemporary life, highlighting its profound impact on a wide spectrum of daily activities and societal functions. ICT plays a central role in shaping how we communicate with each other, how we conduct shopping and commercial transactions, the methods by which we manage our finances and banking activities, the forms of entertainment we consume and enjoy, and even how we oversee and manage our homes and domestic affairs.

On a global scale, the crucial role of ICT in fostering and promoting sustainable development has been widely recognised and acknowledged by international organisations and governing bodies (The World Summit for Social Development, 2003). The United Nations, for instance, has formally recognised the significant contribution of ICT to enhancing international cooperation among nations and has emphasised the critical need to improve access to reliable and high-speed broadband networks for all populations (The United Nations Conference on Sustainable Development). The International Telecommunication Union (ITU) has also noted the substantial and continuing growth of ICT penetration rates across the globe, highlighting the industry's success in overcoming significant infrastructure challenges and underscoring its fundamental necessity for achieving the ambitious Sustainable Development Goals set forth by the UN (United Nations Telecommunication Unit 2015).

Despite the remarkable and undeniable advancements that have been made in the field of ICT, it is important to acknowledge that access to these technologies and resources remains unequally distributed across different regions, communities, and demographics. Furthermore, various regulations and legal frameworks are in place at both national and international levels to protect the interests of businesses and clients who are operating within the ICT sector worldwide, ensuring fair practices and responsible innovation.

II. THE EVOLUTION OF ICT AND ITS TRENDS

The development of ICT is having a significant and far-reaching impact on the way modern society functions, fundamentally reshaping many aspects of our daily existence. Its influence extends to virtually every corner of society, transforming how we communicate with one another, how we access information from around the globe, and how we conduct our work and pursue our education. The world of business has been dramatically altered by ICT, as have the interactions between citizens and their governments. Even our personal lives are being continuously reshaped by the ever-increasing presence of technology. This pervasive influence of ICT is not only driving changes at the microeconomic level, influencing individual businesses and industries, but is also fostering a much broader economic transformation that affects entire nations and global markets (Nelson 2019). The rise of ICT is creating entirely new market opportunities, paving the way for innovative businesses and services that were previously unimaginable.

The convergence of ICT with the broader trend of digitalisation is revolutionising societal relations, changing the way people interact with one another and with the institutions that govern them (The Digital Trends in Africa 2021). This convergence is also transforming the way public services are delivered, affecting key aspects such as efficiency, accessibility, and overall quality. As well, digital transformation offers the continent of Africa a unique and valuable path to accelerated

economic growth, enabling faster industrialisation, contributing to the reduction of poverty, and ultimately leading to improved living standards for its citizens (Ali et al., 2017). Strategic investment in ICT development is crucial, and this requires robust multi-stakeholder partnerships that bring together governments, private sector companies, civil society organisations, and international partners (Mariani et al., 2022). Such partnerships are essential for effectively coordinating digital ecosystems and ensuring that all stakeholders are working towards common goals.

Strengthening digital economies requires a concerted effort to invest in integrated digital services, making these services readily available and accessible to all citizens (Avgerou, 2010). It is particularly important to extend these digital services to underserved rural communities, ensuring that they are not left behind in the digital revolution (The Digital Trends in Africa 2021). This focus on inclusivity is vital for promoting broad-based economic growth that benefits all segments of society. The increasing digitisation of processes and network infrastructure is fundamentally altering social, political, and economic spheres, profoundly impacting communication patterns and established business practices. This transformation presents both significant opportunities and potential challenges for African nations as they navigate the complexities of the digital age. The rapid evolution of ICT necessitates faster adaptation of contract law, ensuring that legal frameworks remain relevant and effective in the face of rapidly changing digital commercial transactions (Adam & Fazekas, 2021). ICT growth provides new frameworks for social, political, and economic development, enabling the creation of innovative solutions to address a wide range of challenges facing societies around the world (the World Summit for Social Development 1995). However, it is important to acknowledge that ICT also presents potential downsides, including the increased potential for corrupt activities. This underscores the critical need for ethical considerations and robust governance structures to mitigate the risks associated with the widespread adoption of technology and ensure that ICT is used for the benefit of all.

III. THE TRAITS OF ICT TO NURTURE CORRUPTION

ICT is a multifaceted field that draws together elements from various disciplines, including information systems, which focus on managing and using data, and human-computer interaction. The design and evaluation of interfaces between humans and computers explore human communication processes, and development studies, which examine strategies for improving the well-being of societies (Ershova et al., 2020). A defining technological characteristic of ICT is its emphasis on the creation of digital resources, the accessibility of these resources to a wide range of users, and the efficient implementation of digital transactions, which streamline processes and reduce costs.

The United Nations Economic Commission for Africa provides a comprehensive definition of ICT, encompassing a wide array of technologies and services (1958). According to UNECA, ICT includes internet services, which provide access to global information networks; telecommunications, which enable long-distance communication; IT equipment and services, which provide the hardware and software necessary for digital operations; media and broadcasting, which disseminate information to mass audiences; libraries, which serve as repositories of knowledge; commercial information providers, which offer specialized data and analysis; network-based information services, which facilitate information sharing and collaboration; and other communication activities, which support the exchange of ideas and knowledge.

Aje and Chakwa (2019) offer a categorisation of ICT that distinguishes between telecommunications and computer communications. Additionally, it has been recognised that telecommunications encompass technologies such as digital and cellular phones, fibre optics, microwave technologies, satellite communication, digital broadcasting systems, and facsimiles (Zinia, 2024). All of these technologies play a crucial role in facilitating the deployment of knowledge and information, making it easier for individuals and organisations to access and share valuable resources.

The digital foundation of ICT enables efficient and high-quality data processing, allowing for the rapid manipulation and analysis of information. ICT also provides robust data storage capabilities, ensuring that information can be securely stored and retrieved (Kabeyi & Olanrewaju, 2023). Furthermore, ICT facilitates the seamless transmission of data across networks, enabling efficient communication and collaboration. Crucially, ICT provides connectivity, linking individuals, organisations, and systems across geographical boundaries. This connectivity allows geographically separated groups to function as a unified system, fostering collaboration and innovation through integrated technologies.

3.1. The Features of ICT and Its Components to Facilitate Corrupt Activities

Various initiatives have been implemented, including the establishment of legal instruments, the enactment of existing statutes, the creation of policies and protocols, and the adoption of conventions aimed at eliminating, or at least controlling, corrupt practices. However, the rapid development of ICT has introduced significant challenges that necessitate the establishment of a comprehensive framework to combat corruption (Annie, 2024). It has been observed that corruption has been aggravated by advancements in ICT. In this article, we will focus on the most relevant types of ICT, specifically Business Technology, Information Technology, Communication Technology, Operation Technology, Artificial Intelligence, and Blockchain Technology. Each type will be summarised, highlighting how the development of ICT impacts supply chain management, leadership, and transaction value. ICT is rooted in different disciplines such as information systems, human-computer interaction, communication studies, and development. However, it is necessary to present characteristics of technology based on the creation, accessibility, and expediency of their implementation in the transactions. The most characteristic lies in the digital nature as the foundation of the ICT system used to process information and store data.

Interoperability is a fundamentally critical characteristic of modern Information and Communication Technology systems. It is the property that guarantees that a diverse array of devices, software applications, and network infrastructures can function together in a harmonious and integrated manner, without encountering compatibility issues or functional limitations (Lindeburg, 2022). In essence, interoperability ensures that these disparate components work seamlessly together as if they were designed from the outset to be part of a unified system. A key aspect of interoperability is its facilitation of data exchange and processing (Guiochet et al, .2017). This data exchange relies heavily on the adoption and implementation of open standards and communication protocols, which act as common languages that different systems can understand and utilise (Harvie, 2024). By

adhering to these standards, different systems can effectively communicate and share information. The benefits of interoperability are manifold. It significantly enhances user access to information and services, regardless of the specific device or platform they are using. Furthermore, interoperability boosts overall productivity by streamlining workflows, reducing manual data entry, and minimising the need for complex workarounds.

Scalable systems are engineered to effectively manage and adapt to ever-increasing volumes of data, storage requirements, processing demands, and transmission loads (Bajpai, 2024). These systems are designed to accommodate significant growth in workloads and user requests, ensuring that they can handle increased activity without experiencing performance degradation or system instability (Sameer, 2021). Scalability is not just about handling more data; it's also about maintaining consistent performance, reliability, and availability as the system grows. Distributed computing architectures, such as those found in cloud computing environments, play a crucial role in enhancing the reliability of ICT systems (Hare, 2022). This dynamic resource allocation helps to prevent bottlenecks and outages, as resources can be automatically provisioned and de-provisioned as needed. Moreover, distributed architectures inherently provide redundancy, meaning that if one component of the system fails, other components can seamlessly take over its functions, ensuring continuous operation and minimising downtime (Sari & Akkaya, 2015).

Security is another critical characteristic of ICT systems, given the sensitive nature of the data it handles, the ICT systems must protect information from unauthorised access, modification, and disclosure (Zanin, 2024). Given the critical role of ICT systems in managing and processing sensitive data, security emerges as a paramount concern. These systems are entrusted with safeguarding information, making it necessary to protect this data from a range of potential threats (Hare, 2022). These threats include unauthorised access attempts, malicious alterations to the data, and the risk of unintentional or deliberate disclosure to unauthorised parties. To effectively mitigate these risks and ensure the confidentiality, integrity, and availability of the information, a multifaceted approach to security is required. This involves the implementation of a diverse set of security measures, each designed to address specific vulnerabilities and protect against particular types of threats (Sari & Akkaya, 2015). Among the most commonly employed and effective security measures are encryption techniques, which render data unreadable to unauthorized individuals; robust access control mechanisms, which restrict access to sensitive information based on user roles and permissions; the deployment of firewalls, which act as barriers against unauthorized network traffic; and the implementation of intrusion detection systems, which monitor network activity for suspicious behaviour and alert administrators to potential security breaches. Moreover, to maintain a strong security posture, all data gathered from various sources must be stored securely, employing appropriate security protocols and storage technologies to prevent unauthorised access and data loss. In addition to security, user-friendliness should be a high priority in the design and implementation of ICT systems (Nduhiu, 2024). The system should be designed with the user in mind, facilitating ease of interaction and intuitive navigation. To achieve this, it is important to develop an interface that is both visually appealing and easy to understand, with a clear and logical organisation of information and functions. Providing clear and concise instructions for using the system's features can significantly improve the user experience. Furthermore, the system should provide helpful and informative error messages when users encounter problems, guiding them towards resolving the issues and preventing frustration (Guiochet et al., 2017). By prioritising user-friendliness, ICT systems can ensure that users can effectively and efficiently utilise the system's capabilities, maximising productivity and minimising the learning curve.

Adaptability is a crucial characteristic of ICT that allows these systems to develop and adjust to changing user needs and technological advancements (Sameer, 2021). ICT systems must possess adaptability, a key attribute that ensures their continued relevance and effectiveness. This crucial characteristic enables these systems to evolve in response to shifts in user requirements and the ongoing progress of technology (Bajpai, 2024). Without adaptability, ICT systems risk becoming outdated and unable to meet the demands placed upon them. The adaptability of ICT systems is often facilitated by a modular design approach. This modularity allows for the updating or replacement of individual components within the system without disrupting the overall system operation (Annie, 2024). This means that improvements and enhancements can be implemented seamlessly, minimising downtime and maintaining system availability. Furthermore, modular design supports the integration of new features and functionalities into the ICT system. As technology advances and user needs evolve, new capabilities can be added to the system to enhance its performance and extend its lifespan. As Zanin (2024) states, the ability to adapt and incorporate new elements is a significant advantage of well-designed ICT systems. The flexibility afforded by adapting ensures that ICT systems remain valuable and effective tools, capable of meeting the challenges of a dynamic and ever-changing environment.

Reliability is a vital characteristic of ICT systems as well as it ensures that the functions are consistent and work accordingly (Hare, 2022). Reliability is crucial for consistent and dependable ICT system functionality (Gupta et al., 2024). It ensures expected system operation and service delivery without disruptions (Nduhiu, 2024). Key strategies to achieve reliability include fault tolerance, redundancy, and robust backups, which minimise failure impact and ensure service availability. Fault tolerance allows systems to withstand component failures without shutting down, often through automatic detection, isolation, and switching to backups (Annie, 2024). Additionally, Sameer (2021) demonstrates that “fault tolerance, redundancy, and backups minimise interruptions and prevent data loss, ensuring continued operation and access to services and data”. Data restoration capabilities maintain business continuity and facilitate recovery from catastrophic events. These elements create a resilient and reliable ICT infrastructure capable of withstanding challenges and providing a stable platform.

Efficiency is another characteristic of ICT development as it enables the system to process and transmit large amounts of data quickly and accurately. The efficiency of a system is of paramount importance, fundamentally influencing its capacity to effectively handle, process, and transmit substantial volumes of data with both speed and precision. (Gushina & Vasilkov, 2014). This capability is not merely desirable but represents a cornerstone of ICT development, enabling advancements and innovations across various sectors. The central objective in the design and implementation of any efficient system revolves around the strategic optimisation of resource utilisation (Aje & Chukwa, 2019). This involves a concerted effort to minimise waste in all its forms, whether it be wasted computational power, storage capacity, or energy consumption, and to concurrently reduce operational and infrastructural costs. The enhanced efficiency translates directly into faster response times, allowing users and

applications to access and process information more quickly, thereby significantly enhancing overall productivity across the organisation or system (Gupta et al., 2024).

These defining characteristics underscore the critical importance of ensuring that the trajectory of ICT development incorporates systems equipped with robust monitoring capabilities that can track and analyse a diverse range of trends and patterns. This concern arises from the inherent involvement of both human actors and technological components within ICT systems, creating potential vulnerabilities that must be addressed. By proactively addressing this emerging challenge, ICT innovations can make a significant and valuable contribution to the ongoing fight against corruption. As well, such proactive monitoring is essential as a preventative measure, designed to detect and prevent potential instances of misuse that could, if left unchecked, escalate into corrupt practices. The specific ways in which ICT innovations contribute to this crucial battle will be explored and elaborated upon in greater detail in the subsequent section.

3.2. Assessments on the link between the Development of ICT and Corruption

Since it has been recognised that the use of ICT includes the use of information security, computer technical support, business software development and database, and networking management, some people with ill manners can misuse this opportunity for their capital gain as well (Sameer, 2021). Instances of corruption need to be demonstrated to determine if there is a correlation between the development of ICT and corruption. A wide range of offences against public officials, officials of a foreign state, and individuals have been criminalised through numerous national and international instruments. The use of information technology (IT) encompasses various aspects, including information security, technical support, business software development, database management, and networking (Annie, 2024). Unfortunately, some individuals with unethical intentions may exploit these opportunities for personal gain. To understand the relationship between the development of ICT and corruption, it is essential to examine instances of corruption. According to Article 4 of the African Union Convention against Corruption, the following acts are considered corrupt "the offering, giving, solicitation or acceptance directly or indirectly, or promising of any undue advantage to or by any person who asserts or confirms that he or she can exert any improper influence over the decision-making of any person performing (sic) functions in the public or private sector in consideration thereof, whether the undue advantages are for himself or herself or anyone else, as well as the request, receipt or the acceptance of the offer or the promise of such an advantage, in consideration of that influence, whether or not the supposed influence leads to the intended result". The provision demonstrates that the development of ICT has a significant impact on creating new challenges for the fight against corruption.

The first issue discussed in this paper is the overcrowding of platforms. This platform, in one way or another, encourages corrupt behaviour in any society. This is identified by various forms of technology such as business technology, information technology, and communication technology—that have been introduced by ICT, each with its application systems playing their role in providing service through technology advancement (Charoensukmongkol & Moqbel, 2024). Currently, these forms pose challenges due to conflicting interests among individuals and discourage collaborative efforts. Humans are the creators of applications in business technology and are also responsible for providing solutions for selected applications. According to Charoensukmongkol and Moqbel (2024), crowdsourcing is a model where individuals or organisations obtain goods or services including ideas, voting, micro-tasks, and finances—from a large, relatively open, and often rapidly evolving group of participants. This approach makes it easier for individuals to disclose serious information or allegations regarding illegal, immoral, illicit, unsafe, or fraudulent activities within the private or public sector, thereby helping to prevent or stop such behaviour (Anne, 2024). For instance, in 2023, the FTX (a significant cryptocurrency exchange in the USA) was found guilty of fraud, where the conviction underscores the potential for misconduct within the industry and the need for investors to carefully assess the credibility and practices of digital asset platforms. The case highlighted serious misconduct at a major crypto platform and underscored the risks in the digital-asset market, reinforcing the need for stronger regulatory oversight and careful due diligence by investors.

As well, reports of corrupt activities are usually submitted anonymously by whistleblowers. While these reports may remain confidential, publicised cases can pose risks to those who report corruption. There is no need for multiple platforms with the same goal of fighting corruption (Harutyunyan & Schultz, 2015). A group of individuals with common interests can easily share information through the internet or phone. However, if security measures are poorly implemented, the risk of hacking or leaking personal information can jeopardise users and deter others from reporting issues. This, in turn, fosters an environment in which corruption can thrive.

The leakage of information poses a significant challenge that needs to be addressed. As previously mentioned, access to ICT platforms by certain individuals can exacerbate the issues related to corruption (Cheng et al., 2017). For example, in Tanzania, the government has established systems to ensure that there are adequate platforms for monitoring the activities of existing institutions and organisations. This initiative aims to ensure that these entities operate as intended (Tanzania National Evaluation Manual - Vision for 2050). By creating a centralised system, the government enables institutions and organisations to present relevant information on ongoing activities, upcoming events, the handling of specific issues, and the key personnel involved (The Digital Trends in Africa 2021). The primary goal is to achieve genuine accountability and transparency through a unified system. Additionally, it is noted that operational technology contributes to the challenges caused by the duplication of systems.

The existence of blockchain technology offers significant benefits; however, it also presents challenges, one of which is the potential for corruption. Blockchain is a decentralised and synchronised database maintained by a peer-to-peer network, allowing each user to have their own copy and access to the data (Charoensukmongkol & Moqbel, 2024). The process involves documenting the transmission and verification of all information, which results in the creation of a permanent record that can be utilised for cryptocurrencies. This system effectively mitigates certain risks associated with centralised governance. Similarly, Kshetri (2017) argues that "hence, using blockchain technology can increase transparency and prevent fraud and petty corruption, enhancing possible oversight and accountability". Kshetri (2017) further says that "opportunity makes bribe markets

operate more efficiently, with uncertain effects that may facilitate irregularities". The anonymity and reach afforded by these networks can be misused, for the recent and rapid expansion of ICT network connections symbolises progress and increased connectivity. For instance, Samradni (2024) explore that cryptocurrencies are innovations in payment systems that are safe, decentralised, and offer anonymity to their users. Unfortunately, criminals have also devised ways to exploit such benefits; though they have several applications in the real economy, Bitcoin and other cryptocurrencies have found their place in crimes within the hidden parts of the web. Additionally, she states that one of the major motives criminals use cryptocurrencies is the perceived anonymity they offer; however, the parties' names are unknown and are associated with anonymous numbers called cryptographic addresses. This means that criminals can easily avoid detection since no paper trail leads to them. In 2021, the FBI said ransomware cases went up by 62%. Many criminals asked for payment in cryptocurrency, like Bitcoin. One big attack was on the Colonial Pipeline, where hackers asked for millions in Bitcoin to unlock important systems.

Additionally, blockchain technologies can be exploited by wrongdoers to access confidential information, including details related to corruption. When unlawful individuals gain access to this information, they may inadvertently contribute to the perpetuation of corrupt practices (Mensah, 2023). Furthermore, it is noted that the advancements in ICT can create opportunities for systems to restrict access to information for those seeking details about officials involved in bribery, such as the number of bribes and the processes for making bribe payments (Sameer 2021). Blockchain has the potential to create new vulnerabilities for hackers and manipulators, which may shift corruption to other areas of government that are not yet digitised (Paal, 2022). Kossow and Dykes (2018) point out that "emerging technologies can facilitate the spread of false information". They further argue that "these technologies lower transaction costs and make it easier to organise and sustain corruption". Additionally, they emphasise that the government to enhance its ability to monitor criminal groups by improving the flow of information from society to authorities. Moreover, Bac (2001) asserts that "ICT may concentrate new, system-wide corruption opportunities in the hands of those few who have the right tech skills; and increased transparency can also facilitate corruption, for example, in public procurement by enabling bidders to more effectively identify which official to bribe". Similarly, in 2022, the USA Treasury Department's Office of Foreign Assets Control (OFAC) accused Tornado Cash of facilitating money laundering (Patairya, 2025). The act of Tarnado allows deposits and withdrawals to different addresses, effectively anonymising the movement of funds within Ethereum. The Office sees the process as crucial for users seeking to enhance their financial privacy and shield their transaction history from prying eyes. According to the OFAC, Tornado Cash was facilitating anonymous transactions by obscuring their origin, destination and counterparties, enabling criminals to hide the proceeds of cybercrimes.

The blockchain involves technology that creates and maintains records to track orders, payments, accounts, and other transactions. This system helps reduce the likelihood of corrupt activities by limiting the discretion of government officials and establishing better mechanisms that allow for increased transparency (Savelo, 2005). Additionally, advancements in ICT can aid in the detection and prevention of corruption, particularly petty corruption, by enhancing government accountability and transparency (Campbell, 2024). These systems address the actions of officials who, directly or indirectly through an intermediary, request or receive any kind of advantage for themselves or a third party, or who accept a promise of such advantages. Importantly, the definition of wrongdoing includes not only the actions of officials but also those of any individual (Hare 2022). It is noteworthy that each of these forms of corruption appears to carry similar meanings, as they are often committed by both public and private officials who improperly and unlawfully enrich themselves for personal gain, perpetuating a cycle of corruption.

IV. CONCLUSION

The overall objective of development should be to create challenges that can be effectively addressed. The evolution of ICT has generated significant opportunities and challenges, making the fight against corruption one of the most pressing global issues. The risks associated with this challenge include undermining the rule of law and accountability, which can erode public trust in governments worldwide. The existence of corruption is recognised as a significant issue in the digital age. The development of ICT requires informed and balanced discretion in allocating resources to both officials and citizens. The theory of digital governance, often driven by the need for public efficiency and implemented by the government itself, enhances transparency by increasing access to information and accountability, which in turn raises the likelihood of detecting corrupt behaviours. Assessments reveal that while ICT development presents numerous opportunities for society—like leveraging technology to create applications that automate tasks—new challenges also emerge that can foster corruption. Individuals with IT expertise can exploit these developments, creating contexts where corrupt practices thrive. As previously mentioned, advancements in ICT carry both difficulties and opportunities. The impact of ICT on corruption can be either positive or negative, depending on the type of intervention, the channels of connection, and the specific context, as indicated by various studies. Importantly, the development of ICT facilitates information flow between governments and citizens, across government institutions, and among societal actors, thereby promoting transparency and accountability through the standardisation of government processes and limitation of discretion for both public and private officials. Nonetheless, research suggests that the rise of ICT also creates opportunities for illegal activities, as individuals or groups may choose to engage in corrupt practices.

REFERENCES

Aje, S., & Chakwa, J. N. (2019). *Information communication technology and development in Africa*. Journal of Communication, 5(1). https://www.iaajournals.org

Annie, B. (2024). *Data protection strategy: Key components and best practices*. https://www.ibm.com

Bac, M. (2001). Corruption, connections and transparency: Does a better screen imply a better scene? *Public Choice, 107*, 89–106. http://www.jstor.org/stable/30026256

Bajpai, M. (2024). *Implementing cloud operations process improvement for GCP*. SSRN Electronic Journal. https://www.researchgate.net

Campbell, C. (2024). *What are the 4 different types of blockchain technology?* https://www.techtarget.com

Charoensukmongkol, P., & Moqbel, M. (2014). *Does investment in ICT curb or create more corruption? A cross-country analysis*. https://www.researchgate.net

Cheng, L., Liu, F., & Yao, D. D. (2017). Enterprises data breach: Causes, challenges, prevention, and future direction. *Wiley Interdisciplinary Reviews: Data Mining and Knowledge Discovery*. https://www.researchgate.net

Corbo, A. (2022). *What is IT (Information Technology)?* https://builtin.com/learn/it
Dugal, N. (2024). *What is artificial intelligence and why it matters in 2024?* https://www.simplilearn.com
Guiochet, J., Machin, M., & Waeselynck, H. (2017). Safety-critical advanced robots: A survey. *Robotics and Autonomous Systems, 94*. https://www.sciencedirect.com
Gunnell, M. (2023). *Operational technology*. https://www.techopedia.com
Happy, S. (2023). *What is digital technology? Exploring types, evolution and a link*. https://www.tffn.net
Hare, V. (2022). *What is interoperability and why is it important?* https://cloudsecurityalliance.org
Harvie, L. (2024). *Implementing robust communications protocols for embedded devices*. https://medium.com
Jafari, N. (2023). *The role of new ICT-based systems in modern management*. *Journal of Management and Organisation* (Special Issue).
Kabeyi, J. B. M., & Olanrewaju, A. O. (2023). Smart grid technologies and applications in the sustainable energy transition: A review. *International Journal of Sustainable Energy, 42*(1), 685–704.
Kaware, S. S., & Sain, S. (2015). ICT application in education: An overview. *International Journal of Multidisciplinary Approach and Studies, 2*(1), 25–32.
Kossow, N., & Dykes, V. (2018). *Embracing digitalisation: How to use ICT to strengthen anti-corruption*. https://www.giz.de/de/downloads/giz2018
Kshetri, N. (2017). Will blockchain emerge as a tool to break the poverty chain in the Global South? *Third World Quarterly, 38*(8), 1710–1732. https://doi.org/10.1080/01436597.2017.1298438
Laguaite, M. (2023). *Best communication technology examples to explore*. https://www.yoodli.ai
Lindeburg, F. (2022). *Security by diversity: Designing secure, reliable and robust systems*. https://labs.ripe.net
Mensah, G. B. (2023). *Artificial intelligence and ethics: A comprehensive review of bias mitigation, transparency and accountability in AI systems*. https://www.researchgate.net
Nduhiu, J. (2024). *Scalability in IT: The complete guide to scaling*. https://www.splunk.com/en
Sameer, P. (2021). *Crafting scalable systems: Practices, patterns, and principles – Part 1*. https://www.medium.com
Paal, B. P. (2022). Artificial intelligence as a challenge for data protection law: And vice versa. In S. Voeneky, P. Kellmeyer, O. Mueller, & W. Burgard (Eds.), *Responsible Artificial Intelligence: Interdisciplinary Perspectives*. Cambridge University Press.
Patairya, D. K. (2025). *What is Tornado Cash and why did it get into trouble?* https://www.cointelegraph.com
Sari, A., & Akkaya, M. (2015). Fault tolerance mechanisms in distributed systems. *International Journal of Communication Network*. https://www.researchgate.net
Savelo, I. (2005). The rule of law: Principles, issues and challenges. In *Rule of Law, Legitimate Governance & Development in the Pacific*. http://www.jstor.org
Schultz, D., & Harutyunyan, K. (2015). Combating corruption: The development of whistleblowing laws in the United States, Europe, and Armenia. *International Comparative Jurisprudence, 1*(2). https://www.sciencedirect.com
Singh, A. (2022). *What is artificial intelligence? How does AI work? (AI types, history, and future?).*
Tiwari, A. A., Gupta, S., & Zamani, E. D. (2024). An overarching conceptual framework for ICT-enabled responsive governance. *Information Systems Frontiers, 26*, 1161–1182.
Vasilkov, Y., & Gushina, L. (2014). Analysis of the effectiveness and efficiency of management systems based on system analysis methodology. *International Journal for Quality Research, 8*(3).
Zinia, Z. (2024). *What is the full form of ICT? Components and characteristics*. https://www.naukri.com

National and International Instruments:
African Union Convention against Corruption (2001).
American National Standards Institute, 1918.
Digital Trends in Africa (2021) 49.
Global Surge of ICT: Assessing Growth and Diffusion, 2023.
National Evaluation Manual- Vision for 2050.
SADC Model Law on Electronic Transactions and Electronic Commerce, 2013.
United Nations Conference on Sustainable Development, Rio +20.
World Summit for Social Development, 2003.

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AI and Predictive Policing: Legal And Ethical Implications

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Abstract

The integration of artificial intelligence into predictive policing systems represents a transformative yet contentious development in contemporary law enforcement. This paper examines the legal and ethical implications of AI-driven predictive policing technologies, exploring the intersection of algorithmic decision-making, constitutional protections, and social justice concerns. Through analysis of existing legal frameworks, case law, and ethical scholarship, this study investigates how predictive policing algorithms challenge traditional notions of due process, equal protection, and Fourth Amendment rights. The paper critically evaluates the tension between public safety objectives and civil liberties, examining issues of algorithmic bias, transparency deficits, and accountability gaps. Drawing upon legal theory and empirical evidence, this analysis demonstrates that current regulatory frameworks are inadequate to address the unique challenges posed by AI-driven policing. The paper concludes by proposing a framework for legal reform that balances technological innovation with fundamental rights protections, emphasizing the need for algorithmic transparency, robust oversight mechanisms, and community participation in deployment decisions.

Keywords: - Artificial Intelligence, Algorithmic Bias, Fourth Amendment, Equal Protection, Civil Liberties.

I. INTRODUCTION

Predictive policing represents one of the most consequential applications of artificial intelligence in the criminal justice system. These systems utilize machine learning algorithms to analyze historical crime data, demographic information, and environmental factors to forecast where crimes are likely to occur and identify individuals deemed at risk of criminal involvement (Perry et al., 2013). While proponents argue that predictive policing enhances resource allocation efficiency and crime prevention capabilities, critics contend that these technologies perpetuate systemic biases, erode civil liberties, and fundamentally alter the relationship between citizens and the state (Ferguson, 2017).

The legal implications of predictive policing are profound and multifaceted. These systems operate within a constitutional framework designed centuries before the advent of big data analytics and machine learning. Questions arise regarding whether algorithmic predictions satisfy the reasonable suspicion standard required for investigative stops, whether they constitute searches under the Fourth Amendment, and whether their deployment comports with equal protection guarantees (Selbst, 2017). The opacity of proprietary algorithms further complicates legal analysis, as courts and defendants often cannot examine the logic underlying predictions that shape police behavior and criminal proceedings.

This paper proceeds in four parts. First, it examines the legal framework governing predictive policing, analyzing constitutional constraints and existing regulatory approaches. Second, it explores the ethical dimensions of algorithmic policing, focusing on bias, fairness, and human dignity. Third, it critically evaluates key controversies surrounding predictive policing implementation. Finally, it proposes a framework for legal reform that addresses identified deficiencies while preserving legitimate law enforcement interests.

II. LEGAL FRAMEWORK AND CONSTITUTIONAL CONSTRAINTS

The constitutional analysis of predictive policing must begin with the Fourth Amendment's prohibition against unreasonable searches and seizures. Traditional Fourth Amendment jurisprudence requires that investigative stops be supported by reasonable suspicion that criminal activity is afoot (Terry v. Ohio, 1968). However, the integration of algorithmic

predictions into policing decisions raises novel questions about what constitutes reasonable suspicion when the basis for that suspicion derives from statistical correlations rather than individualized observations of criminal conduct.

Courts have not developed a coherent framework for evaluating algorithmic predictions under Fourth Amendment standards. Some scholars argue that algorithmic outputs, regardless of accuracy, cannot alone constitute reasonable suspicion because they lack the particularized quality required by constitutional doctrine (Ferguson, 2017). Others contend that sufficiently accurate predictions, particularly when combined with minimal additional observations, may satisfy constitutional standards (Selbst, 2017). This doctrinal uncertainty creates significant risks for both law enforcement agencies, which may face liability for unlawful stops, and individuals, whose constitutional protections may be eroded by uncritical judicial acceptance of algorithmic outputs.

Equal protection concerns arise from documented evidence that predictive policing algorithms disproportionately target minority communities. In their groundbreaking ProPublica investigation, Angwin et al. (2016) demonstrated that risk assessment algorithms used in criminal justice contexts exhibited significant racial disparities, incorrectly flagging Black defendants as high-risk at nearly twice the rate of white defendants. While this study focused on recidivism prediction rather than predictive policing specifically, it illuminated broader concerns about algorithmic bias in criminal justice applications.

The disparate impact of predictive policing algorithms may violate equal protection principles even absent discriminatory intent. As Richardson et al. (2019) demonstrate, algorithms trained on biased historical data perpetuate and amplify existing patterns of discriminatory policing. This creates a feedback loop: increased police presence in minority neighborhoods generates more arrests in those areas, which feeds back into algorithms as evidence of higher crime rates, justifying continued over-policing. Courts applying equal protection analysis must grapple with whether algorithmic discrimination constitutes intentional discrimination or merely disparate impact, a distinction with profound implications for the availability of constitutional remedies.

Table 1. Constitutional Challenges in Predictive Policing: A Comparative Analysis

Constitutional Issue	**Legal Challenge**	**Current Status**
Fourth Amendment	Whether algorithmic predictions constitute reasonable suspicion for investigative stops	Unresolved; courts have not developed coherent doctrine (Ferguson, 2017)
Equal Protection	Algorithmic bias produces racially disparate impact, disproportionately targeting minority communities	Documented disparities exist; legal remedy unclear without proof of intent (Richardson et al., 2019)
Due Process	Opacity of proprietary algorithms prevents defendants from challenging evidence or understanding basis for targeting	Limited discovery rights; trade secret protections often prevent disclosure (Selbst, 2017)
First Amendment	Predictive systems may chill protected speech and association in over-policed communities	Largely unexplored in litigation; theoretical framework emerging (Ferguson, 2017)

Note. This table synthesizes constitutional challenges identified across legal scholarship on predictive policing. Adapted from Ferguson (2017), Richardson et al. (2019), and Selbst (2017).

III. ETHICAL DIMENSIONS OF ALGORITHMIC POLICING

Beyond legal constraints, predictive policing raises fundamental ethical questions about the proper role of algorithmic systems in making decisions that profoundly affect human liberty. O'Neil (2016) characterizes predictive policing algorithms as "weapons of math destruction" that encode and amplify societal inequalities while cloaking discriminatory outcomes in the ostensible objectivity of mathematical models. This critique highlights how algorithmic systems can undermine fundamental ethical principles including fairness, transparency, and human dignity.

The principle of fairness requires that similarly situated individuals receive similar treatment. However, defining "similarly situated" in the context of algorithmic prediction proves exceptionally difficult. Machine learning algorithms identify patterns in multidimensional data spaces that may correlate with criminal activity but bear no causal relationship to individual culpability. When an individual is subjected to enhanced police scrutiny based on characteristics shared with others who committed crimes characteristics over which the individual may have no control fundamental fairness concerns arise (Završnik, 2020).

Transparency represents another critical ethical concern. The proprietary nature of many predictive policing algorithms prevents meaningful public scrutiny of their operations. Lum and Isaac (2016) argue that this opacity is particularly troubling in the criminal justice context, where liberty interests are at stake and constitutional protections demand justification for state action. When neither courts, defendants, nor the public can examine how algorithmic predictions are generated, the possibility of meaningful accountability largely evaporates.

The ethical principle of human dignity demands that individuals be treated as autonomous moral agents rather than mere data points in statistical calculations. Predictive policing systems, by subjecting individuals to differential treatment based on probabilistic assessments rather than their actual conduct, arguably violate this principle (Završnik, 2020). This concern is particularly acute when algorithmic predictions influence not merely resource allocation but specific interventions targeting identified individuals, transforming statistical correlation into concrete deprivation of liberty.

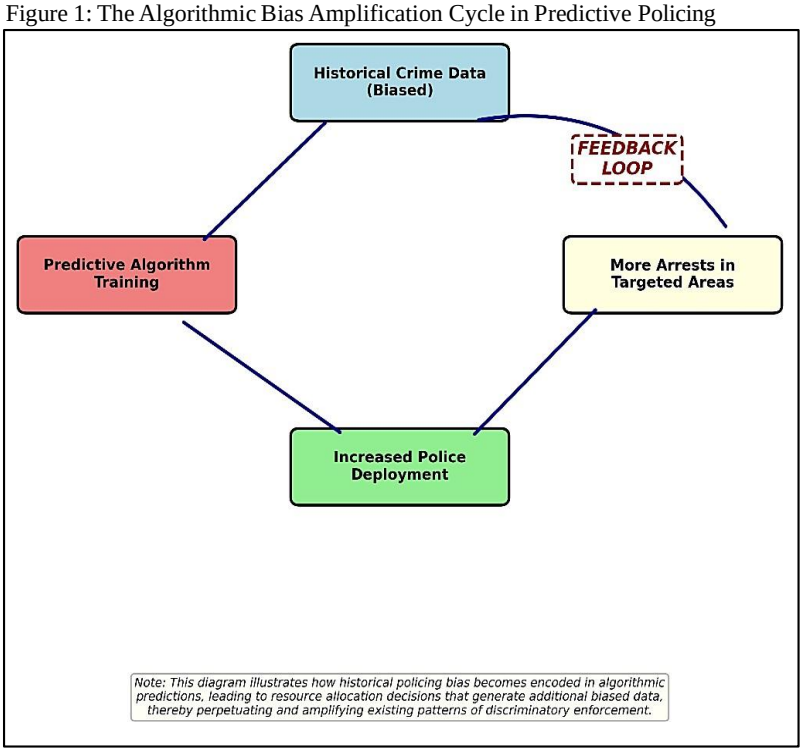
IV. CRITICAL ANALYSIS: BIAS, ACCURACY, AND ACCOUNTABILITY

The promise of predictive policing rests partly on claims that algorithmic systems offer greater objectivity than human decision-making. However, this assumption conflates mathematical precision with substantive fairness. As Richardson et al. (2019) demonstrate, algorithmic systems are not neutral arbiters but rather encode the biases embedded in their training

data, design choices, and deployment contexts. Historical crime data reflects not objective crime rates but patterns of police activity, which are themselves products of discriminatory policing practices.

This data contamination problem proves particularly insidious because it operates through seemingly neutral statistical processes. Areas with historically high police presence generate more recorded crimes, not necessarily because crime rates are objectively higher but because police are present to observe and record offenses. Algorithms trained on this data learn to predict not crime itself but rather where police have historically focused their attention (Lum & Isaac, 2016). Deploying resources based on these predictions creates a feedback loop that perpetuates and intensifies existing patterns of discriminatory policing. Figure 1 illustrates this cyclical process.

Figure 1: The Algorithmic Bias Amplification Cycle in Predictive Policing



Note. This diagram illustrates the self-reinforcing nature of algorithmic bias in predictive policing systems.

Historical crime data, which reflects patterns of discriminatory enforcement, trains algorithms that direct increased police presence to the same communities, generating additional biased data. Adapted from Richardson et al. (2019) and Lum and Isaac (2016).

The accuracy claims made by predictive policing vendors also warrant critical scrutiny. Many systems report accuracy metrics based on proprietary validation methods that cannot be independently verified. Even when accuracy statistics are disclosed, they often measure correlation between predictions and police activity rather than correlation between predictions and actual crime (Ferguson, 2017). This distinction is critical: a system may accurately predict where police will make arrests without accurately predicting where crimes will occur, particularly given the feedback loop identified above.

Accountability mechanisms for predictive policing systems remain woefully inadequate. The proprietary nature of commercial systems prevents meaningful external oversight. Even when source code is theoretically available through discovery processes, its complexity and the specialized knowledge required to evaluate it create practical barriers to effective scrutiny (Selbst, 2017). Furthermore, the diffusion of responsibility across multiple actors algorithm developers, police departments, individual officers creates accountability gaps where no single entity can be held fully responsible for discriminatory outcomes (Završnik, 2020).

V. IMPLICATIONS FOR LEGAL REFORM

Addressing the legal and ethical challenges of predictive policing requires comprehensive reform across multiple dimensions. First, courts must develop Fourth Amendment doctrine that accounts for algorithmic prediction's unique characteristics. Ferguson (2017) proposes a "prediction-exception" framework that would require higher levels of individualized suspicion when algorithmic predictions form the basis for investigative stops, recognizing that statistical correlation alone cannot satisfy constitutional standards for interfering with individual liberty.

Second, legislative intervention is necessary to establish transparency requirements for predictive policing systems. Several jurisdictions have begun implementing algorithmic accountability measures, including impact assessments, public disclosure requirements, and independent auditing mechanisms (Richardson et al., 2019). These reforms must balance legitimate proprietary interests with the public's need for transparency regarding systems that fundamentally affect constitutional rights. At minimum, algorithmic systems should be subject to independent validation before deployment and ongoing auditing during operation.

Third, deployment decisions must incorporate meaningful community participation. Eubanks (2018) demonstrates how algorithmic systems in public services often lack democratic accountability, with affected communities excluded from decisions about whether and how technologies are implemented. Given predictive policing's disproportionate impact on

minority communities, procedural justice demands that these communities have substantive input into deployment decisions and ongoing oversight of system operations.

Finally, legal frameworks must address the feedback loop problem directly. This requires both technical interventions such as debiasing techniques and alternative training data sources and structural reforms that reduce reliance on historical police data (Lum & Isaac, 2016). Some jurisdictions have experimented with using victim-reported crime data or community surveys rather than arrest records, though these alternatives introduce their own methodological challenges. Ultimately, addressing algorithmic bias requires confronting the underlying patterns of discriminatory policing that contaminate training data.

VI. CONCLUSION

Predictive policing represents a profound challenge to established legal and ethical frameworks governing law enforcement. While these technologies promise enhanced efficiency and crime prevention capabilities, they also threaten fundamental constitutional protections and ethical principles. The opacity of algorithmic systems, their susceptibility to bias, and the absence of meaningful accountability mechanisms create risks that current legal frameworks are ill-equipped to address.

The path forward requires comprehensive reform that balances legitimate public safety interests with constitutional protections and ethical imperatives. Courts must develop Fourth Amendment doctrine adapted to algorithmic prediction's unique characteristics. Legislatures must establish transparency and accountability requirements that enable meaningful oversight. Communities most affected by predictive policing must have substantive roles in deployment decisions and ongoing governance.

Most fundamentally, society must grapple with whether certain applications of predictive technology are compatible with democratic values and human dignity. The allure of technological solutions to complex social problems should not obscure the reality that algorithmic systems encode the values and biases of their creators and the societies in which they operate. As AI becomes increasingly integrated into criminal justice systems, the imperative to ensure these technologies serve rather than undermine justice becomes ever more urgent. The legal and ethical frameworks we establish today will shape the relationship between citizens and the state for generations to come.

REFERENCES

Angwin, J., Larson, J., Mattu, S., & Kirchner, L. (2016, May 23). Machine bias. *ProPublica*. https://www.propublica.org/article/machine-bias-risk-assessments-in-criminal-sentencing

Eubanks, V. (2018). *Automating inequality: How high-tech tools profile, police, and punish the poor*. St. Martin's Press.

Ferguson, A. G. (2017). *The rise of big data policing: Surveillance, race, and the future of law enforcement*. NYU Press.

Lum, K., & Isaac, W. (2016). To predict and serve? *Significance, 13*(5), 14–19. https://doi.org/10.1111/j.1740-9713.2016.00960.x

O'Neil, C. (2016). *Weapons of math destruction: How big data increases inequality and threatens democracy*. Crown.

Perry, W. L., McInnis, B., Price, C. C., Smith, S. C., & Hollywood, J. S. (2013). *Predictive policing: The role of crime forecasting in law enforcement operations*. RAND Corporation.

Richardson, R., Schultz, J. M., & Crawford, K. (2019). Dirty data, bad predictions: How civil rights violations impact police data, predictive policing systems, and justice. *New York University Law Review Online, 94*, 192–233.

Selbst, A. D. (2017). Disparate impact in big data policing. *Georgia Law Review, 52*(1), 109–195.

Terry v. Ohio, 392 U.S. 1 (1968).

Završnik, A. (2020). Criminal justice, artificial intelligence systems, and human rights. *ERA Forum, 20*(4), 567–583. https://doi.org/10.1007/s12027-020-00602-0

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Corporate Social Responsibility under Companies Act, 2013: Legal Obligations s. Voluntary Practices

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Abstract

The Companies Act, 2013 marked a paradigm shift in India's corporate governance landscape by mandating Corporate Social Responsibility (CSR) for eligible companies, transforming what was traditionally a voluntary ethical practice into a statutory obligation. This paper examines the legal framework governing CSR under Section 135 of the Act and analyzes the inherent tension between mandatory compliance and voluntary corporate philanthropy. Through doctrinal analysis and examination of regulatory developments, this study explores whether legislative compulsion can achieve genuine social responsibility or merely creates a compliance-driven formalism. The research reveals that while mandatory CSR has significantly increased corporate social spending, it has also generated interpretive ambiguities, implementation challenges, and questions about the authenticity of corporate commitment. The paper argues that the Indian model represents a unique hybrid approach combining legal obligation with discretionary implementation that challenges traditional distinctions between mandatory regulation and voluntary corporate citizenship. This analysis contributes to broader debates about the role of law in promoting ethical business conduct and the effectiveness of regulatory interventions in corporate governance.

Keywords: - Corporate Social Responsibility, Companies Act 2013, Mandatory CSR, Corporate Governance, Section 135, Social Legislation.

I. INTRODUCTION

The enactment of the Companies Act, 2013 represented a watershed moment in Indian corporate law, introducing a legislative mandate that fundamentally altered the relationship between business enterprises and society. Section 135 of the Act, which requires certain companies to spend at least 2% of their average net profits on CSR activities, transformed India into the first country globally to legislate corporate social responsibility (Ministry of Corporate Affairs, 2013). This legislative innovation emerged from a unique socio-economic context where rapid economic liberalization had created significant wealth disparities, and the state sought to harness corporate resources for developmental objectives.

The mandatory CSR provision embodies a conceptual paradox: it uses legal compulsion to achieve what is fundamentally understood as voluntary ethical conduct. Traditional CSR scholarship has emphasized the discretionary nature of corporate social initiatives, arguing that authentic social responsibility emerges from ethical commitment rather than regulatory compliance (Carroll, 1991). The Indian legislation disrupts this paradigm by creating a legal duty to be socially responsible, raising fundamental questions about whether legislated morality can achieve substantive social outcomes or merely generates performative compliance.

This paper examines the theoretical and practical implications of India's mandatory CSR regime, analyzing the tension between legal obligation and voluntary practice. It explores how the legislation has reshaped corporate behavior, the interpretive challenges that have emerged, and the broader implications for understanding the relationship between law and corporate ethics. The analysis is situated within the larger discourse on corporate governance reform and the evolving role of corporations in addressing societal challenges.

II. LEGAL FRAMEWORK OF CSR UNDER THE COMPANIES ACT, 2013

Section 135 of the Companies Act, 2013, establishes a comprehensive regulatory framework for CSR, applicable to companies meeting specific financial thresholds. The provision requires companies with a net worth of ₹500 crore or more, turnover of ₹1,000 crore or more, or net profit of ₹5 crore or more during any financial year to constitute a CSR Committee and undertake CSR activities (Companies Act 2013, § 135). The Act mandates that such companies spend at least 2% of their average net profits from the preceding three financial years on CSR activities aligned with Schedule VII, which enumerates permissible areas including poverty alleviation, education, healthcare, environmental sustainability, and rural development.

The legislative architecture reveals a nuanced approach that combines mandatory spending requirements with discretionary implementation. While companies must earmark 2% of profits for CSR, they retain considerable autonomy in selecting specific projects, implementation modalities, and beneficiary communities. This design reflects an attempt to balance state direction with corporate flexibility, acknowledging that effective social interventions require contextual understanding and operational discretion (Balasubramanian et al., 2015).

The Companies (Corporate Social Responsibility Policy) Rules, 2014, and subsequent amendments have provided detailed implementation guidelines, clarifying aspects such as permissible expenditures, reporting requirements, and compliance mechanisms. The 2021 amendment introduced penal provisions for non-compliance, shifting from the original 'comply or explain' approach to a more stringent enforcement regime (Ministry of Corporate Affairs, 2021). This evolution indicates regulatory efforts to strengthen compliance while addressing implementation gaps that emerged during the initial years of the legislation.

III. THE PARADOX OF MANDATORY VOLUNTARISM

The Indian CSR legislation occupies an ambiguous conceptual space between legal obligation and voluntary action, challenging conventional categorizations of corporate responsibilities. The term 'mandatory CSR' itself embodies an oxymoron, as social responsibility has traditionally been understood as discretionary conduct beyond legal requirements (McWilliams & Siegel, 2001). By codifying CSR as a statutory duty, the Act transforms moral expectation into legal obligation, fundamentally altering the normative foundation of corporate social engagement.

This hybrid model reflects pragmatic recognition of India's developmental challenges and the perceived inadequacy of purely voluntary corporate initiatives. The legislative history reveals that mandatory CSR emerged from concerns about the slow pace of voluntary corporate social engagement and the need to systematically deploy corporate resources for nation-building (Lok Sabha Debates, 2012). The framers conceptualized CSR not as philanthropy but as a partnership model where corporations contribute to social development as stakeholders in national progress.

However, this legislative intervention raises fundamental questions about the nature of corporate obligations and the efficacy of law in promoting ethical behavior. Critics argue that mandating CSR commodifies social responsibility, reducing it to a compliance exercise devoid of genuine ethical commitment (Sundar, 2013). When social spending becomes a legal requirement, corporations may approach it with the minimalist logic of regulatory compliance rather than the transformative ambition of authentic social engagement. The risk is that mandatory CSR generates performative compliance formal adherence to spending requirements without substantive social impact.

IV. IMPLEMENTATION CHALLENGES AND INTERPRETIVE AMBIGUITIES

The operationalization of mandatory CSR has revealed significant implementation challenges stemming from interpretive ambiguities in the legislative framework. A primary area of contention concerns the definition and scope of eligible CSR activities. While Schedule VII provides broad categories, questions persist about what constitutes genuine CSR versus activities that primarily benefit the company or serve commercial objectives. For instance, debates have emerged regarding whether employee skill development programs, activities benefiting company towns, or projects that enhance brand reputation qualify as legitimate CSR expenditure (Mukherjee & Bird, 2016).

Another critical challenge involves the measurement and verification of CSR impact. The legislation mandates spending but provides limited guidance on assessing the effectiveness or social outcomes of CSR initiatives. This creates a compliance paradox where companies may fulfill spending requirements without generating commensurate social value. The absence of rigorous impact assessment frameworks means that CSR expenditure may be channeled into highly visible but minimally impactful projects, or conversely, genuinely transformative initiatives may go unrecognized due to inadequate measurement systems.

The enforcement mechanism presents additional complexities. Initially, the Act adopted a 'comply or explain' approach, requiring companies that failed to meet the 2% threshold to justify non-compliance in their annual reports. This soft law mechanism presumed that reputational concerns and stakeholder pressure would incentivize compliance. However, empirical studies indicated significant variation in compliance rates and quality of disclosure, leading to the 2021 amendment that introduced monetary penalties for non-spending (Arevalo & Aravind, 2011). This shift toward punitive enforcement raises questions about whether coercive mechanisms can engender the cultural transformation that authentic CSR requires.

Furthermore, the legislation creates practical challenges for smaller companies that, while meeting the financial thresholds, may lack the institutional capacity or expertise to design and implement effective CSR programs. The requirement to establish CSR committees, formulate policies, and execute projects imposes administrative burdens that may be disproportionate for companies without prior CSR experience. This has led to increased reliance on implementing agencies and CSR intermediaries, potentially creating distance between corporations and beneficiary communities while raising concerns about overhead costs and accountability.

V. CORPORATE RESPONSES AND BEHAVIORAL ADAPTATIONS

Corporate responses to mandatory CSR have been heterogeneous, reflecting varying organizational capacities, strategic priorities, and interpretations of social responsibility. Large corporations with established CSR traditions have generally embraced the legislation as validating their existing commitments, often exceeding the 2% threshold and integrating CSR into broader sustainability strategies. These companies have leveraged CSR mandates to strengthen stakeholder relationships, enhance corporate reputation, and align social initiatives with core business competencies (Kapur & Chelliah, 2019).

Conversely, companies new to systematic CSR have exhibited compliance-oriented approaches, treating the 2% requirement as a regulatory burden rather than an opportunity for social engagement. These organizations often adopt minimalist strategies, channeling funds to established NGOs or government programs with limited direct involvement in project design or monitoring. This outsourcing model, while facilitating compliance, potentially undermines the developmental objectives of CSR by reducing corporate engagement to financial transfer without strategic alignment or organizational learning.

Sectoral variations are also evident, with companies in sectors facing greater social and environmental scrutiny (such as extractive industries, manufacturing, and infrastructure) demonstrating more robust CSR engagement. This pattern suggests that mandatory CSR intersects with other regulatory pressures and stakeholder expectations, creating differentiated incentive structures across industrial sectors. The interplay between legal mandate, stakeholder pressure, and industry norms shapes how companies conceptualize and implement their CSR obligations.

VI. COMPARATIVE PERSPECTIVES AND GLOBAL IMPLICATIONS

India's mandatory CSR model stands in contrast to the predominantly voluntary approaches adopted in most jurisdictions. Western economies generally rely on soft law mechanisms, voluntary codes, and market-based incentives to promote CSR, premised on the belief that competitive pressures and stakeholder activism will drive corporate social engagement without legal compulsion (Kinderman, 2020). The European Union's approach emphasizes disclosure and transparency requirements rather than mandatory spending, reflecting a different regulatory philosophy that privileges information-based governance over prescriptive mandates.

The Indian model has attracted international attention as a potential template for other developing economies facing similar developmental challenges. Countries such as Indonesia, Mauritius, and several African nations have explored or implemented variations of mandatory CSR, adapting the Indian framework to their specific contexts. This policy diffusion reflects broader recognition that voluntary CSR may be insufficient in contexts characterized by weak social safety nets, significant poverty, and limited state capacity for welfare provision.

However, comparative analysis also reveals risks associated with mandatory CSR. International experience suggests that prescriptive CSR requirements may discourage innovation, create implementation rigidities, and potentially reduce overall social spending if companies calibrate their efforts to meet minimum legal requirements rather than maximizing social impact. The effectiveness of mandatory CSR depends critically on complementary factors including robust monitoring mechanisms, clear accountability structures, and organizational cultures that internalize social responsibility beyond mere compliance.

VII. CRITICAL EVALUATION: ACHIEVEMENTS AND LIMITATIONS

Eight years after implementation, India's mandatory CSR regime presents a mixed record of achievements and persistent challenges. On the positive side, the legislation has significantly increased corporate social spending, channeling substantial resources toward developmental priorities. Government data indicates that covered companies have collectively spent over ₹100,000 crores on CSR activities since 2014, addressing critical needs in education, healthcare, livelihood enhancement, and environmental protection (Ministry of Corporate Affairs, 2022). This resource mobilization represents a tangible achievement that would likely not have occurred under purely voluntary frameworks.

The legislation has also generated increased corporate attention to social and environmental issues, institutionalizing CSR within corporate governance structures through mandatory CSR committees and formalized policies. This institutionalization has the potential to embed social considerations into corporate decision-making processes beyond mere philanthropic expenditure. Many companies have developed sophisticated CSR frameworks, engaged with communities, and built partnerships with civil society organizations, contributing to ecosystem development for collaborative social action.

However, significant limitations persist. Questions about the quality and sustainability of CSR interventions remain largely unresolved. The focus on expenditure compliance rather than impact achievement creates incentives for short-term, visible projects over long-term transformative initiatives. Studies have documented instances of tokenistic compliance, where companies fulfill spending requirements through activities that generate minimal social value or primarily serve corporate interests (Sharma & Kiran, 2019).

Moreover, the concentration of CSR spending in urban and peri-urban areas, often proximate to corporate operations, raises equity concerns about whether mandatory CSR effectively addresses the needs of the most marginalized communities. The legislation's impact on reducing inequality and promoting inclusive development core objectives articulated during its enactment remains difficult to assess due to inadequate monitoring and evaluation frameworks. The absence of systematic impact assessment means that the social return on CSR investment cannot be reliably determined.

VIII. THEORETICAL IMPLICATIONS AND FUTURE DIRECTIONS

The Indian mandatory CSR experiment offers important theoretical insights into the relationship between law, business, and society. It challenges classical distinctions between public regulation and private voluntarism, demonstrating that hybrid governance models can emerge that combine elements of both. The legislation represents what might be termed 'regulated voluntarism' a regulatory approach that mandates social engagement while preserving corporate discretion in implementation.

This model suggests that the binary opposition between mandatory and voluntary CSR may be conceptually limiting. Corporate social responsibility exists on a continuum of regulatory intensity, with purely voluntary initiatives at one end and fully prescriptive mandates at the other. The Indian approach occupies a middle position, using legal requirements to establish baseline expectations while allowing companies to determine how to meet those expectations. This nuanced regulatory design acknowledges both the importance of legal frameworks in shaping corporate behavior and the limits of law in dictating complex social interventions.

Looking forward, the evolution of India's CSR regime will likely focus on strengthening impact measurement, enhancing transparency, and developing more sophisticated accountability mechanisms. Future reforms might emphasize outcome-based reporting rather than expenditure compliance, encourage multi-stakeholder collaboration, and create incentive structures that reward high-impact interventions. The challenge is to evolve the regulatory framework in ways that preserve the resource mobilization benefits of mandatory CSR while fostering genuine corporate commitment to social transformation rather than mere regulatory compliance.

IX. CONCLUSION

The Companies Act, 2013's mandatory CSR provision represents a bold regulatory experiment that fundamentally reconceptualizes the relationship between corporations and society. By legislating social responsibility, India has created a unique governance model that navigates between legal obligation and voluntary corporate citizenship. This approach has successfully mobilized significant corporate resources for developmental purposes while generating important questions about the nature of authentic social responsibility and the role of law in promoting ethical business conduct.

The tension between legal obligations and voluntary practices inherent in the Indian model reflects broader dilemmas in corporate governance and social policy. While mandatory CSR has achieved quantitative success in terms of resource mobilization, questions persist about qualitative impact, sustainability, and the authenticity of corporate social engagement. The challenge moving forward is to evolve the regulatory framework in ways that balance compliance imperatives with genuine commitment, ensuring that mandatory CSR generates substantive social value rather than performative compliance.

Ultimately, the Indian experience demonstrates that law can play an important catalytic role in promoting corporate social responsibility, but legal mandates alone cannot ensure transformative social impact. Effective CSR requires not only regulatory frameworks but also organizational cultures that internalize social responsibility, accountability mechanisms that ensure quality implementation, and collaborative ecosystems that enable partnerships between corporations, civil society, and the state. The future of CSR in India, and potentially in other jurisdictions considering similar approaches, depends on developing these complementary institutional capacities alongside legal requirements.

REFERENCES

Arevalo, J. A., & Aravind, D. (2011). Corporate social responsibility practices in India: Approach, drivers, and barriers. *Corporate Governance: The International Journal of Business in Society, 11*(4), 399–414.

Balasubramanian, N., Bernard, S. B., Mitra, R. K., & Samuel, N. M. (2015). What is the Indian reality of CSR? In S. O. Idowu, R. Schmidpeter, & L. Zu (Eds.), *Corporate social responsibility in India: Cases and developments after the legal mandate* (pp. 21–37). Springer.

Carroll, A. B. (1991). The pyramid of corporate social responsibility: Toward the moral management of organizational stakeholders. *Business Horizons, 34*(4), 39–48.

Companies Act, 2013, No. 18, Acts of Parliament (India).

Kapur, A., & Chelliah, J. (2019). Corporate social responsibility under Section 135 of the Companies Act 2013: Towards a new corporate social responsibility paradigm. *Company Lawyer, 40*(3), 70–78.

Kinderman, D. (2020). The challenges of upward regulatory harmonization: The case of sustainability reporting in the European Union. *Regulation & Governance, 14*(4), 674–697.

Lok Sabha Debates. (2012). *Discussion on the Companies Bill, 2012*. Government of India.

McWilliams, A., & Siegel, D. (2001). Corporate social responsibility: A theory of the firm perspective. *Academy of Management Review, 26*(1), 117–127.

Ministry of Corporate Affairs. (2013). *The Companies Act, 2013*. Government of India.

Ministry of Corporate Affairs. (2021). *Companies (Corporate Social Responsibility Policy) Amendment Rules, 2021*. Government of India.

Ministry of Corporate Affairs. (2022). *National CSR Data Portal: Annual report 2021–22*. Government of India.

Mukherjee, A., & Bird, R. (2016). Analysis of mandatory CSR expenditure in India: A survey. *International Journal of Corporate Governance, 7*(1), 32–59.

Sharma, S., & Kiran, R. (2019). Corporate social responsibility initiatives in India. In M. Ali (Ed.), *Sustainable development goals and corporate social responsibility* (pp. 89–107). Springer.

Sundar, P. (2013). *Business and community: The story of corporate social responsibility in India*. SAGE Publications.

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Reformative Theory And Women Offenders: A Comparative Study Between India And UK

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Abstract

Can a prison do more than punish? The reformative theory says yes. It rests on the idea that people who break the law are not beyond redemption and that, with proper support, they can rejoin society as responsible citizens. This article puts that theory to the test by looking at how two countries, India and the United Kingdom, deal with a population the justice system has too often ignored: women offenders. We examine the laws, the prisons, and the rehabilitation schemes each country has built, or failed to build, for women. The picture that emerges is uneven. Women enter the system carrying heavy baggage that most male offenders do not share: abuse histories, mental illness, childcare duties, crushing poverty (Gelsthorpe & Wright, 2015). Yet prisons in both countries were designed around men. In the UK, the Corston Report of 2007 forced a reckoning, and policy has since moved towards community-based solutions and gender-aware rehabilitation. India's reformative setup, by contrast, remains thin and patchy, varying wildly from state to state. We close by offering practical recommendations, drawn from the comparative evidence, for both jurisdictions.

Keywords: - Reformative Theory, Women Offenders, Rehabilitation, Comparative Criminal Justice, India, United Kingdom, Gender-Responsive Corrections

I. INTRODUCTION

Why do we punish? Philosophers and lawmakers have wrestled with this question for centuries, and their answers have never stayed settled for long. The oldest instinct is retribution: you harmed someone, so you must suffer in return. Close behind came deterrence: make the punishment frightening enough, and others will think twice. But sometime during the Enlightenment, a third idea crept in, one that asked a harder question. What if punishment could actually change a person for the better? What if the point was not to inflict pain but to turn an offender into someone who would choose, freely, not to offend again? That is the reformative theory in a nutshell. Hudson (2003) describes it as an approach that replaces vengeance with transformation through schooling, job training, counselling, and whatever other help the offender might need. Beccaria had argued as far back as 1764 that punishment should serve the common good, not satisfy a hunger for revenge. Bentham (1789) pushed the point even harder, insisting that social usefulness was the only legitimate yardstick for any penal measure.

Now apply this theory to women. Worldwide, women make up only about 4 to 5 per cent of all prisoners (Walmsley, 2017). Such a small share means they have historically been an afterthought. Policies are written for men, prisons are designed for men, programmes are tested on men. But the evidence is overwhelming that women's journeys into crime look nothing like men's. Domestic violence, sexual assault, drug dependence, mental health breakdowns, poverty so deep it leaves no legal options, and the weight of being the only parent available to a child: these are the threads that run through the lives of most women offenders (Corston, 2007; Bloom et al., 2003). If the roads into crime are different, it stands to reason that the roads out must be different too.

India and the UK share a common ancestor in English common law, making their comparison more than just an academic exercise. It throws into sharp relief how the same legal heritage can produce very different outcomes depending on political will and institutional investment. The UK was shaken into action by the 2007 Corston Report. Six women had killed themselves in a single prison, and the resulting inquiry laid bare just how badly the system was serving women. Since then,

British policy has tilted decisively towards community solutions and holistic rehabilitation. India has had no comparable watershed moment. Prisons are overcrowded, reformative infrastructure barely exists outside a handful of states, and the system, by and large, treats men and women as though their needs were identical (National Crime Records Bureau [NCRB], 2022). This article digs into both systems. We look at the statutes, the institutions, the programmes that actually run day to day, and whatever outcome data we can find.

II. REFORMATIVE THEORY: CONCEPTUAL AND THEORETICAL FRAMEWORK

Strip away the academic jargon, and the reformative theory makes a bet. The bet is that criminal behaviour is not permanent. People do not offend because of some unalterable flaw in their makeup. They offend because of what life has thrown at them: bad circumstances, psychological damage, toxic surroundings. Change those conditions, and you change the person (Ward & Maruna, 2007). This separates the reformative school from its rivals. Deterrence gambles on fear. Retribution demands an eye for an eye. The reformative approach says: treat the offender, do not just punish her. India's Supreme Court put this plainly in Pulicherla Nagaraju v. State of Andhra Pradesh (2006), stating that the "reformative approach to punishment should be the object of criminal law in order to promote rehabilitation of offenders as useful citizens of society."

Several academic models have tried to give this broad philosophy a workable structure. The most widely used framework is the Risk-Need-Responsivity (RNR) framework, developed by Andrews and Bonta (2010). The logic behind it is simple. Assess the likelihood that the person will reoffend. Identify the specific problems driving the offending: antisocial attitudes, drug abuse, chaotic relationships, and the like. Then deliver help in a way that suits that particular person's learning style. The RNR model has been enormously influential, but it was built mainly from research on male offenders, and scholars have questioned whether it fully captures women's realities. Covington and Bloom (2006) argued forcefully that any rehabilitation framework for women must incorporate relational thinking, an understanding of trauma, and a recognition of how central personal bonds are in women's day-to-day existence.

A newer model, the Good Lives Model or GLM, takes a different starting point. Ward and Stewart (2003) felt the RNR framework was too fixated on what is wrong with the offender and not enough on what could go right. Their idea was this: every human being pursues certain fundamental goods, things like belonging, purpose, inner peace, creative expression, community. When someone lacks the skills or the opportunities to pursue these goods lawfully, crime becomes a substitute. Rehabilitation, therefore, should be about building capabilities and opening doors, not just plugging deficits. This resonates with force in the lives of women offenders. Many of them did not choose crime in any meaningful sense. They fell into it because abusive partners, grinding poverty, or sheer desperation left them no visible alternative (Fortune et al., 2012). A framework that starts from strengths rather than pathologies speaks to their experience more honestly.

III. WOMEN OFFENDERS IN INDIA: LEGAL AND INSTITUTIONAL FRAMEWORK

3.1. Legislative Provisions

India's legal framework for women in prison is a strange assemblage. At one end sits the Constitution, with Article 15(3) giving the State an open mandate to pass special measures for women. That is a strong foundation, in theory. But the statute that actually governs how prisons run is the Prisons Act of 1894. Think about that date. This is a law passed under British colonial rule, more than 130 years ago. It requires that women prisoners be kept apart from men, and there its interest in women ends. Reformative programmes, vocational training, mental health support? The Act says nothing about any of this (Sapra, 2023). It was written to keep people locked up, and that remains its essential character.

More hopeful language appeared in 2016, when the Ministry of Home Affairs put out the Model Prison Manual. The Manual talks about separate women's prisons, crèches for inmates' children, vocational training, and counselling services. It reads well on paper. The catch is that it carries no legal force. A state government can adopt its recommendations, ignore them entirely, or cherry-pick whichever parts are cheapest to implement. Before the Manual, the Mulla Committee had recommended in 1983 that imprisonment should serve rehabilitation, not just custody, and that women warranted special treatment. The Justice Krishna Iyer Committee made similar points. Then in 2006, the Supreme Court stepped in directly through R.D. Upadhyay v. State of Andhra Pradesh, laying down specific orders about prenatal care, nutrition, and schooling for children living with their mothers inside prison walls. These are strong judicial statements. Translating them into everyday prison life has proved to be another matter.

3.2. Institutional Realities and Challenges

Walk into an actual Indian women's prison and the gap between policy and reality hits you immediately. The NCRB (2022) counted roughly 23,772 women behind bars, about 4.1 per cent of all inmates. But here is the number that really stings: 76 per cent of these women had not been convicted of anything. They were undertrials, stuck in the system waiting for a court date that kept getting pushed back. Some had been waiting for years. How do you "reform" someone who has not been found guilty? The whole concept loses its footing. And the infrastructure is desperately thin. Thirty-two dedicated women's prisons for a country of 1.4 billion people. Everywhere else, women occupy walled-off sections inside men's prisons (NCRB, 2022), which makes running any focused rehabilitation programme virtually impossible.

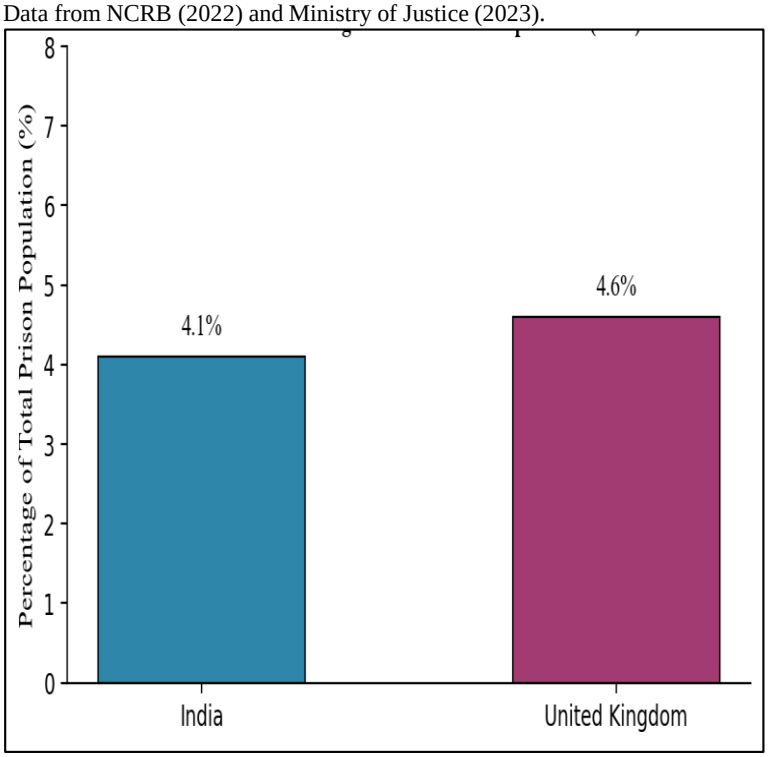
The vocational training on offer tells its own story. Sewing. Embroidery. Cooking. These remain the standard curriculum in most women's prisons, activities rooted in old gender stereotypes that prepare women for almost nothing in the actual job market (Sapra, 2023). Mental health support is, in a word, absent. The overwhelming majority of prisons lack a single trained counsellor, let alone a psychiatrist, even though studies have documented alarming rates of depression, anxiety, and trauma among incarcerated women (NCRB, 2022). What happens when a woman walks out of the prison gate? Almost nothing, in most cases. There are no structured re-entry programmes waiting for her. What does wait is social stigma, families that may no longer want her, and an empty bank account (Varghese & Raghavan, 2020).

Table 1. Key Statistics on Women Offenders in India and the United Kingdom (2022)

Indicator	India	United Kingdom
Total women prisoners	23,772	3,196
% of total prison population	4.1%	4.6%
Undertrial / remand proportion	76%	28%
Dedicated women's prisons	32	12
Average occupancy rate	118%	85%
Vocational programme coverage	~35%	~72%
Recidivism rate (women)	24.3%	18.9%

Note. Data compiled from NCRB (2022), Prison Statistics India; Ministry of Justice (2023), Offender Management Statistics, UK.

Fig. 1. Women as percentage of total prison population in India and the UK. Data from NCRB (2022) and Ministry of Justice (2023).



IV. WOMEN OFFENDERS IN THE UNITED KINGDOM: LEGAL AND INSTITUTIONAL FRAMEWORK

4.1. The Corston Report and Its Legacy

Six women killed themselves at HMP Styal between 2002 and 2003. That is where the story of modern UK policy on women offenders really begins. The government asked Baroness Jean Corston to investigate, and her 2007 report landed like a bombshell. The system, she wrote, was failing women at every single stage. At arrest. At trial. In prison. And again when they came out. She made 43 recommendations, and the most radical was this: close women's prisons. Replace them with small, local, multi-purpose custodial centres embedded in the communities they serve. Expand community alternatives massively (Corston, 2007). That particular recommendation has not been fully acted on, but the Report rewired the policy conversation. After Corston, nobody in British policymaking could credibly argue that women offenders did not need a different approach.

The Female Offender Strategy followed in 2018. The government said, in writing, that it wanted fewer women behind bars. The tools would be early intervention, diversion away from prosecution where appropriate, and community-based support. There was a remarkably honest admission buried in the Strategy: for many women, a short prison sentence does more harm than good. A few weeks or months inside can cost a woman her flat, her job, her contact with her children, and whatever mental health treatment she had been receiving. And for what? The reductions in reoffending are negligible (Ministry of Justice, 2018). That candour marked something of a turning point. The official position was now that, for women, reformation should take priority over locking people up.

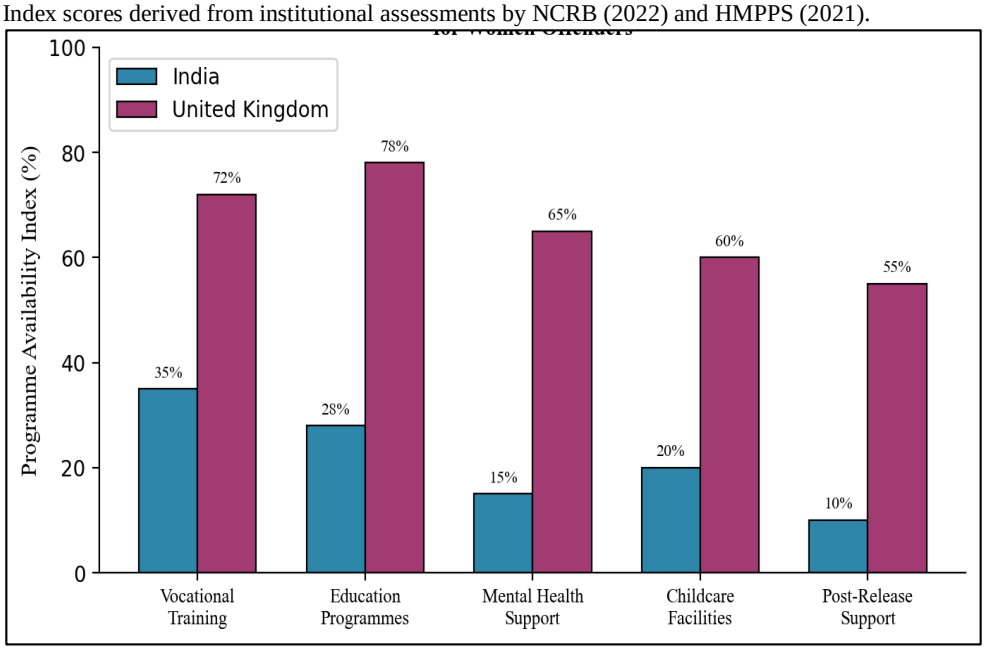
4.2. Institutional Mechanisms and Programmes

Britain runs 12 prisons exclusively for women. They are not perfect. Inspection reports flag problems regularly. But the range of rehabilitative work going on inside them is in a different league from what Indian women's prisons offer. HMPPS, the prison and probation service, delivers accredited programmes covering substance misuse, cognitive-behavioural change, domestic abuse recovery, and parenting skills (HM Inspectorate of Prisons, 2021). The Thinking Skills Programme works on the distorted thought patterns that lie behind much offending. Building Better Relationships tackles interpersonal violence. Both are grounded in research evidence.

The really distinctive part of the British model, though, sits outside the prison walls. Across England and Wales, a network of Women's Centres offers something that custody cannot. Picture it: a woman who might otherwise go to prison walks into a local centre instead. Under one roof she can see a counsellor, get help with a drug problem, sort out her debts, find somewhere to live, and attend a parenting course. The funding comes from a patchwork of government grants and charitable money. Gelsthorpe et al. (2007) tested whether these centres actually worked and found they outperformed short prison sentences at reducing reoffending among women. By 2023, more than 80 such centres were scattered across England and Wales, serving as critical stepping stones between the justice system and normal life (Women in Prison, 2023).

Lord Farmer's 2019 review added a piece that might seem obvious but had been overlooked: family. Farmer looked at how staying connected to family affects a woman's chances of not reoffending. His recommendations were practical. Better video-calling in prisons. Longer visits. Therapeutic work built around family relationships. Early signs suggest that prisons which adopted these changes saw improvements in women's mental health and in their willingness to engage with rehabilitation (Farmer, 2019).

Fig 2. Comparative availability of reformative programmes for women offenders in India and the UK. Index scores derived from institutional assessments by NCRB (2022) and HMPPS (2021).



V. COMPARATIVE ANALYSIS: INDIA AND THE UNITED KINGDOM

5.1. Legislative and Policy Framework

Set the two policy frameworks side by side and the contrast is stark. The UK has what amounts to a joined-up strategy: the Corston Report (2007) identified the problems, the Female Offender Strategy (2018) set out the government's response, and the Farmer Review (2019) filled in the family dimension. Together, these documents treat women offenders as a group with needs that differ from men's and that call for tailored responses. India has nothing comparable. The Model Prison Manual (2016) says many of the right things but nobody is required to follow it. Whether a woman offender gets access to vocational training, mental health support, or any reformative programme at all depends largely on which state she happens to be imprisoned in (Sapra, 2023). That is not a policy. It is a postcode lottery.

Sentencing tells a similar story. British courts are instructed, through the Sentencing Council's guidelines, to think carefully about what prison will actually do to a particular woman. Is she the sole carer for young children? Is she at risk of harming herself? These factors can, and should, tilt the balance towards a community order (Sentencing Council, 2019). India has no equivalent guidance written into law. The Supreme Court has occasionally signalled sympathy for reformative sentencing. In Mofil Khan v. State of Jharkhand (2021) it spoke of the need for a reformative lens. But one judgment is not the same as a statutory framework. Without binding guidelines, everything hinges on whichever judge draws the case. Some are reform-minded. Others are not. The result is wildly inconsistent sentencing for similarly situated women (Raghavan, 2014).

5.2. Institutional Infrastructure and Programme Delivery

The infrastructure gap tells its own story. Britain's 12 women's prisons sit alongside 80-plus Women's Centres and a well-staffed probation service. Together these form a chain of support that runs from inside the prison, through the gate, and into the community. India has 32 women's prisons serving a population twenty times larger across a landmass thirteen times

the size. Community alternatives of the Women's Centre kind simply do not exist. That break in the chain, between the prison and the outside world, is exactly where reformative efforts collapse.

The programme numbers are telling. Figure 2 and Table 1 lay it out: vocational training reaches 72 per cent of women in UK prisons versus 35 per cent in India. Education: 78 per cent versus 28 per cent. Mental health support: 65 per cent versus just 15 per cent. Post-release assistance: 55 per cent versus a dismal 10 per cent. But the gap is not only about how many women are covered. It is about quality and accountability. British prison programmes go through an accreditation process. They have to show an evidence base. They get evaluated periodically. Indian prison programmes for women, with a few exceptions, are unstandardised and unmeasured. Nobody is tracking whether they actually reduce reoffending (Sapra, 2023).

Table 2 . Comparative Legislative and Institutional Framework for Women Offenders

Dimension	India	United Kingdom
Primary legislation	Prisons Act, 1894; Model Prison Manual, 2016	Prison Act, 1952; Female Offender Strategy, 2018
Gender-specific policy	No unified national policy	Corston Report(2007); Female Offender Strategy (2018)
Sentencing guidance	No statutory guidelines;	Sentencing guidance
Community alternatives	Limited; ad hoc NGO initiatives	Women's Centres (80+); probation services
Family-focused reforms	Supreme Court directions (R.D. Upadhyay, 2006)	Farmer Review (2019); family contact provisions
Oversight mechanism	State Prison departments NHRC	HMPPS; HM Inspectorate of Prisons

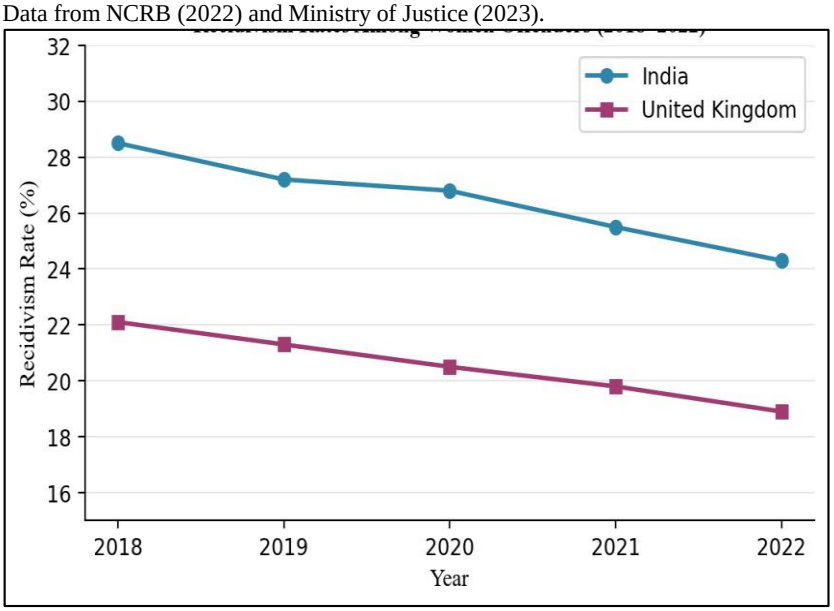
Note. Compiled from legislative documents and policy reports of both jurisdictions.

5.3. Outcomes and Recidivism

Do these differences in reformative provision actually show up in the numbers? Partly. Recidivism is the standard yardstick, though a crude one, and cross-country comparisons are always messy because India and the UK count reoffending differently and track people over different time horizons. With that caveat, the trend lines in Figure 3 are suggestive. Women's recidivism in the UK fell from 22.1 per cent in 2018 to 18.9 per cent in 2022. India saw movement in the same direction but at a slower pace: 28.5 per cent down to 24.3 per cent. The gap mirrors the gap in reformative investment (NCRB, 2022; Ministry of Justice, 2023).

But there is a deeper problem with relying on reconviction statistics. A woman who avoids prison but remains jobless, depressed, cut off from her children, and sleeping on a relative's floor is hardly a success story. The things that actually signal a life turned around, stable housing, a job that pays the bills, reunification with family, some sense of personal agency, are fiendishly difficult to measure and almost impossible to compare across countries. Light et al. (2013) offered an interesting glimpse in the UK. Women who went through community-based programmes reported feeling more confident, more connected to others, and more satisfied with life than women who had served time in prison. And this was true even when the two groups reoffended at roughly the same rate. The numbers and the lived experience were telling different stories.

Fig. 3. Recidivism rates among women offenders in India and the UK (2018–2022).
Data from NCRB (2022) and Ministry of Justice (2023).



VI. GENDER-RESPONSIVE APPROACHES: LESSONS AND CHALLENGES

The phrase "gender-responsive corrections" was coined mostly by North American researchers, and it has left its deepest mark on British policy. India has been slower to engage with this body of work, though the lessons are there for the taking. Bloom et al. (2003) broke the idea into six working principles. Recognise that gender matters. Build environments around safety, respect, and dignity. Design programmes that strengthen relationships rather than ignoring them. Tackle substance abuse, trauma, and mental illness as interconnected problems, not separate boxes to tick. Give women genuine chances to

improve their economic situation. And wrap community supervision and reintegration in proper support services, not just surveillance.

England and Wales have given these ideas a concrete form in the Women's Centres. They sit in ordinary neighbourhoods. They are built with trauma in mind. They deal with women as whole people, not as collections of risk factors on a spreadsheet. Evaluation after evaluation has found that they work. Gelsthorpe et al. (2007) documented higher engagement, better programme completion, and more desistance from crime compared with standard criminal justice responses. Radcliffe and Hunter (2013) reached similar conclusions.

India's experience with gender-responsive work has been scattered and small-scale. NGOs have done most of the heavy lifting. Prayas, the Tata Institute of Social Sciences, the Commonwealth Human Rights Initiative: these organisations have set up programmes offering legal help, counselling, job skills, and post-release accompaniment to women offenders (Commonwealth Human Rights Initiative [CHRI], 2020). The work is real and it matters. But it is small, it is fragile (dependent on project-cycle funding), and it has no institutional roof over it. Without something like the UK's Female Offender Strategy pulling scattered efforts into a coherent national framework, these programmes will remain islands of good practice in a sea of neglect.

VII. CHALLENGES AND RECOMMENDATIONS

7.1. Challenges Common to Both Jurisdictions

Let us be honest: neither country has cracked this problem. The UK is ahead, yes, but it is not at the finish line. Criminal justice systems in both India and the UK were designed around male offenders. Women's needs get addressed, if at all, as bolt-on extras rather than baked-in features (Hedderman, 2012). Money is a constraint everywhere. Austerity politics in the UK and chronic underfunding in India have both slowed the expansion of programmes aimed at women. And there is a complication that neither country has properly grappled with: intersectionality. A woman in prison is never just a woman. She may be Black, she may be Dalit, she may be disabled, she may be an immigrant. These identities pile on top of one another to produce compounded disadvantage that current rehabilitation frameworks barely touch (Sudbury, 2005).

Measuring success is itself a headache. Reconviction rates are easy to count, which is why everybody counts them, but they are blunt. A rise in reconvictions could reflect tougher policing rather than programme failure. A drop could reflect changes in prosecution policy rather than genuine reform (Farrall, 2002). Both countries are in need of sharper, more gender-aware indicators of rehabilitative progress. That work has barely begun.

7.2. Recommendations for India

What, concretely, should India do? The evidence from this study points in several directions. A National Policy on Women Offenders is the most urgent need. Not another advisory manual, but a binding policy document that sets standards, allocates responsibilities, and demands accountability, something modelled on (though adapted from) the UK's Female Offender Strategy. Community-based Women's Support Centres should be piloted in every district, offering diversion, rehabilitation, and help with reintegration close to where women actually live. Vocational training inside prisons desperately needs an overhaul. Stitching and cooking will not cut it in 2024. Women need digital literacy, financial skills, and micro-enterprise training if they are to stand any chance in the job market upon release (Varghese & Raghavan, 2020).

Mental health provision cannot remain optional. Every facility holding women should have trained counsellors and psychiatrists on staff as a matter of basic decency, given how prevalent depression, anxiety, and trauma are in this population. The Prisons Act of 1894 should be consigned to history. A 130-year-old colonial statute has no business governing a modern correctional system. What is needed in its place is legislation that writes reformative objectives into law

and makes gender-responsive programming mandatory, not discretionary. And none of this can work without data. India must invest in robust data collection and monitoring systems so that policymakers know which programmes exist, whom they reach, and whether they make a difference (Raghavan, 2014).

7.3. Recommendations for the United Kingdom

The UK has made genuine progress, but loose ends remain. The boldest piece of the Corston Report, replacing women's prisons with small custodial units, has been largely shelved and deserves a fresh look. Women's Centres have proved their worth time and again, yet many of them run on short-term, competitive grants that leave them perpetually uncertain about next year's funding. That is no way to sustain programmes whose whole point is continuity (Corcoran et al., 2018). The over-representation of Black, Asian, and Minority Ethnic women in the justice system is a problem that generic programmes will not solve. It calls for targeted, culturally sensitive interventions along the lines recommended by the Lammy Review (2017). Finally, the UK would do well to invest in longitudinal studies that follow women over many years after they leave the system. Only that kind of evidence can tell us whether gender-responsive reforms deliver lasting change and whether they justify the investment compared with simply locking women up.

VIII. CONCLUSION

Of all the theories of punishment available to us, the reformative approach makes the strongest case, on both moral and practical grounds, for how we ought to deal with women who break the law. This article has tried to show what that theory looks like in practice by holding up two countries to the light. Both India and the UK agree, in principle, that reformation matters. But principle without practice is just words. The UK has turned words into institutions: the Corston Report, the Female Offender Strategy, 80-plus Women's Centres, and accredited programmes in every women's prison. India's reformative apparatus is still largely stuck at the level of good intentions, weighed down by a colonial statute that should have been retired decades ago, starved of infrastructure, and lacking a national policy to pull scattered efforts together.

The takeaway from this comparison is not complicated, even if the execution would be. Genuinely reforming women offenders means rethinking the criminal justice response to women from the ground up. It means understanding trauma. It means treating the whole person, not just managing a caseload. It means working in the community, not just inside prison walls. And it means taking seriously the fact that the roads by which women enter crime and the roads by which they leave it are different from men's. India can learn a great deal from the UK's experience. The UK, for its part, cannot afford complacency about its own unfinished work. A society reveals its values not through the harshness of its punishments but through the seriousness of its effort to help even those who have broken the law find their way back.

The direction of travel in international criminal justice is clear. The Bangkok Rules (2010), adopted by the United Nations General Assembly, set out specific standards for how women prisoners should be treated and for expanding non-custodial options for women. Both India and the UK have signed up to these standards. The question now is whether they will live up to them. The reformative theory, applied with genuine attention to gender, culture, and evidence, has the power to change individual lives. It also has the power, if we let it, to change the kind of society we are.

REFERENCES

Andrews, D. A., & Bonta, J. (2010). *The psychology of criminal conduct* (5th ed.). Anderson Publishing.

Beccaria, C. (1764). *On crimes and punishments* (H. Paolucci, Trans.). Bobbs-Merrill. (Original work published 1764)

Bentham, J. (1789). *An introduction to the principles of morals and legislation*. T. Payne and Son.

Bloom, B., Owen, B., & Covington, S. (2003). *Gender-responsive strategies: Research, practice, and guiding principles for women offenders*. National Institute of Corrections, U.S. Department of Justice.

Commonwealth Human Rights Initiative. (2020). *Rights of women prisoners*. CHRI. https://www.humanrightsinitiative.org/

Corcoran, M., Williams, K., Prince, K., & Maguire, M. (2018). The penal voluntary sector in England and Wales: Adaptation to unsettlement and austerity. *The Political Quarterly, 89*(2), 187–196. https://doi.org/10.1111/1467-923X.12461

Corston, J. (2007). *The Corston report: A review of women with particular vulnerabilities in the criminal justice system*. Home Office.

Covington, S. S., & Bloom, B. E. (2006). Gender-responsive treatment and services in correctional settings. *Women & Therapy, 29*(3–4), 9–33. https://doi.org/10.1300/J015v29n03_02

Farmer, Lord. (2019). *The importance of strengthening female offenders' family and other relationships to prevent reoffending and reduce intergenerational crime*. Ministry of Justice.

Farrall, S. (2002). *Rethinking what works with offenders: Probation, social context, and desistance from crime*. Willan Publishing.

Fortune, C. A., Ward, T., & Willis, G. M. (2012). The rehabilitation of offenders: Reducing risk and promoting better lives. *Psychiatry, Psychology and Law, 19*(5), 646–661. https://doi.org/10.1080/13218719.2011.615809

Gelsthorpe, L., Sharpe, G., & Roberts, J. (2007). *Provision for women offenders in the community*. Fawcett Society.

Gelsthorpe, L., & Wright, S. (2015). The context: Women as lawbreakers. In J. Annison, J. Brayford, & J. Deering (Eds.), *Women and criminal justice: From the Corston report to transforming rehabilitation* (pp. 15–34). Policy Press.

Hedderman, C. (2012). *Empty cells or empty words? Government policy on reducing the number of women in prison*. Criminal Justice Alliance.

HM Inspectorate of Prisons. (2021). *Annual report 2020–21*. Her Majesty's Inspectorate of Prisons.

Hudson, B. (2003). *Understanding justice: An introduction to ideas, perspectives and controversies in modern penal theory* (2nd ed.). Open University Press.

Lammy, D. (2017). *The Lammy review: An independent review into the treatment of, and outcomes for, Black, Asian, and Minority Ethnic individuals in the criminal justice system*. UK Government.

Light, M., Grant, E., & Hopkins, K. (2013). *Gender differences in substance misuse and mental health amongst prisoners*. Ministry of Justice Analytical Series.

Ministry of Justice. (2018). *Female offender strategy*. UK Government. https://www.gov.uk/government/publications/female-offender-strategy

Ministry of Justice. (2023). *Offender management statistics quarterly: January to March 2023*. UK Government.

National Crime Records Bureau. (2022). *Prison statistics India 2022*. Ministry of Home Affairs, Government of India.

Radcliffe, P., Hunter, G., & Vass, R. (2013). *The development and impact of community services for women offenders: An evaluation*. Institute for Criminal Policy Research, Birkbeck, University of London.

Raghavan, V. (2014). Prison reforms: Historical and contemporary perspectives. In B. Panda & R. K. Panigrahi (Eds.), *Indian prisons: Towards reformation, rehabilitation and resocialisation*. Atlantic Publishers.

Sapra, I. (2023). Healed walls, unhealed wounds: Why prison reforms fail women offenders in India? *Social Change, 53*(3), 430–448. https://doi.org/10.1177/00490857231187505

Sentencing Council. (2019). *General guideline: Overarching principles*. Sentencing Council for England and Wales.

Sudbury, J. (2005). *Global lockdown: Race, gender, and the prison-industrial complex*. Routledge.

United Nations. (2010). *United Nations rules for the treatment of women prisoners and non-custodial measures for women offenders (the Bangkok Rules)*. General Assembly Resolution 65/229.

Varghese, J., & Raghavan, V. (2020). Restoration of released prisoners to society: Issues, challenges and further ways; Insights from Kerala, India. *International Annals of Criminology, 58*(1), 29–51. https://doi.org/10.1017/cri.2020.5

Walmsley, R. (2017). *World female imprisonment list* (4th ed.). Institute for Criminal Policy Research.

Ward, T., & Maruna, S. (2007). *Rehabilitation: Beyond the risk paradigm*. Routledge.

Ward, T., & Stewart, C. A. (2003). The treatment of sex offenders: Risk management and good lives. *Professional Psychology: Research and Practice, 34*(4), 353–360. https://doi.org/10.1037/0735-7028.34.4.353

Women in Prison. (2023). *Key facts: Women in the criminal justice system*. https://www.womeninprison.org.uk/research/key-facts.php

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Labour Rights As Human Rights In The Unorganised Sector: Challenges And Possibilities

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Abstract

The unorganised sector constitutes the largest segment of the workforce in developing economies, particularly in India, where nearly ninety percent of workers are engaged in informal employment. Despite their substantial contribution to economic growth, unorganised workers remain largely excluded from the protective framework of labour laws and social security mechanisms. This exclusion raises serious concerns when examined through the lens of human rights. Labour rights such as fair wages, safe working conditions, social security, and freedom of association are not merely statutory benefits but fundamental rights essential for human dignity and social justice. This paper examines labour rights as human rights in the context of unorganised workers, analysing the challenges arising from informality, weak enforcement, and structural inequality. It further explores constitutional jurisprudence, international labour standards, and legislative frameworks in India to identify possibilities for a rights-based approach. The study argues that recognising labour rights as enforceable human rights is essential for achieving inclusive and equitable development.

Keywords: - Labour Rights, Human Rights, Unorganised Sector, Informal Workers, Constitutional Law, Social Justice.

I. INTRODUCTION

The transformation of labour markets in the modern economy has led to the coexistence of formal and informal modes of employment. While industrial and service sectors have expanded under regulatory frameworks, a vast majority of workers continue to operate within the unorganised or informal sector. In India, the unorganised sector amounts to almost ninety percent of total employment, encompassing agricultural labourers, construction workers, domestic workers, street vendors, home-based workers, workers in the fireworks industry, gig economy and workers in small-scale industries. These workers are marked by the absence of formal contracts, job security, social security, and effective legal protection.

The unorganised nature of employment has historically been viewed as a regulatory challenge rather than a human rights concern. Labour laws were traditionally designed to regulate factory-based employment with identifiable employer–employee relationships. Consequently, informal workers were left out from the scope of labour legislation, rendering them legally invisible. This invisibility has resulted in widespread exploitation, hazardous working conditions, wage insecurity, and social exclusion.

From a human rights perspective, such exclusion is deeply problematic. Labour rights are inseparable from the right to life, dignity, and equality. International human rights instruments and constitutional jurisprudence recognise the right to work, just and favourable conditions of work, and social security as essential components of human dignity. The denial of these rights to unorganised workers therefore amounts to a denial of basic human rights. There remains a gap in integrating labour law discourse with human rights jurisprudence. This paper seeks to bridge that gap by adopting a rights-based analytical framework.

This paper seeks to examine labour rights as human rights in the unorganised sector, focusing on the challenges faced by informal workers and the possibilities for legal and institutional reform. The study analyses international human rights norms, ILO standards, constitutional provisions, and judicial decisions to argue for a rights-based framework for protecting unorganised workers.

1.1. Literature Review

1.1.1. Amartya Sen (1999) – Development as Freedom

Amartya Sen's capability approach provides a philosophical foundation for recognising labour rights as human rights.

He argues that economic development must expand human freedoms rather than merely increase income. Applied to unorganised workers, Sen's framework reveals how lack of social security, fair wages, and safe work restricts substantive freedom, justifying rights-based labour protection.

1.1.2. Alain Supiot (2001) – Beyond Employment

Supiot critiques the narrow contractual understanding of employment and argues for a broader conception of labour law rooted in human dignity. He emphasises that labour protections should extend beyond formal employment relationships to all economically dependent workers. His work is particularly relevant to unorganised labour, as it supports universal labour rights irrespective of legal classification.

1.1.3. Baxi, U. (2002) – The Future of Human Rights

Upendra Baxi examines the tension between economic globalisation and human rights protection. He argues that labour exploitation in informal sectors reflects systemic human rights deficits. Baxi's work is significant for understanding unorganised labour as a site of "suffering humanity," requiring constitutional and judicial intervention to transform labour rights into enforceable human rights.

1.1.4. Deakin, S., & Wilkinson, F. (2005) – The Law of the Labour Market

Deakin and Wilkinson analyse labour law as an instrument of social justice rather than mere market regulation. They argue that labour law must correct power imbalances inherent in labour markets. Their theoretical insights support extending labour protections to unorganised workers, whose vulnerability arises from structural inequality and absence of bargaining power.

1.1.5. Chandrasekhar, C. P., & Ghosh, J. (2016) – Informalisation of Labour in India

Chandrasekhar and Ghosh critically analyse the growth of informal employment in India, linking it to neoliberal economic policies. They highlight declining labour protections, wage stagnation, and social insecurity among informal workers. Their work provides crucial economic context for understanding why recognising labour rights are basic rights is essential for inclusive development.

1.1.6. International Labour Organization (2019) – Work for a Brighter Future

The ILO Global Commission Report (2019) offers a comprehensive normative framework linking labour rights with human dignity and social justice. It highlights the growing informalisation of labour and stresses that decent work must extend to all workers, including those in the unorganised sector. The report strongly advocates universal labour guarantees and social protection floors as essential human rights obligations of States.

1.1.7. International Labour Organization (2021) – World Employment and Social Outlook

This ILO report provides empirical and legal insights into non-standard and informal employment. It documents wage insecurity, unsafe working conditions, and exclusion from social security faced by informal workers globally. The report underscores the failure of traditional labour laws to protect unorganised workers and calls for inclusive, rights-based labour regulation grounded in international human rights principles.

II. CONCEPTUAL FRAMEWORK: LABOUR RIGHTS AS HUMAN RIGHTS

2.1. Meaning and Scope of Labour Rights

Labour rights refer to the legal and moral entitlements of workers that ensure fair treatment, humane working conditions, and economic security. These rights include the right to work, fair wages, safe and healthy working conditions, reasonable hours of work, social security, and freedom of association. Traditionally, labour rights have been treated as statutory protections granted by labour legislation.

However, contemporary legal and philosophical discourse recognises labour rights as fundamental human rights. This recognition is grounded in the principle that work is central to human dignity and social participation. Without fair and secure employment, individuals are unable to realise other human rights such as health, education, and an adequate standard of living.

2.2. Labour Rights under International Human Rights Law

The Universal Declaration of Human Rights (UDHR), 1948, explicitly integrates labour rights into the human rights framework. Article 23 recognises the right to work, just fair and safe conditions of work, equal pay for equal work, and the right to form and join trade unions. Article 25 further recognises the right to an adequate standard of living, including security in the event of unemployment, sickness, disability, or old age.

The International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966, elaborates these principles. Articles 6, 7, and 9 of the ICESCR recognise the right to work, the right to just and favourable conditions of work, and the right to social security. These provisions impose a positive obligation on States to progressively realise labour rights for all workers, irrespective of employment status. Moreover, United Nations General Comment No. on Art.7 of the ICESCR explains

that every worker has the right to fair wages, equal pay for equal work, safe and healthy working conditions, reasonable working hours, rest and leisure and protection against exploitation or discrimination. This steers States on their duty to adopt laws and policies ensuring decent work and dignity for all workers, including those in vulnerable or informal employment.

The human rights approach rejects the distinction between formal and informal workers and emphasises universality and non-discrimination. From this perspective, the exclusion of unorganised workers from labour protections constitutes a violation of international human rights obligations.

2.3. Role of the International Labour Organization

The International Labour Organization (ILO) has played a crucial role in framing labour rights as universal human rights. Through its core conventions on forced labour, child labour, discrimination, and freedom of association, the ILO establishes minimum labour standards applicable to all workers.

ILO Convention No.189 establishes international labour standards for domestic workers by recognising their right to fair wages, reasonable working hours, social security, safe working conditions and protection from abuse and exploitation. Unfortunately, India has not ratified this convention expressed difficulties in regulating employment within private household and the plurality of domestic work arrangements.

ILO Recommendation No.204 provides an international framework to help states enables the transition of workers and enterprises from the informal to the formal economy. It emphasises decent work, social protection, labour rights and legal recognition for informal workrs.

The ILO's Decent Work Agenda reinforces the human rights foundation of labour law by promoting employment opportunities, social protection, social dialogue, and rights at work. In recent years, the ILO has emphasised extending labour protections to workers in the informal economy through legal recognition. These shifts reinforce human rights foundation for labour laws and provide guidance for domestic reforms.

III. THE UNORGANISED SECTOR: NATURE AND CHARACTERISTICS

3.1. Meaning of Unorganised Sector

The unorganised sector refers to economic activities that are not regulated by formal legal or institutional frameworks. Workers in this sector typically lack written contracts, job security, fixed wages, and access to social security benefits. Employment relationships are often casual, seasonal, or based on oral agreements.

In India, the unorganised sector includes agricultural labourers, construction workers, domestic workers, street vendors, waste pickers, home-based workers, and workers in micro and small enterprises. Women constitute a significant proportion of the unorganised workforce, making gender inequality a critical concern.

3.2. Vulnerability and Power Imbalance

Unorganised workers operate in a context of severe power imbalance. Employers exercise significant control over wages and working conditions, while workers lack bargaining power due to poverty, illiteracy, and absence of collective organisation. This imbalance facilitates exploitation and abuse.

The lack of legal recognition further exacerbates vulnerability. Without formal status, unorganised workers are often excluded from labour inspections, grievance redress mechanisms, and judicial remedies.

3.3. Informality as Structural Inequality

Informality is not merely a transitional phenomenon but a structural feature of the economy. It reflects systemic inequality rooted in caste, gender, migration, and economic deprivation. Addressing informality therefore requires a holistic approach that integrates labour rights with social justice and human rights.

IV. OBJECTIVES OF THE STUDY

- To examine labour rights as human rights in the context of the unorganised sector.
- To analyse the challenges faced by unorganised workers in realising labour rights.
- To study international human rights and ILO standards relating to informal labour.
- To analyse constitutional provisions and judicial interpretations in India.
- To evaluate legislative frameworks protecting unorganised workers.
- To explore possibilities for strengthening labour rights through a rights-based approach.

V. RESEARCH METHODOLOGY

The study adopts a doctrinal and analytical research methodology. Primary sources include constitutional provisions, statutes, international conventions, and judicial decisions. Secondary sources include books, journal articles, ILO and UN reports. Qualitative analysis is employed to interpret legal principles and evaluate their application to unorganised workers.

VI. CONSTITUTIONAL FRAMEWORK FOR LABOUR RIGHTS IN INDIA

Article 21 of the Constitution of India guarantees the fundamental right to life and personal liberty. Over the years, the Supreme Court has expanded the scope of Article 21 beyond mere physical existence to include the right to live with human dignity. This expansion has significant implications for labour rights, particularly for unorganised workers who remain vulnerable to exploitation.

In Francis Coralie Mullin v. Administrator, Union Territory of Delhi (1981), the Supreme Court held that the right to life includes the right to live with human dignity and all that goes along with it, such as adequate nutrition, clothing, shelter, and conditions of work. The Court emphasised that any action that deprives a person of these essentials would violate Article 21.

This interpretation provides a constitutional basis for recognising labour rights as human rights. For unorganised workers, whose working conditions often undermine dignity and livelihood, Article 21 serves as a powerful tool for judicial protection.

The landmark judgment in Olga Tellis v. Bombay Municipal Corporation (1985) firmly established the right to livelihood as an integral component of the right to life. The Supreme Court observed that deprivation of livelihood would inevitably lead to deprivation of life, thereby violating Article 21.

Unorganised workers, particularly migrant workers, street vendors, and casual labourers, depend on daily earnings for survival. Any denial of fair wages or arbitrary eviction from work directly impacts their right to livelihood. The principles laid down in Olga Tellis are therefore directly applicable to the protection of informal workers.

Article 23 of the Constitution prohibits forced labour and begar. In People's Union for Democratic Rights v. Union of India (1982), the Supreme Court held that non-payment of minimum wages amounts to forced labour. The Court clarified that compulsion need not be physical; economic compulsion arising from poverty and hunger is sufficient to attract Article 23.

This judgment is particularly relevant to unorganised workers who are often paid below minimum wages due to lack of bargaining power. The decision constitutionalises wage protection and reinforces the human rights dimension of labour law.

The Directive Principles of State Policy (DPSPs) embody the vision of social and economic justice enshrined in the Constitution. Articles 38, 39, 41, 42, and 43 impose a duty on the State to promote welfare, secure adequate means of livelihood, ensure equal pay for equal work, provide social security, and guarantee humane conditions of work.

Although non-justiciable, the Supreme Court has consistently relied on the DPSPs to interpret fundamental rights. In Bandhua Mukti Morcha v. Union of India (1984), the Court emphasised that the right to live with dignity derives its life breath from the DPSPs.

Unorganised workers fall squarely within the protective vision of the DPSPs. Article 41 mandates public assistance in cases of unemployment, old age, and sickness conditions that disproportionately affect informal workers. Article 42 directs the State to provide just and humane conditions of work and maternity relief, which are often absent in the unorganised sector.

The DPSPs thus provide a constitutional mandate for extending labour rights to unorganised workers as part of the State's obligation to ensure social justice.

VII. JUDICIAL PROTECTION OF UNORGANISED WORKERS

The Supreme Court has played a pivotal role in protecting unorganised workers through public interest litigation. In Bandhua Mukti Morcha v. Union of India (1984), the Court addressed the plight of bonded labourers and held that exploitation violates fundamental rights under Articles 21 and 23.

The Court directed the State to identify bonded labourers, release them, and ensure rehabilitation. This judgment underscores the judiciary's commitment to safeguarding the dignity and freedom of the most vulnerable workers.

In Consumer Education and Research Centre v. Union of India (1995), the Supreme Court recognised the right to health and medical care as a fundamental right of workers. The Court observed that the right to life includes the protection of workers' health and strength.

This principle is particularly relevant to unorganised workers engaged in hazardous occupations such as construction, mining, and waste management, where safety standards are often ignored.

Judicial enforcement of minimum wages has been a critical mechanism for protecting unorganised workers. Courts have repeatedly held that payment below minimum wages violates constitutional guarantees of dignity and equality.

The judiciary's proactive role demonstrates the potential of constitutional interpretation in bridging gaps left by legislative and administrative failures.

VIII. LEGISLATIVE FRAMEWORK FOR UNORGANISED WORKERS

8.1. Unorganised Workers' Social Security Act, 2008

The Unorganised Workers' Social Security Act, 2008, represents a legislative attempt to provide social security to unorganised workers. The Act recognises categories of unorganised workers and envisages welfare schemes related to life insurance, health insurance, maternity benefits, and old-age protection.

However, the Act has been criticised for its limited scope and weak implementation. It does not create enforceable rights but merely provides a framework for welfare schemes at the discretion of the government. The absence of statutory entitlements undermines the human rights approach.

8.2. Labour Codes and Informal Workers

The consolidation of labour laws into four labour codes, namely the Code on Wages,2019, the Industrial Relatios Code,2020, Occupational Safety, Health and Working Conditions Code,2020 and Code on Social security,2020 has significant implications for unorganised workers.

The Code on Wages,2019, extends minimum wage and timely payment provisions under Chapter 2 and 3 accordingly to all employees across organised and unorganised sectors, aiming to protect informal workers from exploitation.

The Industrial Relations Code,2020, deals mainly with industrial establishments but indirectly influences some informal workers by regulating lay off, retrenchment under Chapter 9 and trade union recognition under Chapter 3.

Occupational Safety, Health and Working Conditions Code,2020 also regulates health and safety standards in establishments, including provisions relating to migrant workers and contract labour under Chapter 11 and 12 accordingly.

The Code on Social Security,2020 expressly recognises unorganised workers, gig workers ad platform workers as a distinct category of labour under Chapter 9. The inclusion of digital economy workers acknowledges and advances labour rights as part of the broader framework of human rights protection. It provides for welfare schemes such as social security, insurance, and old age protection through government sponsored schemes. While the Code on Social Security, 2020, seeks to extend social security coverage to informal workers, concerns remain regarding implementation, funding, and enforcement.

The codes prioritise flexibility and ease of doing business, often at the cost of worker protections. For unorganised workers, the shift towards a welfare-based model without enforceable rights perpetuates vulnerability.

IX. Challenges in Realising Labour Rights in the Unorganised Sector

9.1. Legal Exclusion and Informality

The absence of formal employment relationships excludes unorganised workers from labour protections. Legal frameworks continue to prioritise formal employment, leaving informal workers unprotected.

9.2. Weak Enforcement Mechanisms

Even where laws exist, enforcement remains weak due to inadequate inspections, corruption, and lack of political will. Unorganised workers often lack access to justice due to poverty and illiteracy.

9.3. Gender and Caste-Based Discrimination

Women and marginalised communities are overrepresented in the unorganised sector. Gender wage gaps, lack of maternity benefits, and caste-based exploitation exacerbate vulnerability.

X. COMPARATIVE PERSPECTIVES ON INFORMAL WORKERS' RIGHTS

10.1. Latin American Experience

Several Latin American countries have adopted innovative approaches to protect informal workers. Brazil's constitutional framework recognises social rights, including labour and social security, as fundamental rights. Informal workers are covered under social assistance and pension schemes, reflecting a rights-based approach.

Similarly, Uruguay has extended social security benefits to domestic workers, recognising their work as dignified labour deserving legal protection. These examples demonstrate the feasibility of extending labour rights beyond formal employment.

10.2. South African Approach

South Africa's Constitution explicitly recognises labour rights as fundamental rights under Section 23. The Constitutional Court has interpreted these provisions broadly to protect vulnerable workers, including those in informal employment.

The South African experience highlights the importance of constitutionalising labour rights and adopting purposive interpretations to address socio-economic inequality.

Comparative experiences indicate that legal recognition, universal social security, and judicial enforcement are critical to protecting informal workers. India can draw valuable lessons by strengthening constitutional interpretation and adopting inclusive legislative frameworks.

XI. POSSIBILITIES FOR RECOGNISING LABOUR RIGHTS AS HUMAN RIGHTS

11.1. Constitutional Interpretation and Judicial Activism

Indian constitutional jurisprudence provides significant possibilities for recognising labour rights as human rights. The expansive interpretation of Article 21, read with the Directive Principles of State Policy, enables courts to protect the dignity, livelihood, and welfare of unorganised workers.

Public Interest Litigation has emerged as an effective tool for addressing systemic exploitation. Continued judicial engagement can bridge gaps left by legislative inaction.

11.2. Rights-Based Legislative Reform

Moving from a welfare-based to a rights-based approach is essential. Legislation concerning unorganised workers must create enforceable entitlements rather than discretionary schemes. Social security, minimum wages, and occupational safety should be recognised as statutory rights applicable to all workers.

11.3. Universal Social Security Framework

A universal, portable social security system independent of employment status is crucial. Such a system would ensure coverage for health care, maternity benefits, disability, and old-age pensions for unorganised workers.

11.4. Strengthening Collective Organisation

Legal recognition of trade unions and worker collectives in the unorganised sector can enhance bargaining power and participation. Freedom of association is a core human right and must be actively protected.

XII. RECOMMENDATIONS AND REFORM STRATEGIES

1. Recognition of Labour Rights as Fundamental Rights: Labour rights such as fair wages, safe working conditions, and social security should be explicitly recognised as fundamental human rights.
2. Strengthening Enforcement Mechanisms: Labour inspection systems must be strengthened, with special focus on informal workplaces.
3. Legal Awareness and Access to Justice: Legal literacy programs and simplified grievance redress mechanisms should be introduced for unorganised workers.
4. Gender-Sensitive and Inclusive Policies: Special measures must be adopted to address gender-based and caste-based vulnerabilities in the unorganised sector.
5. Alignment with International Standards: Domestic laws should be harmonised with international human rights and ILO standards to ensure compliance with global obligations.

XIII. CONCLUSION

The unorganised sector represents both the strength and the vulnerability of India's labour market. While unorganised workers contribute significantly to economic growth, they remain excluded from the protection of labour laws and social security systems. This exclusion undermines human dignity and perpetuates inequality.

This paper has argued that labour rights are fundamental human rights and must be extended to unorganised workers as a constitutional and international obligation. Indian constitutional jurisprudence, international human rights instruments, and comparative experiences provide a robust foundation for reform.

Recognising labour rights as human rights is not merely a legal necessity but a moral imperative essential for achieving social justice, inclusive development, and constitutional democracy.

REFERENCES

Baxi, U. (2002). The future of human rights (2nd ed.). Oxford University Press.

Bandhua Mukti Morcha v. Union of India, (1984) 3 SCC 161 (India).

Chandrasekhar, C. P., & Ghosh, J. (2016). The informal sector revisited. Social Scientist, 44(7–8), 3–20.

Code on Social Security, 2020 (India).

Consumer Education and Research Centre v. Union of India, (1995) 3 SCC 42 (India).

Deakin, S., & Wilkinson, F. (2005). The law of the labour market: Industrialization, employment and legal evolution. Oxford University Press.

Francis Coralie Mullin v. Administrator, Union Territory of Delhi, (1981) 1 SCC 608 (India).

Galli, R., & Kucera, D. (2008). Labour standards and informal employment in Latin America. In J. Berg & D. Kucera (Eds.), In defence of labour market institutions: Cultivating justice in the developing world (pp. 192–217). Palgrave Macmillan.

Industrial Relations Code, 2020 (India).

International Labour Organization. (1999). Decent work agenda. International Labour Organization.

International Labour Organization. (2011). ILO Convention No. 189 concerning decent work for domestic workers. International Labour Organization.

International Labour Organization. (2015). ILO Recommendation No. 204 concerning the transition from the informal to the formal economy. International Labour Organization.

International Labour Organization. (2019). Work for a brighter future: Global Commission on the Future of Work. International Labour Organization.

International Labour Organization. (2021). World employment and social outlook 2021: The role of digital labour platforms in transforming the world of work. International Labour Organization.

Lund, F., & Nicholson, J. (Eds.). (2003). Chains of production, ladders of protection: Social protection for workers in the informal economy. Oxford University Press.

Occupational Safety, Health and Working Conditions Code, 2020 (India).

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

People's Union for Democratic Rights v. Union of India, (1982) 3 SCC 235 (India).

Sen, A. (1999). Development as freedom. Oxford University Press.

Supiot, A. (2001). Beyond employment: Changes in work and the future of labour law in Europe. Oxford University Press.

The Code on Wages, 2019 (India).

Unorganised Workers' Social Security Act, 2008 (India).

United Nations. (1948). Universal declaration of human rights. United Nations.

United Nations. (1966). International covenant on economic, social and cultural rights. United Nations.

United Nations Committee on Economic, Social and Cultural Rights. (2014). General comment No. 23 (2016): The right to just and favourable conditions of work (Article 7 of the International Covenant on Economic, Social and Cultural Rights). United Nations.