

Women Labour Laws and Challenges in India



Udita Kundu

Research Scholar, Department of Political Science and Public Administration
Banasthali Vidyapith, Rajasthan
E-mail: uditakundu25@gmail.com

Abstract

The present study provides knowledge about Indian labour laws and identifies the challenges women face at their workplace. Patriarchal norms have always dominated Indian society making women vulnerable not only at the workplace but also in their homes. The public domain is considered as male-dominated area, with limited access to women. However, this ideology is changing now but women still face many discriminatory practices like unequal wages, unsafe transport, sexual harassment, work-life balance, and so on. The paper also enlightens about various Indian labour laws and their provisions to improve the condition of women and concludes with some recommendations which could further help in achieving self-confidence and dignity among women.

Keywords: *Women workers, labour, discrimination, labour laws.*

Introduction

Just as a bird cannot fly with one wing only, a nation cannot march forward if the women are left behind. As correctly said by Swami Vivekananda, no nation can progress if women are not protected and respected. In India, where most of the women have to perform a double role, one as working women and others as home caretakers, it becomes essential to provide them a good environment for effectiveness. The constitution of India gave women equal rights with men from the beginning. Unfortunately, women in this country are mostly unaware of their rights because of illiteracy and oppressive tradition.

Women make up 49 percent of the Indian population but still, India has one of the lowest female labour force participation rates in the world, in a report by World Bank. "Labour" is a subject in the concurrent list under the constitution of India where both the center and state governments are competent to enact legislation. The Ministry of Labour and Employment seeks to protect and safeguard the interest of workers in general and those who constitute the poor, deprived, and disadvantaged sections of the society in particular. The government tries to create a healthy working environment by

providing social security to labor in the organized and unorganized sector. India has a large number of labor laws that govern almost all the aspects of employment such as payment of wages, minimum wages, pension funds, working conditions, accident compensation, etc. but their correct implementation is a matter of continuous debate and research.

More than government initiatives it is a matter of concern for all people as humans. Women also deserve equality in all spheres of life as much as men do and it is our social responsibility to provide them so. India ranks 112 out of 189 countries in the United Nations Development Programs (UNDP) Gender Inequality Index 2019. Women's labour force participation rate has decreased since the 1990s. The working environment is one reason for not being able to work safely for women, another is the pressure that Indian women feel in trying to balance their careers and home.

The idea that men are the primary wage earners while women's income is the secondary source is the main hurdle in achieving the fullest potential of a woman. In the post-liberalization era, the labor ecosystem saw an influx of women in sectors such as garment, manufacturing,

primary and early childhood education, social work, hospitality, tobacco, and low-end retail jobs. However, women find themselves excluded from work that requires the use of high-end technology since boys outnumber girls in science, technology, engineering, and mathematics enrolments at the higher education level. According to the All India Higher Education Survey, girls form only 29 percent of enrolments for Bachelor of Technology degrees. Another area of concern is the pay gap difference. Women earn only 65 percent of what their male colleagues earn for performing the same work. Of India's 158 largest companies' women hold only 15 percent of the board seats and only 6 percent of board chairs are women.

Significance of the Study

Educated urban women are presumed to be more aware of the opportunities and challenges of the workplace. Therefore, their assessment becomes important for a better understanding of this assumption. Women today are breaking boundaries and play an important role in personal as well as professional life. More and more women are coming out for better employment opportunities and income, but they are still considered weak and inferior. Even historically, women in India have faced oppression and domination by a patriarchal society. And even after decades of independence, women are not treated equally to their male counterparts. As per available research, many women workers complain of frequent headaches, back pain, physical and mental disorders at the workplace. Sexual harassment is another serious problem faced by women and they tend to hold low-level positions compared to male workers. This study finds out if women are entitled to their rights "as being human" at the workplace and finds problems faced by them and suggests credible solutions to it. This study concerns to improve the existing status and security of women.

Objectives of the Study

- To learn about various provisions for women workers provided by Indian Constitution and Government.
- To gain knowledge about the problems and challenges faced by urban working women in the workplace.
- To find out possible solutions that could help women workers to overcome the problems they face at the workplace.

Methodology of the Study

Legal and Constitutional Methods: These methods are used to know about the constitutional and legal provisions for women's rights.

Descriptive Method: This method is used to describe various problems associated with women workers and to find out suitable solutions for a particular area.

Constitutional Framework

There are many national and international laws to eradicate gender discrimination and some of them include:

Constitutional Provisions:

- Article 14 – Equality before the law and equal protection of laws
- Article 15 (1) – The state not to discriminate against any citizen on grounds of religion, race, caste, sex, place of birth, or any of them.
- Article 15 (3) – The state to make any special provision in favor of women and children
- Article 16 – Equality of opportunity for all citizens in matters relating to employment or appointment to any office under the state.
- Article 39 (a) – The state to redirect its policy towards securing for men and women equally the right to an adequate means of livelihood
- Article 39 (d) – Equal pay for equal work for both men and women
- Article 39 – To promote justice on a basis of equal opportunity and to provide free legal aid by suitable legislation or scheme or in any other way to ensure that opportunities for

securing justice are not denied to any citizen because of economic or other disabilities.

- Article 42 – The state to make provision for securing just and humane conditions of work and for maternity relief.
- Article 46 – The state to promote with special care the educational and economic interests of the weaker sections of the society and to protect them from social injustice and all forms of exploitation.
- Article 47 – The state to raise the level of nutrition and the standard of living of its people.
- Article 51(A)(e) – To promote harmony and the spirit of common brotherhood amongst all the people of India and to renounce practices derogatory to the dignity of women.

Legal Provisions:

- The crimes identified under the Indian Penal Code (IPC) like torture, both mental and physical (section 498 IPC) molestation (section 354 IPC) sexual harassment (section 509 IPC).
- The employee's state insurance act, 1948
- The plantation labor act, 1951
- Contract labor act, 1976
- The criminal law act, 1983
- The factories act, 1986
- Indecent representation of women acts, 1986
- Set up of a national commission of women (NCW) in 1992
- National policy for empowerment of women (2001) to bring advancement, development, and empowerment of women.
- Maternity benefit act, 2017

Various other Rights Under Article 21

- Right to live with dignity
- Right to liberty
- Right to property
- Right to free choice of profession
- Right to livelihood
- Right to work inequitable condition

- Right to protection from gender discrimination
- Right to social protection in the eventuality of retirement, old age, and sickness
- Right to protection of health
- Right to protection from inhumane treatment
- Right to privacy in terms of personal life, family, residence, correspondence, etc.

Indian Labour Laws

To counter these problems, the parliament has enacted many laws to make the working environment more safe, secure, and efficient for women. Some of the major laws include:

Industrial Disputes Act, 1947: The ID Act has been enacted for the investigation and settlement of industrial disputes in any industrial establishment. The act provides for the constitution of the working committee, consisting of employers and workmen to promote good relations between employer and workmen and to resolve any dispute. The ID Act provides for the appointment of conciliation officers, the board of conciliation, courts of inquiry, labor courts, tribunals, and national tribunals for settlement of disputes. The goal is to create an environment where disputes do not arise.

Trade Unions Act, 1926: This act seeks to provide for the registration of trade unions in India and the protection of the same

Minimum Wages Act, 1948: This act provides for fixing of minimum rates of wages in certain employments. It requires the employer to pay every employee engaged in schedule employment wages at a rate not less than minimum rates of wages as fixed by a notification without any deduction.

Payment of Bonus Act, 1965: It provides for the payment of bonus to persons employed in certain establishments in India either based on profit or the /basis of production or fund applies to every establishment in which 20 or +/*more persons are employed and to all employees drawing remuneration of less than Rs. 10,000.

Employees Provident Funds and Miscellaneous Provisions Act, 1952: The EPF Act provides for the institution of provident funds, pension funds, and deposit linked insurance funds for employees and applies to all establishments employing 20 or more persons or class of persons.

Employees State Insurance Act, 1948: The ESI Act is social welfare legislation enacted to provide certain benefits to employees in case of sickness, maternity, and employment injury. It applies to establishments where 10 or more persons are employed. All employees including casual, temporary or contract employees drawing wages less than Rs. 15,000 per month are covered under ESI Act.

Factories Act, 1948: It lays down provisions for the health, safety, welfare, and service conditions of workmen working in factories. It contains provisions for working hours of adults, employment of young persons, leaves, overtime, etc. It applies to all factories employing more than 10 people and working with the aid of power, or employing 20 people and working without the aid of power. Major provisions of this act are –

- Section 11 of the act provides that every factory shall be kept clean and free from effluvia arising from any drain, privy, or other nuisance.
- Section 18 of the act specifies arrangements for sufficient and pure drinking water for the workers.
- Section 19 further mentions that in every factory there should be sufficient accommodation for urinals which should be provided at a conveniently situated place.

Industrial Employment Act, 1946: The industrial employment act applies to every industrial establishment wherein 100 or more workmen are employed. The IESO Act aims to bring uniform terms and conditions of service in various industrial establishments.

Contract Labour Act, 1970: Main objectives of the act are –

- To prohibit the employment of contract labour.
- To regulate the working conditions of the contract labour, wherever such employment is not prohibited.

The Employment Compensation Act, 1923: It aims to provide financial protection to workmen and their dependents in case of any accidental injury arising out of or in course of employment and causing either death or disablement of the worker utilizing compensation.

Interstate Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979: To regulate the employment of inter-state migrant workers and to provide for the conditions of service and the matters connected therewith.

Equal Remuneration Act, 1976: Provides for the payment of equal remuneration to men and women workers for the same work and prevents discrimination on the grounds of sex, against women in the matter of employment, recruitment, and for matters connected therewith or incidental thereto.

Maternity Benefit Act, 1961- Regulates the employment of women in certain establishments for a certain period before and after childbirth and provides for maternity benefits including maternity leaves, wages, bonuses, nursing breaks, etc. to women employees. An amendment in 2017 made the earlier provisions of 12 weeks leave to 26 weeks and included the provision of a crèche facility at the workplace.

Bonded Labour System Abolition Act, 1976: It is prohibiting legislation which provides for the abolition of the bonded labour system to prevent the economic and physical exploitation of the weaker sections of the society.

Sexual Harassment at Workplace (Prohibition, Prevention and Redressed) Act, 2013: The SHW Act was enacted by the parliament to protect against sexual harassment of women at the workplace and redressed of complaints of sexual harassment and for matters connected therewith women. This act makes it mandatory for every organization having 10

employees and more to constitute an Internal Complaints Committee (ICC) to receive complaints. This act also incorporates provisions for the formation of a Local Complaints Committee (LCC) in every district.

National Commission For Women Act, 1990: Creates a national commission for women to review existing statutory protection of women, prepare reports to the central government on matters relating to safeguards for women's rights, investigate complaints relating to the violation of these rights and financially assist exploited women.

Beedi and Cigar Workers Act, 1966: Provides for the welfare of the workers in beedi and cigar factories by regulating the conditions of work, including maximum hours and the safety of the working environment. Also, childcare facilities must be available for working mothers. This act requires the mandatory appointment of women to the Advisory and Central Advisory Committees.

The Plantation Labour Act, 1951: Every plantation with more than 50 women workers must provide childcare facilities, the plantation must also provide childcare when women employees have in aggregate more than twenty children and women workers get a break to feed their children.

International Conventions

- The universal declaration of human rights was adopted on 10 Dec 1948 by the UN General Assembly as a common standard of achievement for all people and all nations. It sets out for the first time fundamental human rights to be universally protected.
- ILO adopted equal remuneration for men and women workers for work of equal value in 1951.
- Beijing declaration and platform for action (BPfA) in 1995 called for strong and specific commitments by governments and other institutions to take action in 12 areas including health, economics, environment, and decision making.

- UN Convention on the Elimination of All Forms of Discrimination against women in 1979 defines gender discrimination and provides the foundation for achieving gender equality in many areas of life.

Challenges for Women at Workplace

The Indian workplace has many issues and concerns for women along with societal challenges. A few of them can be summarized as follows –

Gender Pay Gap: India ranks lowest among BRICS countries on gender parity, by the Global Gender Gap Report. Some of the reasons behind the gender pay gap could be the preference for male employees over female employees, preference for promotion of male employees to supervisory positions, and career breaks of women due to parenthood duties and other socio-cultural factors. Men, generally don't contribute to household work and women have to do all the household work too after coming from jobs. This patriarchal ideology results in the weakening of women's image at work.

Sexual Harassment: For almost all women, the struggle is to maintain their sanctity at their homes, educational institutions, and also at their workplace. Globally, in 2018, women's labour force participation was 48.5 percent – a decrease from 51.4 percent in 1990. In India, women's labour force participation rate was reported to have fallen from 35.1 percent in 1990 to 27.2 percent in 2017. Sexual crimes are increasing day by day pressurizing women to leave their jobs. Organizations usually have a system in place for women employees to report sexual harassment and take legal action. However, there are two major issues here – the inability to recognize sexual harassment in some cases and fear of career setbacks if they report a superior. Due to laws that protect women in the workplace, harassment has a substantial decrease. Harassment protection has now become an important phenomenon in running an organization, but still today many cases could be seen which affect women's self-esteem.

The Dual Shift: Work and family are the two important aspects of a women's life. Balancing work and family roles has become a key personal and family issue for many societies. They deal with home and family issues as well as job stress daily. No matter how high their position or designation in the workplace, women in India are still viewed as the family manager back home. Women are expected to return home on time, cook, clean, and take care of family affairs. This creates a huge burden on their physical and mental wellbeing.

Discrimination at the workplace: Indian women are often deprived of promotions and growth opportunities at the workplace however this doesn't apply to all establishments. This is usually the case of factories and labour-oriented industries. A majority of working women continue to be denied equal wages and are underpaid in comparison to their male employees. Employers have also admitted that India's increased maternity benefits may backfire by creating an anti-women bias in hiring practices. A study published in the Journal of Applied Psychology confirmed biases against women who are expected to be mothers soon. New moms are not the first choice in hiring by HRs. Also, since women are considered soft-hearted and weak, they are given more work and responsibilities.

Safety and Security of Women: Most families don't allow women to work at night or after evening because of safety concerns while traveling. There have been several cases of night crimes while women go back home. This creates a feeling of fear not only for the woman but also for her family. Only a few companies provide transport facilities to women and this service is not at all available in labor-oriented factories. So, women feel insecure about working resulting in less participation. Also, the patriarchal stigma doesn't allow women to go away from home for days even for work as against men who are never questioned.

Job Insecurity: Too much work, long working hours, contract labours create tremendous stress and pressure among

employees. Target goals and unrealistic expectations drain them physically as well as mentally. Five out of ten employees in India have experienced one or another type of discrimination said a study by staffing firm Team lease Services. There exists gender segregation in terms of benefits, hours, leave, wages, opportunities, etc.

Workplace Adjustment: Adjusting to the workplace culture can sometimes be highly stressful. Maladjustments may lead to conflicts with colleagues and seniors. Women generally don't raise their voices at the workplace because of the fear of losing their jobs.

Other Reasons: It includes personal reasons like age, lack of education, marital status, and work characteristics like the place of work, working hours, etc.

How Can India Overcome These Challenges?

Federation of Indian Chamber Of Commerce and Industry (FICCI) has provided some recommendations to overcome the various challenges that women face in the workplace. Some of the solutions are –

Safety of Women Employees: The workplace needs to be secure and women assured of basic safety on the job and in office. Measures concerning physical security include identification documents to be collected from drivers, security staff, and all casual staff, 24*7 operational CCTV cameras at the workplace, GPS monitoring cabs, or transport vehicles with panic buttons. Information system or SMS system to be installed. Emergency buttons in case of emergency, lights around work areas and parking, separate secure toilets for women employees, strict surveillance of visitors, provision of company transport during night shifts.

Organizational Changes: It is for the employer to create a positive atmosphere at the workplace where a woman is encouraged to come to work and treat her with respect and equality. There should be awareness programs by companies to transmit knowledge to women workers about their

rights. Setting up committees for sexual harassment so that women can raise voices without any fear and strict actions against those who are found guilty.

Educational Changes: Since many women are either illiterate or don't know about their rights provided to them by the Indian constitution, so it shall be the duty of all stakeholders i.e company managers, owners, male workers, administration, government, civil societies, and especially women themselves to bring awareness and training programs for women workers so that they have a feeling of security and raise their voice against any form of discrimination. Training of male employees to behave properly with females and self-defense classes for women workers could be some other techniques to help women come out of their shell and live with dignity.

In another report by McKinsey Global Institute, attention has been given to women's lack of access to the fundamental enablers of economic opportunity and it focuses on –

- Increasing women's access to digital technologies and financial products.
- Reducing the time women spend on unpaid care work.

97 percent of India's female workers are active in the informal sector, engaged in low-paid activities, and domestic work. "Improving the quality of work and its remuneration and enhancing the well-being of such women is an urgent priority," the report noted.

Social And Behavioural change can play a big role in achieving this target. Organizations should encourage their male employees to have a bigger share of household responsibilities.

Role of Administration: Public administration which deals with decisions and policies is closely related to real-life issues. Organizations that have good management and that focus on providing equal opportunities to women have efficient working employees while those who fail to

make good policies are exploitative and have a poor working environment.

Conclusion

Women must fight against discriminatory attitudes and hostile work environment by taking charge of the situation and making themselves aware of the laws and rights provided to them by the Indian constitution. They should participate equally in development programs and the economy. All the rights of women have to be protected, respected, and fulfilled. Law and order should look after the crimes against women and resolve them in the fastest way. No doubt, the condition of women workers has been improved today. Policies like free bus facility to women in Delhi, with police security, shall be supported so that women can travel safely. Also, the government of India came up with many policies to improve the condition of women workers but all these policies seem less efficient as women are still vulnerable in the workplace because of lack of knowledge. Organizations should provide fair and clear policies in their workplace and take strict actions against those who discriminate against women. If India treated her women better and Indian women were a bigger part of its workforce, the country would be 27 percent richer.

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