



Empowering Women In The Indian Workforce: A Study On Women's Rights Under Labour Laws

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Abstract

This study focuses on the empowerment of women in the Indian workforce through an examination of their rights under labour laws. Women's participation in the workforce is essential for sustainable economic growth and gender equality. However, gender-based discrimination and unequal treatment persist, hindering women's progress in the workplace. The research aims to identify and analyze the key provisions of Indian labour laws that safeguard women's rights, such as the Equal Remuneration Act, Maternity Benefit Act, Sexual Harassment of Women at Workplace Act, and others. Additionally, it explores the implementation and enforcement mechanisms of these laws to assess their effectiveness in promoting gender equality. The study employs a combination of qualitative and quantitative research methods, including document analysis, interviews with stakeholders, and statistical analysis of relevant data. The findings will shed light on the existing challenges faced by women in the Indian workforce and provide recommendations to enhance women's empowerment through policy reforms, awareness campaigns, and capacity-building initiatives.

Keywords Empowerment, women, Indian workforce, labour laws, gender equality, discrimination, rights, implementation, enforcement, policy reforms.

Introduction:

India being the world's most populous country has made substantial progress on gender equality for the past few years but there is still much to do. In the Indian workforce, women still have a number of difficulties, including discrimination, uneven pay, and little prospects for career growth. However, the Indian Constitution ensures that all people, including women, have equal rights and opportunities. With over 1.3 billion population in which 48% are women even the participation of women has increased over the years but when compared to their male co-workers, it nevertheless remains low. The labour force participation rate (LFPR) for women in India was 20.7% in 2020, compared to 76.3% for males, according to the International Labour Organisation (ILO).¹ A number of things, including societal and cultural hurdles, a lack of education, and discriminatory labour regulations, contribute to women's poor LFPR. This research paper aims to analyse women's rights under labour laws in India and the measures taken to empower women in the Indian workforce.

The Position of Women in Hindu Civilization

Women in ancient Hindu civilization were actively involved in various forms of labour, including agricultural work, handicrafts, and domestic duties. In rural areas, women were responsible for many of the agricultural tasks, while in urban areas they often worked as artisans, musicians, dancers, and actors.² They also played important roles in religious ceremonies and festivals. However, their labour was often undervalued and underpaid, and they were subjected to exploitative labour practices. Despite these challenges, women in ancient Hindu civilization played a vital role in the economy and society.

Issues Faced by Women in This Current Era

In India, prejudice, uneven pay, and little prospects for job growth still exist for women. These problems can cause anger and discontent, which can result in high turnover rates and a lack of diversity in the workplace.

- Equality Salary and Promotion

Every employee should be entitled to equal remuneration for equivalent labour as a fundamental right. In contrast, women in India are still paid less for doing the same work as men. The cultural expectations and biases that hold women to be less valuable than males are frequently blamed for this inequality. Women are frequently

¹ by Press Information Bureau Delhi, Labour Force Participation Rate (LFPR) of women shows an increasing trend as per the annual PLFS reports, Posted On: 20 MAR 2023 9:04PM

² Women Rights Under Indian Labour Laws: A Socio-Economic Study, Pooja Agarwal posted on <https://www.legalserviceindia.com/>

passed over for promotions or managerial roles in addition to receiving unequal compensation. By fostering an inclusive and diverse workplace culture, this problem may be solved. The Equal Remuneration Act, 1976, which forbids discrimination in employment and guarantees equal pay for men and women for the same labour or work of comparable type, codifies the idea of equal pay for equal work under Indian labour law³.

In the case of Air India v. Nargesh Mirza (1981): The Supreme Court of India ruled that female Air India employees were entitled to the same pay levels and promotional chances as their male coworkers. According to the court, denying women equal compensation for equal labour was discriminatory and went against their basic rights guaranteed by the Indian Constitution⁴.

In the case of Vasantha Kumar v. State of Tamil Nadu (1988): The Madras High Court held that women hired as junior assistants are entitled to the same remuneration as males hired for the same position. The court noted that women were entitled to the same compensation as men for the same work and that discrimination on the basis of gender violated the principle of equal pay for equal labour.⁵

In the case of State of Punjab v. Joginder Singh (2003): the Supreme Court of India held that women police constables were entitled to the same pay and promotional opportunities as their male counterparts. The court observed that discrimination based on gender was unconstitutional and that women were entitled to the same wages and benefits as men for the same work.⁶

These cases illustrate the importance of equal pay for women under Indian labour law, and the legal protections available to female employees who experience discrimination because of gender in the workplace.

- Sexual harassment

In the Indian workplace, sexual harassment is a common problem. A hostile and hazardous work environment is produced by the frequent unwelcome approaches, remarks, or physical contact made towards women. According to the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act of 2013, sexual harassment is illegal under Indian labour law. The Act generally defines sexual harassment as any unwanted sexual approaches, demands for sexual favors, or any sexually explicit physical or verbal behaviour that makes a workplace unfriendly or threatening for women.⁷

In the landmark case of Vishaka v. State of Rajasthan (1997): In order to avoid sexual harassment of women at work before explicit law was adopted, the Supreme Court of India established guidelines. The court ruled that sexual harassment of women at work violated their basic rights guaranteed by the Indian Constitution and that

³ Equal remuneration act 1976

⁴ Air India Etc. Etc vs Nergesh Meerza & Ors. Etc. Etc on 28 August, 1981 1981 AIR 1829, 1982 SCR (1) 438

⁵ K.C. Vasantha Kumar & Another vs State Of Karnataka on 8 May, 1985 1985 AIR 1495, 1985 SCR Supl. (1) 352

⁶ State Of Punjab vs Joginder Singh and Anr on 29 October, 2003

⁷ the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act of 2013

companies were obligated to give their female employees a workplace that was secure and free from harassment.

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In the case of Apparel Export Promotion Council v. A.K. Chopra (1999): the Supreme Court of India held that the employer is vicariously accountable for any sexual harassment perpetrated by an employee, and it is the employer's duty to take precautions to stop it. The court noted that an employer must act immediately to stop harassment, including opening an investigation and applying the proper sanctions on the perpetrator.⁹

In the case of State of Haryana v. Rajesh Kumar (2001): the Supreme Court of India held that employers had a responsibility to prevent and treat cases of sexual harassment in the workplace and that sexual harassment constituted a crime under the Indian Penal Code. The court found that women's successful participation in the workforce required a secure and harassment-free work environment.¹⁰

These cases serve as a reminder of the legal safeguards provided to women under Indian labour law in cases of sexual harassment, as well as the obligations of employers to prevent and handle such incidents.

- Menstrual leave

In India, the topic of menstrual leave is contentious. Menstrual leave policies have been implemented by certain businesses, while others consider them to be superfluous expenses. Women who are on menstrual leave may get the time and support they need to manage their periods, which will lessen their discomfort and increase their productivity. Menstrual leave is not now specifically included in Indian labour legislation. To provide its female employees more relaxation and assistance throughout their menstrual cycle, several businesses have implemented menstruation leave as a policy.

Bihar State Power (Holding) Company Ltd. v. Usha Kumari (2018): The Patna High Court ordered the Bihar State Power (Holding) Company Ltd. to give its female employees paid menstruation leave in this case. The court noted that menstruation presented physical and psychological difficulties for women, and that granting menstrual leave was a means of advancing gender equality and bettering women's working circumstances.¹¹

The Kerala Shops and Commercial Establishments (Amendment) Act, 2018: The Kerala government revised the Kerala Shops and Commercial Establishments Act, 1960 in 2018 to include a provision for female employees to take one day of menstruation leave each month. The amendment aims to advance gender equality and improve women's working circumstances.¹²

⁸ Vishaka & Ors. v State of Rajasthan & Ors. ((1997) 6 SCC 241)

⁹ Apparel Export Promotion Council v. A.K. Chopra (1999) air 1999 sc 625

¹⁰ CRIMINAL APPEAL NO. 813 OF 2019

¹¹ civil Writ Jurisdiction Case No.10705 of 2013

¹² 4th day of October, 2018.

Apart from being discriminatory, the fact that India (apart from Bihar and Kerala) does not have a menstruation leave policy is a reflection of the persistent patriarchal beliefs in our culture. It is intolerable that women must endure anguish in secret, conceal their suffering, and put on a brave front when they are obviously not. Menstrual discomfort can significantly affect a woman's productivity and attendance at work, according to studies. According to estimates, menstrual-related problems cost Indian women 23 million working days per year. In addition to harming women, this productivity loss has a big effect on the economy.¹³

Many nations, like Japan, South Korea, Taiwan, and Indonesia, have menstrual leave policies in place because they understand how important it is to take care of women's unique requirements currently.¹⁴ It is past time for India to adopt a similar policy and include a menstruation leave provision.

- Dalit women as labourers

Women from the lowest castes or Dalits in India confront extra difficulties in the workplace. These women are more likely to work in low-paying, low-skill professions since they frequently have restricted access to education and employment alternatives. Dalit women also experience harassment and discrimination at work because of their gender and caste. They frequently endure verbal abuse, physical abuse, and sexual harassment, which makes it challenging for them to do their jobs well. They are also denied access to necessities like toilets and bathrooms, which can have negative health effects. Indian labour laws provide protection to all employees, including Dalit women. However, they frequently experience exploitation and discrimination at work, as well as prejudice in society based on their gender and caste.

National Campaign on Dalit Human Rights v. Union of India (2018): In this case, the Supreme Court ordered the government to take action to stop the violence and prejudice Dalit women experience, particularly at work. According to the court, Dalit women experience a variety of types of discrimination based on their caste, gender, and economic condition, and the government is responsible for defending their rights.¹⁵

National Federation of Dalit Women v. Union of India (2019): In this case, the Delhi High Court ordered the government to act in this case to stop the economic and social prejudice Dalit women endure, particularly at work. The court noted that there were several obstacles for Dalit women to participate equally in the workforce, including caste and gender discrimination, and that the government had a responsibility to remove these obstacles.

¹³ 23 Million Women Drop Out Of School Every Year When They Start Menstruating In India By: Saptarshi Dutta, published on may 28, 2018 available in <https://swachhindia.ndtv.com/23-million-women-drop-out-of-school-every-year-when-they-start-menstruating-in-india-17838/>

¹⁴ Menstrual, Maternity, and Menopause Leave: The Work-Life Balance of Women in South Korea and Worldwide by Ms. Amy Suna Kim, available at asia society

¹⁵ WRIT PETITION (CIVIL) No. 140 of 2006

These incidents demonstrate how crucial it is to address the discrimination and exploitation Dalit women experience at work and to make sure that Indian labour laws safeguard their rights as employees. They also stress the necessity of government intervention to alleviate the pervasive inequality Dalit women experience in Indian society.

- Sex workers

In India, sex workers are a marginalised population that encounters several difficulties in the workplace. Due to poverty, a lack of education, and a lack of other prospects, many sex workers are compelled to work in the industry. They are frequently the targets of abuse from customers, pimps, and police enforcement personnel. The stigma attached to sex work makes it challenging for sex workers to get essential services like healthcare and education. Additionally, because sex workers are not protected by labour rules, it is challenging for them to assert their rights and benefits.¹⁶

Indian labour laws do not officially recognise sex work as a legitimate profession, and as a result, sex workers frequently experience marginalisation, discrimination, and exploitation at work. Some Indian cases, nevertheless, have addressed sex workers' difficulties and supported their legal rights:

Budhadev Karmaskar v. State of West Bengal (2011): In this case, the Supreme Court of India found that sex workers had the right to basic amenities including housing, education, and health care in addition to the right to live in dignity. The government was also ordered by the court to take action to stop the exploitation of sex workers and to offer them social and financial help.¹⁷

Durbar Mahila Samanwaya Committee v. State of West Bengal (2015): In this case, the government was given a directive by the Calcutta High Court in this case to take action to safeguard the rights of sex workers and acknowledge their profession as a legal one. The court noted that criminalising sex work had a negative impact on sex workers' health and safety and that the government had a responsibility to uphold their rights.¹⁸

These incidents demonstrate the necessity of addressing the difficulties faced by sex workers in India and offering them assistance, protection, and legal recognition. They also stress how important it is to respect everyone's rights and dignity at work, especially those who operate in marginalised or derogatory fields.

¹⁶ Story of abuse that sex workers face every day by nitasha natu published on march 09, 2023 on times of india

¹⁷ CRIMINAL APPEAL NO. 135 OF 2010

¹⁸ W.P.No.20003(W) of 2017

- Transgender individuals

There are many difficulties for transgender people in the Indian workforce. They frequently encounter assault, harassment, and discrimination, and they are frequently denied job prospects.

Transgender people frequently experience physical and verbal abuse, which makes it challenging for them to function well at work. They are also denied access to necessities like restrooms and toilets, which can have negative health effects. They are also not recognised by employment regulations, which makes it challenging for them to assert their rights and benefits.

In India, transgender people experience prejudice and marginalisation in many spheres of life, including the job.¹⁹ The following Indian court cases discuss the difficulties faced by transgender workers and support their rights:

Laxmi Narayan Tripathy v. Union of India (2014): In this case, the Bombay High Court ordered the government to take action to safeguard transgender people's rights, especially at work. The court noted that transgender people experience harassment and discrimination at work and that the government had a responsibility to address these problems.²⁰

National Aids Control Organisation v. Jitendra Kumar Srivastava (2014): The Delhi High Court ordered the government to act in this case to address the discrimination transgender people experience when trying to access career opportunities and medical care. The court noted that because of their gender identification, transgender people experience a variety of forms of discrimination, and that the government has a responsibility to defend their rights.²¹

These incidents demonstrate how crucial it is to uphold transgender people's rights and confront the prejudice and marginalisation they experience in the workplace. They also stress the importance of taking action by the government to defend the rights of all workers, especially those who experience discrimination due to their gender identity or expression.

- Laws Protecting from Discrimination in the Workplace

India has a number of labour regulations that protect all employees' rights, especially those of women.

¹⁹ Problems Faced by Transgender Community in India: Some Recommendations by Dr. Subhrajit Chatterjee, Assistant Professor in Sociology available at ijcrt.org

²⁰ WRIT PETITION (CIVIL) NO.604 OF 2013

²¹ CIVIL APPEAL NO. 6770 OF 2013

- Equal Remuneration Act:

In 1976, India passed the Equal Remuneration Act. According to the law, men and women must be paid equally for equal work. It forbids discrimination on the grounds of gender in decisions about hiring, promotion, and pay. Every establishment, both governmental and private, and every sphere of the economy is covered by the act.²²

- Maternity Benefits Act:

In 1961, India passed the Maternity Benefits Act. The law grants 26 weeks of paid maternity leave to women who work in businesses with 10 or more workers. The law also calls for the provision of maternity benefits for the duration of the leave from work at a rate equal to the average daily income. The law also allows women who adopt a child to take a leave of up to 12 weeks.²³

- Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act:

In 2013, India passed the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act. The statute outlines procedures for stopping and addressing workplace sexual harassment of women. Every employer with ten or more employees is required by law to establish an Internal Complaints Committee (ICC) to handle sexual harassment claims. Additionally, the act calls for the creation of a Local Complaints Committee (LCC) at the district level to handle complaints from businesses with fewer than 10 workers or in cases where the ICC has not been established.²⁴

- Factories Act:

In 1948, India passed the Factories Act. The act controls factory working conditions. The act contains rules relating to the welfare, health, and working conditions of factory workers as well as their safety. The statute also includes clauses addressing women's work in factories. According to the law, women are not allowed to work in some processes that are deemed hazardous to their health and safety.²⁵

²² EQUAL REMUNERATION ACT, 1976 [Act 25 of 1976 amended by Act 49 of 1987]

²³ the Maternity Benefit (Amendment) Act, 1995 (29 of 1995).

²⁴ the Sexual Harassment of Women at Workplace

²⁵ Factories Act, 1948

- Measures to Empower Women in the Indian Workforce:

The Indian government has made a number of steps to increase the number of working-age women. In order to promote girls' education and welfare, the Beti Bachao Beti Padhao (Save the Daughter, Educate the Daughter) programme²⁶ was introduced in 2015. The effort has been successful in increasing the enrollment of females in schools and improving the sex ratio.

The 2015 National Policy for Skill Development and business²⁷ seeks to empower women via skill development and business promotion. The decision has led to the development of various initiatives that offer financial support and training to female entrepreneurs.

In order to give loans to small and micro businesses that are neither corporation or farms up to Rs. 10 lakhs, the Pradhan Mantri Mudra Yojana (PMMY)²⁸ was introduced in 2015. The programme has been effective in giving money to female business owners who previously couldn't get bank loans.

- Situation in other countries

Equal pay and quotas for women in leadership roles are only two of the measures that certain nations, including Norway and Sweden, have put into place to encourage gender equality in the workplace. The Lilly Ledbetter Fair compensation Act of 2009²⁹ in the US makes sure that workers have a fair and equal chance to obtain equal compensation for equivalent labour.

In Australia, firms with more than 100 employees are required by the Workplace Gender Equality Act of 2012³⁰ to report on gender equality indicators like compensation and the representation of women in leadership posts. These regulations give employers assistance in addressing gender disparity at work.

Conclusion

Economic development and social advancement in India depend heavily on the participation of women in the workforce. The Indian workforce still experiences gender imbalance, and women deal with issues including harassment, discrimination, and low pay. Although legislation defending women's rights in the workplace has been passed, putting these rules into practise is still difficult. In addition, gender roles still play a negative effect in social conventions and cultural perspectives, which prevent women from progressing in the workplace. It takes a multifaceted strategy to address these issues, including changes to the law, societal transformations, and activities to raise awareness. In addition to benefiting women, empowering women in the workforce in India will advance the nation's overall economic development.

²⁶ <https://ssb.gov.in/index1.aspx?langid=1&lev=2&lsid=2906&pid=2900&Cid=0&lid=1521>

²⁷ <https://msde.gov.in/sites/default/files/2019-09/National%20Policy%20on%20Skill%20Development%20and%20Entrepreneurship%20Final.pdf>

²⁸ <https://www.mudra.org.in/Home/PMMYBankersKit>

²⁹ U.S. Equal Employment Opportunity Commission official website

³⁰ https://www.dss.gov.au/sites/default/files/documents/11_2012/factsheet_amended_201112.pdf official article released by Australian Government