

## Labor Laws and Working Women in India

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### Abstract

*Women are known to work on farms, in road and housing construction, and of late, in factories, at production centers manufacturing garments and electronic assembly plants with a great zeal & enthusiasm. Talented and Skilled women workers also have been working in several industries. In hill areas also, a large number of women are engaged in construction of forestry products including fuel wood, woollen garments. The majority of women work in the unorganized sector for very low wages and at low levels of skills. The number of unskilled women workers during the last four decades has more than doubled from 40 million to 90 million. Women are not given equality of rights in payment and equal treatment with men even they are a significant part of workforce in our country. According to Government sources, out of 407 million total workforce, 90 million are women workers, largely employed (about 87 percent) in the agricultural sector as laborers and cultivators. Still the position of women is worse. This paper deals with the constitutional provisions for women, problems faced by women and its need as well as suggested measures for improving the worse condition of women in the society.*

**Keywords:** Skilled Women, Opportunities, Significant, Cultivators.

### Introduction

Equality is essential to maintain a sustainable peace as well as encouraging sustainable economic growth. Assurance of providing equality and protection of women's interests in labor law is a key factor to improve social justice. Gender equality and protection of women's interests in labor law has become crucial in recent times. In India, women employment is very low, due to several reasons, some of them being safety issue and lack of workplace rules in place in the unorganized sector (domestic work). Thus they need special protection measures - promotion of equality in a manner of positive environment for them. This involves equality in payments, implementation of laws which involves preventing sexual harassment, providing maternity benefits, etc. There has been a tremendous movement towards women empowerment in labor law, the only thing it requires is awareness of rights. The Constitution not only grants equality to women, but also empowers the State to adopt measures of positive discrimination in favor of women. Within the framework of a democratic polity, our laws, development policies, Plans and programmes have aimed at women's advancement in different sectors. India has also adopted several international conventions and human rights instruments committing to have access for equal rights of women. Key among them is the ratification of the Convention on Elimination of All Forms of Discrimination against Women

### Objectives of the Study:

1. To study the problems faced by women in the society
2. To study the constitutional and legal provisions available for protection of women

3. *To study welfare measures for women to make the position of women strong in the society.*

## Methodology and Material

This study is mainly based on secondary sources such as books, web-portals and internet etc. Various websites are visited to get information related to women and development of country. Further, various e-journals and other articles are reviewed. Various books and magazines are also reviewed.

## Constitutional Provisions

The Constitution of India provides equality to women as by adopting various measures in favor of women so that all socio economic, educational and other benefits easily available to them. As Fundamental Rights, among others, ensure equality before the law and equal protection of law; prohibits discrimination against any citizen on grounds of religion, race, caste, sex or place of birth, and guarantee equality of opportunity to all citizens in matters relating to employment. Articles 14, 15, 15(3), 16, 39(a), 39(b), 39(c) and 42 of the Constitution are of specific importance in this regard.

## Constitutional Provisions\*

- (i) Equality before law for women (Article 14)
- (ii) The State not to discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them (Article 15 (i))
- (iii) The State to make any special provision in favor of women and children (Article 15 (3))

\*[http://mospi.nic.in/Mospi\\_New/upload/man\\_and\\_women/Constitutional%20&%20Legal%20Rights.pdf](http://mospi.nic.in/Mospi_New/upload/man_and_women/Constitutional%20&%20Legal%20Rights.pdf)

- (iv) The State to direct its policy towards securing for men and women equally the right to an adequate means of livelihood (Article 39(a)); and equal pay for equal work for both men and women (Article 39(d))
- (v) 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 by reason of Equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State (Article 16)
- (vi) economic or other disabilities (Article 39 A)
- (vii) The State to make provision for securing just and humane conditions of work and for maternity relief (Article 42)
- (viii) The State to promote with special care the educational and economic interests of the weaker sections of the people and to protect them from social injustice and all forms of exploitation (Article 46)
- (ix) The State to raise the level of nutrition and the standard of living of its people (Article 47),
- (x) 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 (Article 51(A) (e))
- (xi) Not less than one- third of the total number of offices of Chairpersons in the Panchayats at each level to be reserved for women (Article 243 D (4))
- (xii) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Municipality to be reserved for women and such seats to be allotted by rotation to different constituencies in a Municipality (Article 243 T (3))
- (xiii) Reservation of offices of Chairpersons in Municipalities for the Scheduled Castes, the Scheduled Tribes and women in such manner as the legislature of a State may by law provide (Article 243 T (4)).

## 1. LEGAL PROVISIONS\*

Various legislative measures have been taken to ensure equal rights for women, to remove social discrimination and various forms of violence and atrocities and to provide support services especially to working women. Although women may be victims of any of the crimes such as 'Murder', 'Robbery', 'Cheating' etc, the crimes, which are directed specifically against women, are characterized as 'Crime against Women'. These are broadly classified under two categories.

\*[http://mospi.nic.in/Mospi\\_New/upload/man\\_and\\_women/Constitutional%20&%20Legal%20Rights.pdf](http://mospi.nic.in/Mospi_New/upload/man_and_women/Constitutional%20&%20Legal%20Rights.pdf)

- (1) The Crimes Identified Under the Indian Penal Code (IPC)
  - (i) Rape (Sec. 376 IPC)
  - (ii) Kidnapping & Abduction for different purposes ( Sec. 363-373)
  - (iii) Homicide for Dowry, Dowry Deaths or their attempts (Sec. 302/304-B IPC)
  - (iv) Torture, both mental and physical (Sec. 498-A IPC)
  - (v) Molestation (Sec. 354 IPC)
  - (vi) Sexual Harassment (Sec. 509 IPC)
  - (vii) Importation of girls (up to 21 years of age)

### **Special Initiatives for Women**

#### **National Commission for Women**

In January 1992, the Government set-up this statutory body with a specific mandate to study and monitor all matters relating to the constitutional and legal safeguards provided for women, review the existing legislation to suggest amendments wherever necessary, etc.

#### **Reservation for Women in Local Self -Government**

The 73<sup>rd</sup> Constitutional Amendment Acts passed in 1992 by Parliament ensure one-third of the total seats for women in all elected offices in local bodies whether in rural areas or urban areas.

#### **The National Plan of Action for the Girl Child (1991-2000)**

The plan of Action is to ensure survival, protection and development of the girl child with the ultimate objective of building up a better future for the girl child.

#### **National Policy for the Empowerment of Women, 2001**

The Department of Women & Child Development in the Ministry of Human Resource Development has prepared a "National Policy for the Empowerment of Women" in the year 2001. The goal of this policy is to bring about the advancement, development and empowerment of women.

#### **Problems faced by women:**

##### **Unequal Employment opportunities and wage disparity**

It is not possible to bring equality without equal opportunities and equal treatment given to all. While equal opportunity means having an equal chance of applying for a particular job – equal access to employment, which includes, equal chance to acquire training in the field, eligibility for promotions, upliftment and eligibility to attain particular qualifications/ entry in certain cadres; equal treatment refers to being entitled to equal pay, working terms and conditions, social security, and social protection and better family life (in terms of the opposite sex). One of the reasons as to why there is an inequality in the employment opportunities available to women and the disparity in wages is that women are view as supplementary earners and they are dependent on men for their expenses and men are viewed as primary breadwinners. This operates as a vicious cycle, as the low wages offered

to women further keep them in lower category of employment and continues to perpetuate disparity. Additionally women accept jobs with less pay in order to avoid sitting idle, and this differential wages works as a discouraging factor against enhanced performance and thus reduces an opportunity for career advancement. Another cause for disparity in income is that a majority of the active female workforce is involved in the primary sector, such as agriculture and domestic work, which have very few regulations in terms of remuneration and social security.

### **Sexual harassment of women in the workplace:**

Female constitutes nearly the half population of country and hypothetical potential workforce. Therefore as rightly put by the National Commission on Labor in 2002, "any social, economic or industrial system that ignores the potentials, talents and special attitudes of this half will be flawed on many counts. It is, therefore, necessary to ensure equal opportunities and protection from indignities." Elizabeth Stanko offers an interesting juxtaposition of the experiences of women and men and how those experiences impact on their feelings about safety and danger. "Women's lives rest upon a continuum of unsafety". Sexual Harassment in the workplace refers to any unwanted sexual advances, be it verbal or physical, as long as it is of sexual nature and is either used as leverage for favorable treatment at work or is interfering with an individual's performance at work by creating a hostile work environment. Sexual harassment is inclusive of:

- Inappropriate remarks, jokes, or insinuations of a lewd or sexual nature
- Unwanted physical contact, including assault
- Lewd gestures and lecherous looks
- Compromising invitations.
- Requests or demands for sexual favors – including implicit or explicit threats of dismissal or other unfavorable treatment if such favors are refused; also incentive of favorable treatment in return for such favors.

Sexual harassment is not only viewed as a discrimination problem related to safety and health, but also as a violation of fundamental rights and human rights. It is offensive at a very personal level and in a way undermines the right to equal opportunity and equal treatment of women at the workplace.

### **Maternity Problems:**

Women with infants and young children, often have to choose the priority between their job and their responsibility towards their children, due to that lack of facilities at their workplaces, in order to accommodate both. Performing at homes and taking care of children is the primary or natural responsibility of women. Crèches have to be mandatorily provided at workplaces. The informal sector, where a majority of the active female populace is employed rarely provides such facilities. This is one of the reason that child bearing and rearing becoming deterrents for women's employment. Therefore it is essential that maternity benefits be provided mandatorily to women at the workplace in order to encourage more women to actively be part of the workforce so that a move towards growth and development can be initiated.

### **Welfare measures for Women:**

- Special provisions regarding the health, safety and welfare for women, social security measures and wage protection are contained in the above-mentioned statutes. The provisions relating to the welfare of women in all of these acts are as follows:
- Provisions for separate Latrine and Urinal Facilities – This has been provided for under the Factories Act, 1948; the Mines Act, 1952; the Plantation Labor Act, 1951; the Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Act,

- 1996; the Beedi and Cigar Workers (Conditions of Employment) Act, 1966; the Contract Labor (Regulation and Abolition) Act, 1970;
- Prohibition of work in Hazardous Occupations – This has been provided for under the Factories Act, 1948; the Mines Act, 1952;
  - Washing and Bathing Facilities – This has been provided for under the Factories Act, 1948; the Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Act, 1996; the Contract Labor (Regulation and Abolition) Act, 1970;
  - Creches – This has been provided for under the Factories Act, 1948; the Mines Act, 1952; the Plantation Labor Act, 1951; the Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Act, 1996; the Beedi and Cigar Workers (Conditions of Employment) Act, 1966; the Contract Labour (Regulation and Abolition) Act, 1970; the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979;
  - Limiting hours of work to 9 hours per day and additional regulations with regards to shifts – This has been provided for under the Factories Act, 1948;
  - Limiting the maximum permissible load to be lifted by women taking into consideration biological factors – This has been provided for under the Factories Act, 1948;
  - Prohibition of Night work – This has been provided for under the Factories Act, 1948; the Mines Act, 1952; the Plantation Labor Act, 1951; the Beedi and Cigar Workers (Conditions of Employment) Act, 1966; the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979;
  - Separate Restrooms and Canteens – the Contract Labor (Regulation and Abolition) Act, 1970; the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979;
  - Prohibition of employment of women during night hours
  - Prohibition of work in hazardous occupations.
  - Prohibition of employment of women in pressing cotton where a cotton opener is at work
  - Fixation of daily hours of work at nine.
  - Fixation of maximum permissible load.
  - Provision for crèche
  - In every factory where more than 30 women workers are ordinarily employed, there shall be a suitable room for the use of children under the age of six years of such women.
  - Provision for washing and bathing facilities. The Act provides for separate and adequately screened washing and bathing facilities for women.
  - Provisions for toilets. The factories Act must make it obligatory for any factory owner to maintain an adequate number
  - Provisions for rest rooms and canteens.
  - Provisions for mandatory benefits.
  - "VOCATIONAL TRAINING FOR WOMEN" under Directorate General of -Employment & Training
  - DGE&T is the nodal agency for providing vocational training in traditional and contemporary courses and certification to women to meet the trained skill workforce to the industry and service sector etc. in the country. These courses help women to achieve their career goals and become independent. The Women Vocational Training Programme is dedicated to planning and implementing long term policies related to women's vocational training in the country. The Institutional framework comprising 11 Institutes in the Central sector offer training courses to women to develop professional skills required to find suitable jobs/self employment and trained faculty position in ITIs etc. The institutes set up to impart training exclusively for women under the Women Vocational Training Programme

## Suggestions

- To support women for working in every sphere.
- To provide the safe environment
- To assist women members for making them mentally strong.
- To provide better working conditions
- To provide equal treatment with their counterpart
- To appreciate them by providing motivational methods
- To create such type of conditions so that extra burden can be removed
- To make arrangements for CCTV camera at workplace to stop sexual harassment problem

## Conclusion

It can be seen from the multiple special provisions made for the welfare of women that both at the national and international levels, there have been a movement towards the empowerment of women in labor law. There has been a clear move towards making equal pay, equal access to opportunity, prevention and redressal of sexual harassment and provision of maternity benefits a reality in India. In fact a majority of laws in relation to the special provisions for women have been modeled after the ILO conventions.

However it is important to note that some of these protective legislations have backfired and proved to be counterproductive in nature. For instance the prohibition of night work by much legislation has deprived women laborers of the agency of deciding for them whether or not they would like to work at a certain time or not. In many instances women workers who are willing to and want to work overtime or night shifts are unable to do so because of these regulations leading to a gross denial of the right equal opportunity of employment to women. The only way to solve such issues in socially rather than legally

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