

## Women Worker's Legislations - Indian Perspective

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### ABSTRACT

*Women workers has been an important and integral segment of work force in India. In The present Study comprises the analysis of the legal and constitutional Indian perspective of welfare status of women workers. These welfare legislations which stress upon socio-economic welfare of women workforce. With the changing socio-economic scenario and importance of working women's productive roles have assumed new dimensions. During the preceding century, the parliament of India has come up with a number of legislative measures providing various safeguards and empowering the female workforce so that they can live with dignity and peace.*

**Keywords:** *women workers, welfare legislations, constitution, Indian perspective, socio - economic and political.*

### Introduction

The Supreme Court has stressed the working conditions at work places, better standard of life, hygienic, wages, insurance, health and safety, sexual harassment at workplace etc. to make their life meaningful. Most of the problems which working women beset are in reality rooted in the social and economic perspective of the position of women. The amendment has been a welcome measure, and has empowered women to a great extent both politically and socially. Within this constitutional framework of a democratic policy, our laws, growth, development policies, plans and programmes have repeatedly aimed at women's advancement in different spheres of life. The legislative provisions for the protection and welfare of women workers are largely inspired by the International Labour Organisation (ILO) Conventions.

### Ilo and Conventions Concerning Women Labour

India is a member of International Labour Organisation (ILO) since 1919. Three years later the country became a permanent member of the ILO and in 1928 the first ILO branch was established in Delhi. The ILO standards concerning balance of work and family, health, equality, sex-based and discrimination in the employee-employer relationship;

### Laws Relating to Working Women

ILO prescribe minimum working hours, regulate the conditions, principle of non-discrimination in wages, workers irrespective of their sex, region, ethnicity, physical ability or other attributes. The followings are the most important laws related to women workers,

## **The Prohibition of Sexual Harassment of Women at Workplace Act, 2013**

### **Procedural Requirements for Employers**

- Section 4 lays down the establishment of an Internal Complaints Committee (ICC).
- If a workplace has less than 10 employees it is difficult to set up ICC. Local complaints committee (LOC) established at the district level.

### **The Complaint Process**

- Section 9 requires that a complaint to be filed within 3 months of the date of incident.
- This may be extended to another 3 months if the woman can prove that grave circumstances prevented her from filing at an earlier time although “grave” is not defined within the act.
- The ICC is required to complete the inquiry within 90 days of receipt of a complaint then obliged to take action on the report within 60 days.
- Employers are required to ensure timely submission of reports to the District Officer.
- If a complaint is not proven, the ICC can instruct the employer or appropriate District Officer that no further action is required.

### **The Maternity Benefit Act, 1961**

- Article 42 of the Constitution of India imposes obligation upon the securing work and for maternity relief.
- The maternity benefit is a payment of her actual absence immediately preceding and including the day of her delivery and for six weeks immediately following that day.
- In the matters relating to maternity leave, economic benefits during absence of work.
- Maternity protections more adequate in the following spheres:
- More liberal provisions for extended or extra leave during child’s infancy,
- More effective protection against dismissal during pregnancy,
- Greater encouragement of breastfeeding and wider provisions of nursing breaks,
- Establishment by social security schemes to care for infants of working parents.

### **Maternity Benefits:** A woman can get maternity Benefits,

- During and after Pregnancy (during the early months of motherhood).
- Government employed women are entitled for maternity leave with full pay.
- Other working women are entitled for 16 weeks maternity benefits.
- Even unmarried women are entitled for maternity benefits.
- Only those Government employees can avail these benefits, which have less than two surviving children.

- If a woman wants she can avail few days before the delivery and the remaining leave after the delivery, or she can avail the entire leave at the same time.
- The employer cannot make a woman do any heavy work in the last working month of pregnancy.
- A woman is entitled to 45 days leave full wages in case of miscarriage.
- The National maternity Benefit scheme was modified and new scheme called Janani SrakshaYojna was introduced.

**Complaint:** Section 17 talks of complaint that can be made to the inspector appointed under the Act. Section 23 talks of complaint that may be lodged in a court of law after exhausting the remedies provided under the Act.

#### **Procedure to Seek Remedy**

- The inspector may enter any place where women are working, in exercise of powers given to him under the Act and records required to be maintained
- The woman should have put 80 days of work before in a delivery period of one year to be able to claim the benefits under the Act.
- Where she has failed to give such a notice, she may apply to the Inspector who shall make the necessary orders within 30 days from the date of the decision.
- Where the employer is guilty of payment, he is punishable with imprisonment not less than 3 months to one year and with fine for not less than Rs. 2000 to Rs. 5000

#### **The Factories Act, 1948**

##### **Rights of Working Women in Factories**

- Women must have separate toilets and washrooms with doors.
- If a factory has more than 30 women workers the employer must provide a creche for the workers children.
- Women cannot be made to lift more than the prescribed weight.
- Women cannot be made to work more than 48 hours in a week.
- Women must get one day off in a week.
- Women cannot be made to work for more than 5 hours at a stretch.
- Women cannot be made to work only between 6 in the morning and 7 in the evening.
- Shift can change only after weekly or other holiday and not in between.
- Night shift for women
- Factories Act has been proposed to be amended to allow night shift for women workers.
- Section 66 to allow women workers between 7:00 pm and 6:00 am.

- To ensure occupational safety and adequate protection to the women workers.
- For contravention of the provisions of up to 2 years or fine up to Rs. 1,00,000.
- Contravention causing death or serious bodily injury- fine not less than Rs. 25,000 in case of death and not less than Rs. 5000 in case of serious injuries.
- Continuation of Contravention – imprisonment up to 3 years or fine not less than Rs. 10,000 which may extend to Rs. 2, 00,000.
- On contravention of chapter IV pertaining to safety or dangerous operation.

### **The Equal Remuneration Act, 1976**

- If two workers are doing the same work, they should be paid equal wages.
- Even Article 39 of the Constitution envisages that the state shall direct its policy, among towards securing that there is equal pay for equal work for both men and women.
- **Advisory committee:** Committee shall consist of not less than ten persons of which one-half of women.
- Power of appropriate government to appoint authorities for hearing and deciding claims and complaints:
- Every authority appointed shall have all the powers of a civil code under the Code of Civil Procedure, 1908 (5 of 1908), for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents.
- An appeal within 30 days but not thereafter is allowed.

### **Remedies under the Act**

The Magistrate may take up the case on its own or on receiving a complaint either from the appropriate Government or the aggrieved person or any recognized Welfare Institution or Organization and even Public Interest Litigation may be filed for discrimination in payment on grounds of gender.

### **Complaint Process**

- Either of the parties may appeal to the appellate authority as notified by the Government under the Act within 30 days of the original order.
- Alternatively, a Public Interest Litigation may be filed in the court of law or the Legal Services Authority may be approached for getting appropriate relief and legal aid.

### **Minimum Wages Act, 1948**

- Every woman must be paid the same wage as a man for the same kind of work i.e., equal to the man and not less.

- Even if a person agrees to work on less wages than prescribed by the government, the employer is bound to pay the minimum wages.
- Minimum wages must be fixed on: Daily basis, Hourly basis and Monthly basis.

### **Remedy / Procedure under Act**

- If the employer is not paying the Minimum Wages then the labour can complain to the labour inspector.
- The employer cannot make the labour work for more than 9 hours which includes the time for rest also.
- If the labour works for more than 9 hours he/she will get the extra money which is doubled the wages.
- Every week there should be one day paid rest.
- The Presiding Officers of the Labour court and Deputy Labour Commissioners hear and decide claims arising out of payment of less than the minimum rates of wages.

### **Complaint Process**

- Every application under this Act must be presented within 6 months from the date on which the minimum wages become payable.
- A single application may be filed on behalf of any number of employees.
- No appeal shall lie against the decision of the authorities under the Act.

### **Review of Literature**

Andre Bataille's (1999) article on "*Empowerment*" the article explains the empowerment process through the expansion of the civil, political and social rights of citizens and says it is a laborious and unexciting process.

Dr.G.Q.Mir, (2001) "*Women Workers and The Law*" analyses the present scenario of working population in India with regard to Employees State Insurance Act and Maternity Benefit Act although they are covering the same field of maternity benefit yet they are not uniform in contribution periods and benefits provided and implications for the growth and development.

Dr. Kamini B. Dashora (2013) in their article "*Problems faced by Working Women in India*", analyse the Indian society makes it difficult for a working woman to balance her domestic environment with the professional life and family.

### **Statement of the Problem**

Discrimination against women in employment and disparity in wages is a universal phenomenon. However, empowerment and equality are the concepts based on the gender sensitivity of society towards their problems. The intensification of women's issues and rights

movement all over the world during the last few decades is reflected in the form of various conventions passed by the Nations.

### Objectives

- To analyse the present constitutional labour welfare and legislations relation to women.
- To analyse the law relating to empowerment of working women in India.

### Methodology

The Study comprises of review and evaluation of secondary sources information from the office of Registrar General & Census Commissioner of India, as per Census 2011, the National Sample Survey Organization (NSSO) these are two main sources of data on women's employment and articles, journals, internet sources were used.

### Data Analysis and Interpretation

**Table 1 - The Number of Female Workers**

Country	Total No. of Female Workers (million)	female workers			
		Rural (million)	Urban (million)	Organised sector (in lakh)	Unorganised sector (in lakh)
India	149.8	121.8	28.0	59.54	32.14

Source: Census of India-2011, Government of India

From table 1, it is evident that the total number of female workers in India is 149.8 million and female workers in rural and urban areas are 121.8 and 28.0 million respectively.

**Table 2 - The Work Participation Rate for Women in India**

Year	Work Participation Rate (per cent)
1981	19.67
1991	22.27
2001	25.63
2011	25.51

Source: Census of India-2011, Government of India

Table 2 shows that the Work Participation Rate of Women has reduced marginally in 2011 but there is an improvement from 22.27 per cent in 1991 and 19.67 per cent in 1981.

### Findings

- ❖ 149.8 million are the total number of female workers in India.

- ❖ 121.8 and 28.0 million are female workers in rural and urban areas.
- ❖ As per Census 2011, the work participation rate for women is 25.51 per cent as compared to 25.63 per cent in 2001.

### **Suggestions**

- Providing vocational training courses and certification to women to meet the trained skill workforce to the industry and service sector etc. in the country.
- Fully utilize the allotted funds were utilised in the allotted time.
- Proper determinant, planning and execution of the women workers welfare legislation.
- Increase the awareness levels towards securing the working women with rights.
- Reduce the loopholes present in these enactments of laws have been in operation.

### **Conclusion**

To encourage the women in India to equally participate with men in every sphere there needs to be a sea change in the mind-set of the people of the country. Not just the women themselves need to be aware, but the men have to wake up to a world that is moving towards equality, equity and towards shunning gender disparity. The status and dignity of women is very much associated with their contribution towards the economic activities and growth of the nation. Women an epitome of power, and once given an exalted status, are in need of empowerment-legal, social, political and economic. So that women workers enjoy a unique position in every society and country.

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