

CHAPTER-13

IDENTIFYING OBSTACLES IN THE EFFECTIVE IMPLEMENTATION OF LABOUR LAWS FOR WOMEN IN INDIA: CHALLENGES IN IMPLEMENTATION

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ABSTRACT

The intersection of labour laws and women's rights is a crucial aspect of legal and social frameworks globally. Labour laws are designed to regulate employment relationships, ensure fair treatment, and safeguard the rights of workers. When considering women in the workforce, these laws are pivotal in addressing gender-based discrimination, promoting equal opportunities, and creating a conducive environment for women's employment. This paper analyses obstacles, categorizing them into themes such as a lack of awareness, gender bias, enforcement issues, institutional challenges, economic factors, and cultural influences. The paper identifies obstacles and explores their tangible impact on women workers, emphasizing the repercussions on rights and well-being. This paper contributes to the ongoing discourse on gender equality, providing a roadmap for policymakers and stakeholders to address and overcome obstacles in implementing labour laws for women.

Keywords: *Obstacles, Labour Laws, Challenges, Implementation, Employment.*

1. INTRODUCTION

The 1948 establishment of the Universal Declaration of Human Rights aimed to safeguard the honour and dignity of individuals on a global scale. This set of laws, coupled with the 1979 convention addressing the elimination of all forms of discrimination against women, has played a crucial role in endorsing and putting into effect human rights (Ahmed, W. et., al. 2020). Simultaneously, these legal frameworks have served as evidence highlighting the persistent occurrence of rights violations in both public and private domains.

Conventional development economics anticipated the eventual disappearance of informality, predicting that informal workers would transition into formal employment with associated social security benefits. Contrary to these expectations, informality has not diminished but rather persisted. Particularly striking is the overrepresentation of women in informal employment within low- and middle-income countries, leaving them without access to social protection. The ineligibility for social security is partly due to the nature of informal work, a challenge not exclusive to women but exacerbated for them due to structural and gender inequalities. Women in informal roles often find themselves concentrated in low-skill, low-wage positions.

The unequal distribution of domestic and reproductive responsibilities further compounds their challenges, as women bear a dual burden of both paid work and caregiving at home. This dual role puts them at a disadvantage in the labour market, where the absence of social protection and adequate childcare support constrains their choice of opportunities. Consequently, a disproportionate number of women find

themselves engaged in the most precarious and insecure forms of employment, associated with elevated levels of poverty and social marginalization. In this scenario, these women lack protection from economic shocks and challenges throughout their lifecycles (Ulrichs, 2016).

2. HISTORICAL CONTEXT AND EVOLUTION OF SUCH LAWS

The origin of labour law can be traced back to the collective aspirations of workers seeking improved conditions and the right to organize, alongside employers' simultaneous efforts to curtail workers' influence within organizations and maintain low labour costs.

The expenses for employers may rise due to workers organizing to secure higher wages or due to the imposition of regulations, such as those related to health, safety, or equal opportunities. Workers' associations, including trade unions, have the potential to extend beyond mere industrial disputes and attain political influence, a development that may face opposition from some employers. Consequently, the state of labour law at any given point is not only a result of but also a participant in the ongoing struggles between diverse interests within society.

Founded in the aftermath of World War I as an agency under the League of Nations, the International Labour Organisation (ILO) was at the forefront of tackling issues concerning labour. This establishment, catalyzed by the Treaty of Versailles, was part of a broader momentum towards post-war recovery and the protection of labour unions across various countries.

The period witnessed significant advocacy for labour rights and institutional frameworks to foster equitable labour relations. For instance, in the United Kingdom, the Whitley Commission, acting under the auspices of the Reconstruction Commission, recommended the creation of "industrial councils" worldwide in its July 1918 report. This suggestion was paralleled by the British Labour Party's vision for post-war rebuilding, articulated in the manifesto "Labour and the New Social Order."

Furthermore, the advocacy for an international entity dedicated to labour rights gained traction during the third Inter-Allied Labour and Socialist Conference held in February 1918. This conference, which saw participation from delegates of Great Britain, France, Belgium, and Italy, called for establishing such a body alongside demands for the cessation of secret diplomacy among nations.

The American Federation of Labour (AFL) also contributed to this dialogue through a report issued in December 1918. Unlike other proposals that might have

carried political undertones, the AFL's submission emphasized gradual reform via the collective bargaining process. These collective endeavours underscored a global recognition of the need for an organized approach to address labour concerns, leading to the ILO, a pivotal institution in international labour relations and workers' rights (Act et al., 1988).

3. INTERNATIONAL ORGANIZATION OF LABOUR

1946 the International Labour Organisation (ILO) became a specialized agency within the newly established United Nations. The existence of labour conditions marked by injustice, hardship, and deprivation affecting a significant portion of the population threatens global peace and harmony.

Urgent measures are required to improve these conditions, such as regulating working hours, including the establishment of maximum limits for the working day and week, overseeing the labour supply, preventing unemployment, ensuring an adequate living wage, protecting workers from sickness, disease, and injuries related to employment, safeguarding the interests of children, young individuals, and women, establishing provisions for old age and injury, protecting the rights of workers employed in foreign countries, acknowledging the principle of freedom of association, organizing vocational and technical education, and implementing various other measures. In the following discussion, we will explore some critical articles directly influencing the functioning of the International Labour Organization.

The Governing Body of the International Labour Office shall be constituted as follows:

- Six individuals were chosen by the Delegates to the Conference to represent the Employers, out of twelve "representing the Governments.
- Six individuals were chosen by the workers' delegates to represent them at the conference. Out of the twelve individuals representing the governments, eight will be proposed by the members deemed to be of primary industrial significance, and four will be proposed by the members explicitly chosen for this purpose by the government delegates attending the conference; this does not include the representatives of the eight members above.
- The League of Nations Council will decide on any dispute regarding which members have the greatest industrial significance. The Governing Body members will hold office for a term of three years. With the Conference's permission, the

Governing Body may decide how to address vacancies and other matters of a similar nature (Office, 1920).

4. HISTORICAL PERSPECTIVE OF INDIAN LABOUR LAWS

In the Indian context, the domain of labour and employment regulation is often encapsulated under the term "industrial law," a legacy deeply intertwined with the era of British colonization. The genesis of industrial and labour legislation under British rule primarily aimed at protecting the interests of British employers. It is critical to understand that the political economy of Britain significantly influenced the crafting of these preliminary statutes. One notable example is the enactment of the Factories Act, prompted by the lobbying efforts of textile industrialists from Manchester and Lancashire in 1883 (Ahmed, W., & Jameel, A. 2018).

This legislation sought to elevate the cost of labour in India, a move driven by the direct competition Indian textile products posed to British exports in international markets. Consequently, India pioneered several labour reforms, including implementing the eight-hour workday, prohibiting child labour and night-time work for women, and introducing overtime compensation for hours worked beyond the standard eight-hour day. Although these reforms ostensibly aimed to improve worker welfare, they were primarily motivated to protect British economic interests (Act et al., 1988).

The advent of the 1980s and 1990s marked a pivotal era of market-oriented structural reforms in India, heralding a trajectory of accelerated economic growth. Despite these advancements, concerns persist regarding the labour market's responsiveness to these changes, particularly employment growth within the organized sector, often associated with more desirable employment opportunities.

Between 1993/94 and 1999/2000, despite a 5% increase in GDP per capita, the proportion of organized sector employment concerning total employment marginally declined from 7.3% to 7.1%. Additionally, a noticeable shift within organized sector employment has been the increasing reliance on contract labour, reflecting broader changes in employment practices. These developments underscore the complex interplay between economic reforms, labour market dynamics, and employment quality in the post-reform period, highlighting the need for a nuanced understanding of labour laws and their socioeconomic impacts (Anant et al., 2000).

5. REVIEW OF LITERATURE ON LABOUR LAWS FOR WOMEN

i. Richard Mitchell, Petra Mahy and Peter Gahan (2014)

In this research, an exploration of the literature in the field is undertaken. The first aspect involves an examination of the different historical periods that have shaped the evolution of Indian labour law up to the present. The second aspect assesses the extent to which the labour law system has effectively achieved its two primary objectives: safeguarding labour rights and ensuring industrial harmony. The survey highlights that the formal application of Indian "labour law" has limited impact in pursuing its intended goals. Consequently, this implies adopting an alternative approach to gain a more practical and accurate understanding of how labour is regulated in India and the resultant effects (Richard Mitchell, 2012).

ii. Eckstein, Z., Lifshitz, O (2009)

While research on female labour force participation has been extensively conducted in developed nations, there is a comparatively limited exploration from the perspective of developing countries. Between 1962 and 2007, the employment rate for married women witnessed a notable increase of over 32 per cent. In contrast, the rate among unmarried women, encompassing those who are single, divorced, or widowed, remained relatively constant, hovering around 70 per cent. (Eckstein, Zvi; Lifshitz, 2009)

iii. Ruchika Chaudhary and Sher Verick (2014)

This study explores the disparities in women's involvement in the labour market, which significantly differ among countries due to variations in economic development, education levels, fertility rates, accessibility to childcare and supportive services, and prevailing social norms. Consequently, participation rates exhibit substantial diversity globally, with some of the lowest rates observed in South Asia. Notably, the female labour force participation trends in South Asia present several intriguing patterns. A significant puzzle is the decline in the participation of women in the Indian labour force, particularly in rural areas. This decline occurred despite robust economic growth and increases in wages and incomes. (Verick, 2014).

6. AN OVERVIEW OF INDIAN GOVERNMENT INITIATIVES FOR WOMEN LABOUR LAWS

Over the past few decades, India has witnessed remarkable economic progress, marked by a substantial increase in its Gross Domestic Product (GDP) per capita from \$375 in 1990 to \$1,572 by 2015. However, this economic prosperity has not translated

into equivalent progress regarding gender equality in the workforce. The Female Labor Force Participation Rate (FLFPR) in India remains alarmingly low at 27%, significantly lagging behind the male participation rate of 96%. This discrepancy underscores a critical issue of gender disparity within the labour market. The inconsistency in FLFPR figures, reported by various entities such as governmental bodies and scholarly researchers, arises from differing methodologies in these estimations (Chapman & Mishra, 2019).

Nonetheless, a comparison with the global average FLFPR of 49% starkly highlights the underrepresentation of women in the Indian labour force, indicating a pressing need for strategies to foster gender inclusivity and ensure equal economic opportunities for women. This situation calls for an in-depth analysis of the barriers to women's employment and the implementation of robust policies aimed at integrating women more fully into the country's economic fabric (Chapman & Mishra, 2019). Following are a few essential pieces of legislation for women's labour:

7. IMPORTANT LAWS RELATED TO EQUALITY AND EMPOWERMENT OF WOMEN LABOUR

Table-1: Key Points of Different Women's Labour Act

S. No.	Name of the Women's Labour Legislation	Key points related to Act
1	The Maternity Benefit Act, 1961	Gives female employees access to maternity leave and other advantages. It applies to any business that hires ten or more people. (Gethe & Pandey, 2023)
2	The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013	Addresses the issue of sexual harassment of women at work and mandates that companies provide a secure workplace. (Gethe & Pandey, 2023)
3	The Equal Remuneration Act, 1976	Guarantees parity in compensation for men and women undertaking identical or comparable work, prohibiting gender-based discrimination concerning wages and hiring.

		(Gethe & Pandey, 2023)
4	The Payment of Wages Act, 1936	Ensures all employees, including women, receive their wages promptly and prohibits unauthorized deductions. (Aikin, 1961)
5	The Contract Labour (Regulation and Abolition) Act, 1970	Regulates the engagement of contractual labour and incorporates clauses aimed at ensuring the well-being of female contract workers. (Das et al., 2015)
6	The Factories Act, 1948	Encompasses regulations pertaining to working conditions within factories, covering aspects such as the employment of women, specifying working hours for women, and imposing limitations on night shifts.(Bhati & Ashokkumar, 2013)
7	The Industrial Employment (Standing Orders) Act, 1946	Implement measures to prevent and address sexual harassment of female employees in the workplace.(Bhati & Ashokkumar, 2013)

8. SPECIAL CELL FOR WOMEN LABOUR

In 1975, the Ministry of Labour established a Women Labour Cell to focus on working women's circumstances and effect positive changes in their situation. The functions of the Cell include:

- Development and coordination of policies and programs for the female workforce in alignment with national manpower and economic policies.
- Establishing and maintaining connections with other governmental bodies to ensure the efficient execution of programs concerning female workers.
- Overseeing the execution of programs related to female workers and assessing the implementation of the Equal Remuneration Act of 1976.
- Providing financial assistance to non-governmental organizations or voluntary groups for the development and execution of action-oriented projects benefiting women workers.

9. INITIATIVES OF SEWA AND ADHITI FOR IMPROVING THE LABOUR WELFARE OF WOMEN

A few years ago, the Self Employed Women's Association (SEWA) successfully federated numerous groups to establish a cooperative for gum gathering under the government initiative known as the Development of Women and Children in Rural Areas (DWCRA). Women who collect gum have benefited from this collaborative effort. Since this cooperative was founded, traders have been prevented from taking advantage of others, which has resulted in lower collecting costs.

Furthermore, methods have been developed to improve the quality of the gathered gum. SEWA pursues the dual objectives of 'full employment' and 'self-reliance' to disrupt the detrimental cycle of poverty and job insecurity. In the context of SEWA, 'full employment' signifies ensuring work stability, income assurance, food security, and social protection for its members. SEWA works towards achieving 'full employment' by empowering its member workers to attain healthcare, childcare, insurance, housing, and access to clean water—responsibilities often associated with women in this region (Kapoor, 2007).

Additionally, SEWA facilitates the provision of assets such as land, workspaces, tools, licenses, identity cards, livestock, cooperative shares, and savings. This comprehensive approach enhances the productivity of SEWA members as it contributes to improved health and better infrastructure. The term 'trade union plus activities' has been emphasized in other contexts (Kapoor, 2007).

In 1995, the Banaskantha DWCRA Mahila SEWA Association (BDMSA) empowered village women to assume leadership roles in watershed development. The expanded activities encompassed the construction of check dams, tree planting, land-leveling, and contour binding. Independent water committees have been established, freeing them from previous constraints imposed by the panipanchayats in 1987. In the recent phase of its developmental endeavours, the Self-Employed Women's Association (SEWA) was allowed to evaluate a proposed collaborative project between India and the Netherlands.

This project's mission was to inaugurate a drinking water supply system via pipelines for the economically disadvantaged and less developed communities within the Radhanpur and Santhalpur regions in Banaskantha district, situated in the northern part of Gujarat. This period also saw a strategic shift in SEWA's focus towards advocating for the rights of home-based workers, leading to notable successes in organizing such labourers. Through diligent efforts, SEWA has been instrumental in

achieving higher piece-rate remunerations and securing identification cards for workers in the beedi industry. The scope of SEWA's organizational efforts has broadened to encompass workers from various sectors, including garment manufacturing, papad rolling, incense stick production, and the intricate crafts of embroidery and zardozi. SEWA has emerged as a pivotal force in galvanizing women workers to stand against injustices and the lax enforcement of labour laws.

Since its inception in 1973, membership in the SEWA trade union has witnessed remarkable growth, embracing many workers. This diverse membership includes vegetable sellers, workers in the beedi and tobacco sectors, forest produce gatherers, individuals engaged in agriculture and related fields, salt workers, textile industry employees, government workers, embroidery artisans, waste collectors, launderers, and others (ARORA, 2022).

Furthermore, SEWA has played a foundational role in creating cooperatives across various sectors, including banking, handicrafts, land-based enterprises, trading, sanitation, and waste collection. These initiatives underscore SEWA's commitment to enhancing the socioeconomic status of marginalized women workers, promoting equitable labour practices, and fostering sustainable community development through cooperative models (ARORA, 2022). In Bihar, entities such as ADITHI, founded in the 1980s, have been providing essential assistance to economically disadvantaged women who bear the additional burdens of family and societal responsibilities due to the absence of their migrant husbands. ADITHI and organizations like SEWA, NIDAN, Srijani, and Prayas are among the many groups consistently supporting impoverished women in Bihar (Priyadarshini, 2018).

10. CHALLENGES AND INCONSISTENCIES IN THE IMPLEMENTATION OF THESE LAWS

Implementing women's labour laws faces multifaceted challenges and inconsistencies, posing hurdles to realising gender equality and fair workplace practices. A pervasive issue lies in the lack of awareness among women workers about their rights under existing labour laws. Many women, especially those in vulnerable employment situations, may not be fully informed about the protections afforded to them, leading to exploitation and non-compliance by employers.

Enforcement mechanisms also present challenges, with inadequate monitoring systems and regulatory bodies. In some cases, penalties for violations may be insufficient, providing little deterrent against non-compliance. The prevalence of the informal economy, where a substantial number of women are employed, further

complicates matters. This sector often operates outside the purview of labour regulations, making it challenging to ensure consistent enforcement.

Cultural and societal norms, coupled with gender bias in workplaces, contribute to discriminatory practices that undermine the intent of women's labour laws. Additionally, global supply chains and contractual ambiguities create complexities, especially in industries with intricate structures. Access to legal resources remains a hurdle for women workers, limiting their ability to seek justice in case of violations. Addressing these challenges requires a comprehensive approach involving increased awareness, strengthened enforcement mechanisms, and a commitment to challenging ingrained discriminatory norms in the workplace. Through concerted efforts, meaningful progress can be made in achieving equitable and just working conditions for women.

11. CONCLUSION AND EFFECTIVE STRATEGIES FOR OVERCOMING CHALLENGES

Recent patterns indicate that policies without a gender-specific focus fail to produce gender-equal outcomes. Therefore, interventions in policies aimed at enhancing female labour force participation must acknowledge the prevalence of gender stereotypes leading to occupational segregation. Additionally, a need to address unequal learning and skills development opportunities for boys and girls, along with recognizing and institutionalizing the equitable sharing of care work between men and women, is required. This approach is crucial to narrowing the gender wage gap and actively working towards establishing a violence-free, equitable environment for women to flourish and assume leadership roles in the economy. The employment sphere in India is beset by a host of systemic issues, including widespread illiteracy and a notable lack of foundational skills training, compounded by the lax enforcement of labour laws and the failure to implement industrial policies effectively.

Furthermore, there is a noticeable deficiency in performance evaluations, alongside enduring conventional mindsets. These elements forge a detrimental cycle of underdevelopment, diminished productivity, and subpar health and welfare conditions, with women bearing the brunt of these adversities. The labour market faces segmentation, and the rapid pace of technological advancement has had negative repercussions, particularly for women workers who suffer from limited bargaining power and are affected by vague policy directives. This situation is further exacerbated by "Feminization and Flexibilization" within the labour force during the globalized era, presenting significant hurdles to women's employment. Addressing these challenges

necessitates a concerted effort to provide women with greater access to economic participation and opportunities for skill enhancement and training, aiming to break the cycle of underdevelopment and improve their standing in the workforce. This strategic approach towards empowering women is crucial in navigating the complexities of labour dynamics in the context of globalization, ensuring a more equitable and productive labour market.

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