

CHAPTER-18

LEGAL EDUCATION AND EMPOWERMENT: EMPOWERING WOMEN TO ASSERT THEIR LABOUR RIGHTS

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ABSTRACT

Women have always been an essential component of Indian society. She is the foundation of the community. Women still face many challenges in society even though they are essential to it. Women are always subjected to exploitations in every area, it could be at domestic front or professional front. When addressing these fronts, women encounter unique difficulties. The status of women has somewhat improved in many areas during the last few decades. By creating an extensive legislative framework, the Indian judiciary was instrumental in changing the status of women. Human and legal rights pertaining to the working relationship between an employer and employees are included in the concept of labour rights. With the passage of time, laws are amended, re-framed and implemented in India with a view to improve the status of women. But the problem is with the implementation of these laws. When we take the labour rights of women into consideration, we may find many pros and cons. The legislative framework is adequate but what is the reason that the improvement is still not considerable? In this study, the position of women is assessed and analysed with special emphasis on their labour rights. Also, the already established laws are also examined. The loopholes and suggestions are also explained in this chapter.

Keywords: *Labour rights, Women labour rights, Women empowerment, Labour laws in India, Women Education.*

1. INTRODUCTION

In India, the position of women is always under the constant threat of exploitation. Since time immemorial, woman is treated ill by the society. With the passage of time, the position of women is transitioning day-by-day. The Indian judiciary system plays a vital role in empowering women. Many laws are framed and amended with a view to provide growth to the women in every sector. After the horrific incident, Delhi Gang Rape Case, the Criminal Law (Amendment) Act, 2013 was introduced in order to reduce the crime against women in India.

It enhanced certain punishments for the offences against women such as rape, gang rape, rape of a minor and many more. Law is dynamic in nature and constantly changes with the changing society. In this 21st century, we all are living in a modern society. According to the census reports, it is evident that women are often subjected to exploitation at the workplaces. The working conditions, especially female labour is also horrible. While the Constitution of India and other laws offer certain rights to women, there are specific provisions in place.

Article 23 of the Universal Declaration of Human Rights (UDHR) proclaims the fundamental right of every individual to work, emphasizing the freedom to choose employment that aligns with their skills, preferences, and aspirations. Moreover, it asserts the principle of just and favorable conditions in employment, underscoring the importance of fair wages, humane working hours, and safe working environments.

This article encapsulates the essence of dignity and equality in the realm of employment, recognizing work not merely as a means of livelihood but as an essential aspect of human flourishing and societal progress. (Morsink 1999). It is also provided that everyone, without any discrimination has the right to equal pay for equal work. The need of establishing social justice is very urgent with an aim of attaining peace universally. The national human resource can be enriched by the smart use of labour and humane conditions of work.

The labour in India must be examined to assess the compliance of Human Rights. However, the Indian Constitution is widely regarded as a crucial constitution that guarantees the well-being of its labour force. India's labour policy is primarily concerned with different labour laws. Thus, one could consider the Indian Constitution to be a revolutionary text. The Indian Constitution's preamble states that “securing to all the citizens equality of status and opportunity as well as justice- social, economic and political” (Basu 2015).¹¹

2. LABOUR LAWS IN INDIA

Labor laws in India encompass a broad spectrum of regulations aimed at safeguarding the rights and interests of workers across various industries. These laws, rooted in both national and state-level statutes, address fundamental aspects of employment such as working conditions, wages, social security, industrial relations, and child labor. Key legislation includes the Factories Act, which focuses on safety and welfare in factory settings, and the Minimum Wages Act, designed to prevent labor exploitation by ensuring a decent minimum wage.

Additionally, the Employees' Provident Funds and Employees' State Insurance Acts establish social security measures like provident funds and medical benefits for workers. The Industrial Disputes Act governs the resolution of disputes, while the Maternity Benefit Act and Equal Remuneration Act cater to the specific needs of women employees, ensuring their well-being and addressing gender-based wage disparities. These laws serve as vital pillars of the Indian labor framework, fostering equitable

¹¹ *About Women Labour*, Ministry of Labour and Employment (Jan.7, 2024), <https://labour.gov.in/womenlabour/about-women-labour>

employment practices and providing a foundation for a fair and just workplace environment. By establishing standards for wages, working hours, safety, and social security, they seek to balance the interests of both employers and employees, promoting harmonious industrial relations. Moreover, these regulations play a crucial role in shaping India's socio-economic landscape by advancing the welfare of workers, fostering inclusivity, and contributing to overall economic development. As the country's labor market continues to evolve, these laws undergo periodic revisions to adapt to emerging challenges and ensure the continued protection and empowerment of the workforce (Srivastava 2012).

The Indian labour legislation is framed and changed with the change in social and economic conditions of the labour. It decides the number of working hours, wages, social security and facilities provided. Labour law in India enclosed in a very effective and efficient way. Some of the part enclosed consistent with the provisions of the Constitution, International Conventions and Recommendations while the other part is based on the discussions of the Constituent Assembly. Chapter III i.e. Articles 16,19,23,24 of the Indian Constitution protects and safeguards the labour (Bakshi and Kashyap 1982). Also, Chapter IV (Articles 39, 41, 42, 43, 43A & 54) deals with the same. When discussing labour laws on a global scale, it's essential to recognize the pivotal role that United Nations conventions and human rights principles play in their regulation and enforcement.

These international frameworks serve as foundational pillars, guiding nations in formulating and implementing labor laws that uphold fundamental human rights and ensure fair treatment and conditions for workers worldwide. By means of these treaties, countries pledge to protect workers' rights, covering matters like equitable pay, non-discrimination, safe working conditions, and the ability to engage in collective bargaining. By following these guidelines, nations aim to improve social fairness, economic expansion, and decent work conditions—all of which improve people's lives both locally and globally.

The International Labour Conference and the Indian Labour Conference both actively contributed to the creation of the labour laws. (Gillan and Lambert 2016). Furthermore, national committees such as the First National Commission on Labour (1969) headed by Justice Gajendragadkar, the National Commission on Rural Labour (1991) and the Second National Commission on Labour (2002) led by Shri Ravindra

Varma, among others, have made recommendations regarding minimum wages, bonded labour, child labour, contract labour, and other related issues.¹²

Due to its inclusion in the concurrent list, the Indian Constitution has unquestionably been instrumental in preserving and protecting the interests of labour (Basu et al. 2015). The authority to pass laws rests with both the state and the federal government. This explains why labour rules are so expansive and have such a broad application. According to Mitchell, Petra, and Gahan (2014), it covers a wide range of topics, including occupational health, employment, apprenticeship training, setting, reviewing, and revising minimum wages, the manner in which wages are paid, compensation for workers injured on the job, provisions pertaining to compensation, and injuries that result in workers' temporary or permanent disablement. Given that it offers numerous other labour rights, the list is not all-inclusive.

Some of the Labour Laws are:

- **The Factories Act, 1948:** This law governs factory working conditions, including matters pertaining to employees' welfare, health, and safety.
- **The Shops and Establishments Act:** The laws governing working conditions at retail stores, commercial establishments, and other workplaces are found in each state of India under the Shops and Establishments Act.
- **The Minimum Wages Act, 1948:** A minimum wage is guaranteed by this act, with different rates applied in different states and union territories.
- **The Employees' Provident Fund and Miscellaneous Provisions Act, 1952:** This legislation establishes employee provident funds, pension funds, and deposit-linked insurance funds.
- **The Employees' State Insurance Act, 1948:** This act creates provisions for connected concerns and offers specific benefits to employees in the event of illness, pregnancy, and workplace injury.
- **The Payment of Bonus Act, 1965:** This law requires bonuses to be paid to workers in select establishments that satisfy certain requirements.
- **The Payment of Gratuity Act, 1972:** This law guarantees that workers will be paid a gratuity when their job ends after a predetermined amount of time.

¹² chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://ncib.in/pdf/ncib_pdf/Labour%20Act.pdf

- **The Industrial Disputes Act, 1947:** This law establishes a procedure for looking into and resolving labour disputes between employers and workers.
- **The Maternity Benefit Act, 1961:** This law offers maternity benefits and controls how some enterprises can hire women while they are pregnant.
- **The Child Labor (Prohibition and Regulation) Act, 1986:** This law governs the working conditions of minors in specific occupations and forbids the employment of children under a specific age.

These are just a few key labour laws in India, and there are many other regulations and provisions at the central and state levels. Additionally, labour laws are subject to amendments and changes as we all know that law is dynamic in nature and is subject to change with the change in the society.¹³

3. POSITION OF WOMEN IN INDIA WITH RESPECT OF LABOUR RIGHTS

Although men and women divide the work equally, there is a significant salary gap between them. It applies to both urban and rural settings. The growing gender inequality gap could impede the nation's economic progress (Jameel and Ahmed 2021). In rural India, the female wage rate was slightly over 93.7% of male wages in 2022, whereas in cities, it varied from just under half to 100.8%.¹⁴

It is being observed that the gap in gender is widest in Kerala. The men workers are paid Rs. 842 per day while the women workers can earn Rs. 434 a day. (National Statistical Office).

The top three nations with the highest rates of daily wages are Andhra Pradesh, Tamil Nadu, and Kerala. These cities also have the largest salary disparity between genders. Therefore, when it comes to daily salaries, the gender disparity is a big problem. Since both men and women perform the same amount of work, why are there differences in pay? This is a matter of question.

i. Below is the table showing the average daily wage by men and women:

Table 1 makes the status of women quite obvious; it shows the difference in pay between men and women. Half of what males are paid is what women are paid to work. The nation's progress is hampered by this gender imbalance. The nation's economy had a significant impact on its overall development. But due to inequality in

¹³ *Laws Relating to Women*, Vikaspedia (Jan.07, 2024), <https://vikaspedia.in/social-welfare/women-and-child-development/women-development-1/legal-awareness-for-women/laws-relating-to-working-women>

¹⁴ Atul Thakur, *Women paid less than men for same work in towns and villages*, TOL, 19th Mar, 2023.

gender, India is still a developing nation. If things stay the same, it cannot seize the lead. In terms of gender equality, the situation is not favourable overall. Women are treated unfairly when it comes to compensation, not just in the labour industry but also in other fields. (Jameel and Ahmed 2021). Certain protective provisions are already in existence in India, but it lacks the implementation and awareness. Women suffer because they are unaware of their rights. Literacy is the foundation of awareness, and in India, women's literacy rates are lower than those of men. Thus, the enacted laws exist just in paper but are not properly or effectively implemented.

Table 1: Income Disparity

INCOME DISPARITY				
Average Daily Wage Earned by Casual Workers in Non-Public Works (Rs.)				
State	Rural		Urban	
	Male	Female	Male	Female
Kerala	842	434	846	404
Tamil Nadu	556	297	576	375
Andhra Pradesh	485	285	558	405
Uttar Pradesh	396	245	402	398
Assam	383	243	465	317
West Bengal	342	219	389	267
Maharashtra	352	226	436	274
Karnataka	422	278	506	297
Odisha	337	233	368	314
Telangana	462	338	633	450
Chhattisgarh	281	208	272	200
Bihar	399	299	419	315
Uttarakhand	423	324	482	486
Gujarat	304	242	390	312
Haryana	444	380	472	392

Madhya Pradesh	283	243	279	279
Punjab	406	356	438	313
Himachal Pradesh	467	411	534	450
Jharkhand	321	283	394	348
Rajasthan	414	388	416	350
J&K	495	-	519	413
India	393	265	483	333

Source: The Times of India

4. CONCLUSION AND SUGGESTIONS TO IMPROVE WOMEN LABOUR RIGHTS

Improving women's labour rights requires a comprehensive approach that addresses both legal and societal aspects. Here are some suggestions to enhance women's labour rights:

- **Equal Pay for Equal Work:** Implementing stringent laws and regulations is essential to ensure equal pay for equal work, irrespective of gender. This necessitates fostering transparency within salary systems to pinpoint and address any disparities in pay based on gender.
- **Anti-Discrimination Laws:** Efforts to combat gender discrimination in the workplace involve strengthening laws, enforcing anti-bias measures in hiring and promotion, and implementing training programs to foster inclusive environments.
- **Family-Friendly Policies:** Implementing paid parental leave, flexible work hours, and childcare support fosters a family-friendly workplace culture, promoting work-life balance and enhancing employee satisfaction and productivity.
- **Work-Life Balance:** Promoting work-life balance prioritizes employee well-being through discouraging long hours and supporting flexible arrangements, fostering productivity and accommodating diverse family needs.
- **Protection against Harassment:** Implementing robust laws and policies is crucial to combat workplace harassment, especially sexual harassment, while

simultaneously establishing transparent reporting channels and offering comprehensive support for victims to foster a safer work environment.

- **Education and Awareness:** Implement educational initiatives to promote awareness of women's labour rights and conduct workplace training sessions on diversity, inclusion, and unconscious bias.
- **Representation in Leadership:** Foster gender diversity in leadership through affirmative action, mentorship initiatives, and the establishment of targets for female representation in executive roles and on corporate boards.
- **Legal Support and Advocacy:** Provide legal aid and funding to organizations advocating for women's workplace rights to combat discrimination and harassment.
- **Regular Audits and Compliance Checks:** Regular audits must be conducted to enforce compliance with gender equality and labour rights regulations, with penalties imposed to deter discriminatory practices.
- **Collaboration with Stakeholders:** Promote multi-stakeholder collaboration to address women's labour rights, fostering industry-wide initiatives and standards for gender equality.
- **Education and Skills Development:** Support initiatives that advance women's participation and success in male-dominated sectors through education and skill-building programs, including STEM and vocational training.
- **International Cooperation:** Engage with global institutions to exchange best practices and glean insights from successful endeavours worldwide.
- **Support global efforts to improve women's labour rights and gender equality:** Implementing these suggestions necessitates a collaborative effort among governments, businesses, civil society, and individuals to foster a more inclusive and equitable workplace for women.

India can develop rapidly if certain changes can be brought in the system. The laws and regulations are already established but they need to reach out to the people through various means. If women are not aware of their rights, then things will never change. So, educate women must be the prime motto to reach the desirable success.

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