

# CHAPTER-03

## **EVOLUTION OF WOMEN'S LABOUR RIGHTS: INFLUENTIAL INTERNATIONAL CONVENTIONS AND DECLARATIONS**

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## **ABSTRACT**

*Even so, a number of data points across time show a consistent increase in the proportion of women engaged in the labour force. They still do not, however, receive the same appreciation for their labour as do men. Men make about 80% of the labour force worldwide, while women make up just slightly more than 50% of it. Women are less likely to work in formal employment and have fewer possibilities for growing their businesses and advancing in their careers. Men earn more money than women who work. While women still do not have adequate labour rights, it is also true that these rights have been progressively growing over time. The advancement of women's right to work is the result of a long struggle. Women's labour rights have made considerable strides in the fight for gender equality. Through their tenacity and concerted efforts, advocates for gender equality have achieved significant progress. The expansion of women's labour rights has been facilitated by international accords and recognition of the unique needs of women. This chapter assesses the development and reach of women's economic rights, especially those related to labour. The chapter also discusses how the UN and ILO have strengthened women's labour rights through a number of declarations and conventions.*

**Keywords:** *Women Rights, CEDAW, International Labour Organization, Right to Work, United Nations.*

## **1. INTRODUCTION**

In the modern world, women's status in the labour market is still below average, notwithstanding the enthusiasm around their emancipation. Even though numerous data over the years indicate a steady rise in the percentage of women participating in the labour market. However, their labour is still not often appreciated to the same extent as that of males (*Facts and Figures: Economic Empowerment*, 2018). Women are more likely to be undereducated, destitute, labour for little pay or for free, and face discrimination if they marry or have children (Murray Anne Firth, 2013). The rights of female workers to regular salary and working hours, equal compensation for equal labour, permanent contracts, safe and non-hazardous work conditions, and freedom of association are routinely denied in numerous industries. Horrible mistreatment, such as forced pregnancy tests, harassment, and sexual assault, is all too prevalent (Trask, 2013). Globally, women are less likely than men to have access to higher earnings prospects. It is less common for women to actively pursue employment or work for pay. Women's global labour force participation is little over 50%, whereas men's participation is 80%. Women have fewer options for business expansion and career advancement, as well as a lower likelihood of working in formal employment. Women who work make less money than men (*Female Labour Force Participation*, 2022). Of course, women's standing in terms of labour rights is unsatisfactory, but it is also

true that these rights have been steadily and gradually increasing. Over the past three decades, female labour force participation has stayed relatively steady globally, with around half of working-age women currently participating in the labour force (*Female Labour Force Participation*, 2022). The improvement in women's right to work is the outcome of a protracted struggle. The struggle for gender equality has seen significant progress in the area of women's labour rights. Significant progress has been made by activists for gender equality through their perseverance and combined efforts. In their early years, feminists called for women to have equal rights, especially in the political sphere and in the form of suffrage and the ability to vote. Following encouraging signs of progress in this area, the advocates broadened the focus of their campaigns and called for labour rights and gender parity in the workforce (Jameel, A., & Ahmed, W. 2021). The demand for women's labour rights and economic equality has evolved from a variety of angles and viewpoints throughout the battle. These demands include equal pay for equal work; prohibitions on night work; health and safety measures that shield women from working in dangerous conditions; and the outlawing of discrimination based on gender in hiring, promotions, and job assignments. Special protections during pregnancy include laws protecting pregnant women, maternity leave, breastfeeding breaks, and anti-discrimination measures (Davin Anna, 2016).

Women's economic rights are now largely recognised both nationally and internationally. The notions of gender equality and non-discrimination in the economic sector have been established and expanded by international agreements and treaties. The overlap and interaction between the economic, social, cultural, civic, and political domains of activity is becoming more and more apparent (Vienna Declaration and Programme of Action, 1993). The absence of rights in one sphere affects rights in another sphere (Manohar, 2014).

Due to the contribution of international agreements and recognition of women's distinct needs, the labour rights of women have been increasingly expanded. Presently, women have equal economic rights and equal opportunities in employment, at least at the de jure level. International agencies and organizations played a crucial role in broadening women's labour rights. For a better understanding of women's labour rights, it is necessary to evaluate the contribution of conventions, organizations, declarations, etc.

## **2. THE MATERNITY PROTECTION CONVENTION (1919)**

The convention, also referred to as Convention No. 3, was a critical turning point for gender equality and labour rights. At the inaugural International Labour Conference (ILC) in November 1919, the convention was adopted (Maternity Protection

Convention, 1919). It was the first worldwide labour guideline for gender equality. The goal of the convention was to preserve and advance the rights of working women, both before and after childbirth. Paid maternity leave was the main concern that the convention stressed and concentrated on. After being confined, a woman was entitled to six weeks of leave from any industrial or commercial endeavour, whether public or private, excluding family-run firms (Boris, 2020). The fact that the convention did not discriminate against women based on their marital status was an interesting aspect (Ahmed, W., et., al. 2020). The convention did not discriminate against mothers based on the morality of their illegitimate or legitimate children. The Maternity Protection Convention acknowledged that women needed assistance during childbirth. It highlighted the importance of paid leave and job security for working women. It enhanced working conditions for women and promoted gender equality by addressing maternity-related issues. The Maternity Protection Convention (1919) established the foundation for safeguarding the health and safety of female employees during their pregnancies and deliveries, thereby serving as a model for later labour laws and regulations (Maternity Protection Convention, 1919).

### **3. NIGHT WORK (WOMEN) CONVENTION (1919)**

It is also known as Convention No. 4. The convention was also adopted during the first International Labour Conference (ILC) in October 1919. It aimed to address the specific concerns related to women working during the night (Night Work (Women) Convention, 1919). The conference acknowledged the necessity of safeguarding women's health and welfare when they labour at night. Women were not allowed to work at night in industrial, non-industrial, or bakery-related jobs under the treaty. Any job completed between 10:00 p.m. and 5:00 a.m. was considered night work. Only a few industries, like hotels, hospitals, and other critical services, were exempt (Natchkova & Schoeni, 2013). All female employees were covered by the convention, regardless of their marital status. Its goal was to guarantee that women wouldn't experience undue physical stress due to night shifts. However, the approach of the convention was protective in nature. This approach may also be a hindrance and an obstacle to the empowerment of women because it restricts women's right to work instead of providing safety and security (Ahmed, W., & Jameel, A. 2018). In recognition of its time of adoption, the contribution of the convention is commendable. One of the first steps toward acknowledging the special difficulties faced by women who work at night was the Night Work (Women) Convention (1919). It stressed how crucial it is for female employees to have a work-life balance as well as health and safety. The goal of the convention was to safeguard women against the possible negative consequences of working at night and to advance their wellbeing at work. It established the foundation

for later labour laws and regulations pertaining to women working at night. Nevertheless, the ILC decided to revoke the convention during its 106th Session in 2017 (Night Work (Women) Convention, 1919).

#### **4. EQUAL REMUNERATION CONVENTION (1951)**

The Convention on Equal Remuneration, also called Convention No. 100 of the ILO, it was formally adopted on 29 June 1951 and came into force on 23 May 1953 (Equal Remuneration Convention, 1951) . It contains a preamble and fourteen articles, of which only four address the right to equal remuneration; the remaining articles address the convention's ratification process. Article 1 defines remuneration, and what does it mean by equal remuneration (Nazish Mohd, 2022). In accordance with the delineation provided in Article 1, the term 'equal remuneration' is conceptualized as the establishment of compensation rates devoid of gender-based differentiation. This concept finds its legal embodiment in Article 23 of the Universal Declaration of Human Rights (UDHR), which articulates the principle that all individuals are entitled to receive equal pay for equal work, free from any form of discrimination. The codification of this principle within the Convention obligates signatory states to endorse and implement mechanisms ensuring the equitable remuneration of both men and women for work of equal value (Srivastava, 1990). The Equal Remuneration Convention (No. 100) is fundamentally designed to ensure the provision of equal pay for men and women for work of equivalent value, thereby aiming to eradicate disparities in wages that are predicated on gender. This convention represents a pivotal stride towards the realization of justice and equality within the professional sphere, signifying an indispensable component of the broader endeavour to foster an equitable work environment free from discriminatory pay practices. Its adoption and implementation are critical in advancing the principle that remuneration should be determined by the nature of the work and not the gender of the individual performing it, thereby contributing significantly to the global efforts aimed at promoting gender equality in the labour market.

#### **5. DECLARATION ON EQUALITY OF OPPORTUNITY AND TREATMENT FOR WOMEN WORKERS (1975)**

In commemoration of International Women's Day, the International Labour Organization (ILO) promulgated the "Declaration on Equality of Opportunity and Treatment for Women Workers." This declaration advocates for the parity of treatment and the assurance of equivalent opportunities for women in their professional spheres. It articulates a call for the eradication of all forms of workplace discrimination against

women. Furthermore, the declaration accentuates the imperative to mitigate biases stemming from familial responsibilities, thereby facilitating the harmonization of personal and occupational commitments. It underscores the paramount importance of safeguarding women's employment rights, particularly during pregnancy, to ensure they are not unjustly marginalized or subjected to inequitable treatment due to their gender. Additionally, it exhorts the international community to abolish discriminatory practices against women in the workplace. Despite its non-ratifiable nature, the declaration carries substantial symbolic and political significance (Declaration on Equality of Opportunity and Treatment for Women Worker, 1975).

## **6. DISCRIMINATION (EMPLOYMENT AND OCCUPATION) CONVENTION (1958)**

In 1958, the International Labour Organization (ILO) adopted the Discrimination (Employment and Occupation) Convention, also known as Convention No. 111, aiming to tackle the significant challenge of workplace discrimination. This landmark convention provides an exhaustive definition of discrimination, explicitly including, but not limited to, gender-based discrimination. Its primary objective is to promote equality in employment by ensuring equal opportunity and treatment for all workers. Countries ratifying the convention commit to developing and executing a national strategy dedicated to eradicating discrimination in all its forms, not merely those affecting women. This makes the convention a universal instrument against discrimination, underscoring a global commitment to fostering justice and equitable conditions for all labourers, thereby enhancing the dignity and equality of workers worldwide. This initiative is a critical step towards ensuring a fair and inclusive work environment that benefits individuals across the globe (Nielsen, 1996).

## **7. WORKERS WITH FAMILY RESPONSIBILITIES CONVENTION (1981)**

Adopted in 1981, the International Labour Organization's Convention No. 156, formally titled the "Convention on Workers with Family Responsibilities," aims to facilitate the integration of individuals with familial duties into the workforce, without their domestic obligations adversely impacting their professional commitments (Workers with Family Responsibilities Convention, 1981). This legislative framework is designed to be gender-neutral, thereby addressing the needs of both male and female workers. However, it holds particular significance for women, who historically have shouldered a disproportionate share of family care responsibilities. The convention mandates that signatory states implement legislative measures to eliminate discrimination and remove barriers to employment for individuals with family

responsibilities. It highlights that the responsibilities of caring for dependent children or other family members can obstruct workers' efforts to prepare for, secure, participate in, or advance within the labour market. Furthermore, the convention explicitly states that discrimination based on family responsibilities should not hinder an individual's career progression. While it underscores the importance of protection for maternity and paternity leave, it stops short of prescribing a specific duration for such leave. Through these provisions, the convention seeks to promote a more inclusive and equitable working environment for all, recognizing the dual importance of professional and family life (Landau & Beigbeder, 2008). The conference made a significant contribution when it acknowledged men's roles in raising children. The treaty recognises that resolving family obligations is essential to attaining complete gender equality. The Equal Remuneration Convention and the Discrimination (Employment and Occupation) Convention are two previous equality-related instruments that the convention expands upon.

## **8. MATERNITY PROTECTION CONVENTION (2000)**

Adopted by the International Labour Organization (ILO) in 2000, the Maternity Protection Convention (No. 183) represents a major turning point in guaranteeing the safety of expectant and new mothers in the workplace. Regardless of their job type or level, all employed women are covered by the convention. It acknowledges that women need to be safeguarded throughout their pregnancies, deliveries, and the aftermath. The convention acknowledges that a mother's right to a postpartum time of rest is essential to her health and the feeding of her unborn child. It states that in order to give mothers time to heal physically and mentally and form bonds with their infants, maternity leave must last at least 14 weeks (Maternity Protection Convention, 2000). The treaty acknowledges that reaching complete equality between men and women requires addressing family obligations. It recognises that governments and society share responsibility for maternal protection. Protecting women's health during pregnancy and childbirth makes the workplace more welcoming and encouraging (Addati, 2015). The Maternity Protection Convention (No. 183) serves as an essential instrument in promoting gender equality and safeguarding maternal health, thus ensuring that women can effectively balance their roles as caregivers and contributors to the workforce. This convention underscores the inherent rights of working women globally, through its comprehensive provisions that have a far-reaching impact on their well-being and equitable treatment in the labour force.

## **9. THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (1979) (CEDAW)**

The United Nations enacted the treaty in 1979, and it exclusively protects women's rights. It addresses women from all backgrounds and in all domains, including the economy. The convention's other articles, namely Articles 11 and 13, provide a number of rights pertaining to employment. Article 11 addresses women's economic rights, especially as workers and employees (Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979).

Article 11 specifically focuses on the realm of employment, traditionally a domain fraught with gender-based prejudice. This article mandates that State Parties eradicate discrimination, ensuring gender equality within the workforce. Distinct from other human rights instruments, which approach the right to work from a neutral perspective, Article 11 is remarkable for its incorporation of gender equality. It acknowledges the historical barriers that have hindered women's access to employment opportunities and the subsequent challenges, including the conventional relegation of women to domestic roles. By recognizing these gender-specific impediments, Article 11 commits to establishing equality in various aspects of employment—ranging from the right to work, availability of job opportunities, conditions of employment, to equity in remuneration, social security benefits, and standards of health and safety. Moreover, it explicitly addresses and protects against discrimination in the workplace, taking into account factors such as marital status and pregnancy, thus offering a comprehensive framework for gender equality in employment. Article 11 is broken down into three sections. The first portion discusses employment equality with males, while the second part addresses and demands the abolition of specific discriminatory practises based on women's marital and maternity status. The third one makes the article dynamic and asks for the protective legislation to be reviewed in order to keep up with the rate of current advancements (Frances Raday, 2012).

Under the auspices of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Article 11 comprehensively addresses the right to work in both the public and private spheres, affirming the right to labour as an inherent human right vital for women's autonomy, as well as the economic sustenance of their families. This provision recognizes the intrinsic right of women to engage in employment as essential for their well-being and that of their dependents, emphasizing the criticality of dismantling institutional impediments that hinder women's participation in the workforce. It mandates the implementation of affirmative actions, such as the provision of childcare facilities for employed mothers, and necessitates

structural reforms to redefine traditional roles associated with women's caregiving responsibilities, thus advocating for equitable labour practices. Moreover, Article 11 underscores the entitlement to quality employment conditions within the ambit of the right to work, extending its applicability to sectors where conventional labour laws may fall short, including informal economies and various non-standard forms of employment such as unpaid family labour, work within export processing zones, and roles occupied by independent and contractual workers. This ensures the recognition and protection of the labour rights of women in diverse occupational settings, including those engaged in domestic or unpaid work. (General Recommendations, 1991).

Equal employment opportunities and fair selection practises in job-related affairs are guaranteed by Article 11 (1) (b). It demands the removal of obstacles that prevent women from entering traditionally male-dominated fields of work or from which they are excluded. The States Parties should focus on areas where women are underrepresented, like the legal system, public affairs, prisons, law enforcement, and the military, in order to close the gap (Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979).

Although Article 11 (1) (c) affirms that women do not have the right to work exclusively in fields deemed appropriate for them, it does ensure that women are free to choose any profession or occupation, regardless of whether it is predominately held by males or not. It affirms that in addition to picking a career, women must guarantee equality once they enter a certain field and shouldn't face discrimination in terms of advancement, job security, or other perks. Article 11 (1) (c) obliges States Parties to guarantee women's access to advanced vocational training, retraining and apprenticeship, recurring training, and vocational training in order to equip them to meet the fast-paced demands of the labour market or any other profession. The most discriminatory sector of employment, discrimination in remuneration, is covered by Article 11 (1) (d). It guarantees women the equal pay and benefits as men for doing equivalent work, as well as parity in the assessment of equal work using the same metrics (Frances Raday, 2012).

Article 11 (1) (e) obliges States Parties to guarantee social security to women in case of their incapacity to work arising due to "retirement, unemployment, sickness, invalidity and old age, and another incapacity to work" (Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979).

Women's health and safety in the workplace are safeguarded under Article 11(1)(f), which also acknowledges the unique requirements of women by providing protections for the reproductive function. Because women are more frequently

represented in works that are associated with hazardous and unhealthy environments, it is more pertinent to women. The foetus, baby, and mother must all be shielded from potentially harmful environments in order to preserve reproductive function. Under this article, the Committee calls on the States Parties to ensure that women have access to nursing breaks during working hours (Nazish Mohd, 2022).

Article 11(2) safeguards women's job status during pregnancy and maternity leave and tackles the intersectional discrimination women experience based on marriage and maternity. It encourages daycare centres and family duty sharing. States Parties are obligated under Article 11(2)(a) to end the practise of firing female employees on the grounds of pregnancy, maternity leave, or marriage. Additionally, it forbids excluding women based only on their pregnancy or status as new mothers. The provisions of paid maternity leaves are exclusively included in Article 11(2)(b), which also safeguards employment, seniority, and social allowances during the leave. Following a fairly progressive path, Article 11(3) requires a periodic review of protective legislation in light of advances in science and technology, making Article 11 dynamic. It demands that the programmes be revised, repealed, or extended as needed. When protective measures limit women's freedom to choose their own jobs and bar them from certain fields, it is a glimmer of optimism. The Convention mandates striking a balance between the freedom of women to choose their jobs and protective measures (Frances Raday, 2012).

## **10. CONCLUSION**

The evolution of women's labour rights represents a dynamic and progressive journey toward gender equality within the workforce. Initially, the movement aimed at establishing a foundational equality—securing the basic right for women to engage in work. Over time, this objective broadened, evolving into a comprehensive framework dedicated to the protection and realization of gender equality in labour. Key international bodies such as the United Nations (UN) and the International Labour Organization (ILO) have been instrumental in this evolution, advocating for and implementing a broad spectrum of treaties and declarations. These efforts have significantly fortified women's labour rights, leading to an expansive recognition of their economic entitlements.

Contemporary women's economic rights are multifaceted, extending beyond mere employment to encompass a wide array of protections and freedoms. These rights include, but are not limited to, the ability to own and inherit property, with a particular emphasis on land rights; the autonomy to pursue employment under fair and equitable conditions; the assurance of equal pay for work of equal value; and the entitlement to

periods of rest and leisure. Additionally, women's rights in the workplace safeguard against sexual harassment and violence, ensure freedom from discrimination during hiring, promotion, and in accessing educational and vocational training opportunities. Moreover, these rights advocate for safe accommodations for those traveling or working remotely and support women in balancing their professional aspirations with familial responsibilities, particularly in raising young children, without compromising their economic opportunities.

This extensive array of rights underscores a significant advancement in the recognition and protection of women's economic and labor rights, reflecting a global commitment to fostering an equitable work environment that honors and respects gender equality.

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