

Chapter-19

THE POSITION OF WOMEN UNDER INDUSTRIAL LAWS

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ABSTRACT:

Women make up 50% of the population in India as well. Women have always faced discrimination, have endured it in quiet, and continue to do so. They have the courage and nobility to sacrifice and deny themselves, yet they are nevertheless subjected to injustices, inequity, and discrimination. Women's status has varied in various communities around the world. Women have always held a special position in society, regardless of whether it is developed, in development, or underdeveloped. Additionally, in all modern and contemporary societies, women's positions have always been discriminatory, making them one of the weakest segments of society. This is because nearly all societies around the world have always been dominated by men. This chapter tries to put light on women position in Industries and their problem and remedies available for them.

Keywords: *Woman, society, social justice, rights, Child care, Remuneration.*

INTRODUCTION:

Feminism was born as a result of many movements that were sparked by the status of women around the world. Feminism is a set of social theories, political ideologies, and moral convictions that are in opposition to one another, contradictory, and generally inspired by the experiences of women and by historical injustices in the social, political, and economic spheres. In accordance with this idea, numerous laws have been passed to safeguard women, and various privileges have been granted to women in an effort to elevate them. A number of statements have also been made in this regard, and in addition to the fundamental human rights, women have also been granted a number of civic and political rights.

Women under Industrial Law:

To accomplish a fair distribution of income among the members of society based on the tenet "From everyone according to his capacity, to each according to his needs," law should be used as a tool of distributive justice. In order to sustain equality in society, social justice is essential. It is also crucial for the social and economic development of any country. Under labor and industrial regulations the most significant step in achieving the social justice is ensuring the equality in gender and protecting women's interest towards the society and nation as well.

According to various sources, women make up a sizeable portion of the workforce in the nation. However, despite the existence of numerous laws intended to improve the status of women, the number of women participating in the labor force is

steadily declining. The reason for this will be the factors affecting the conditions of the women, including the fact that they do not receive job offers that are suitable for their needs, which causes a gap between what they do and what they are capable of doing. Security also plays a crucial role because there are numerous laws designed to protect women.

The Equal Pay for Equal Work:

According to Article 39 of the Indian Constitution, all citizens, whether men and women are alike, they have the right to adequate means of subsistence and also equal pay for equal work. Although it's the state's responsibility to ensure equal employment opportunities for men and women, this article makes it clear that the state should adopt policies that gives women in the workforce and also equal access to that workforce. However, this article does not impose any obligations on the state to implement these policies.

The Equal Remuneration Act of 1976:

The intention of the Equal Remuneration Act of 1976 was to pay men and women equally for identical or similarly characterized labor. The employer is required by this act to make sure that there is no sex-based discrimination and that both male and female employees are provided equal opportunity. According to Section 5 of this law, employers are not allowed to discriminate against women when hiring for the same position or one that is comparable to it, unless doing so would violate any legal restriction or prohibition.

Even though there are numerous laws in place to protect women from sexual harassment at work, there are still many instances where the offenders go unpunished, or the victims of such humiliation are frequently blackmailed by their employers under the threat of losing not only their jobs but also of being treated disrespectfully in society. As a result, many times the women who are subjected to such pressures choose not to report the incidents. The state should take measures like toughening up penalty for such crimes, educating women about their rights, and letting them know about the different protections they have in case of an occurrence to stop such behaviors and give women the voice to speak out against such evils.

New Codes and Women Protection:

The new labor laws, which were passed on September 19, 2020, they will become effective by the end of this year and the labor code which aims to reform numerous labor regulations which have been passed by the Central Government over

the past years, and most of which are contradictory and they also contain various multiple overlapping requirements.

Social Security Code:

Different types of social security are covered under this code. It incorporates, among other things, the Maternity Benefit Act of 1961, the Employees State Insurance Act of 1948, and the Employees Compensation Act of 1923, which were essentially the laws that offered a variety of social security protections to women (in matters pertaining to maternity) and to employees who became disabled or ill while working, as well as subsidized medical treatment and reimbursement under certain circumstances to employees covered by this Code.

Maternity Benefits under new Code:

The maternity benefits which were previously available under the Employees State Insurance Act, 1948 and the Maternity Benefit Act, 1961 have been now substantially combined under the Social Security Code. Therefore, the employees have been given the right to choose whether they would prefer the benefit which is available under the chapter and which relates to Employees State Insurance Act, 1948 or under the chapter that embodies the Maternity Benefit Act, 1961.

There have been a very few minor changes and it remains substantially unchanged from before that all the women who are working in the factories, in mines or in plantation industry and other businesses with more than 10 employees will now be eligible for maternity benefits.

Few benefits are as follows:

- a. A woman cannot be deliberately hired by a company within six weeks of her child's birth, a miscarriage, or a pregnancy which has been surgically ended.
- b. The women cannot be made to perform any kind of laborious work or any kind of taxing tasks or standing for hours in extended periods of time, even if she has opted to work during a time when she would otherwise be entitled to maternity leave.
- c. If a woman employee does not have any living children, the maximum amount of maternity leave she can receive is 26 weeks. The woman is entitled to 12 weeks of paid leave instead of 26 weeks if she has two or more children who have survived so it is an extra benefit in her feathers.

- d. If a woman passes away while she is receiving the maternity benefit, that payment will still be paid up until the day of her passing. However, maternity benefits for the entire term are available if she passes away and leaves a kid behind.
- e. Even if the maternity leave has expired and the work can be continued in this manner then a woman can request a "work from home" model from her company.
- f. Women have been given extra privilege in addition to paid maternity leave, by adding a sum of 3500 as bonus if their employer does not cover the cost of their prenatal confinement or postpartum care.

Childcare Resources:

The need to care the child has been kept at utmost priority and for that all mines, plantations and other businesses, factories where 50 or more employees are there, they must have a crèche facility on the grounds or within a certain distance. The women employees will be permitted four visits to the child in each day. In addition to that, the government agencies have the opportunity to collaborate to create common creche facilities.

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Equal Pay for Equal Work:

The same employer cannot discriminate on the basis of gender on the matters relating to wages, in respect of the same work or the work which has similar nature to be performed by any employee, which is permitted in any of the establishment which are covered by the codes on wages, which are super siding all the previous statutes and laws relating to fixation of wages.

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People union for Democratic Rights v. Union of India, 1982 AIR 1473 in this case the major allegations were the violation of the equal remuneration Act,1976 as the workers who were female were not paid properly and it was considered as misappropriation of money. Violation of Article 24 of the Constitution of India and also

the employment of Children Act 1938 was there in which the kids below the age of 14yrs were deployed by the contractors. The violation of the Contract Labour (Regulation and Violations) Act 1970 has also resulted in the violation of the workers and denial of their various rights as well. So, the new codes are definitely going to benefit the female labour in the society.

CONCLUSION:

Overall, the labor laws have undergone very minor additions that have little bearing on the most vulnerable members of society. Nevertheless, these modifications however small they may be are welcome and have at least started the process of bringing our antiquated laws up to date with the times we now live in. When it comes to welfare provisions for women and transgender people, the new Labor codes are a step towards the modernization of all the laws to reflect the constantly evolving workplace in our country, notwithstanding criticism from the elite on other fronts.

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