



Labour law reforms in India regarding women workers: A socio-legal aspect

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Abstract

“Around me I saw women overworked and underpaid, doing men's work at half men's wages, not because their work was inferior, but because they were women... As man's equal before the law, woman could demand her rights, asking favors from no one.” - Anna Howard Shaw

The purpose of the study is to investigating the Labour Law reform in India with special reference to women workers. This study will be helpful in making a brief assessment of the constitutional rights of women worker.

Through this study, the situation of social, economic and political empowerment of women worker is discussed from the point of view of labor reform.

This study analyzed the present legal aspect of women workers and provisions to available for their social, legal, economic protection.

Keywords: labour, labour law, labour law reforms, women workers

1. Introduction

The Prime Minister said: “*We must see labour issues through the eyes of Workers.*” A compassionate approach will ensure that the ‘*Shram Yogi*’ becomes a ‘*Rashtra Yogi*’ and ‘*Rashtra Nirmata*’. Shramev Jayate initiatives will boost confidence and build the skills of youth, while making it easier to do business.

Women form an integral part of the Indian workforce. According to the information provided by the office of Registrar General & Census Commissioner of India, as per Census 2011, 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. Out of total 149.8 million female workers, 35.9 million females are working as cultivators and another 61.5 million are agricultural labourers of the remaining females’ workers, 8.5 million are in household Industry and 43.7 million are classified as other workers.

As per Census 2011, the work participation rate for women is 25.51 percent as compared to 25.63 per cent in 2001. The work participation rate for women in rural areas is 30.02 percent as compared to 15.44 per cent in the urban areas. As per third and Fourth Annual Employment-Unemployment Survey launched by Labour Bureau in Oct., 2012 and Dec., 2013, Female Labour Force Participation Rate has been increased from 22.6% to 25.8 %.

As per annual Employment Review conducted by Directorate General of Employment, during 2012, total employment in the organized sector is 295.79 lakh. Out of total 295.79 lakh workers, employment of women in organized sector (Public and Private) is 60.54 lakh which constitute 20.5% of total employment in organized sector. Of this, 0.94 lakh women were employed in whole sale and retail trade and restaurants & hotels during 2011-12.

The Supreme Court, in its anxiety to make the Act work effectively introduction the following novel provisions which are in consonance with socio-economic and legal thinking in the country viz.

1. Departure from the adversarial system of justice in favor of judicial activism.
2. Linking bonded labour to the “Right to live with human dignity” as per Article 21 of the Indian Constitution.
3. Enveloping the concept of “Public Interest Litigation” which, according to the Supreme Court is a challenged and a chance to the government and its officials to make fundamental human rights important to the denied and helpless area of the network and to guarantee them social and economic justice which is the fundamental theme of our Constitution.
4. Adopting the techniques of direction.
5. Adopting monitoring agencies.

2. Constitution of India

2.1 Preamble

We, The People of India, having solemnly resolved to constitute India into a Sovereign Socialist Secular Democratic Republic and to secure to all its citizens: Justice, social, economic and political; Liberty of thought, expression, belief, faith and worship; Equality of status and of opportunity; and to promote among them all Fraternity assuring the dignity of the individual and the unity and integrity of the Nation.

2.2 Fundamental Rights

- a. Art. 14 - Equality before Law or Equal protection of Law: No disqualification or disability on the ground of Sex. (Commonwealth of Indian Bill 1925)
- b. Art. 15 - Prohibition of discrimination on ground of Sex.
- c. Art. 16 - No discrimination on ground of Sex in respect of public employment.

2.3 Directive Principles of State Policy

- a. Art. 39 (a) Men & Women have the right to adequate means of livelihood.
- b. Art. 39 (d) Equal pay for equal work both for Men &

Women.

- c. Art. 39 (e) Health & Strength of Women are not abused & are Not forced by economic necessity to enter Avocation unsuited to their strength.
- d. Art. 42 Just and Humane conditions of work and Maternity relief.

2.4 Fundamental Duties

- a. Art. 51(e) to renounce practice of derogatory to the dignity of Woman.

3. Working Conditions Law

3.1 Factories Act

- a. Sec. 19 Latrine & Urinals separate of female.
- b. Sec. 27 Prohibition of Employment of Women near cotton opener.
- c. Sec. 34 Lifting of Excessive Weights.
- d. Sec. 42 Washing facilities.
- e. Sec. 48 Crèches (30 or more Women).
- f. Sec. 66 No Woman shall be required to work between 7.00 p.m. & 6.00 a.m. / Government may authorize up to 10.00 p.m. & 5.00 a.m.
- g. Sec. 54 for Women Maximum 9 hours (No exemption for Women).

4. Women Worker Participation in Workforce and Employment Challenges

A study of Planning Commission (2001) indicates that only 10.1% of the male workers and 6.3% of female workers possessed specific marketable skills in the rural areas while only 19.6% of male workers and 11.2% of female workers had requisite skills in urban areas. Further, only 5% of the Indian labour force in the bracket 20-24 as vocational skills whereas the percentage in industrial countries is much higher, varying between 60% and 80%^[1].

India's approximately 1.3 billion population, (establishing around one-sixth of the humanity), 70% live in villages and 40-45% can be ordered as the working populace. This extent, or the purported worker populace, the proportion has generally continued as before since Independence. The principal point worth stressing is that the universe of work is divided along the lines of station, religion, sexual orientation, area, and so forth. This prompts a few issues, for example, work idleness for different groups, specifically women, tremendous wage differentials and segregation, and so on. For example, the extent of women in the work power has been reliably lower than men workers by near 20% age points. As per the recent official estimates female work participation for the country is in the range of 25% to 30%, with considerable variations across socio-economic categories, different states, and between urban and rural areas (Majumdar & Pillai, 2011). As per the data presented in the ILO report Women and Work, 2016, the gender wage gap in India is among the highest in the world, at 26%. This is significantly higher than the average or the nations in the Asian mainland, which stands at 23%, and the mean average sexual orientation wage hole of not exactly 15% in the developed economies^[2].

5. Ministry of Labour and Employment Government of India Encouraging and Empowering Women Workers

The Ministry of Labour & Employment emphasizes the active participation of women in the workforce. The focus will be on Welfare Schemes across sectors, but the main thrust will be on programmes to encourage a culture of self-sufficiently and career-mindedness. Under the Directorate General of Employment & Training (DGET), Women's Training teaches women to play different roles as workers, supervisors and entrepreneurs. Abilities preparing for women will invigorate additional open doors among women of different socioeconomic layers and different age groups just as make better homes and families.

A network of 11 institutes operates directly under the Central Government to empower women and promote their full potential. 1 National Vocational Training Institute (NVTI) and 10 Regional Vocational Training Institutes (RVITs) Most of these institutes function from their own institute buildings, with hostel facility and staff quarters generally spread across five acres approximately.

5.1 Vocational Training to Transform Jobs into Careers

- a. Women's Vocational Training Programme covers many areas:
 1. Wage-employment in industry.
 2. As instructors.
 3. To promote self-employment.
- b. To productively empower this and give them a head-start, the Programme offers:
 1. Industrial skills training under Craftsmen Training Scheme (CTS).
 2. Instructor skills training under Craft Instructors Training Scheme (CITS).
 3. Demand-driven short-term courses.
 4. Special programmes for training ITI Instructors.
 5. Tailor-made courses as per industry demand.

6. Protective Legal Provisions for Employment of Women

6.1 Provision Crèches: In every industrial premise wherein more than thirty female employees are ordinarily employed, they shall be provided and maintained a suitable room or rooms for the use of children under the age of six years of such female employees^[3].

6.2 Provision of crèches in every plantation wherein fifty or more women workers (including women workers employed by any contractor) are employed or where the number of children of women workers (including women workers employed by any contractor) is twenty or more^[4].

6.3 Provision of crèches where twenty or more women are ordinarily employed as contract labour. Female contract labour to be employed by any contractor between 6.00 AM to 7.00 PM with the exception of mid-wives and nurses in hospitals and dispensaries^[5].

6.4 Provision of crèches for the benefit of women workers in establishments wherein twenty or more women are ordinarily employed as migrant workers is likely to continue for three months or more^[6].

¹ Planning Commission 2001, report of the taskforce on employment opportunities. http://planningcommission.nic.in/aboutus/taskforce/tk_empopp.pdf

² Yojana April 2017

³ The Beedi & Cigar Workers (Conditions of Employment) Act, 1966.

⁴ The Plantation Labour Act, 1951.

⁵ The Contract Labour (Regulation & Abolition) Act, 1970.

⁶ The Interstate Migrant Workmen (Regulation of Employment & Conditions of Service) Act, 1979.

6.5 Provision of crèches in every factory wherein more than thirty women workers are ordinarily employed. Employment of women in factory is prohibited except between the hours of 6.00 A.M. to 7.00 P.M. However, in exceptional circumstances, employment of women is permitted up to 10.00 P.M. Employment of women is also prohibited/restricted in certain factories involving dangerous operations No women will be permitted to clean, grease up or change any piece of central player while it is moving. No women will be utilized in any piece of an industrial facility for squeezing cotton in which a cotton opener is at work ^[7].

6.6 Employment in mines below ground prohibited. In any mine above ground women workers are permitted between the hours of 6 am and 7 pm. The Central Govt. may, by notification, shift the hours of work over the ground of women. However, no employment of women between 10 pm and 5 am is permitted. Further, women utilized over the ground will be permitted a timespan under eleven hours between the end of work on any one day and the beginning of next time of business. Provision of separate toilets and washing facilities for women workers is also part of the Act ^[8].

6.7 Maternity benefit (Paid Leave) for pregnancy/Child Birth up to 12 weeks. Two nursing breaks for women with child. Six weeks leave in case of Abortion/Medical Termination of Pregnancy. Two weeks leave for tubectomy operation. Maximum leave of one month in case of pregnancy/child-birth related illness'. Medical Bonus to women who does not get medical facility from Employer for childbirth (Rs.3500/-). Prohibition on dismissal on account of absence due to pregnancy. No reduction of wage during pregnancy/ maternity leave. Maternity Benefit (Amendment) Bill, 2016 under consideration before the Parliament for enhancement of maternity leave from existing 12 weeks to 26 weeks, facility of crèche, work from home facility and maternity benefits of 12 weeks for adopting/ commissioning mothers ^[9].

6.8 Payment of equivalent compensation to people workers for the equivalent or similar nature of work protected under the Act. No discrimination is admissible in enrollment and administration conditions with the exception of where work of women is disallowed or confined by or under any law ^[10].

6.9 Maternal benefit (paid leave) of 12 weeks of which not over about a month and a half to go before the normal date of confinement. Extended benefits of one month on account of sickness after maternity benefits. Six weeks leave in case of Abortion/Medical Termination of Pregnancy. In principle decided to enhance the maternity benefit from existing 12 weeks to 26 weeks, and also maternity benefits for adopting/commissioning mothers ^[11].

7. Special Welfare Schemes for Women

7.1 Special Social Security

Employees' Pension Scheme benefits widows and children. Widows of deceased PF members are entitled to lifelong widow pension. Similarly, children of deceased PF members are entitled to pension up to the age of 25. Pension is

allowed for two children at a time. Child pension is converted to orphan pension if the surviving parent dies and the orphan pension is more than the child pension.

7.2 Special Health and Insurance Benefits

1. Employees (including women) earning less than Rs100/- as daily wages are exempt from paying their share of contribution. Main benefits under ESI Scheme for all Insured Persons are Sickness Benefit, Disablement Benefit, Dependents' Benefit, Maternity Benefit and Medical Benefit. Other benefits include Confinement Expenses, Funeral Expenses, Vocational Rehabilitation, Physical Rehabilitation, Unemployment Allowance and Skills Up gradation Training.
2. Maternity Benefit (Cash) for 84 days is payable to insured women in case of confinement. Benefit for one extra month can be paid if there should be an occurrence of affliction emerging out of pregnancy, repression, untimely birth of child, miscarriage or medical termination of pregnancy. For guaranteeing the advantage a safeguarded woman ought to have paid commitment for in any event 70 days in two continuous commitment periods, for example, one year.

7.3 Special Measures in Mining

1. Help in detection and follow up-measures of lung diseases among women and children of mining areas.
2. Regular inspection by DGMS officers largely prevents unlawful employment of women and children in mines.

7.4 Women's Empowerment Programmes

The CBWE is conducting two-day special programmes forewomen workers to empower them. In all, 667 such programmes were conducted for 26,068 workers, in 2014.

8. Pt. Deendayal Upadhyay Shramev Jayate Karyakram

The Hon'ble Prime Minister called for more noteworthy incorporation of India's workforce in welfare schemes and work reforms; and for more noteworthy efficiencies by means of human benevolent innovations. On 16 October 2014, another day unfolded to brighten the lives of the work power in India from numerous points of view – the Hon'ble Prime Minister of India Narendra Modi introduced the Pt. Deendayal Upadhyay Shramev Jayate Karyakram, during the daylong meeting of State Labor and Employment Ministers, State Health Ministers and State Vocational Training Ministers at Vigyan Bhawan, New Delhi. The occasion spun around a progression of Good Governance activities to upgrade straightforwardness and responsibility and lift consistency with a definitive point of adequately advancing mechanical harmony, agreement and all-round turn of events.

9. Shram Suvidha Portal

The Ministry of Labour & Employment has developed a unified Web Portal–'Shram Suvidha'– catering to four major organisations under its aegis: Office of Chief Labour Commissioner (Central); Directorate General of Mines Safety; Employees' Provident Fund Organization; and Employees' State Insurance Corporation. On this event, the Hon'ble Prime Minister devoted the: (1) Shram Suvidha Portal (2) Labor Inspection Scheme and (3) Portability of Provident Fund Account through Universal Account Number (UAN) as the Ministry's three significant activities

⁷The Factories Act, 1948.

⁸The Mines Act, 1952.

⁹The Maternity Benefit Act, 1961.

¹⁰The Equal Remuneration Act, 1976.

¹¹Employee's State Insurance Act 1948 & read with The Employee's State Insurance (Central) Regulation, 1950

on the 'Minimum Government, Maximum Governance' pledge via effective use of technology.

The portal's main features are:

1. Unique L.I.N. (Labour Identification Number) allotted to Units facilitating online registration.
2. Filing of self-certified, simplified Single Online Return by industry. Units will just document a solitary solidified Online Return, rather than independent Returns. Changes to 10 Rules previously attempted.
3. Transparent Labor Inspection Scheme by means of mechanized framework according to chance-based standards, rather than self-assertive investigations dependent on circumspection, and transferring of Inspection Reports inside 72 hours by Labor Inspectors.

10. Easier Social Security

Portability through Universal Account Number (UAN) for Employees' Provident Fund.

- a. Digitization of database of EPF subscribers and allotment of UAN to each member.
- b. UAN will be linked with Bank Account, Aadhar Card and other KYC (Know Your Customer) details to promote financial inclusion.
- c. Employees' EPF amount on settlement is informed via SMS. Employees can view their updated status online.
- d. Direct access to EPF accounts; will enable members to access and consolidate previous accounts. Online pensioners can view their account and disbursement details online.

11. Efficient Health and Insurance Facility

Faster medical care and cash benefits in contingencies for organized sector workers.

a. Project "Panchdeep"

To digitize internal and external processes and ensure efficiency in operations, especially services to employers and insured persons, ESIC has launched its IT Project 'Panchdeep'.

b. Employer Portal under "Panchdeep"

The Employer Portal licenses different exchanges online without visiting any ESIC Office, sparing time and dodging the drudgery of routine desk work. Manager and Employee Registrations are done on the web. The gateway empowers bosses to document month to month commitments, produce Temporary Identity Cards and make month to month commitment challans on the web.

c. IP Portal under "Panchdeep"

Insured Persons (IPs) can check contributions paid/payable by employers, family details, entitlement to various benefits and status of claims.

d. Pehchan Card for IP

The photo of the Insured Persons (IPs) and their relatives are clicked during enlistment. Their fingerprints are additionally checked for Pehchan Card. Two arrangements of Pehchan Card (one for the IP, another for his/her relatives) are accommodated swift and advantageous conveyance of administrations.

e. E-Biz Platform

ESIC is the primary substance to incorporate its administrations (Registration of Employers through the e-Biz entryway of the Department of Industrial Policy and Promotion (DIPP)) to advance simplicity of business and control exchange costs.

12. Suggestions and Recommendations

- a. If payment of wages through bank then direct exploitation can be stop.
- b. Minimum wages will be successful if the government is effectively enforcement of that.
- c. The government should be encouraged Minimum Wages as requirements for economic growth of country then the government intention to make ensure labour welfare in its true sense.
- d. The Government should be equal emphasis and laid on empowering the women work forces by enhancing their competencies.
- e. Only 24% women covered under medical and life insurance. The Government and employer can be both work with jointly for increasing health insurance and health security of women workers^[12].

13. Conclusion

Formulation and coordination of policies and programmes for the female labour force within the frame work of national manpower and economic policies. Maintaining liaison with other Government agencies to secure effective implementation of the programmes in respect of women workers.

Monitoring the implementation of the Equal Remuneration Act, 1976 and setting up of an Advisory Committee under the Equal Remuneration Act, 1976. Giving grants-in-aid to Non-Governmental Organizations/ Voluntary Organizations for conducting awareness generation camps for women workers especially in respect of their legal rights and duties. The Government has made a few strides for making a suitable workplace for women workers. Various defensive arrangements have been consolidated in the different Labour Laws.

The proposal forwarded along with comments/recommendations of State Govt./District Magistrate are considered for financial assistance under this scheme their commendation of the State Govt. should be clear and unambiguous and should be furnished in prescribed format along with Recommendations of State Govt. /District Magistrate. The total number of women benefitted under the scheme for the last three years is 54,250. A complaint Committee to deal with the complaints of sexual harassment of women employees at workplace of Ministry of Labour & Employment and its attached offices has been reconstituted^[13].

The ILO Convention No.100 of 1951 relating to equal remuneration for men and women was ratified by the Government of India in the year 1958. To give effect to the Constitutional provisions and also to ensure the enforcement of ILO Convention No.100, the Equal Remuneration Act was enacted on 1976.

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