

## **Working women and emerging laws in India – A Review**

**Dr. K. Illakiya**

*Assistant Professor of Political Science, School of Law, Vel Tech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Chennai, India*  
Illakiya87@gmail.com

---

### **Abstract:**

Since the industrial revolution, participation of women in the workforce outside the home has increased in industrialized nations, with particularly large growth seen in the 20th century. Largely seen as a boon for industrial society, women in the workforce contribute to a higher national economic output as measure in GDP as well as decreasing labour costs by increasing the labour supply in a society. Under the Constitutional law, women have equal rights as men and the principle of Gender Equality is enshrined in the Indian Constitution in its Preamble, Fundamental Rights, Fundamental Duties, so as to enable them to take part effectively in the administration of the country. The Constitution not only grants equality to women, but also empowers the State to adopt measures of positive discrimination in favour of women. To uphold the Constitutional mandate, the state has enacted various legislative measures intended to ensure equal rights, to counter social discrimination and various forms of violence and atrocities and to provide support services especially to working women. Education & Economic independence of women & awareness amongst the masses are the most important weapons to eradicate this inhumane behavior of the society towards the female sex. Indian Society, which is largely male dominated, for the position of women in society. Not only men, even most women internalize their position in society as a fair description of their status through the ages. We are slowly but steadily heading towards an era of change & hope to see the light of change, shine on the weaker sex, as it is called one day. This paper explains about the women and economic development, laws protecting women's rights as workers, women's participation in different occupations, workplace discrimination, occupational safety and health, barriers to equal participation etc.

**Keywords:** women, workplace, constitution, laws

---

Date of Submission: 04-09-2022

Date of Acceptance: 19-09-2022

---

### **I. Introduction**

Women around the world, and especially in Indian Society, have long been subject to the discrimination and tortures inflicted by the so-called patriarchal society. Women have always been considered as the weaker section of society, and hence made to believe in male supremacy. They were always expected to be obedient to the male gender, expected to serve the male gender, were silenced when they were subject to violence by those men. A woman who obediently went through all of this without voicing her opinion was deemed to be fit for the society or else, termed as uncultured and shamed for her mere existence. India has witnessed many social changes post-independence. Today women have come out of home and established an identity of their own in different areas of work. Though most Indian adult women make an economic contribution in one form or another (including housework, working in family land etc), much of their work is not documented. This is because majority of women workforce is employed in the unorganized sector and working for family is considered as responsibility which should not be counted.

Owing to cultural restrictions and family responsibility, women participation in the formal economy is limited. Some other concerns that affect the working women relate to gender discrimination, quantum of payment, safety at workplace, working hours and conditions of employment that are sensitive to cultural and religious bondages as well as family responsibilities. Indian legislature has been active on this front. Its main focus is on reducing inequality of any sort, and thereby promoting a fair, non-discriminating and safe work environment. Women can be powerful actors for peace, security, and prosperity. When they participate in peace processes and other formal decision-making processes, they can play an important role in initiating and inspiring progress on human rights, justice, national reconciliation and economic revitalization.

As time changes, social and cultural norms are also expected to change. However, it's saddening that even in this modern era, when bigger things are happening and there are bigger problems in the world, our society still views women's freedom and right to equality as one of the biggest threats. The problem lies with

people's mindsets, and with the male chauvinist mentality is shaken from the very core, women are bound to be subject to such misogyny. Thus, it is very vital that women must be educated and made aware of their rights provided by the constitution of India so that they don't give in to such societal pressures and discrimination. Women can be powerful actors for peace, security, and prosperity. When they participate in peace processes and other formal decision-making processes, they can play an important role in initiating and inspiring progress on human rights, justice, national reconciliation and economic revitalization.

## **II. Position of Women in present scenario**

Man and Woman are the two pillars of the social structures. Their roles, duties and rights are complementary and supplementary towards each other. If one of the pillars is weak, the other cannot bear the burden of society and the whole structure of the society shall demolish. Man shouldn't exploit, the women. But ironically, it has happened and goes on happening. The present society is still under the impression of age-old dogma that women is inferior to man. The wrong interpretation of religion has weakened the woman's position in the society. Wrong customs, which are derogatory to the position of women are still followed. Taking advantage of above said factors (religion and custom) man has created a very strong position to himself over the woman in all spheres of life, including social, cultural, political, economic etc. Women has been at the receiving and right from her to workplace. As a result, human rights of women have been frequently violated and crimes against women are on the rise<sup>1</sup>.

Keeping in view these facts, all customs, in every society which are, derogatory to women should be declared illegal immediately. Some of them are, child-marriage, religious prostitution, restraint on widow's remarriage, polygamy by man, property rights of woman etc. It is the duty of the government to undertake an exercise for the true interpretation of the religion. Customs should be differentiated from the religion. Because the religion gives equal status to the woman with man and customs give more duties to the woman than men. People should be educated in this field. Only this can bring change in the present social behaviour which favours the man.

Although a women constitute a majority of world population, there is still no society in which the women enjoy full equality with men. In 1996, for example, women held only 7 per cent of ministerial level posts in the government worldwide. Figure for the number of women in higher level position in business and higher education are similar. Violence against women and girls in the most pervasive violation of human rights in the world today. Cutting across economic, social, cultural and religious barriers, violence against women is an insidious phenomenon effecting the lives of millions of women and taking a dismaying variety of forms. All women that may be poor or rich, illiterate or literate, housewife or working, conservative or modern are by her counterpart 'the men'<sup>2</sup>.

Mahatma Gandhi who believes that if the freedom movement was to be successful, it had to be movement of the masses and felt that Swaraj would be meaningless without reform of the social structure and upliftment of the weaker sections, namely the women and the lower social strata to a position of equality with others. While lending his support to the cause of improving women's conditions through education and reform of marriage laws, he declared himself to be uncompromising in the matter of women's rights. Women has been suppressed under custom and law for which man was responsible and in the shaping of which she had no hand. Women has a right to shape her own destiny as man has to shape his. It is up to man to see that they enable them to realise their full status and play their part as equal of men<sup>3</sup>.

Our Constitution makers were active to the social problems associated with the emancipation of women. They had seen prevailing gender inequality during their time and had visualised that the sex-equality was crucial for the development of the country. In order to do away with the inequality and to provide reasonable opportunities and create awareness for the exercise of human rights and claim, it was necessary to promote with special care, educational and economic interests not only of men but women too and to provide necessary protection from social injustice and exploitation. The Constitution of India provides the following:

1. Right to Equality (Article 14, 15 and 16)
2. Right against exploitation (Article 23)
3. Directive Principles of State Policy (Article 38, 39(a) & (d), 42 and 44)
4. Fundamental Duties (Article 51-A (e))
5. Elections (Article 325)

Besides the above, the Preamble, which incorporates chief goal enshrined in the Constitution reflects the spirit of equality. A look into the Preamble will enable us to locate ideal incorporated into the Constitution<sup>4</sup>.

### **III. Indian Constitution and Women**

The Indian Constitution has time and again propagated the values of equality among the citizens and has empowered women in all social, cultural and economic spheres. It prohibits discrimination based on caste, religion, sex etc. These laws were enacted for the upliftment of women so that they live an honourable and dignified life. Only when a woman has equal occupational rights, educational rights, decision making rights, freedom and the right to choose what's good for herself, she is said to be equal to that of men. Gender equality is the essence of the Indian Constitution and thus, the following are the laws enacted for protection of women's rights.

Article 14, Article 15, Article 16, Article 21, Article 23, Article 39, Article 42, Article 46, Article 47, Article 300, Section 359, 360, 366, 509, 376, 376 A, 376 B, 376 C and 376 D.

#### **Cyber Crimes:**

Rampant advancement in technology also comes with rampant advancement in crimes. The modern era is witnessing new ways in which crimes are being executed. Cybercrimes are one of them. Women are major victims of these crimes. Pornography, bullying, illegally recording videos, abusing etc happen on a regular basis. It is necessary that women are protected against and thus, punishments for such crimes range from imprisonment up to 3 years and a fine.

#### **Dowry Deaths:**

Mental and physical exploitation of women in the name of dowry has been a common practice in Indian society for ages altogether. Such exploitation leads to deaths in the form of murder or even suicide by the women. Laws have been made which has criminalized the demanding of dowry which is punishable with imprisonment and a fine.

#### **Stalking:**

Women are given protection against stalking in any form, be it on the internet, through electronic mediums, physical etc. Such practice beaches the privacy of a woman and thus, is an offence punishable with imprisonment up to 3-5 years and a fine. Apart from these, various initiatives are taken for women like National Commission for Women, National Plan of Action for the Girl Child, National Policy for the Empowerment of Women, Women Helpline Scheme etc.

These are some of the offences that women fall victim to daily. Such rights are basic human rights and it is important that women are educated about these laws so that they can live fearlessly and have the confidence to fight for them.

### **IV. Legislations relating to Women's Rights**

Various legislations in India relating to women's rights are:

1. The Provisions of the Protection of Women from domestic Violence Act, 2005
2. Dowry Prohibition Act
3. Immoral Traffic Prevention Act
4. The Maternity Benefit Act 1861
5. The Maternity Benefit Act 1961
6. The Maternity Benefit (Amendment) act, 2019
7. Muslim Women (Protection of rights on divorce) Act
8. The Indecent Representation of Women (Prohibition) Act 1986 and 1989 Act
9. The Commission of Sati (Prevention) Act
10. Hindu Adoption and Maintenance Act
11. The Protection of Human Rights Act, 1993
12. National Commission for Women act, 1990
13. Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989
14. Industrial Disputes Act, 1947
15. Equal Remuneration Act (ERA), 1976
16. The Companies Act, 2013
17. Devadasi System Abolition Act

### **V. Laws related to Working Women in India**

Women cannot be made to work more than 48 hours in a week. Women must get one day off in a week. Women cannot be made to work for more than 5 hours at a stretch. Women can be made to work only between 6 in the morning and 7 in the evening. The following are the laws relating to Working Women in India:

Fundamental Rights	Maternity Benefits Act, 1961	Sexual Harassment of Women at workplace (Prevention, Prohibition and Redressal Act)
Fundamental Duties	Maternity/Paternity for Government Employees	
Directive Principles of State Policy	Employees' State Insurance Act, 1948	
	Payment of Wages Act, 1936	
	Equal Remuneration Act, 1976	
	Minimum Wages Act, 1945	
	Workmen's Compensation Act, 1923	
	Domestic Workers (Registration, social security & welfare) Act, 2008	
	Factories Act, 1948	
	Plantation Labour Act, 1951	
	Mines Act, 1952	
	Unorganized Workers Social Security Act, 2005	

### VI. The Prohibition of Sexual Harassment of Women at Workplace Act, 2013

The Sexual Harassment of Women at Workplace Act, 2013 is a legislative act in India that seeks to protect women from sexual harassment at their place of work. It was passed by the Lok Sabha (the lower house of the Indian Parliament) on September 2012. It was passed by the Rajya Sabha (the upper house of the Indian Parliament) on 26 February 2013. The Bill got assent of the President on 23 April 2013. The Act came into force from 9 December 2013.

Sexual Harassment at workplace broadly includes:

1. Physical Contact and advances
2. A demand on request for sexual favours
3. Making sexually coloured remarks
4. Showing pornography
5. Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

### VII. The Challenges Indian Women Face

**Outside the Workplace:** The Patriarchy and women's self-esteem, the "second shift" and the curse of "unentitlement".

**Inside the Workplace:** The infamous glass ceiling, the wage gap, the uncaring employer, the "motherhood penalty", Rewarding face time as opposed to results at work, Descriptive gender stereotypes, Prescriptive gender stereotypes, Covert and overt harassment, The safety of women employees, The challenges of travelling for work, The safety of women on business trips and the future of work holds challenges and opportunities.

### VIII. Improving the Work Environment of Women in India

According to a report by the McKinsey Global Institute, India has one of the largest opportunities in the world to boost GDP by advancing women's equality - \$770 billion of added GDP by 2025 – but this would require comprehensive change. The report addresses two specific opportunities to address women's lack of access to the fundamental enablers of economic opportunity:

1. Increasing women's access to digital technologies and financial products
2. Reducing the time women spend on unpaid care work.

Mckinsey's research suggests that 97% of all female workers in India are active in the informal sector, engaged in low-paying activities and domestic work. "Improving the quality of work and its remuneration and enhancing the well-being of such women is an urgent priority," the report noted. India could reduce the time women spend on unpaid care work by filling gaps in essential infrastructure, including childcare, and promoting labour-saving technologies such as clean cooking stoves. But it would also require social and behavioural change and employers can play a role in catalysing such change by encouraging their male employees to bear a bigger share of household responsibilities.

### **IX. Conclusion**

Today, people are waking up to the fact that women are competent workers in almost all fields. Organisations, both big and small, are going all out to hire women for various positions. Women must fight against discriminatory attitudes and hostile work environments by taking charge of the situation and making themselves aware of the laws and rights they are entitled to. They need to be expressive and assertive when faced with unfair treatment and fight for their rights as aggressively as their male colleagues would. Many organizations now have women support groups that allow female employees to vent their grievances and discuss suitable solutions. Technically, the Government of India is in favour of equal rights and working conditions for working women. It has introduced several policies and laws for women empowerment in India that find relevance, both in the topmost tier as well as the grass-root level of organizations. Unfortunately, these are not adequately publicized and many women are not even aware of their existence. If all working women are educated about these laws and regulations, their status in the workforce would greatly improve.

Family values also plays a pivotal role in shaping our attitudes and mindsets towards the opposite sex. Every Indian male must be taught to respect women and treat them as equal from an early age. Only then will the need for rules or laws protecting women's rights be deemed unnecessary. In India, women are certainly not sitting idle, a fact that is evident from the way they work shoulder-to-shoulder with their male counterparts, whether in fields and farms, or in the office, or in managing the household.

Every day we hear success stories of women in India who are breaking age-old barriers and traditions, forging their own path and achieving great things in work and life. However, when it comes to women in the workplace, India has to go a long way to change the status of women in Indian society and ensure financial freedom for women. If India treated its women better and Indian women were bigger part of its workforce, the world's 's biggest democracy would be 27% richer. Till then, we need to work on empowering women to find jobs and to help career women in India overcome challenges in the workplace and outside it. One-way women can surmount these challenges is to opt for remote work options or work-from-home jobs. This will allow them to integrate home and work without having to give up their career or lose the feelings of self-worth and fulfilment that their work gives them.

20 mg on every other regimen had equal effect when compared to daily dose regimen of atorvastatin 40 mg & rosuvastatin 20mg.

### **References**

- [1]. Dr. Devinder Singh, Human Rights -Women & Law: Position of Women in Present Scenario, Allahabad Law Agency, 2010, p.5
- [2]. U.N. Briefing Paper, Human Rights, Today of United Nations Priority, 1998, p.38
- [3]. S.K. Panchami, Women and Human Rights, 1999, p.117
- [4]. K. Kumar and Punam, Offences against Women – Socio Legal Perspective, 1996, p.12
- [5]. Azka Khanam, Women Laws in India, Legal Services India, E-Journal
- [6]. Women's Rights in India, An Analytical Study of The United Nations Convention on the Elimination of All Forms of Discrimination against Women & The Indian Constitution, Legislations, Schemes, Policies & Judgements, 2021
- [7]. Naina Kaur, The Sexual Harassment Bill undermines the innovative spirit of Vishaka, Bar and Bench, 2013

Dr. K. Illakiya. "Working women and emerging laws in India – A Review." *IOSR Journal of Humanities and Social Science (IOSR-JHSS)*, 27(09), 2022, pp. 08-12.