

WOMEN'S RIGHTS IN INDIA: A STUDY WITH SPECIAL REFERENCE TO GENDER JUSTICE AT WORKPLACE



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CONCLUSION AND SUGGESTIONS

6.1 Conclusion

In India, Women, who is a daughter, wife, mother have been most ignored section of the society and have been suffered situation such as rape, female infanticide, abusive behavior at home and so forth. Women, as some other male citizens, have been given constitutional and statutory rights by the constitution and legislature separately. Constitution has promised them right, for example, right to equality, right to freedom, right to life under article 14 15 19 and 21 respectively. Women have access to all the fundamental rights which comes under Part III of the Constitution. Constitution does not only treat all females equally before law but also protect them equally under law. We all including women have been given freedom and opportunity in the society. State is enabled to make special laws for women under article 15 (3). Additionally constitution has ensured under Part IV that state shall direct in favour of women equally along with men. Women have been provided with equal rights of adequate means of livelihood. State has been endowed with responsibility to protect health and strength of women workers against unsuitable avocation state has duty to provide them just and humane condition of work along with maternity benefit. Not only State but an individual has been ended with duty under Part IV A of the Constitution to respect women and to renounce practices derogatory to their dignity. Constitution has not only guarantee civil and economic rights but also political rights as it has made provision for reservation of 1/3 seats in panchayat and municipality. Women have constitutional of right to vote as well as right to stand in any election.

Indian Legislature has enacted certain women centric legislations. The concept of justice is as primary as start and development of human society. Humans are social being. There might be conflict of interest and subsequently expect of rightful direct with respect to other people. That is the reason jurists have focused the significant of justice in their definition of law. As the law has grown and created, the idea of justice

likewise extended its branches to various circles of human activities. every woman and lady have right to live in dignity and in opportunity, with no fear. Gender Justice is mandatory for improvement, poverty reduction, and is mandatory achieving progress of human being. Gender Justice implies any individual will not be discriminated on ground of sex and will be treated at standard in all circle of life. It incorporates sharing of power and obligation among women and men at home, in the working environment, and in the more extensive national and international networks.

Discrimination is definitely not new activity, it is as old as society. Biasness in working environment can be in various forms; there may be a solitary explanation or a mix of numerous grounds of inclination other than gender. Discrimination may comprise different form of age, abuse, pregnancy, nationality, race, caste, color, religion, disability, sexual harassment, equal pay or remuneration and ethnicity. Discrimination may happen in at any place not limited public places in daylight. It might be caused at workplaces, factories, Government offices, private and non-government organization.

Section 2 of The Sexual Harassment of Women at Workplace (prevention, prohibition, and Redressal) Act, 2013¹ gives an extensive significance of the term 'workplace'. 'Workplace' incorporates any division, association, undertaking, foundation, venture, office, branch or unit perceived, possessed, controlled or entirely or generously financed by any private individual non-administrative association just as the suitable Government or the neighborhood authority or a Government organization or a company or a co-operative society, trust, hospitals or nursing homes. Complex such as Sports, Competition etc are also included.

In *Vishakha case*, the Supreme Court took a genuine note of the expanding risk of sexual oppression at working environment and other places. Thinking about the insufficiency of legislation on the point, the court even expected the role of overseeing body, for example, legislature and characterized sexual harassment and the set down guidelines for the employers. Sexual harassment at a working environment is viewed as infringement of women's right to equality, life and freedom. It makes an

¹ The Sexual Harassment of Women at Workplace (prevention, prohibition, and Redressal) Act, 2013 (Act No. 14 of 2013) 22 April 2013.

unreliable and unfriendly workplace, which demoralizes women's investment in work, in this way unfavorably influencing their social and financial strengthening and the objective of comprehensive development. The court prescribed a thorough legislation on sexual harassment and employers to create and execute a strategy for anticipation of sexual harassment at the work environment.

Definitely, a great deal changes are required to secure the both females and males all through the work environment. What steps can government organizations and companies take to cause the entirety of their representatives to feel safe and secure at workplace and home? To prevent sex discrimination at the working environment State must make guidelines for equal opportunities, aware workers about gender discrimination in the working environment, make quick move to address concerns, check your own oblivious bias and ensure your workers do, as well.

Historically, in Ancient India, however, male centric framework was exceptionally predominant, women enjoyed the position where they get respect. Women held a significant place in antiquated Indian society. The plenty of Goddesses in antiquated period was made to ingrain regard for women. There was no segregation of women from household and get-togethers however they were subject to their male family members for the duration of their lives.

The position of females bit by bit decayed as the Vedic goals of solidarity and equality started to blur off the time. During the Mauryan period, available written works portrays that women's were dealt with harshly and they were doled out low status in the society with little spaces to work. Megasthenes testifies for the developing practice of polygamy; work of women as castle guards, protectors to the rulers, spies and so forth.

In medieval India, the work power in the Mughal rule was employed from different ethnic and religious backgrounds. While both male and female were employed in a wide scope of business activities and different occupations in the essential division, for example, farming, secondary sectors, for example, construction laborers, dyers, spinners, and so on and tertiary sector, for example, investor, consultants, doctors, business owners, brokers, vendors, banks, scientists and so on.

Muslim women additionally held a syndication over specific parts of the textile industry, the largest and generally particular and market-oriented industry, of the time, and occupied with occupations, for example, dying, embroidery and spinning. Poor women, particularly in the rural area, worked and earned good money.

The British Rule in the eighteenth century acquired some level of political precision, yet the social structure, customs and practices stayed unaltered. It was fundamentally during the nineteenth century that the change development embraced by edified scholars and pioneers of Indian society like Raja Rammohan Roy who comprehended the significance of women's participation that the status of Indian women began improving. In Modern India woman only didn't come forward in opportunity battle but also they likewise left their permanent impression in Socio-Economic life.

Factory Legislation, which was designed to uplift the working condition of females, got attention for many quarter after last quarter of 19th century. Government committee consisting of 7 members was set up to investigate the state of working women by the British Government in the last quarter of 1870. This committee prescribed the primary Factory Act and by 1881 this Act became legislation, in spite of all neighborhood antagonistic vibe. Another fruitful step for the working women came in 1891, when the Factory Act of 1881 was corrected and new Factory Act 1891 was changed and this Act restricted the working long hours of women to an eleven hour day and furthermore disallowed women from working in night shift.

During the first half of twentieth-century, Indian females got lots of opportunities to participate in economic activities but with respect to female population growth, rate was too slow. Subsequently on account of women workforce as a level of the population reduced quickly during the period 1911-1951.

The current interest of the women for the provision of increasing opportunities outside home ought to, best case scenario be named as a tertiary stage throughout the entire existence of the women's liberation, the move over from the conventional role of the women subservient to menfolk to the neo-traditional stage, in which the women have been up in the rebel against a wide range of abuse repeating their equality with

men in all fields of rights and duties running from instruction, work, health, standardized welfare offices, combined with the support of women at various degrees of social and national activity. They built up a society dependent on agreeable relations permitting no exploitation, economic, scholarly or in any case by sorting out every single taboos that have prompted confining the women's life to specific part as it was.

Also, the colonial set-up gave women a passage into the promoted monetary division and furthermore in the structured area of the economy. Women were prepared and employed in the new professions such as instructing and meds, factories, mines, and manors.

Gender based discrimination has always been an issue of international concern. This section manages rules and shows on gender justice which has been sanctioned by the international group. The current section endeavors to investigate the definite provisions identified with UDHR, ICCPR and ICESCR. Since the United Nation has indicated its profound concern towards the issue of sex discrimination from its origin, it has assumed an important role in eliminating this danger in worldwide work culture through its instrumental offices. This part has tossed light into proposals of the United Nations through the CEDAW. Another particular office of United Nations International Labour Organization has assumed a key role in setting out rules for sex equality through its four points. The part has additionally talked about in detail the rules.

Worldwide improvements in the field of gender justice at the working environment are briefed as follows:

Universal Declaration of Human Rights is the basic document which resuscitated the idea of Human Rights after the savage episode of the Second World War. The preface of UDHR is a courtyard step for promotion of human rights, for example, dignity freedom and equality to the regular understanding and full acknowledgment of these rights. UDHR in its preamble sets out the gender justice as an essential objective of the world network to be accomplished. UDHR has stressed on women's right equality alongside men by utilizing words, for example, everybody

nobody all people. Article 23 specifically determined that women together with men has the right to work, to free decision of choosing employer, to feasible conditions of work and to assurance against joblessness. Women will be treated without discrimination. Women have additionally the right to equality of compensation while working at the working environment. They are likewise qualified for just and great remuneration guaranteeing for herself and her family a presence deserving of human dignity, and enhanced, if vital, by different methods for social safety. A suffered woman has right to shape and to join worker's organizations for the security of his interests. Underlining on just and humane state of work Article 24 gives that Woman has likewise right to rest and recreation, including relevant limitation of working hours, paid eaves and holidays.

Worldwide Community through **ICCPR**, an extended hand and application of guidelines of UDHR has sanctioned and certified the equivalent right of males and females to the pleasure in every single common right including right to work under Article 3.

Art. 7 of **ICESCR** emphasizes the commitments of its state parties in UDHR to perceive the right of everybody to the happiness regarding just and positive states of work which guarantee, specifically:

- (a) Remuneration to all workers;
- (b) Safe, Secure and healthy working conditions;
- (c) Equal opportunity for everybody to be uplifted in his work to a suitable more higher level, subject to no contemplations other than those of seniority and ability;
- (d) Rest, relaxed and sensible restriction of working hours and paid leaves and, just as remuneration for public holidays.

CEDAW is regularly portrayed as the international bill of rights for women, and is one of the key understandings that direct crafted by UN Women in accomplishing gender equality and engaging all women and girls.

Article 11 of CEDAW, to which India is also a party, requires State parties to take suitable measure to eradicate discrimination against women in the field of work

so as to guarantee based on equality of both gender male and female, same rights specifically (a) the right to work as an mandatory right of every single human being; (b) the right to protection of healthy and safe working conditions, including the protection of the function of reproduction. The United Nations Committee on CEDAW further explained that equality in workplace can be truly debilitated when women are exposed to gender specific harassment, for example, sexual harassment at the work environment. India's promise to protection and upliftment of women's constitutional rights just as regard for its commitments under different worldwide treaties is straightforward. In addition, Article 22 advised that equality in workplace can be truly debilitated when women are exposed to gender specific harassment, for example, sexual harassment at the work environment. Further, Article 24 force an order upon state gatherings to remember for their reports data about sexual harassment, and on measures to shield women from sexual harassment and different types of savagery or pressure at the working environment.

Among other instrumental offices of the UN, the ILO has likewise performed noticeable capacity to promote equivalent opportunity for women and men to get fair work. The ILO's order to promote gender equality at working environment is cherished in its Constitution and reflected in significant international work guidelines.

This is genuinely paid effective work done in conditions of opportunity, value, security and human dignity. ILO Discrimination (Employment and Occupation) Convention, 1958 intends to ensure against discrimination in workplace and occupation on the grounds of sex, race, shading, religion, political feeling, national or social source. In its general perception of 2003, the ILO Committee has underscored that sexual harassment is a type of gender discrimination In the perspective on the gravity and genuine repercussions of sexual harassment, the Committee of Experts on the Application of Conventions and Recommendations has encouraged governments to take proper measures to preclude sexual harassment in work and occupation and has given components of a meaning of sexual harassment.

The European Union has been excited about securing gender justice. Equality among people is a fundamental rule of the EU under Article 2 and 3(2) of the

provision setting up the European Community. The Equal Treatment Directive is a 1976 mandate given by the chamber of priests of the European Economic Community, presently the EU. It requires all states who are member to guarantee equivalent treatment of males and females with respect to access to employment, professional aiming, promotion and working conditions.

The law in the UK as to gender justice has been firmly demonstrated on those of the EU. Sex Discrimination Act, 1975² which also includes gender equality laws, and the Equal Pay Act, 1970,³ both as altered. The Equal Pay Act covers everything identifying with pay and conditions and the Sex Discrimination Act covers those territories which fall outside the domain of the Equal Pay Act.

The 19th amendment to the US Constitution in 1920 giving women equivalent voting rights as men was the primary constitutional acknowledgment of gender rights. A huge part of gender disparity in USA is discrimination against women at the work environment. One of the preeminent issues for women was the economic status of women. Civil Rights Act, 1964⁴ disallows discrimination based on sex. It precludes discrimination by employer's on the basis on sex. It likewise restricts discrimination against an individual due to their relationship with another person of a specific sex. People have equivalent employment rights. Equal Pay Act, 1963⁵ ensures equivalent compensation for women.

In India, The Preamble of the Constitution inter alia discusses social, political and monetary justice for all citizens of India. Economic justice guarantees that each individual ought to get his only levy for the work given by him/her independent of caste, doctrine, sex, status and so forth. The Preamble discusses the dignity of an individual and that dignity ought to be guaranteed by guarantying equivalent fundamental rights to all people. Honorable lives contain in itself the substance of equality and freedom.

2 The Sex Discrimination Act, 1975 (Chapter 65 of 1975).

3 The Equal Pay Act, 1970 (Chapter 41 of 1970) 29 May, 1970.

4 The Civil Rights Act, 1964 (Effective 02 July, 1964).

5 The Equal Pay Act, 1963 (10 June, 1963).

All the fundamental rights included in part-III of the constitution are relevant to all residents of India independent of gender. Article 14 explicitly expresses that inside the region of India, the state will not deny to any individual equality of law or equivalent insurance of law. At that point, Article 15 (1) expresses that the state will not oppress any resident just on the ground of religion, race, caste, sex, spot of birth or any of them.

Accordingly, Article 15 (1) forbids gender discrimination. The author of the constitution very surely knew that women in the Indian society didn't have equivalent political, economic and social status as that of men. Article 16 discuss about equality of opportunity in the case of employment. Equivalent employment opportunity implies equivalent access to employments and states of work. It additionally contains in itself the quintessence of equivalent assessment of execution. It must be noted here that Article 16 discuss about business or provision to any office under State in particular. Matters identifying with employment mean all issues earlier or ensuing to the livelihoods which are associated with the work.

Part-IV of the Constitution includes numerous mandates to the state to improve the status of women and for their security. Article 39 (a) guides the State to make sure about its approach with the goal that the residents (the two people) have equivalent rights to sufficient means of livelihood and equal pay. The State offered impact to this provision by enacting the Equal Remuneration Act, 1976.⁶ Article 39 (e) explicitly coordinates the State not to mishandle the health and power of laborers (males and females). Article 42 guides the State to make provisions for securing just and humane states of work and for maternity help. For this reason, the Maternity Benefit Act, 1961⁷ has been enacted.

Through the 73rd and 74th amendment of Indian Constitution, reservations of seats were given to women in election of the Panchayat and municipalities. Article 243 D of the Constitution gives that in the immediate political election in each panchayat at the very least one third of all out number of seats are to be saved for women. Article 243 T (3) accommodates reservation of seats for woman in direct

⁶ The Equal Remuneration Act, 1976 (Act No. 25 of 1976) Enactment Date 11 February, 1976.

⁷ The Maternity Benefit Act, 1961 (Act No. 53 of 1961) Enforcement Date 01 January, 1963.

to each municipality. Article 51A (e) inter alia states that it is the obligation of each resident of India to renounce from practices which are deprecatory to the dignity of women.

Under the Industrial laws, the women have been offered the special situation in the perspective on their unique characteristics, physically, mentally and biologically. A part of the Acts identified with employment was enacted during British period, also after independence. These Acts controlled the long working hours as well as contained provisions of security, safety and health of women laborers and ensures before law and equivalent treatment to women laborers. The principle goals for passing these laws are to empower the women to expand their proficiency, to build their participation in helpful administrations, to guarantee their newborn child welfare and to give equivalent compensation to rise to work.

The Factories Act, 1948 provisions with word related to safety, security and health in factories and docks in India. It manages different issues concerning security, well-being, productivity and prosperity of the people at working environments. The Act applies to any factory utilizing power and utilizing at least 10 workers and in any piece of which a manufacturing procedure is being continued with the guide of intensity, and in any piece of which a manufacturing procedure is being continued without the guide of intensity, or is normally so continued. This does exclude a mine, or a portable unit having a place with the military of the association, a railway shed, restaurant or hotel.

The Minimum Wages Act, 1948 sets the minimum wages that must be paid to workers with skill or no skill. The Act extensively characterizes the expression "wages" that has remembered all remuneration for terms of cash and incorporates house rent allowance. The Act considers work done for any wages below minimum wage as forced labour. Wage committee are set to audit the employer's ability to pay and fix least wages to such an extent that they in any event spread a group of four's prerequisites of calories, shelter, clothing, education, medical assistance, and entertainment. Under the law, wage rates in all businesses vary across states, divisions, abilities, locales and occupations inferable from distinction in expenses of

living, territorial enterprises ability to pay, utilization designs, and so forth. Consequently, across the country, there is no single uniform minimum pay permitted by law and the wage structure has gotten excessively complex.

The Maternity Benefit Act, 1961 ensures women of a 'maternity benefit' that is full paid absence from work, to take care for her child. The Act applies to all foundations utilizing at least 10 representatives. As of late, the Maternity Benefit (Amendment) Act, 2017 has expanded the length of paid maternity leave accessible for women representatives from the current 12 weeks to 26 weeks.

The Act after the Amendment Act, 2017 accommodates maternity leave for supportive and commissioning mothers, Work from Home choice, facility of Crèche. The Maternity Benefit Amendment Act makes it compulsory for employer to teach women about the maternity benefits accessible to them at the time of their appointment.

Other pertinent Acts identifying with gender justice at the working environment are The Workers Compensation Act, 1923, The Equal Remuneration Act, 1976, The Sexual Harassment of Women at Workplace Act, 2013.

The Sexual Harassment of Women at Workplace Act, 2013 tries to shield women from sexual harassment at their work environment and provides an instrument for redressal of complaints. It additionally gives shields against false or malignant charges.

The Act likewise covers ideas of 'quid pro quo harassment' and 'antagonistic workplace' as types of sexual harassment in the event that it happens regarding any act or conduct of sexual harassment. The meaning of "work environment" given in the Vishakha guidelines has been described in detail.

In *Ms. C. B. Muthammarcase*⁸ the Supreme Court has announced that the administration rules of the Indian Foreign Service requiring a female worker to acquire authorization of the Government in writing as a hard copy before her marriage and forswearing of right to work to a married women are ultra-vires as the guidelines

⁸ AIR 1979 SC 1868.

are discriminatory against women. The Supreme Court has, in any case, commented that the equality of chance in issues identifying with business doesn't, in any case, imply that people are equivalent in all occupations and in all circumstances.

In its landmark judgment the Apex Court in *Nergesh Meerza case*⁹, has held that completion of employment on the pregnancy of air hostesses is violative of Article 14 of the Constitution. In the current case wherein air hostesses of Indian Air Lines and Air India have challenged the rules and regulations of the company decides which express that:

In the initial 4 years of their employment, Air hostesses should not marry; Also, they will lose their employment if they are found pregnant. They should resign once they are at age of thirty five years, except if managing director of that airline increase the term by ten years in his attentiveness. The Supreme Court proposed that the principal provision is legal, as it would help in support of the family planning programs, and will build the expense of airlines who are hiring airhostess on adhoc basis or temporary basis, yet the second and third provisions to be pronounced as unethical, callous, cruel, detestable, abhorrent, unreasonable, and unconstitutional and an open affront to Indian womanhood. In this way, the decision of the Apex Court has significantly raised the status of working woman.

The Supreme Court in *Vishakha case*¹⁰ conveyed the rules recommending sexual harassment at work environments and different organizations, until vital legislation is passed, the rules are lawfully official and enforceable. As indicated by the Court, it is infringement of the rights under Articles 14, 15 and 21 and furthermore under Article 19 (1) (g) (infringement of victims fundamental right to practice any profession, or to do any occupation, trade or company) of the Constitution of India. Such infringement attracts remedy under Article 32 for the implementation of these fundamental rights of women.

In this benchmark judgment, the Court gave a lot of rules to business owners as well as other stakeholders of the company to quickly guarantee the safeguarding

⁹ AIR 1981 SC 1829.

¹⁰ AIR 1997 SC 3011.

from sexual harassment. As per Article 141 of Constitution of India, these rules were to be viewed as law until suitable legislation was made.

All employer or people responsible for a working environment including private sector companies should make the below steps to protect, which include:

- a) Express restriction of sexual harassment at any workplace ought to be informed, notified and circulated in proper ways.
- b) The Rules/Regulations of Government and Public Sector bodies who are related to conduct and discipline should incorporate principles/guidelines restricting sexual harassment and apply suitable penalties in such standards against the wrongdoer.
- c) Appropriate work conditions ought to be given in regard of work, recreation, health and cleanliness to additionally guarantee that there is no antagonistic condition towards women at working environments and no working women should have sensible grounds to believe that she is burdened regarding her employment.

6.2 Suggestions

The findings of the present study reveal that in spite of several legislations and policies employment generating especially female oriented employment programmes and schemes, work participation rate in general and especially for females is still very less. Gender bias is very high in employment. Participation in economic activity in the form of employment is very important for the development of individual in person and for the nation as a whole. It is hereby suggested as follows:-

- Section 23 of the Factories Act, 1948 prohibits the employment of young person on dangerous machine. The said section should be amended to extend these precautions required to be taken by employer for women and young female workers also.
- There should be a fleet of women safety officers, inspector and other inspecting staff to take care of female workers including girl child and children during any

exigencies. Therefore, sections 8, 9 and 40 (B) of the Factories Act, 1948 should be amended accordingly. There should be specific guideline for duties of such women officers, inspector and other inspecting staff.

- The Sexual Harassment of Women at Workplace Act, 2013 is insufficient to address the problems of sexual exploitation, abuse and assault against women at workplace. There should be more comprehensive legislation inculcating a wider category of offences such as stalking, voyeurism, sexual assault at workplace. Since the Act is inefficacious in dealing with such offences, female worker has only recourse to opt for general remedy.
- In addition to other provision related to leave, there should be provision of 2-3 days leave during monthly cycle of women which is essential to her health and personality.
- The current laws related to labour moreover workmen are applicable only to organized and government sector. The unorganised sectors are still kept-out of the ambit of the labour laws. Other worker including female workers should be brought within application of said laws.
- Legal structure related to the protection of female workers right at workplace is vastly segregated and scattered in the form of different laws. There should be a comprehensive contented code.

Government should formulate a comprehensive employment strategy aiming at sectoral and regional diversification. Appropriate female labour intensive technologies for example automated machines tools and software should be introduced, particularly in the primary sector.

