

Labour Welfare Laws in India vis a vis Human Rights with Special Reference to Women Workers in Unorganized Sector

Pragya Purohit

L.L.M, Graphic Era Hill University

doi.org/10.64643/IJIRTV12I6-191402-459

I. INTRODUCTION

The term unorganized is frequently hand-me-down in the Indian framework to denote to the enormous numbers of women folk engaged in different forms of employment like, home-based works as rolling papad and beedis, self-employment lineups like vending vegetables, employment in household as a 'kamwali'; enterprises and small units, agricultural labourers, labour on construction sites, domestic help, 'handicrafts', 'khadi' and village manufacturing, 'handloom weaving' and 'sericulture' etc. The "International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families" (Migrant Workers' Convention or MWC) entered into force on July 1, 2003. The 'central statistical organization' (CSO) defined "unorganized or informal sector" containing of enterprises that are creating for the market of workers. The workers of these enterprises are not registered under any legal stipulation like the 'Industrial Disputes Act of 1948', etc. According to the final report of the 'National Commission for Enterprises in the Unorganized Sector' (NCEUS) released in April 2009, workers in the unorganized (or informal) sector establish extra than 93 percent of the total labour force of India. Unorganized sector workers constitute those people who do not have any job safety, income sanctuary or social stability and are thus really vulnerable to exogenous shocks. The problems of women workforces in general and in the unorganized sector in specific deserve special importance and attention in view of their marginalized position in the interior the class of workers. Though women are not working in the

sense of contributing to the national output, a substantial portion of their time is expended by socially productive and reproductive labour. This is what is termed the two-fold burden of work that differentiates women from men. A number of nationwide and worldwide studies have documented the sex-typing of jobs and occupations by women. Sexual division of labour has consequences for the wages earned, durability in the job and the potentials for upward flexibility in the industry. The overall portrait that appears is one of bigger disadvantage for women workforces in general and those in rural as well as 'Scheduled Caste' / 'Scheduled Tribes' in particular.

Females in primeval Hindu civilization were actively involved in several forms of labour, counting agricultural work, handicrafts, and domestic duties. In rural areas, women were accountable for countless of the agricultural everyday jobs, while in urban areas they regularly worked as handicrafts worker, performers, dancers, and artists. They also played important roles in sacred ceremonies and commemorations. However, their labour was often underestimated and poorly paid, and they were exposed to exploitative labour practices. Notwithstanding, these trials, women in ancient Hindu civilization played a vigorous role in the economy and civilization. Issues faced by females in this contemporary era in India, preconception, uneven pay, and little prospects for job growth still exist for women. These problems can cause anger and discontent, which can result in high turnover rates and a lack of diversity in the workplace. Equality in Salary and Promotion that every employee should be eligible

to equal remuneration for equivalent labour as a fundamental right. In contrast, women in India are still paid less for doing the same work as men.

In the Indian workplace, sexual harassment is a common problem. A hostile and hazardous work environment is produced by the frequent unwelcome approaches, remarks, or physical contact made towards women. According to “the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act of 2013”, sexual harassment is illegal under Indian labour law. The Act usually defines sexual harassment as “any unsolicited sexual approaches, demands for sexual favours, or any sexually explicit physical or verbal behaviour that makes a workplace unfriendly or threatening for women.”

Labour markets around the world have achieved significant progress. “Globally female participation rates have risen by over 2 percentage points since 1980s to 52% in 2012” (according to The World Bank 2013, it has rotted at around 56%); male participation rates have actually dipped and was 77% in 2012; gender gap in participation rates have narrowed. For instance the OECD nations have experienced a narrow down from 23 percentage points in 1990s to 13 percentage points in 2012. Despite these encouraging developments, a huge gender gap still remains - among the G20 nations the gap in labour force participation rates it is observed to range from 7% in Canada to over 50% in India and Saudi Arabia (ILO, IMF, OECD, The World Bank report for the G20 labour and ministerial meeting 2014). The insistent difficulty faced by women folk in the labour market include among others their concentration in informal sector (agricultural activities) especially in developing countries of the world, their prevalence in low -paying jobs and lower wages compared to men (Gender at Work: A companion to World Development Report on Jobs, 2013: The World Bank Gender & Development Group). The ‘ILO’s Global Wage Report 2104/15’ shows that in general, women’s normal wages are between 4 to 36 per cent less than men’s. Consequently, there is substantial evidence that women are still a strangely underprivileged group in the typically man-made world of work and the male-female division establishes itself in several extents.

II. RECENT PROBLEMS AND GOVERNMENT ACTION

The gravest threat faced by the working class in the age of globalization is the increasing threat to job security. The informal sector is fast growing, while the organized sector is dwindling. Agreement, casual, passing, part-time, piece-rated jobs and home-based work, etc are progressively substituting everlasting jobs. To evade resistance to alterations to labour laws then to give the employers the autonomy to ‘hire and fire’ workforces, the governments of the day are resorting to several back door actions. The ‘NDA government’ had introduced ‘fixed term’ employment through a directorial order, which remains under the present government regime. The labours in the informal sector, a large number of who are women, have no job security. Work is often untrained or not highly skilled and near to the ground paid. Availability of work is unbalanced; when work is accessible, they have to work for long hours. However, the concerned administrations choose to ignore this open breaking of the labour laws.

The ‘Factories Act’, ‘the Mines Act’, ‘The Dock Workers’ Act,’ etc. are some of the laws, which contain statutory requirements for regulating the health of the workers in an establishment. “The Employees’ State Insurance Act” and the “Workmen’s Compensation Act” provide health reimbursements and rewards to the workers in cases of any disease, ailments and injuries, etc. Nonetheless in the disorderly sector where the mainstream of women workers is focused, no ‘occupational safety’ and ‘health safeguards’ are in place. Albeit in the organized sector, where these are appropriate, safeguards are rarely provided for the labours, either male or female. Generally, the safety devises are designed keeping in mind the male labours and become unbecoming for women labours. Besides, the social aspects of work are not considered risk factors. As a consequence, more emphasis is prearranged to work related misfortunate accidents than to illnesses.

III. FEMALE LABOUR MIGRATION IN THE CONTEXT OF GLOBALIZATION

The ‘International Labor Organization’(ILO) approximations are that in attendance are amid 80 and

100 million ‘migrant workers’ in the world today. Women account for about half of these workers, and in some nations they make up more than half of all migrant labours. Indeed, many specialists – most particularly the ILO – speak of the cumulative feminization of migration. This feminization results from a number of international forces in which gender roles and sex discrimination are intertwined with globalization. Trends contributing to this include: the growing demand for labour in fields dominated by women (especially the service sector); the lower cost of production when labour-intensive tasks are shifted to women migrant workers; and the sex-stereotyping of large commercial enterprises and governments that may see women as cheap, temporary, or supplemental labourers whose “docile” nature makes them easily consumable.

Most job opportunities for women migrants are in unregulated sectors, including domestic work, informal off the books” industries or services, and criminalized sectors, including the sex industry. This means that even women who cross borders legally may find themselves in unregulated – and often irregular – work situations. In accumulation, the majority of opportunities that offer legal channels of migration are in male-dominated sectors such as agriculture and construction work, putting women at a great disadvantage. The ILO explains that “the demand for foreign labour reflects the long-term trend of informalization of low skilled and poorly paid jobs, where irregular migrants are preferred as they are willing to work for inferior salaries, for short periods in production peaks, or to take physically demanding and dirty jobs.

In entirety, globalization has ushered in increasing “pull” and “push” factors for women’s migration for labour at the same time as it has resulted in lessening parameter of the labour market, growth in the informal sector, and the appearance of new forms of exploitation, many of which are gendered. In the midst of these trends, many governments are constricting migration controls while concurrently allowing private employers and employing agencies operate unchecked by directive or inspection. This interplay of competing incentives sets the scene for abuse of those already disadvantaged through systems of discrimination and marginalization that operate along

axes of gender, race, poverty and position within the global economic order.

The Unorganized Workers Social Security Act, 2008: This act was passed in 2008 to provide for the social security and welfare of unorganized workers. According to this Act the Central Govt. shall formulate suitable welfare schemes for unorganized workers on matter relating to life and disability cover, health and maternity benefits, old age protection and the State Govt. may formulate schemes relating to provident fund., employment injury benefit, housing educational schemes for children, skill up gradation of workers, funeral assistance and old age homes for unorganized workers. These schemes may be wholly funded by the Central Govt. or State Govt. or party through contribution collected from the beneficiaries of the scheme or the employers. The Central Govt. shall constitute a National Social security board and every State Govt. shall constitute a state Social Security Board to recommend suitable schemes and to monitor and review the expenditure under various schemes. Under this Act every unorganized worker, above the age of fourteen years, will be registered and issued an identity card and will be eligible for social security benefits under the scheme. A number of schemes have been covered under this act to provide social security to the unorganized workers like ‘National Family Benefit Scheme’, ‘JananiSurakshaYojna’, ‘Indira Gandhi National Old Age Pension Scheme’, ‘Aam Admi Bima Yojna’ etc. With the introduction of the “Unorganised Worker’s Social Security Act, 2008” for the first time domestic workers were recognised as unorganised workers. Later, repealed by “The Code on Social Security act, 2020”. What constitutes domestic work is still a conflicted issue.

IV. WOMEN WORK & LABOUR LAWS

1. Alike Pay & Non-Discrimination: ‘The Equal Remuneration Act (1976)’ commands that managers must make available equivalent pay to men and women for the same work or work of alike nature. It further forbids gender-based discrimination in employment, training, upgrades, and conditions of recruitments. In spite of legal backing, pay differences still exist due to lack of strict implementation, requiring continuous monitoring accountability and

organizational follow ups.

2. Maternity Benefits & Child Support: 'The Maternity Benefit Act (1961)', amended in 2017 ensures paid maternity leave for 26 weeks, job security during pregnancy, and adequate healthcare for expecting mothers. Employers must provide crèche facilities for working mothers under the amendment, helping women balance work and childcare responsibilities. The law applies to organized sectors, but women in informal employment often struggle to access maternity benefits, demanding policy reforms for wider inclusion.

3. Protection Against Workplace Harassment: 'The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act (2013)' mandates the formation of Internal Complaints Committees (ICC) in organizations to handle cases of harassment. The Act ensures protection from unwelcome advances, verbal abuse, and hostile work environments. While legal frameworks exist, awareness and reporting mechanisms need strengthening to help more women seek justice against workplace harassment.

4. Health & Safety Regulations: 'The Factories Act (1948)' and the Shops and Establishments Act regulate working hours, sanitation, and safety measures in workplaces where women are employed. These laws prohibit night shifts for women in hazardous industries unless proper security and safety protocols are in place. However, implementation challenges remain, particularly in manufacturing and construction sectors, where women are often exposed to unsafe working conditions.

5. Social Security & Welfare Provisions: "The Employees' State Insurance Act (1948)" offers healthcare benefits, unemployment allowance, and disability compensation for women working in registered firms. The Code on Social Security (2020) consolidates various provisions related to pensions, insurance, and provident funds to ensure financial stability for women employees. Unorganized sector workers, such as domestic helpers, farm laborers, and gig workers, require more targeted policies to extend social security coverage effectively.

6. Work Participation & Gender-Inclusive Policies:

Laws such as "The Contract Labour (Regulation and Abolition) Act (1970)" and "The Minimum Wages Act (1948)" protect women from wage exploitation. Efforts to promote gender-diverse workplaces include skill training programs, tax benefits for employers hiring women, and flexible work arrangements. While legal mechanisms exist, patriarchal norms, workplace bias, and lack of career growth opportunities continue to hinder women's full participation in the economy. Challenges & Need for Policy Reform

V. LIVE-IN DOMESTIC WORKERS

Term "live-in domestic worker" mentions to domestic worker who regularly lives at their workplace. In addition to 'housekeeping,' 'laundry,' 'utensils,' 'cooking,' 'caring children and old', they do all kinds of household work. As a result, they are dependent on their employers to provide them with basic needs such as food and shelter to live. It is observed that most live-in domestic workers are women who have made the move from their villages to cities in an attempt to find employment. In most cases, it is a child, a young girl either unmarried or married, and a woman who is separated from her husband or widowed. Part-time Domestic Workers: are locals or migrant workers from city they live, usually employed as part. In many cases, they live in slums & work for multiple employers. The part-timers are not called part-timers because they only work part-time, but because they do not stay with their employer for a long time and they are not expected to be on call at all times. In a nutshell, they either work for one employer all day or perform specific tasks for several employers throughout the day, such as washing clothes, doing dishes, or cooking meals for a variety of clients. In comparison to full-time employees, part-time employees are less dependent on their employers than full-time employees are. They not only manage their own homes, also run the homes of their employers. In contrast to live-in domestic workers, those who reside separately tend to depend less on their employers for daily necessities and exhibit a higher level of independence. Consequently, domestic workers in private households are subject to abuse and at high risk of exploitation. Around 4.5 percent of employees worldwide are employed in domestic work. In the post-Independence era, the government enacted over

40 central labour laws. Despite this, these laws have only benefited workers in the organized sector, while 93 percent of workers are unorganized. Due to the kind of their work and the kind of employment relationship, the fact that they work in a private household instead of in a public place, they are not included in the coverage of existing laws as a result of the nature of their work. There are limitations of term ‘worker’, ‘employers’, and ‘establishment’ in Indian labour laws that restrict the protection that domestic workers are entitled to due to the restrictive terminology in those laws.

Prejudiced casteist practices are imposed on domestic workers, and feudalism has endured for a long time. These include, but are not restricted to, requiring the use of separate dishes, no access to the Puja room, no access to restrooms, and many other humiliations. In 2017, voice was raised against discriminatory treatment by NGO in Bengaluru on use of lift by the domestic workers, the domestic workers often lag behind in raising voice against such treatment in lieu of losing employment. Over the previous year, a well-educated couple from Delhi was taken into custody on charges of allegedly abusing their 14-year-old domestic helper both physically and sexually. After five months of confinement authorities managed to rescue her. Police claimed that the injuries of girl were consistent with torture. It was reported by assistant police commissioner, “She was not given food and assaulted for no reason, and there were injuries on her face and feet.” There are number of women domestic workers that deals with physical violence, mental abuse and sexual harassment at private household and due to their vulnerability, they are unable to raise their voice. A survey conducted by Martha Foundation, clearly established that some of the women domestic workers take a hold of “sexual harassment at workplace”.

In “*Vishaka v. State of Rajasthan*²¹”, the writ petition was filed for imposition for fundamental right of working women, the apex court of India issued guidelines in consonance with art. 14, 19 and 21 of the constitution for protection of women at workplace against sexual harassment. “The Sexual Harassment of Women at Workplace Act”, defines the term

‘workplace’ includes “a dwelling place or house” and ‘sexual harassment’ includes any unwelcome acts or behavior. There is punishment provided under the law for those who does or attempt to abuse, harass the women at workplace. The Domestic Workers Act, 2008 sec. 23 states that “any person harassing sexually any domestic worker or child, will be punished with imprisonment with not less than six months extendable up to 7years or with fine of 50000 INR or both”. Since there is lack of regulations for domestic workers, they are left at the mercy of employers due to which they often face sexual or physical abuse without any recourse.

VI. CONCLUSION

The female labour force constitutes one third of the rural workers in India. Women workers face serious problems and constraints related to work such as lack of continuity, insecurity, wage discrimination, unhealthy job relationship, absence of medical and accident care etc. The exploitation of female labourers in rural regions happens both horizontally and vertically. It is time to address the issues and discuss the kind of policy reforms and institutional changes required for the emancipation and empowerment of rural female labour force. Empowerment should aim at changing the nature and direction of the power structures which marginalize the women labourers.

The research on legislative protections and socio-economic advancement of female workers in India underscores the advancements and obstacles encountered by women in the labour market. Although labour laws like the Equal Remuneration Act, Maternity Benefit Act, and workplace safety regulations establish a legal framework for protection, deficiencies in execution and socio-cultural obstacles persist, impeding complete empowerment. The results indicate that enhanced enforcement mechanisms, educational initiatives, and policy reforms are crucial to reconcile the disparity between legislation and practical achievements. Furthermore, economic opportunities, skill development programs, and gender-inclusive workplace rules are essential in promoting a fairer work environment. Going forward, cooperation among government, industry, and civil

¹ (1997) 6 SCC 241

society is essential to guarantee effective legislative safeguards and sustainable socio-economic empowerment for women workers.

REFERENCES

Articles

- [1] Dr. P. Karpagavalli, HUMAN RIGHTS: WORKING WOMEN IN UNORGANIZED SECTOR IN INDIA The International Journal for Environmental Protection and Rural Development
- [2] Kamala Sankaran, Rights for Domestic Workers, UNITED NATIONS IN INDIA, <http://in.one.un.org/page/rights-for-domestic-workers>, Domestic Worker and Fish Worker Consultation Bangalore, WIEGO Law Pilot Project <http://wiego.org/sites/wiegoMs>. Shubhi Bhargava, Dr. Vartika Saxena, Dr. Renu Goyal, A Psychological And Human Rights Perspective On Exploitation Of Domestic Workers In India
- [3] Margaret L. Satterthwaite, Crossing Borders, Claiming Rights: Using Human Rights Law To Empower Women Migrant Workers
- [4] Malathy Duraisamy and P Duraisamy, Occupational Segregation, Wage and Job Discrimination against Women across Social Groups in the Indian Labor Market: 1983- 2010
- [5] Neeraj Kumar & Dr. Pranav Ranga, Maternity Rights Of Women: A Judicial Perspective
- [6] Razvi, M., & Roth, L. (2004). Socio-economic development and gender inequality in India. 168-175
- [7] Weeks, K. (2007). Life within and against work: Affective labor, feminist critique, and post Fordist politics. Theory & Politics in Organization, 233-249.

International Instruments

- [8] ILO, "About MIGRANT", available at: <http://www.ilo.org/public/english/protection/migrant/about/index.htm>
- [9] ILO, "The Feminization of International Labour Migration," in Booklet 1, supra note 7, at 9. See also Patrick A. Taran and Eduardo Geronimi, Globalization, Labor and Migration: Protection is Paramount (2002), from the ILO INTERNATIONAL MIGRATION

PROGRAMME, at 10

- [10] International Convention on the Protection of the Rights of All Migrant Workers and their Families, Dec. 18, 1990, U.N.T.S
- [11] International Labour Organization [Hereinafter "Ilo"], Preventing Discrimination, Exploitation and Abuse of Women Migrant Workers: An Information Guide – Booklet 1: Why the Focus on Women International Migrant Workers 5 (2003) [hereinafter "Booklet 1"]

Government Reports and Policies

- [12] National Domestic Workers' Movement, "Domestic Workers" <https://ndwm.org/domestic-workers/> (last visited on May 29, 2024)
- [13] The Indian Journal of Labour Economics, 2009, available at: <http://idwfed.org/en/resources/contours-of-domestic-service-characteristics-work-relations-and-regulations> (last visited on May 27, 2024).
- [14] Wage Indicator, "Domestic Work in India" Paycheck.in 2024, available <https://paycheck.in/labour-law-india/domestic-work-in-india> (last visited on June 01, 2024).

Case law

- [15] Vishakha v. State of Rajasthan, (1997) 6 SCC 241