

GENDER JUSTICE IN INDIAN LABOR LAWS

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Abstract

Gender inequality has existed in society since its early days, deeply rooted in various aspects of life. Historically, women have been viewed as subordinate to men, with strict gender roles assigned to both. These roles, established since ancient times, have often led to the denial of numerous rights and opportunities for women. Meanwhile, men have used these roles to advance their social status. Over time, societal development has only increased the divide between genders, further reinforcing inequality.

As a developing nation, India has undertaken several initiatives to promote gender equality, with a key step being the enactment of laws aimed at ensuring gender justice. This research paper primarily examines Indian labour laws and explores how they contribute to achieving gender justice. The central research question investigates the effectiveness of these laws in addressing gender disparities in the workplace.

To answer this, the researcher has reviewed relevant labour legislation enacted to promote gender equality, analyzed key judicial decisions, and assessed the current state of their implementation. The study follows a doctrinal research method and includes a critical evaluation of the subject. The findings suggest that while labour laws have made some progress in promoting gender equality within the organized sector, their implementation in the unorganized sector remains inadequate.

Introduction

Gender justice involves ensuring that women receive the same status and opportunities as men. In the contemporary world, shaped by democratic principles, the understanding of gender justice has developed further. Today, much of the focus in gender justice research is on empowering women and protecting their rights through legal reforms. Acknowledging the significance of this matter, the framers of the Indian Constitution made gender justice a priority, as evident in several constitutional provisions.

Article 15 forbids discrimination, while Article 15(3) permits special measures for the protection of women. Article 16 guarantees equal access to public employment, thereby allowing women to participate actively in elections and decision-making roles. Additionally, Article 74 also plays a role in supporting gender justice in India.

Nevertheless, constitutional provisions alone are not enough to secure gender equality across all sectors. One of the key areas where gender disparity remains is the economic domain. To tackle this issue, the government has introduced specific labour legislation to encourage gender equality in the workplace.

Gender Justice in Indian Labor Laws

India has a range of labour laws; all primarily aimed at promoting social welfare. A significant objective of these laws is also to ensure that women workers are granted equal status and treatment as their male counterparts.

As part of this goal, Indian industrial laws regulate working hours, introduce safety and health measures specifically for women, and uphold the principle of equality before

the law. Many of these laws are influenced by international conventions and framed in accordance with the guidelines provided by the International Labour Organization (ILO). Their overarching aim is to enhance both the participation and productivity of women in India's labour force.

Some Key Labour Laws that Focus on Gender Justice Include:

1. The Factories Act, 1948

This legislation was primarily designed to ensure the welfare and safety of workers. It sets limits on working hours and includes provisions related to leave and the employment of young persons. The Act contains several clauses specifically aimed at the welfare of women, such as prohibiting their employment during night shifts and in hazardous occupations. It also establishes fixed working hours for women. Furthermore, in factories employing more than 30 women workers, a separate room must be provided for their children under the age of six. Employers are also required to maintain proper infrastructure and facilities to support women workers.

2. The Employees' State Insurance Act, 1948

This Act is another major piece of labour legislation designed to provide various benefits in different situations. It offers insured employees benefits in cases of sickness, disability, and other workplace-related risks. For women workers, the Act includes maternity benefits under specific circumstances such as miscarriage, premature delivery, and childbirth. In cases of childbirth (confinement), the maternity benefit extends up to 12 weeks, provided the insured woman refrains from working for remuneration during this period. If the insured woman passes away, the benefit is paid to her nominee or legal representative. To access these benefits, both the employer and employee are required to contribute a fixed percentage of the employee's monthly salary to the Employees' State Insurance Corporation.

1. The Maternity Benefit Act, 1961

The primary objective of this Act is to promote economic equality for women workers. Due to biological differences and the responsibilities of childbirth, women often face wage discrimination in the workplace. To combat this and safeguard women's financial rights, the government introduced the Maternity Benefit Act. Under this law, every eligible woman is entitled to receive maternity benefits, which the employer must provide for a specified period before and after childbirth. The Act applies to all establishments except those covered under the Factories Act or where the Employees' State Insurance Act is in effect. Any woman who has worked in an establishment for at least 80 days is entitled to the Act's protections. It is unlawful for an employer to dismiss a woman employee during her maternity leave.

2. The Equal Remuneration Act, 1976

This Act was introduced to ensure that men and women receive equal pay for equal work. In a developing country like India, wage discrimination is widespread, especially in rural areas and the unorganized sector. This is mainly due to an oversupply of male workers in the labour market. The Act prohibits any wage difference between male and female workers performing the same or similar work. As a result, women in India have, to some extent, started receiving wages equal to their male counterparts.

3. The Workmen's Compensation Act, 1923

This law acts as a form of social insurance, offering compensation to workers who suffer injuries or accidents during their employment. According to the Act, compensation is provided based on the severity of the injury, the loss of earning capacity, and the average wages of the employee. Younger employees with higher earnings and severe injuries are entitled to higher compensation amounts.

4. The Minimum Wages Act, 1948

This Act serves as a welfare measure for employees, ensuring that workers receive fair minimum wages. It mandates the central government to set minimum wages for employees engaged in specific scheduled jobs under its jurisdiction. These wages are not just intended to meet workers' basic needs but also to enhance their productivity. Similarly, state governments are responsible for ensuring minimum wages for workers under their authority.

5. The National Rural Employment Guarantee Act (NREGA), 2005

This legislation was enacted to support rural workers in India, with special emphasis on women in the rural unorganized sector. It allows any individual willing to do unskilled manual work to participate in the scheme. The Act guarantees a minimum of 100 days of wage employment per financial year at a fair wage rate. It has significantly contributed to promoting gender and economic equality among rural working women in India.

While all the above-mentioned laws aim to promote the overall welfare of the working class, they do not directly address a major obstacle to achieving gender equality in the workplace—sexual harassment. However, in the landmark case *Vishaka v. State of Rajasthan*, the Supreme Court laid down specific guidelines for the protection of working women from sexual harassment. This led to the enactment of the **Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013**. Under this Act, every employer is obligated to ensure compliance with its provisions to maintain a safe working environment. This law has significantly improved workplace safety for women and has played a vital role in advancing women's empowerment in India.¹

Some Significant Case Laws Related to the above Legislations:

1. Mrs. Neera Mathur vs. Life Insurance Corporation of India²

Neera Mathur, employed on probation at the Life Insurance Corporation (LIC), applied for and was granted maternity leave during her probation. Upon returning, she was dismissed from service. LIC justified the dismissal by alleging that she had made a false declaration during recruitment. The Court held that the details required under columns (iii) to (viii) of the declaration form were embarrassing and unreasonable, and therefore, her dismissal was unjustified and set aside.

2. Punjab National Bank by Chairman and Another v. Astamija Dash³

The Court ruled that under the Maternity Benefit Act, 1961, a woman is entitled to leave for six weeks immediately following delivery, miscarriage, or medical termination of pregnancy. If she requests such leave, she cannot be compelled to work during this period, as provided under Section 4(4). She is also entitled to the benefits under Sections 6 and 9 of the Act.

3. Ashok Kumar v. State of Rajasthan⁴

The Supreme Court condemned the Sessions Court for dismissing the testimony of a female doctor solely based on her gender in a case involving a female victim. The Court observed that it was inappropriate and unfair to doubt the credibility of Dr. Patrisia merely because she was a woman.

4. Air India v. Nargesh Mirza⁵

This landmark case, known as the first Air Hostess case, challenged the legality of Regulation 46(c), which mandated the retirement of air hostesses upon reaching a specific age. The regulation's discriminatory nature was a key issue in this case.

5. State of Rajasthan v. Ram Prasad and Another⁶

In this case, a worker died due to a lightning strike while working on-site. The Supreme Court held that although the lightning strike had no direct connection with the worker's duties, the fact that he was exposed to the hazard due to the nature of his work made the employer liable. Since the worker would not have been in that situation but for his employment, the employer was held responsible for compensation.

6. M/s Mackinnon Mackenzie and Co. Ltd. vs. Audrey D'Costa and Others⁷

The Supreme Court upheld the application of the Equal Remuneration Act in granting equal pay to female stenographers. The employer's claim that female stenographers were a separate category (confidential stenographers) was rejected. The Court emphasized that such distinctions could not justify unequal pay, especially when women were equally capable of performing the same work as men.

7. Tirath Kaur v. Kirpal Singh⁸

In this case, the wife, at the husband's suggestion, pursued a diploma in tailoring and subsequently secured employment away from the husband's residence. The couple continued to cohabit alternately at each other's locations.

Later, disagreements emerged, and the husband demanded she quit her job and return home. When she refused, he filed a petition for restitution of conjugal rights. The Court held that a spouse's refusal to resign from employment and live with the other could be interpreted as "withdrawal from the society of the other."

Contemporary Situation

In the contemporary context, India has enacted a comprehensive set of labour laws aimed at safeguarding workers' welfare and promoting gender justice in the workplace. However, a closer examination reveals that these laws primarily focus on ensuring gender equality within the public and organized sectors. Employees working in the unorganized sector continue to face significant challenges, as the protections and benefits provided by labour legislation often fail to reach them. Even within the organized sector, the implementation of these laws tends to remain largely theoretical rather than practical.

Conclusion

As part of this research, the researcher examined various labour legislations in India to assess how the concept of gender justice is reflected within them. The findings revealed that while all Indian labour laws are enacted for the welfare of employees and are largely gender-neutral in their language, their implementation often falls short. Many workers do not fully benefit from these laws. To some extent, gender justice has been realized in public sector and organized sector employment. However, for lower-level workers in rural areas—particularly those employed in factories or within the unorganized manual labour sector—gender justice in the workplace remains an unfulfilled aspiration.

A key issue in rural India is the persistent wage disparity between male and female workers. One of the primary causes of gender inequality in these regions is the widespread lack of awareness regarding welfare legislations. This gap can be addressed through effective awareness programs aimed at unorganized workers in rural areas, preferably conducted by local governing bodies.

Without ensuring gender justice in rural areas, it would be premature to claim that Indian labour laws have achieved workplace gender equality. Although the Unorganized Workers' Social Security Act was enacted to safeguard the interests of workers in the unorganized sector, a significant portion of this workforce remains unaware of the schemes it offers. As a result, the benefits reach only a small fraction of eligible workers. To achieve meaningful social welfare, workers must be properly informed about available schemes, and authorities must adopt more effective implementation policies.

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² AMARTTYA BAG, TYPES OF DISCRIMINATION IN WORKPLACE AND THEIR LEGAL PROTECTION IN INDIA, PLEADER'S LEGAL SOLUTIONS, (OCT, 21, 2014). <https://blog.ipleaders.in/types-of-discrimination-in-workplace-and-their-legal-protection-in-india/>

³ **Mrs. Neera Mathur v. Life Insurance Corp. of India**, (1992) 1 SCC 286 (India).

⁴ **Punjab Nat'l Bank v. Astamija Dash**, (2008) 2 SCC 721 (India).

⁵ **Ashok Kumar v. State of Rajasthan**, (1991) Supp (1) SCC 343 (India).

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- ⁶ (1981) 4 SCC 335 (India).
⁷ (2001) 9 SCC 191 (India).
⁸ (1987) 2 SCC 469 (India).
⁹ AIR 1964 P&H 28 (India).