

Women Rights under Labour Laws

Suresh Kumar

Research Scholar, Department of Laws, Panjab University Chandigarh

Abstract: Women are illustrious from all other industrial workers by distinct attitudes and actions of the current society including employers, male workers and women workers. This paper has been discussed through heading like introduction, types of labour laws including international and national and conclusion.

Keywords: *Women Rights, Labour Laws.*

Introduction

Women are distinguished from all other industrial workers by distinctive attitudes and actions of the modern society including employers, male workers and women workers. The female workers are generally regarded as a distinctive grouping present day society. Women labour has got important bearing upon the employment condition of other class of workers. At present time women are engaged in various sectors. They are employed in Agriculture, Mine, Beedi rolling, Construction, Livestock, Crafts Sector, Food Processing, Lock Industry, Street Vending and Rag Picking, Handloom Industry, Home base Worker, Textile and Garments Industry etc.¹

The division of labour market into male and female sectors have tended to control the distribution of women workers within the economy and restricted their employment opportunities.² A gender-based division of labour is prevalent in both the organised and unorganised sector, labour laws are openly flouted in the unorganised sector. Women in the unorganised sector work under highly exploitative conditions. Though, India has a large number of labour laws, they tend to ignore women's experience and their outlook tends to be paternalistic. While provisions of a number of these acts needs to be amended in order to make them gender sensitive, the enforcement of these acts also needs to be stepped up, particularly in the unorganised sector.³ There are many problems and

¹Dr. Meenakshi Gupta, *Women Rights under Labour Laws* 14-15 (Regal Publications, New Delhi, 2016).

²Prof. G.Q. Mir, "Women Workers and Legal Protection" *Kashmir University Law Review* 60 Vol. X (2003).

³AnuSaxena, "Women Workers in the Unorganised Sector: Inequity and Discrimination" *Social Action* 416 Vol. 54 (October-December, 2004).

obstacles in effective implementation of various provisions of labour legislations. These problems are:⁴

- Lack of awareness amongst women workers about their trade unions and about their rights under the labour laws.
- Improper attention of the Government towards the development of the responsible institutions.
- The prosecutions launched in the Courts cause delay in awarding penalties for the non-implementation of laws.
- The penalties generally imposed by the courts of law are much less.
- Many of the establishments are run without registration under the Factories Act, 1948.

International Perspectives/Women Rights under Labour Laws

Various Conventions, Recommendations and Resolutions adopted by the UN and ILO from time to time to provide security to women workers.

Universal Declaration of Human Rights, 1948

Article 2 of the declaration sets out the basic principles of equality and non-discrimination in relation to human rights and fundamental freedoms and forbids distinction of any kind such as race, colour, sex, language, religion, political and other opinion, national or social origin, property, birth and other status.⁵

The United Nations Conference on Environment and Development, Rio De Janeiro, 1992

The Rio Declaration on Environment and Development States that woman has a vital role in environment management and development. Their full participation is therefore essential to achieve sustainable development.⁶

⁴*Supra* note 1 at 480-481.

⁵Universal Declaration of Human Rights, 1948, art. 2.

⁶The United Nations Conference on Environment and Development, Rio De Janeiro, 1992.

The World Conference on Human Rights, Vienna, 1993

The Vienna Declaration and Programme of Action States that the human rights of women and of girls are an inalienable, integral and indivisible part of universal human rights, express concern for the various forms of discrimination and violence to which women continue to be exposed all over the world, urges the eradication of all forms of discrimination against women, both hidden and overt.⁷

The World Summit for Social Development, Denmark, March 1995

In this summit the following objectives were discussed:⁸

- The enhanced of social integration, particularly for disadvantaged and marginalized groups.
- The alleviation and reduction of poverty.
- The expansion of productive employment.

The Fourth World Conference on Women, Beijing, September 1995

It aims to draw up a platform for action completion of the unfinished work in implementing the 1985 Nairobi Forward looking strategies and to address the question of how women can be empowered by effective participation in decision making on all issues which effect society.⁹

Convention on the Elimination of all forms of Discrimination against Women

Women are essentially an International Bill of Rights for women and a framework for women's participation in the development process. The Convention was adopted by the UN General Assembly on December 19, 1979 and came into force as a treaty on December 3, 1981.¹⁰

⁷The World Conference on Human Rights, Vienna, 1993.

⁸The World Summit for Social Development, Denmark, March 1995.

⁹The Fourth World Conference on Women, Beijing, September 1995.

¹⁰Convention on the Elimination of all forms of Discrimination against Women.

International Labour Organization

A number of Conventions and Recommendations dealing exclusively with the protection of women workers have been adopted by the ILO.

- Non-Discrimination and Equality
- The General Conditions of Employment: Night Work, Part Time Work and Home Work
- Maternity Protection
- Social Security
- Wages
- Paid Leave
- Hours of Work and Weekly Rest
- Welfare and Preventive Health Measures

National Perspectives/Women Rights under Labour Laws

Labour laws related to regulation of employment in dangerous occupations, prohibition of night work, restriction on carriage of heavy loads, wages, health, gratuity, maternity relief, equal pay for equal work, social security and other welfare facilities etc.

The Factories Act, 1948

Special provisions relating to women:

- Prohibition in Hazardous Occupations¹¹
- Washroom Facilities
- Washing and Bathing Facilities¹²
- Hours of Work¹³
- Prohibition of Night Work¹⁴
- Welfare Amenities¹⁵
- Annual leave with wages¹⁶

¹¹The Factories Act, 1948, s. 22(2).

¹²The Factories Act, 1948, s. 42(1)(b).

¹³The Factories Act, 1948, s.54.

¹⁴The Factories Act, 1948 s. 66(1)(b).

¹⁵The Factories Act, 1948, s.42to50.

The Mines Act, 1952

The following are aims and objects of the Act:

- To make provisions as to health and safety of workers employed in mines such as drinking water, conservancy, medical appliances etc.
- To lay down provisions regarding leave with wages, mode of recovery of unpaid wages.
- The Act provides regarding appointment of Authority to enquire into accidents hear and decide appeals.¹⁷

Special provisions relating to women:

- Prohibition of Night Work¹⁸
- Prohibition of work in hazardous occupation¹⁹
- Washroom Facilities²⁰
- Medical Appliance²¹
- Safety Measures²²
- Provision for Drinking Water²³

The Plantation Labour Act, 1951

Special provisions relating to women:

- Prohibition of Night Work²⁴
- Washroom Facilities²⁵
- Drinking Water²⁶

¹⁶The Factories Act, 1948, s.80.

¹⁷ S.N. Misra, *Labour & Industrial Laws* 1135 (Central Law Publications, Allahabad, 28th edn., 2016).

¹⁸The Mines Act, 1952, s. 46(1)(b).

¹⁹The Mines Act, 1952, s.57(j).

²⁰The Mines Act, 1952, s.20.

²¹The Mines Act, 1952, s.21.

²²The Mines Act, 1952, s.22.

²³The Mines Act, 1952, s.19.

²⁴The Plantation Labour Act, 1951, s.25.

²⁵The Plantation Labour Act, 1951, s.9(1).

- Medical Facilities²⁷
- Housing Facilities²⁸
- Working hours²⁹
- Weekly Holiday³⁰

Building and other Construction Workers' (Regulation of Employment and Conditions of Service) Act, 1996

Special provisions relating to women:

- Washroom Facilities³¹
- Accommodation³²
- Fixing hours for normal working day, etc.³³
- Wages for overtime work³⁴
- First Aid³⁵
- Drinking Water³⁶

The Beedi and Cigar Workers (Conditions of Employment) Act, 1966

Special provisions relating to women:

- Prohibition of Night Work³⁷
- Washroom Facilities³⁸
- Cleanliness³⁹

²⁶The Plantation Labour Act, 1951, s.8.

²⁷The Plantation Labour Act, 1951, s.67.

²⁸The Plantation Labour Act, 1951, s.15 and 16.

²⁹The Plantation Labour Act, 1951, s.19.

³⁰The Plantation Labour Act, 1951,s.20(1) and (2).

³¹Building and other Construction Workers' (Regulation of Employment and Conditions of Service) Act, 1996, s.33.

³²Building and other Construction Workers' (Regulation of Employment and Conditions of Service) Act, 1996, s.34.

³³Building and other Construction Workers' (Regulation of Employment and Conditions of Service) Act, 1996, s.28.

³⁴Building and other Construction Workers' (Regulation of Employment and Conditions of Service) Act, 1996, s.29.

³⁵Building and other Construction Workers' (Regulation of Employment and Conditions of Service) Act, 1996, s.36.

³⁶Building and other Construction Workers' (Regulation of Employment and Conditions of Service) Act, 1996, s.32.

³⁷The Beedi and Cigar Workers (Conditions of Employment) Act, 1966, s.25.

³⁸The Beedi and Cigar Workers (Conditions of Employment) Act, 1966,s.12.

- Ventilation⁴⁰
- First Aid⁴¹
- Working Hours⁴²
- Wages for overtime work⁴³

The Contract Labour (Regulation and Abolition) Act, 1970

Special provisions relating to women:

- Washing and Bathing Facilities⁴⁴
- Washroom Facilities⁴⁵
- Rest rooms and Canteens⁴⁶

Intra-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979

Special provisions relating to women:

- Prohibition of Night Work⁴⁷
- Rest Rooms and Canteens⁴⁸
- Displacement of Allowance⁴⁹
- Journey Allowance⁵⁰

³⁹The Beedi and Cigar Workers (Conditions of Employment) Act, 1966, s.8.

⁴⁰The Beedi and Cigar Workers (Conditions of Employment) Act, 1966, s.9.

⁴¹The Beedi and Cigar Workers (Conditions of Employment) Act, 1966, s.15.

⁴²The Beedi and Cigar Workers (Conditions of Employment) Act, 1966,s.17.

⁴³The Beedi and Cigar Workers (Conditions of Employment) Act, 1966,s.18.

⁴⁴The Contract Labour (Regulation and Abolition) Act, 1970, Rule 57(3).

⁴⁵The Contract Labour (Regulation and Abolition) Act, 1970, Rule 51.

⁴⁶The Contract Labour (Regulation and Abolition) Act, 1970, s.19.

⁴⁷Intra-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, Rule 11.

⁴⁸Intra-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, Rule 40 and 41.

⁴⁹Intra-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, s.14(1) and (2).

⁵⁰Intra-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, s.15.

The Maternity Benefit Act, 1961

The Maternity Benefit Act is intended to achieve the object of doing social justice to women workers. Therefore in interpreting the provisions of this Act beneficent rule of construction, which would enable the woman worker not only to subsist but also to make up her dissipated energy, nurse her child, preserve her efficiency as a worker and maintain the level of her previous efficiency and output, has to be adopted by the Court.⁵¹

Special provisions relating to women:

- Restriction on Employment of Pregnant Woman⁵²
- Right to Payment of Maternity Benefit⁵³
- Protection against Discrimination⁵⁴
- Leave for miscarriage, etc. and illness⁵⁵
- Leave for Illness⁵⁶
- Leave for Tubectomy Operation⁵⁷

Constitutional Provisions

The Constitution of India contains various provisions, which provide for equal rights and opportunities for both men and women. These provisions are:

- Article 14 guarantees that the State shall not deny equality before the law and equal protection of the laws;⁵⁸
- Article 15 prohibits discrimination against any citizen on the ground of sex;⁵⁹
- Article 15 (3) empowers the State to make positive discrimination in favour of women and children;⁶⁰

⁵¹*B. Shah v. Labour Court, Coimbatore*, AIR 1978 SC 12.

⁵²The Maternity Benefit Act, 1961,s.4.

⁵³The Maternity Benefit Act, 1961, s.5.

⁵⁴The Maternity Benefit Act, 1961,s.12.

⁵⁵The Maternity Benefit Act, 1961,s.39and42.

⁵⁶The Maternity Benefit Act, 1961,s.10.

⁵⁷The Maternity Benefit Act, 1961, s.9A.

⁵⁸The Constitution of India, art. 14.

⁵⁹ The Constitution of India, art.15.

⁶⁰The Constitution of India, art.15(3).

- Article 16 provides for Equality of Opportunity in matters of public employment;⁶¹
- Article 23 prohibits trafficking in human beings and forced labour;⁶²
- Article 39 (a) and (d) enjoins the State to provide equal means of livelihood and equal pay for equal work;⁶³
- Article 42 enjoins upon the State to make provisions for securing just and humane conditions of work, and for maternity relief;⁶⁴
- Article 51A(e) imposes a Fundamental Duty on every citizen to renounce the practices derogatory to the dignity of women;⁶⁵

Programmes, Policies and Schemes for Women's Development Mahila Samridhi Yojana (1993)

To enable poor women in rural society to exercise greater control over household resources by redressing the gender biases in production.⁶⁶

Women's Development Corporation, 1986-1987⁶⁷

- Facilitate availability of credits.
- Promote and strengthen women's co-operatives,
- Arrange training facilities.

Indira Awaas Yojna (1993-1994)⁶⁸

The main objectives of Indira Awaas Yojna is to provide free of cost housing facility to people below poverty line, especially to women. It is specifically extends to SC/ST, and free bonded labourers.

National Perspective Plan for Women (1988-2000)

In 1988 the National Perspective Plan for Women, 1988-2000 was unveiled. The plan recognized the need to bring women's concerns into the mainstream.⁶⁹

⁶¹The Constitution of India, art. 16.

⁶²The Constitution of India, art. 23.

⁶³The Constitution of India, art. 39.

⁶⁴The Constitution of India, art. 42.

⁶⁵The Constitution of India, art.51(A).

⁶⁶*Supra* note 1 at 127.

⁶⁷*Ibid.*

⁶⁸*Id.* at 128.

RashtriyaMahilaKosh

The National Credit Fund for Women is an innovative mechanism for reaching credit to poor women. Through access to credit, it aims to raise the capacity of women by enhancing through productivity and economic self-reliance. It encourages formation of Self Help Group for promotion of thrift and credit leading to income generation activities.⁷⁰

National Commission for Women, 1992

The National Commission for Women was set up as statutory body in January 1992. This works as an ombudsman for safeguarding the rights and interests of women in India. The Commission pursue its mandated activities, namely review of laws, interventions into specific individual complaints of atrocities and remedial action to safeguard the interests of women. The Commission has accorded highest priority to securing speedy justice to women.⁷¹

Conclusion

Women rights (measures in regards to health, safety and welfare for women, social security measures for women, wage protection for women) are provided in various labour laws: The Factories Act, 1948, The Mines Act, 1952, The Plantation Labour Act, 1951, The Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Act, 1996, The Beedi and Cigar Workers (Conditions of Employment) Act, 1966 etc. The Constitution of India has given special attention towards the need of women to enable them to exercise their rights on equal footing with men and participate in national development.

⁶⁹Supra note 3.

⁷⁰AmlanjyotiMajumdar, "Frailty! Thy Name is Not Women" *Employment Newspaper* 5-11 March, 2005.

⁷¹Ibid.