

Indian Women in the Workplace: Problems and Challenges

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Abstract: *Women have been treated as second class citizens since time immemorial. Patriarchal norms in a male dominated society have dictated the dos and don'ts to women in every aspect of their lives, from conducting themselves in public to choices of reproduction. The public sphere has always been seen as the male domain with limited number of women venturing out to test the treacherous waters of the workplace. Discrimination faced by women at the workplace includes unequal pay for equal work, sexual harassment, lack of adequate sanitation facilities, unsafe roads and transportation, denial of promotions, inadequate work-life balance and so on. This paper seeks to provide a critical and analytical perspective on the various issues confronting women at the workplace. Based on secondary sources, it examines the existing international legal instruments providing protection to women workers. It also highlights the role of the Indian state in making workplaces equal and safe for women by enforcing the various provisions of the Indian Constitution. The paper concludes with a few recommendations, which if implemented, could go a long way in empowering women and infuse them with the much needed confidence to take on the professional world.*

Key Words: *Indian women, discrimination, international law, Indian Constitution, women empowerment.*

1. INTRODUCTION:

Women have been treated as second class citizens since time immemorial. Patriarchal norms in a male dominated society have dictated the dos and don'ts to women in every aspect of their lives, from conducting themselves in public to choices of reproduction. The public sphere has always been seen as the male domain with limited number of women venturing out to test the treacherous waters of the workplace. This, however, is gradually changing as since the past few decades more and more women are joining the workforce and breaking the barriers that previously prevented them from getting employment in some if not all sectors.

The workplace has never been equal for men and women. In spite of possessing equal qualifications, women workers in most occupations are paid less than that of men. Sexual harassment of women abounds in every sector of work. In addition to these, women are deprived of their right to maternity leaves and are often shown the door once they conceive. Promotions are often denied to deserving women who have to work doubly hard to prove their mettle. The top positions in most organizations are usually occupied by men despite there being eligible women who are equally qualified and capable of shouldering the responsibilities.

2. OBJECTIVES:

The objective of this paper is to:

- Delve into the broad spectrum of issues faced by women at the workplace and provide a critical and analytical perspective to the various problems confronting women at the work front.
- Analyze the various international legal instruments which provide equal rights to women workers and bring out the role of the Indian state in improving the working conditions of women
- Make recommendations to improve the lives of working women by empowering them and providing equal opportunities in the workplace

3. METHODOLOGY:

The methodology employed by this paper is essentially descriptive. It tries to understand the various challenges that women in India face at the workplace by examining relevant data collected from various secondary sources. The statement of the problem is followed by an attempt to analyze it while simultaneously listing the existing legal provisions that provide protection to women. The paper concludes with certain recommendations which would ensure that women enjoy equal rights in a safe and secure work environment.

4. PROBLEMS AND CHALLENGES CONFRONTED BY INDIAN WOMEN AT THE WORKPLACE:

For the working Indian woman, the workplace is replete with various issues and challenges that need to be confronted on a daily basis. While the range and intensity of these issues may vary, the ones that are most prevalent can be summarized as follows:

Gender Pay Gap

There is no country on earth where women get equal pay as men for equal work. Not even the Nordic countries with impressively high overall gender parity can boast of equality when it comes to the pay packet. India has the distinction of being the lowest ranked on gender parity, which includes pay parity, among the BRIC (Brazil, Russia, India, China) economies. This was revealed in the Global Gender Gap Report of 2010. Gender parity in wages has been a global concern for about a century now. Yet progress has been slow after the initial victories.

The latest Monster Salary Index report provides a wage analysis based on a dataset covering the years 2013, 2014 and the first three quarters of 2015. The report is based on data collected from the *paycheck.in* salary calculator and the Monster salary index across eight different sectors. On the whole, the report finds that the gender pay gap in India is 25.4 percent. This means the median hourly wage for a woman is 25.4 percent less than the median hourly wage for a man. According to the report, some of the reasons behind gender pay gap could be the preference for male employees over female employees, preference for promotion of male employees to supervisory positions and career breaks of women due to parenthood duties and other socio-cultural factors.

Sexual Harassment

For Indian women, sexual harassment is an abhorrent reality of their daily lives. Their biggest struggle, every single day, is to maintain their sanctity—at their homes, on road, in their educational institutions, as well as at their workplace.

According to one of the recent surveys conducted by Nimbuzz, a cross-platform mobile calling & messaging app, Indian women don't feel safe at their workplace. The survey, titled *Nimbuzz - Pulse of the Nation*, reveals that "47% of women feel their top issue at work is sexual harassment vis-a-vis inequality in pay and unequal opportunities."

Between 2014 and 2015, cases of sexual harassment within office premises more than doubled—from 57 to 119—according to National Crime Records Bureau data. There has also been a 51% rise in sexual harassment cases at other places related to work—from 469 in 2014 to 714 in 2015.

Despite the rise in numbers, women are finding that their complaints are not redressed effectively by employers. Employers are either unaware of the law's provisions or have implemented them partially and even those that do set up internal panels have poorly trained members.

An internal complaints committee (ICC) is mandatory in every private or public organisation that has 10 or more employees, according to the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. However, 36% of Indian companies and 25% of multinational companies had not yet constituted their ICCs, the 2015 research study, *Fostering Safe Workplaces*, by the Federation of Indian Chamber of Commerce and Industry (FICCI) showed. About 50% of the more than 120 companies that participated in the study admitted that their ICC members were not legally trained.

Inadequate Sanitation Facilities

The lack of adequate sanitation facilities at workplaces has negative consequences for women. According to Indian Census data (2011), the female population is 587 million and constitutes 48 percent of the population. Yet, women's participation in the workforce is only 29 percent of women aged over fifteen years. At least part of the reasons for this could be attributed to the inadequate safety of women which could in turn be related to inadequate access to toilets.

Unsafe Roads and Transportation

Women in India continue to feel unsafe while using public transport, even two years after the horrific gang rape and murder of a young physiotherapy student in the national capital that resulted in nation-wide protests. With the lack of safe public transport options post 10 p.m., most people are dependent either on their own vehicles or autos and taxi services. As darkness descends, the number of women on the streets reduces and women are hampered by a lack of gender diversity in public spaces. Factors that contribute to making women feel unsafe on the streets are lighting, the presence of security and visibility, or knowing that you are visible to others—vendors, shops, street-facing houses—on the streets.

Gender based Discrimination

Five out of ten employees in India Inc have experienced one or the other kind of discrimination, said a study by staffing firm TeamLease Services. There exists a gender segregation in the workplace in terms of benefits, hours, leave, wages, opportunities, promotions, etc. In its latest survey 'Bias@Workplace', the firm said that India Inc (mainly in the top 8 cities) is yet to adopt the concept of equal opportunity in its true sense. The report indicated the strong prevalence of discriminatory practices while recruiting and at work. The TeamLease study further reflected that

pregnant women or women with young children are at a relative disadvantage, both during the recruitment process as well as vying for opportunities at the workplace.

Poor Work-Life Balance

Work life balance is a term used to describe the balance between an individual's personal life and professional life. Work life balance is seen more as a women issue due to the traditional mindset, where the woman is considered primarily responsible for the smooth running of the day to day affairs of the family irrespective of her job profile and official responsibilities that is why managing work and family responsibilities can be very difficult for women. The dynamics of the work environment have exerted enormous pressure on working women as they need to cope with virtually two full time jobs – one at the office and the other at home. Such imbalance has a negative effect on personal life of working women which in turn have taken form of social hazards such as increasing number of divorces, infertility due to high stress levels.

5. PROTECTION OF WOMEN WORKERS: THE INTERNATIONAL SCENARIO

Equality of rights for women is a basic principle of the United Nations. At Philadelphia, in 1944, the International Labor Conference adopted a Declaration. It proclaimed that “all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity”. Women workers’ rights constitute an integral part of the values, principles and objectives that are at the core of the International Labor Organization’s mandate to promote social justice and decent work, which is fairly paid, productive work carried out in conditions of freedom, equity, security and dignity. Two important Instruments of the International Labor Organization are Resolution on Gender Equality, Pay Equity and Maternity Protection, adopted in 2004 and a decision of the ILO’s Governing Body in March 2005. It has made gender mainstreaming obligatory in all the ILO’s technical cooperation activities. It has been reinforced in the 2006 International Labor Conference Resolution.

The United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) was adopted in 1979 by the UN General Assembly. It came into force in 1981. The State Parties’ have specific obligations to eliminate discrimination and remove obstacles in the path of women’s enjoyment of their rights in law and in practice. It has often been referred as the ‘international Bill of Rights’ for women. It provides the key principles of equality between men and women, prohibits discrimination against women on any ground, and covers many aspects of women’s rights including political participation, health, education, employment, marriage, family relations and equality before the law. The Commission on the Status of Women has played an important role in promoting women’s rights. It has prepared recommendations relating to urgent problems in the field of women's rights with the object of implementing the principle that men and women should have equal rights, and the development of proposals to give effect to such recommendations. Conventions on Equal Remuneration between Women and Men, 1951, Discrimination (Employment and Occupation) Convention, 1958; Workers with Family Responsibilities Convention, 1981; Elimination of the worst forms of child labour, 1999, Part-time workers, 1994 and Home workers, 1996, Maternity Protection Convention, 2000, termination of employment, 1982, and employment policy, 1964 are instruments for protecting rights of women.

6. THE INDIAN STATE AND ITS ROLE IN PROTECTING WOMEN WORKERS:

The Indian constitution guarantees equality for women before the law, and institutional support for women appears progressive, with many laws in place to protect a woman’s right to work. But while there is a plethora of laws for the organized sector, these laws are often not enforced, and in fact are frequently circumvented by employers. There are many reasons for this, including legislation that is not clearly written or does not define coverage, assign responsibility, or outline enforcement. Moreover, India’s labour laws can be region-specific, industry-specific, or centralized—and the centralized laws may include state-specific amendments, which further contribute to inconsistent labour legislation.

While progress has been made against gender inequality due to the work of the Indian feminist movement, as well as globalization and modernization, change has been slow. Understanding the legal framework of the organized sector of women in the workplace is a first step in creating gender equity in India.

Gender Discrimination

The Indian Constitution guarantees fundamental rights to women, but its jurisdiction is only to state or public institutions and does not extend to the private sector.

The Indian Constitution

The Constitution guarantees equality as a “Fundamental Right.”

- Article 15 has provisions for women, children, and socially as well as educationally disadvantaged citizens. These provisions are not to be considered discriminatory.
- Article 16 provides for equality of opportunity in matters of public employment.
- The 73rd Amendment Act of the Constitution guarantees women one-third seats in the Panchayats, while the 74th Amendment Act guarantees women one-third seats in Municipalities.

Equal Remuneration Act, 1976

This law aims to prevent gender discrimination of wages, hiring, promotion, or training and can be circumvented through wage reclassification of skilled and unskilled workers. Often, regardless of the type or skill-level of a job, women are placed in the unskilled, lower-paid wage category, while men are placed in the skilled, higher-wage category. The Act includes:

- Equal pay to men and women workers for same or similar work.
- No discrimination in recruitment and service conditions, except where employment of women is restricted by the law (such as night hours or industry-specific restrictions).

Equal Remuneration (Amendment) Act, 1987

Amends the Equal Remuneration Act of 1976 by increasing certain penalties for offenders, as well as creating jurisdiction for a trial of offenses.

National Commission for Women Act, 1990 (Act of Parliament)

Creates a National Commission for Women to review existing statutory protection of women; prepare periodic reports to the Central Government on matters relating to safeguards for women's rights; investigate complaints relating to the deprivation of these rights; and financially assist in the litigation of issues affecting women

1. Sexual Harassment at Workplace

Sexual harassment constitutes a gross violation of women's right to equality and dignity. It has its roots in patriarchy and its attendant perception that men are superior to women and that some forms of violence against women are acceptable. One of these is workplace sexual harassment, which views various forms of such harassment, as harmless and trivial. Often, it is excused as ‘natural’ male behaviour or ‘harmless flirtation’ which women enjoy. Contrary to these perceptions, it causes serious harm and is also a strong manifestation of sex discrimination at the workplace.

Industrial Employment (Standing Orders) Act, 1946

Among other things, provides safeguards against the sexual harassment of women at work.

Supreme Court: Vishaka and Others Vs. State of Rajasthan

After several cases of sexual harassment at the workplace, Vishaka and others filed a writ petition. The guidelines are a framework for workplace protocol, with an emphasis on the prevention of sexual harassment. Through the determined work of women's groups, the Vishaka Judgement guidelines have become influential in the workplace. The Supreme Court stated that sexual harassment violates a working woman's constitutional rights. Through the Vishaka Judgment, a series of guidelines were created, including:

- It is the responsibility of companies to prevent sexual harassment.

- Organizations must create a sexual harassment oversight committee headed by a woman.
- Organizations must initiate disciplinary action against offenders, and victims must be protected.
- Women workers must be made aware of their rights.

Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 is a legislative act in India that seeks to protect women from sexual harassment at their place of work. This statute superseded the Vishakha Guidelines for prevention of sexual harassment introduced by the Supreme Court of India. The Bill lays down the definition of sexual harassment and seeks to provide a mechanism for redressing complaints. It provides for the constitution of an 'Internal Complaints Committee' at the work place and a 'Local Complaints Committee' at the district and block levels. A District Officer (District Collector or Deputy Collector), shall be responsible for facilitating and monitoring the activities under the Act.

2. Parental Benefits/Policies

A section of corporate India is consciously choosing gender-sensitive policies such as flexible hours and crèche services for working mothers. But, there are also companies where women still have to face discrimination and harassment when they announce that they are pregnant. Being fired from a job on account of pregnancy is illegal under the Maternity Benefit Act. But it is more common than we realise and is symptomatic of a more pervasive discrimination against working mothers in Indian organisations.

Maternity Benefits Act, 1961

- Entitles a woman to 12 weeks of leave with full pay associated with the birth of a child (there is no adoption benefit).
- It is unlawful for an employer to discharge or dismiss a woman during or because of maternity leave.
- A woman worker must be permitted to take two nursing breaks, in addition to normal breaks, until her child is 15 months old.

The Maternity Benefit (Amendment) Bill, 2016

The Indian Parliament approved on 9th March 2017 a bill granting women working in the organised sector paid maternity leave of 26 weeks, up from 12 weeks now, a decision which will benefit around 1.8 million women. The law will apply to all establishments employing 10 or more people and the entitlement will be for the first two children. For the third child, the entitlement will be 12 weeks. With this, India becomes the country with the third highest maternity leave. Canada and Norway grant 50 weeks and 44 weeks respectively as paid maternity leave.

Factories Act, 1948

According to the act, the employer must provide childcare facilities for children below the age of six at workplaces where more than 30 women workers are employed. Prosecution against an employer for violating the Factories Act is uncommon, and inspectors rarely inspect the number of women workers employed or the mandatory crèche or childcare centers. In fact, on record, there is not a single case known where an inspector went to a worksite to check on the number of women employees. Also, employers bypass the Factories Act by employing fewer than 30 women or using part-time and/or contract labor.

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

Provides for the welfare of the workers in beedi and cigar factories by regulating the conditions of work, including maximum hours and the safety of the working environment. In addition, childcare facilities must be available for

working mothers. This act requires the mandatory appointment of women to the Advisory and Central Advisory Committees.

The Plantation Labour Act, 1951

- Every plantation with more than fifty women workers must provide childcare (including for those women workers employed by a contractor); the plantation must also provide childcare when women employees have in aggregate more than twenty children.
- Women workers get breaks to feed their children.

Employee's State Insurance (General) Regulation, 1950

- Maternity benefits are made available on the date a medical certificate is issued for miscarriage, pregnancy-related sickness, bed rest, or preterm birth.

The Contract Labour (Regulation & Abolition) Act, 1970

- Daycare must be provided where 20 or more women work on contract regularly.

7. RECOMMENDATIONS:

The recent spate of crimes against women has caused a nation-wide uproar and raised serious questions about security for women in India. Over the past three decades, workplace has become a much more diverse environment. With women representing 24.4 per cent of the total workforce in India, personal security has become central to their physical, intellectual, emotional, economic and spiritual well-being. Federation of Indian Chamber of Commerce and Industry (FICCI) and Confederation of Indian Industry (CII) have provided certain recommendations, which, if implemented will go a long way in ensuring the safety and security of women at the workplace and infuse them with the necessary confidence to take on the professional world. These recommendations can be categorized under four heads: physical, environmental, organizational and educational.

Physical

This focuses on the physical security of women employees in an organization. It ascertains the safety of female employees, whilst they are on the job/ inside office premises – the workplace needs to be secure and women assured of basic safety on the job and in office. Measures concerning physical security include identification documents (driving license, photo ID, address proof, Finger prints) to be collected from drivers, security guards and all casual staff, 24x7 operational CCTV cameras at vital locations or places, installation of electronic doors allowing access to the work area only to authorized employees / staff, security guard or a colleague to accompany the driver in the cab, GPS based monitoring of cabs/transport vehicles with panic buttons, SMS alerts / Information Systems to be designed/installed.

Environmental

The environmental aspect complements the physical aspect of security and helps maintain a safe and secure standard in any premises. This includes clearly displayed emergency contact numbers and a designated officer(s) available round the clock to be contacted in emergency, well lit work areas, staircases and parking lots till the last woman employee leaves the site, separate and secure toilets for women close to their work station, strict surveillance of visitors, provision of company transport for women working in night shifts both to and from the workplace.

Organizational

It is for the employer to create a positive atmosphere at the workplace where a woman is encouraged to come to work, secure in the knowledge that she will be treated with dignity, respect and will be protected from harassment. This can be done by ensuring that at the time of orientation, women in organizations are made aware of their rights, facilities and actions that they can initiate regarding sexual harassment, payment of salaries directly into bank accounts to avoid any kind of harassment by supervisory staff over subordinate women employees/casual women employees, setting up

of a sexual harassment committee reporting to the Managing Director or a senior member of the management and headed by a woman, strict disciplinary action against those found violating the code of conduct to ensure that it is not repeated.

Educational

The awareness of women employees of their company policies on sexual harassment and gender discrimination and the more they are encouraged to report all instances of discrimination without fear, the greater would be their feeling of security and empowerment. This can be done by spreading awareness and training on security and safety, dos & don'ts while traveling by company cabs, emergency contacts, police help lines, company contact points, awareness of the company policy on sexual harassment, on gender discrimination or gender biased approach and the complaint process, provide training to all women employees and educate them about their rights and facilities, sensitization of male employees through training sessions, self-defence classes to be organized at the workplace or sponsored by the organisation.

8. CONCLUSION:

With a steady increase in the number of reported crimes against women, it is evident that there exist many more unreported cases because of fear and social stigma. Criminal jurisprudence testifies that sexual violence is an act of power as much as it is a manifestation of a sexual desire. Therefore all the rights of women have to be respected, protected and fulfilled, be it right to property, right to health, education and life with dignity. The law and order has to look into these crimes specifically and effectively curb them with an iron hand. Lack of safety prevents women from fully participating in the public life. Thus providing safety or finding solutions also need to be observed within a framework of rights. Only then can women access the full range of rights of being a true citizen.

We are the same country that rejoiced when P.V. Sindhu won an Olympic medal and marveled at Kalpana Chawla's space expedition. There are limitless possibilities that lie before a woman when she is provided with the right opportunities to nurture her talent and explore her potential. Let us give women the right treatment that they deserve and they in turn will give us endless reasons to be proud of.

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