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## REVIEW ARTICLE

# AN ANALYSIS ON LEGAL FRAMEWORK DEALING WITH GENDER EQUALITY AND DISCRIMINATION IN INDIA

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# **An Analysis on Legal Framework Dealing With Gender Equality and Discrimination in India**

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## **INTRODUCTION**

This paper addresses the present legal and policy framework in India inside which women can accomplish an improved work environment through group bartering and social exchange. This paper likewise addresses the act of industrial relations from a gender view and examinations drifts on how social accomplices, social exchange establishments and group bartering location equality at the workplace. The paper is masterminded as accompanies. The principal a piece of the paper follow improvements that have a heading on the status of women and gender discrimination in the labour market, concentrating on both the formal and casual economy. The second part audits the labour establishments inside which gender concerns get verbalized – exchange unions, employers' organizations, social discourse organizations, labour law and policy measures, and how gender issues have been developed and tended to inside these establishments. The last a piece of the paper breakdowns some aggregate understandings that speak to national, industrial and stronghold level settlements, and also understandings managing workers in the casual economy to see how the process furthermore conclusions of dealing effect gender equality in the workplace.

## **EFFECT OF SOCIO-ECONOMIC IMPROVEMENT ON GENDER**

The position of women in India has converted through the decades. Incredible strides have been made in guaranteeing equality for women in Indian social order. On the other hand, inconsistencies and holes in ensuring certain fundamental privileges of women keep on existing. The Government has eagerly – both through law and policy – tried to enhance the status of women. Remembering the territorial varieties, religious, position and class-based contrasts that have an authoritative affect on women in India; we draw some expansive generalizations on the real socioeconomic improvements that have affected women in the nation.

Controlled at first by the reformist development in pioneer India, women's issues and concerns were taken send by the nationalist development and in this

way supported by the women's development. India being overwhelmingly a rural economy in the introductory a long time after freedom, the huge commitment of women to the agrarian economy was deficiently recognized by the economy. Numerous decades thus, women in India keep on struggling for fundamental rights, for example, least wages, equivalent wages and property rights, despite some defensive legislations. Women's access to resources, for example, land, credit, ability preparing and training specifically, is moderately poor, while regardless they convey the load of a 'twofold movement' at home cooking, cleaning, looking after the young and the old, antagonistically affecting their capabilities to help viably in the labour market.

The 'Committee on Status of Women in India' (CSWI) (1971-74) discovered expanding marginalisation of women in the economy and social order. The Committee noted demographic patterns of declining sex ratio, the developing dissimilarity in the future and expiration rates of men and women, and wide incongruities in their right to gain entrance to ability, instruction and job.

It additionally found that the instruments of political rights, legal equality and instruction had stayed outside the scope of the larger part of women who were being marginalised. The discoveries of the Committee gave impulse for the women's development to raise issues and push for further changes and change. The Declaration of the International Women's Year, in 1975, carried abundantly required thoughtfulness regarding some essential concerns of women.

The 1980s saw the rise of an in number women's development, and some self-ruling aggregations developed. This development was concerned with savagery against women (for example, assault and wife battering), with issues of separation, support and youngster care, with issues of gendering of course readings and training and with equivalent chances at the workplace (Gandhi and Shah, 1992). One of the suggestions of the CSWI was the setting up of a National Commission for Women, which was built through an sanctioning – the National Commission for Women Act, 1990 – to defend and advertise the

privileges of women. Nonetheless, as this statutory figure has just recommendatory powers, it has been inadequate in tending to issues basic to women. In 1993, India sanctioned the Assembly on Elimination of All Forms of Discrimination Against Women (CEDAW), with one reservation and two explanatory proclamations. Emulating this, a taskforce was set up to audit and prescribe changes to laws. Paramount corrections to laws relating to separation and support were done, prominently – Indian Divorce (Amendment Act) 2001, Indian Succession Amendment Act 2001, Marriage Laws (Amendment) Act 2001.

The National Plan of Action for the Girl Child (1992) distinguishes the right of the young lady kid to equivalent chances and looks to dispose of all types of savagery propagated against the young lady kid. India is a signatory to the United Nations Convention on the Rights of the Child, 1989. The female education rate expanded from 39 for every penny in 1991 to 54 for every penny in 2001 and the gender hole in education has therefore descended from 25 to 21 for every penny between 1991 and 2001.<sup>7</sup> The 93rd Constitutional Amendment makes free and obligatory instruction a key ideal for all kids in the 6-14 age bunch. The National

Programme for Education of Girls at Elementary Level (NPEGEL), a part of the Sarva Shiksha Abhiyan (Ssa),<sup>8</sup> gives district particular methodologies to empower young ladies to come to class and additionally gives medicinal instructing through extension courses and residential camps.

The Government of India adopted a National Policy for the Empowerment of Women in 2001 to bring about gender justice and gender equality. Several State Governments have also formulated similar policies for women's empowerment. Efforts to set up effective institutional machinery to address women's issues are prevalent both at the national and state level. Apart from NCW, the Department of Women and Child Development set up within the Ministry of Human Resources Development in 1985 has since 2006 been upgraded to a full-fledged Ministry of Women and Child Development that seeks to further the cause of women and children. At state level, the State Departments of Women and Child Development and the State Commissions for Women are important governmental bodies taking forth gender concerns. Women's Cells and gender budgeting initiatives have been set up in various ministries/institutions. Apart from regular commissions and committees seeking to focus on gender issues, the Planning Commission regularly reviews the government programmes and policies for women.

*Economic status:* The economic status of women in the country has undergone many changes. Up to 1991, India had a planned economy which enabled planned growth. Post 1991, the liberalisation and globalisation phase had a serious impact on women workers.

While new work arenas such as information technology and biotechnology absorbed more and more women, there was also a marked increase in the presence of women in the unorganised or informal sector. Nearly 93 per cent of women workers in India are in unorganised or informal employment and their numbers are steadily rising. Globalization and the removal of trade restrictions have impacted domestic industry and small farmers; this in turn has adversely impacted low paid women workers. The feminization of poverty is a growing concern as the number of female inter-state migrant workers within the country is rapidly growing. This is a direct consequence of the transformation of rural areas, of tribal displacement and of the widespread neglect of marginalized groups in the country (Shanti, 2006). The formal sector has also witnessed massive changes as economic restructuring as a part of the liberalization mandate in the 1990s which has meant downsizing of jobs, retrenchment of workers and declining recruitment of staff.

Simultaneously, the steady growth of micro-credit through self-help groups for women has encouraged the development of micro-enterprises by women. Leading national financial institutions, like the Small Industries Development Bank of India (SIDBI), the National Bank for Agriculture and Rural Development (NABARD), Swayamsidha, or the Integrated Women's Empowerment Programme (IWEP), and the Rashtriya Mahila Kosh (RMK), have played a significant role in promoting micro-credit and the economic empowerment of women.

## FREQUENT VARIETIES OF GENDER DISCRIMINATION ON THE JOB

Regularly, gender based discrimination might be recorded under the accompanying expansive points:

- Definition of 'work': As expressed prior, the essential issue keeps on ing the gender inclination in characterizing "work" and in identifying and making unmistakable women's work. The grandest test is to record for women's work in the labour market, and for the quality of women's commitment (paid and unpaid) to be effectively surveyed; a gendered meaning of "work" is long late.
- Accounting for household work: Women work both at home and in the labour market. The previous (local and forethought work) is once in a while given due distinguishment for the commitment to the labour market.
- Discrimination at the work place: Women workers are paid differential wages for the same work. They additionally have restricted access to and control over resources, poor access to data and enhancing abilities. Women are as a rule viewed as extra or supplementary workers, further marginalizing their capacity to solidify their position as workers. Aside

from this, there is broad gender predisposition in recruitment and promotion of women workers.

- **Nature of work:** Women are to a great extent found in employments that are low gifted, labour serious and tedious.
- **Access to offices:** Women have less access to offices and profits. Welfare offices and administrations, for example, sterile offices, plans for drinking, consuming and resting, and access to medical aid, social insurance and transport are on occasion not respected from a gendered point of view. On account of night work, it is recognized that transport and security is accommodated women workers.
- **Indirect discrimination:** Indirect discrimination practices, for example, poor terms of states of work, poor execution evaluations for women, absence of access to ability preparing and different resources are ordinarily experienced by women workers. The proverbial 'glass ceiling' creates invisible barriers for women from accessing higher positions, thus preventing career advancement.
- **Occupational health and safety:** Given the specific needs of women, most work places do not take care to protect the reproductive health of women workers. Elimination of exposure to chemicals, radiation, biological contaminants, poor working posture and stressful working conditions is yet to be prioritized.
- **Sexual harassment:** Women at the work place are regularly subjected to sexual harassment. Norms to seek redress and remedy through a special procedure for sexual harassment complaints, though mandated by the judgment of the Supreme Court, is rarely found to be implemented.
- **Inadequate and poor representation:** Women do not get adequate representation in trade unions, employers' organizations, social dialogue bodies and other relevant fora so as to address and improve their working conditions. The lack of representation in decision making positions in organized sector (both public and private sectors) has wider ramifications on their ability to demand and transform their work environments.

#### **The authorized structure handling with equality and discrimination**

The Indian Constitution guarantees equality to all persons within India; it also prohibits discrimination by the State on the grounds of sex. The equality guarantee is available to all persons within India (not merely citizens), thus extending its scope to all migrants and persons of non-Indian origin in India.

However, the constitutional non-discrimination guarantee, for the most part, is available only in case of abuse by the State. This lack of "horizontal effect" of the non-discrimination provision implies that those employed in the private (non-State) sector do not have constitutional protection against discrimination on the grounds of sex. Remedies under labour statutes, of course, remain available. For instance, protection against gender-based discrimination in recruitment and promotions is guaranteed by the Equal Remuneration Act, 1976 (ERA).

Women in the unorganized or informal sector are also often not covered under labour laws since these laws are confined to industries/sectors employing a minimum of workers. This is a form of discrimination against unorganized or informal workers. The recently enacted Unorganized Workers' Social Security Act, 2008, aims to provide minimum benefits to such workers.

The constitutional guarantee of equality is not merely negative, in the sense of prohibiting discrimination; it also has provisions for ensuring substantive equality by enabling the state to make special provisions for women and children. It is through provisions such as these that job reservation for women and special provisions for women are made possible.

The constitutional provisions guaranteeing formal gender equality<sup>13</sup> have been the subject matter of litigation in the courts. For instance, in a landmark judgment, the Supreme Court held that regulations put in place by a state-run aviation company in India which provided for the retirement of air hostesses on their first pregnancy, and the provision for extension of services of air hostesses beyond 35 years and up to the age of 45 years at the sole discretion of the managing director were arbitrary and violated the right to equality. Yet, the Court upheld the lower retirement age for air hostesses compared to (male) flight pursers on the ground that this was not discrimination based *solely* on sex, as they belonged to different cadres and their service conditions were different.

#### **GENDER EQUALITY**

The systems of social exchange have a long history in India, and at the national level, there have been some tries different things with building social discourse on labour issues. The first and foremost tripartite figure to advertise social exchange – Tripartite National Labour Conference – was constituted in 1942. It was renamed the Indian Labour Conference in 1944. In the starting years, it met once a year to resolution labour and management issues and to examine broader policy and administrative concerns. The main tripartite labour gathering was held at New Delhi under the

Chairmanship of Dr. B.R. Ambedkar. The meeting comprised of two organisations, in particular, the Indian Labour Conference (ILC) and the Standing Labour Board (SLC). The targets set before the two tripartite figures around then of their initiation in 1942 were: (a) promotion of consistency in labour enactment; (b) setting down of a method for the settlement of industrial questions; and (c) discourse of all matters of significance to employers and representatives crosswise over India.

The National Labour Commission was set up by the Government of India to study all parts of labour issues in both the organised and unorganised part and it submitted its report in 1969. Both the ILC and the SLC met in 1970 and 1971, individually, to examine the report and made critical policy proposals for usage. The ILC completed not meet between 1972 and 1976. Throughout the Emergency in June, 1975 the National Apex Body was set up set up of the ILC. A bipartite figure, it met six times in 1976 to audit industrial relations. The National Apex Body was nullified in 1977 and the ILC was restored (Monappa, 1985).

Tripartite consultative instruments which prompt the administration in developing standards and arrangements in the labour field are: the Indian Labour Conference, the Standing Labour Committee and the Industrial Committees for different divisions.

## CONCLUSIONS

The expanding presence of women in the work power and in exchange unions has honed the interest for gender equality and non-discrimination at work. The test to policymakers is to give a level workplace/environment for women and to make empowering components inside which women's voices might be explained and listened.

Measures to attain this could keep tabs on: Law and policy changes: Acknowledging women's work by embracing a gendered meaning of "work" is a vital starting to law and policy changes in the nation. Redefining "work" from the point of view of women workers might empower a more gendered comprehension of work as carried on by women. Representing household work and its essential commitment to the labour market might be a first stage in gendering law and policy in this heading. Making strides the right to gain entrance of women to expertise preparing, capital and different resources through law and policy endeavors might empower an improved working environment for women workers.

Enhancing social dialogue: The Indian Labour Conference (ILC) which is the national tripartite gathering in India is definitely not completely illustrative of social accomplices. It likewise forgets the substantial greater part of workers as there is no powerful representation of the unorganised or casual workers. The ILC might as well be stretched to incorporate all organisations that speak to workers

diversions and that of little business people. There gives off an impression of being an absence of instruments at the social discourse levels which particularly address such concerns of women workers. A changeless plan thing identifying with gender issues ought to be made some piece of the ILC office. Moreover, an extraordinary ILC kept tabs on women's issues could be met once in five years. This will unquestionably have a falling impact on other social exchange organizations in the nation.

Monitoring decent work and gender equality: The need for sex-disaggregated data in membership of trade unions and in employment needs to be urgently addressed. Data collection needs to be done keeping a gender focus.

The recent measures to include the unorganised or informal sector in National Sample Survey Organisation studies are welcome and this should be strengthened. The presence of adequate women inspectors in the labour administration machinery is an important means to monitor compliance with gender-specific provisions of the labour law. There is a need for inspectors to be sensitised to gender equality issues and to give these matters due recognition and importance in their work schedules. A gender audit of the labour administration machinery to understand how concerns of women employees can be made more visible and steps taken to achieve gender equality in the workplace is required.

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