

# Working Women's Rights in Organized Sectors of India

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## ABSTRACT

The women of each era have always faced some unique set of challenges. The modern woman has started asserting herself by educating herself and entering into spheres of work which were previously exclusively dominated by men. The society has started acknowledging the fact that empowerment of women lies in their growth. Human Development Index is the measure of a nation's health, education, and standards of living. This study is done for understanding the status of special rights of women working in organized sectors in India with a view to understand whether they are receptive to the special needs of working women. The scarcity of support systems is making work life balance difficult for women in our society. Focuses on the perspective on International human rights standards laid down for protection of rights of working women and discusses various International Conventions, Declarations, Treaties, Goals, Organizations etc. providing Human Rights Standard for working women. The Constitution of India is a document of social revolution which casts an obligation on every instrumentality including the judiciary, to transform the 'status quo ante' into a new human order in which justice, social, economic and political will inform all institutions of national life and there will be equality of status and opportunity for all.

**Keywords: Discrimination, Opportunities, Equality, Human rights, Inequalities, Superpower**

## Introduction

Equality is the foremost requirement for establishment of a fair and just society. In any society women constitute almost half of the population. In spite of it they lack in their proportionate representation in all spheres of life due to a variety of gender discriminations. Women form the most vulnerable section of the society. Of all the discriminations known to the world, the discrimination against the women is the most deeply rooted discrimination. Indian women are left behind in the society. As per 2019 World Economic Forum's Gender Gap Report India stands at 149th place out of 153 countries in terms of economic participation and opportunity for women, which is estimated to be 35.4%. In 2021 India is still ranked at 140 out of 156 countries. India stands at the position of 131 among 189 countries in the 2020 Human Development Index, according to a report released by the United Nations Development Programme<sup>2</sup>.

## Rationale and Significance of the Study

It is a general perception that economic

independence brings with it power of choices. Women in India have made a progress with a speed, bringing in a change in their traditional status and are slowly but certainly heading towards equality and liberty in all facets of their life. They are increasingly becoming economically empowered. Women have acquired many new domains like participation in work but still continue to remain attached to customary positions in the other areas, adversely affecting their equality and liberty in new ways. This is adversely affecting power of their choices with respect to different aspects of their life. Working women are facing unique challenges as their roles in family, society and workplace are not congruent with each other, resulting in many head-on collisions and conflicts in their capacities and opportunities. The assigned gender roles are not allowing the women in our society to freely exercise their choices relating to work.

## Aims and Objectives:

In order to provide the outline of the research work and to formulate the research design following

aims and objectives are formulated by researcher:

1. To review the rights of working women in the light of the International Human Rights Standards.
2. To study the rights of working women as contemplated by Indian Constitution.
3. To review the various legal provisions affecting rights of working women.
4. To analyze various judicial decisions related to rights of working women.
5. To evaluate various recommendations made by Human Rights Commission, Women's Commission, Law Commission and other national and international bodies concerned with rights of working women.
6. To examine and suggest various social, economic, political and legal solutions to enhance efficacy of rights of working women.

### **Research Hypotheses**

The researcher has formed the following hypothesis for this research:

1. There is need to take measures by making legal, institutional and attitudinal changes in the society to uplift status of women working in organized sectors in the light of International Human rights standards.
2. The status of Indian women working in organized sectors, as contemplated under Indian Constitution, is at par with men, along with provisions for protective discrimination wherever necessary.
3. The laws have played a major role in raising the legal status of women working in organized sectors. But they are not sufficiently gender sensitive to deal with the unique needs of working women for substantive equality.
4. There is need to uplift socio-economic and legal status of women working in organized sectors in order to allow inclusive growth of working women.

### **Review of the existing Literature**

While doing the research work the researcher studied and reviewed the various literature available on the subject to study how far the issue of working women's rights is dealt with so far by various researchers, authors and authorities. The researcher

studied The Global Gender Gap Report 2014 released by World Economic Forum, which tries to measure 'Relative Gap between women and men across countries in cumulative effect of Social, moral, economic and political factors prevalent in society. India is ranked 114 among 142 countries measured. The reports published by United Nations as Human Development Index (HDI) and Gender Equality Index (GII) were analyzed to understand the comparative global status of Indian working women.

The Report of Central Static Office, Government of India, published in 14th issue, was studied which reveals that the workforce participation rate of women is significantly low. Only 20.4% of the employees in organized sectors in India were women in 2010. Out of which 17.9% were working in public sectors and 2.5% were in private sectors.

### **Perspective on International Human Rights Standards of Working Women's Rights**

This an overview and conceptual clarity about the Human Rights of working women and its development at the international level. The researcher studied the concept of right to equality and right to work with human dignity with special reference to working women. The origin, development and various dimensions of rights of working women are studied in it. The Commission on the Status of Women established by United Nations Economic and Social Council in 1946. The Universal Declaration of Human Rights (1948). The International Covenant on Civil. The Declaration on the Elimination of Violence against Women. The 17 Sustainable Development Goals (SDGs) 2000 to be achieved by 2015 with special attention to Millennium Development Goal 3 and 5 to achieve gender equality and empower all women and girls.

### **Constitutional Mandate and Role of Judiciary Relating to Rights of Women Working in Organized Sectors**

This deals provisions under Indian Constitution regarding Right to equality and Right to work with dignity for Women in India, in various parts of the Constitution of India. There are various provisions dealing with rights of working women in the Constitution

which are studied and analyzed by researcher with special reference to rights of working women.

### **Extent of Realization of Rights of Women Working In Organised Sectors**

This reports of factual position of women's work and Rights of women working in organized sectors in India. It analyzes factual position of rights of working women in top 10 countries who have done well to reduce gender gap as per reports of World Economic Forum and their study conducted for preparation of Global Gender Gap Report. This chapter tries to measure the extent to which the women working in organized sectors in India, are having the necessary rights as per global standards. It also tries to locate the areas in which the rights of women working in organized sectors in India are deficient. The researcher has also analyzed and discussed various judicial efforts for securing better legal protection of rights of working women. Equality as basic Human Right of women:

#### **India's Global position in Gender Gap Report:**

To measure the rate of gender inequality, World Economic Forum has designed a tool of Gender gap index for all the countries based on various parameters since year 2006. The report effectively benchmarks the evolution of gender-based gaps in four major areas namely economic participation of women and availability of opportunities for them, their educational attainment, their condition of health and survival, as well as their political empowerment. Not only this but it also examines the drivers of gender gaps and outlines the policies and practices needed for a gender-inclusive recovery.

#### **Human Rights Relating To Sexual and Reproductive Health of Women:**

Women's sexual and reproductive health is related to multiple human rights, including the right to life, the right to be free from torture, the right to health, the right to privacy, the right to education and the prohibition of discrimination.

#### **The Right to Decent Work for women:**

The right to work is closely linked to the right to an adequate standard of living for oneself and one's family. Women face multiple barriers to take up work

opportunities and in accessing social security, owing to their main role as mothers, carers and part-time workers. So women make up the majority of the poor in both developed and developing nations.

#### **The Commission on the Status of Women, 1946:**

The Commission on the Status of Women (CSW) is the principal global intergovernmental body exclusively dedicated to the promotion of gender equality as well as the empowerment of women. It is instrumental in promoting women's rights, documenting the reality of women's lives throughout the world, and shaping global standards on gender equality and the empowerment of women. It was established by United Nations Economic and Social Council in 1946 to prepare recommendations and reports to the Council on promoting women's rights in political, economic, civil, social, and educational fields. It is also mandated to make recommendations to the Council on "urgent problems requiring immediate attention in the field of women's rights". The Commission meets once a year and issues agreed conclusions on priority themes set for each year. Which includes an assessment of progress, gaps and challenges, as well as concrete recommendations addressed to Governments, international organizations, civil society and other stakeholders. The Commission also adopts resolutions on a variety of women's rights-related issues. Throughout its history, the Commission has played a key role in promoting women's rights, actively contributing to landmark international legal and policy instruments, such as the Convention on the Elimination of All Forms of Discrimination against Women, the Declaration on the Elimination of Violence against Women and the Beijing Declaration and Platform for Action.

The Convention also took cognizance of other factors such as trafficking, institution of marriage and the family on Rights of women. Article 1 of the Convention defines discrimination as "... any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural,

civil or any other field.”

According to Supreme Court of India in *S.P.Gupta v. President of India*<sup>14</sup>, “the Constitution of India is a document of social revolution which casts an obligation on every instrumentality including the judiciary, to transform the ‘status quo ante’ into a new human order in which justice, social, economic and political will inform all institutions of national life and there will be equality of status and opportunity for all.”

### **Fundamental Rights:**

The need of respecting Human Rights was globally acknowledged by common people as they experienced the effects of World War II. This has largely influenced the minds of the freedom fighters as well as the social and political leaders of independent India. When the draft of Indian Constitution was made, drafting committee readily transformed those contemporary Human Rights in Indian Constitution in the form of Fundamental Rights and directive principles of state policy. The basic Human Rights have been made available for people of India in the form of constitutional or fundamental rights in the year 1950 by adoption of Constitution. Provisions of Fundamental Rights in Part III of the Constitution under Articles 12-35 is the heart of the Indian Constitution.

As per data assessed by ILO, in spite of increasing education and economic growth, participation of Indian women in the labour force has continuously declined. It was 34.1 per cent in 1999–2000 which further went down to 27.4 per cent in 2015–16 and India was ranking 11th bottom up among 131 countries with available data. In 2019 India was ranking at 171th position out of 180 countries. According to World Bank data released in June 2020, India’s female labour force participation rate fell to 23.41 per cent in 2019 and 20.3 per cent in 2020 and India also slipped 28 places in the 2021 Gender Gap Index to rank 140th out of 156 countries. This is contributing to women’s multidimensional relative poverty, adversely impacting their families and communities, and limits women’s contribution to India’s gross domestic product (GDP) at 17% compared to the global average of 37%. The increase in participation of women in paid work is critical for

the economic development of a nation. Gender gaps are closing in area of education and health, but opportunities for economic and political participation are severely limited for women. The Human Development Report, 1995<sup>90</sup> has opined that, “In no society women enjoy the same opportunities as men.” India being a developing nation and a budding superpower, it cannot be overlooked that the country’s economic, social and political development lies in the growth of its women.

India is one of the exceptional countries where the modern sector has experienced a fall in women’s work force participation in spite of continuously rising women’s education. The Human Development Report published by UN in 1996 has expressed that “in all countries the gender- related development index is lower than the human development index, reflecting lower achievements in human development for women, compared to men”.

The women of each era have faced some unique set of challenges allowing the society to pass some judgments in advance against such women. Obviously when the modern women are educating themselves and entering male dominated spheres of work, their chances of facing hostile, prejudicial treatment and harassment are also increasing. So far we have made more efforts on developing potentials of women.

Gender sensitization of executive, legislative and judiciary should be undertaken through the training programmes with a special focus on policy and programme framers, implementation and development agencies, law enforcement machinery and the judiciary as well as non- governmental organizations. There is need of gender sensitization and training of employers for better HR policies. Developing societal awareness about gender issues and human rights of women are the most preliminary things to be done in order to make all institutions sensitive to the needs of the working women. A contribution can be made by media by focusing on positive and constructive news in social media. There can be effective use of different forms of mass media to communicate social messages relating to women’s equality and empowerment as well as to

remove gender stereotypes. The media should be encouraged to influence and develop reformed codes of conduct, professional guidelines and other self-regulatory mechanisms for promotion of balanced portrayals of women and men before the society.

The Indian Constitution, under Article 42 has laid down the Directive Principles of State Policy that state shall make provisions for securing just and humane conditions of work as well as for providing maternity relief. The two main enactments that govern these provisions are: The Maternity Benefit Act, 1961 and The Employees State Insurance Act 1948. The Employee's State Insurance Act has created Employee's State Insurance Corporation, as a statutory body for self-financing social security and health insurance scheme for workers by creating and managing an independent insurance fund. The same approach should be made applicable even for miscarriage or medical termination of pregnancy.

The provision of maternity benefits to women associates childcare solely with women, ultimately reinforcing a gendered division of labour. So the leave sharing in the form of maternity as well as paternity leave may negate any possibility of gender bias. This can help in redistributing the unpaid care work between men, women and other social institutions. In India, maternity leave should be looked as a funding for an investment in gender diversity mandated by many companies. Industry analysts suggest offsetting the high cost of post-maternity loss by spending at least 1% of this cost loss on support to returning women to work.

### Conclusion:

The outcome of research pointed towards various discrepancies and deficiencies occurring relating to rights of women working in organized sectors in various aspects of their life relating to their work. It is obviously due to the fact that working women are having incomplete and inconsistent scheme for protection of their rights. The standard norms in work life are formulated considering the men as standard and therefore they are giving rise to many new inequalities with respect to women employees in

organized sectors. It is a general impression with the society that an educated and economically independent woman is well protected but the close scrutiny shows that many new unprecedented inequality issues have cropped up with time exposing working women to new types of inequalities. So the legal and institutional changes are required to be made to suit needs of working women.

The Committee on Economic, Social and Cultural Rights as well as the Committee on the Elimination of Discrimination against Women have both clearly indicated that women's right to health includes their sexual and reproductive health. This means that States have obligations to respect, protect and fulfil rights related to women's sexual and reproductive health. India being a developing nation and a budding superpower, it cannot be overlooked that the country's economic, social and political development lies in the growth of its women.

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