



Rights of women in unorganized sector- An approach towards legal awareness

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Abstract

India is known for its geographical spread and the magnitude of its population. India has a population of 1.3 billion of which women constitute nearly half the percentage. Women play a vital role in the rural and urban economies of the country, yet the economic status of women is considered comparatively lower than that of men. Women face discrimination and violations of their rights everywhere, particularly in the country's work sector. The contribution of women can be seen in the formal as well as in the unorganized sector of the country. Indeed, the unorganized sector is a very important part of the Indian economy, and women's involvement in it is greater than men's. Currently, the unorganized sector employs around 94% of the country's female workforce. Even after making a significant contribution to this sector, women do not have the facilities and comfort they need to live a satisfactory life. They live their lives below satisfactory standards. Therefore, the main aim of this paper is to highlight the challenges and discrimination faced by the women of our country in the job sector and to raise awareness among women of their legal rights and remedies provided to them by the law of the country. Furthermore, it is to protect their human rights and empower them to achieve a decent work environment and a better life.

Keywords: human rights, women's rights, legal awareness, unorganized sector

Introduction

Introduction- Empowering women is the need of society for nationwide development, which is possible through encouraging, educating, motivating, and providing a healthy working environment for women. The agenda of SDG for 2030 is to empower women's economic status and eliminate the gender gap in the labour world. In ancient India, women used to take part in different fields of work and enjoyed the status of dignity, honour, and respect in society, but later their status gradually fell. At present, the government of India has taken many steps to stop the violation of human rights of working women in the workplace. Women working in the unorganized sector are not included in official statistics even though their work is not documented. Female labour force participation India has been fallen to 26% in 2018 from 36.7% in 2015. The number of crimes against women stood at 3,59,849 in 2017, with the crime rate at 57.9 as against 56.6 in 2014. In the area of employment, women held a share of 39 per cent in 2018, and their presence in managerial positions enhanced only up to 27 per cent from 26 per cent in 2015. There is a gender pay gap of 22 per cent in rural India, while 75 per cent of rural women workers are engaged in agriculture. This all happens due to the lack of education, skills, awareness and other barriers. This is all called the exploitation of the rights of working women in many forms. India is a mixed economy; both formal and informal sectors contribute to building the economic structure of the country, and women, along with men, are contributing to and participating in the development of the economy of the country. The unorganized sector has conquered a crucial part of the Indian economy since ancient times. The total number of female workers in India is 149.8 million, out of which rural areas individually account for 121.8 million. The unorganized sector plays an important role in employing the

large working force of the country. The involvement of women in this sector is greater as compared to that of men. Even after contributing a lot in the working sector, they are not able to get a satisfactory life. This fact can't be denied as well that the status of women in India is transforming along with the interference of government and law-bodies. The govt. has taken numerous steps to protect their rights and end exploitation. However, the status of women still has not reached a satisfactory level. In Indian traditional culture, women have always been treated with honour, respect, and dignity, called a "Devi", but practically it doesn't appear in society. At present, when women are participating along with men in every field of life and have broken down the walls of the house, they should be provided with the security of their human rights and equality in every field. Due to the increase in the cases of exploitation against working women and continuing violation of their human rights, women in our country don't feel secure and willing to take part in any field of work, so this study aims to make women aware of their legal rights and remedies that they can use against the wrongdoer.

Research problem

- Several studies have been carried out in this field, highlighting the problem faced by women, but only a few have established the solutions to be pursued to eliminate this problem and obstacle.
- The present society needs to make women aware of their legal rights and remedies that are available to them within the legal framework.

Objective of the study

- Several studies have been carried out in this field, highlighting the problem faced by women, but only a few have established the solutions to be pursued to eliminate this problem and obstacle.

- The present society needs to make women aware of their legal rights and remedies that are available to them within the legal framework.

Problems & challenges faced by women workers in India

- **Mental harassment:** It is the most well-known problem that most female employees face, either because of family, work, or community. Women are perceived to be inferior to men in nearly all fields. Hence, they are considered unfit or inadequate for many jobs or work, and when they participate in these jobs, they are mistreated or mentally abused by their family, husband, or community.
- **Discrimination based on gender at the workplace:** In India, it is very common for female employees to not be provided with all the facilities and privileges granted to male workers. However, India's constitution talks about gender equality and fundamental rights, but in reality, women are still denied fair opportunities in the case of promotions, bonuses, and leagues.
- **Sexual harassment:** A significant percentage of working women today are subject to sexual assault regardless of their age, gender, and other characteristics. In any place of work, they have to face harassment. In most situations where female employees are hired and supervised by a male supervisor, they experience sexual harassment.
- **Lack of family support:** This is the foremost reason why working women have to face double stress. Today, both men and women go out to work, but only women are expected to come back home and take care of the family. This makes their lives more stressful.
- **Job Insecurity:** Sometimes the fear of job loss can lead to human rights violations. When the woman is the only worker in her family, she has to work to meet the needs of her family and thus meet the expectations of the enormous mental stress due to this fear. She has to suffer exploitation.
- **No safety while travelling:** It is the outlook of Indian families that women should not go out at night. They don't allow their daughter or wife's mother to work during the night shift, and travelling at night seems to be horrible for women. As a result, women sometimes have to opt-out of jobs.

Problems faced by working women, especially in the unorganized sector

- **Lack of education:** Illiteracy is the main reason why female workers are not aware of their rights and how to use them. They have to work for low wages, resulting in their exploitation and violation of their rights.
- **Lack of technical knowledge:** the rapidly growing technological and digital environment is affecting the jobs of women in unorganized sectors.
- **Extreme work pressure:** Specifically in rural areas of the country, women have to work with their father, husband, or any other family member to earn an

adequate living and earn that amount that will help them fulfil the necessities of life, so being too involved in the work makes them feel pressured and stressed. This is the worst condition in the agricultural sector, where women perform double the percentage of work than is performed by men.

- **Wage discrimination:** In the unorganized sector, we find that women workers don't get the same wage payment as male workers for performing the same work.

Laws protecting the rights of women

Currently, we cannot ignore women's participation and contribution in every sphere of life, but we also cannot ignore the violation of their human rights. In reality, women in society have always had a secondary status because of their dependence on men for a living. Even though women work together with men in every field, and they earn together for their families, they still don't have that status, honour, and respect for what they do. Some laws have been enacted to protect women's human rights in the workplace and to stop the discrimination of all kinds that women have faced for a long time.

1. **Constitution of India:** The Constitution of India is the apex law of the country, and it is considered the guardian of the fundamental rights of the citizens of the country. The Indian constitution enriched the principle of equality and guaranteed equal rights for men and women alike. Yet women are almost everywhere considered a second priority. It is the apex law of the country and the guardian of the fundamental rights of citizens, and the preamble of the constitution provides for the equality of opportunity and status for both men and women. So women have the equal right to get an opportunity and participate without being discriminated against on any ground.

Article 14 guarantees equality before the law and the equal protection of laws, and Art. 15 prohibits discrimination on the ground of sex.

DPSP-Art 39 provides for equal pay, for equal work for both men and women. Under this article, the state shall direct its policy towards securing equal pay for equal work for both men and women. While the DPSPs are not enforceable by law, the state is bound to consider them while enacting laws, and though it is not a constitutional right, it should be read into the constitution through the articles of 14, 15, and 16. The state should make provisions for providing just and humane conditions of work, and also provide maternity relief.

2. **The factories Act, 1948:** This is welfare legislation that aims at securing the personal human rights of women;
 - Sec-22(2) of the act prohibits female workers to work with machinery in motion.
 - Sec- 48 of the Factories Act, 1948, which further stipulates that an employer shall provide a crèche when it employs 30 women in its workforce.
 - Sec 66(1) (b) – says that no women shall be allowed to work in any factory except between the hours of 6 am to 7 pm.

- Section 34 of the act authorizes the appropriate government to set the maximum load that a woman worker may lift.
- Adult female – 65 lbs.
- Adolescent female, 55 lbs.
- Female children, 30 lbs.
- Sec.87 of the act empowers the state govt. to prohibit the employment of women in dangerous work. Pearson vs. Belgium co. In this case, the question raised before the court was whether a woman worker could clean the stationary parts of a machine in motion, court held that the stationary parts of a moving machine could not be cleaned by a woman worker. Some of the provisions of the Factory Act 1948 also provide for the following:
- This act made it mandatory for every factory to maintain an adequate number of latrines and urinals in a prescribed manner separately for both men and women.
- Such facilities are to be situated in a manner that is easily accessible to workers in the factory.

3. The Mines Act, 1952: This act makes provisions for the safety and welfare of women working in coal, ferrous, metallic, and oil mines.
Sec- 46- prohibits the employment of women in any mine except between the hours of 6 am to 7 pm.

- 4. Indian Penal code, 1860:** Indian penal code specially deals with the crimes under the heading offences against women. Women have the right to be free from stalking. Sec 354 of the IPC deal with crime under-
- 354 (A) - Sexual harassment
 - 354 (B)-Assault on women with the intent to disrobe women.
 - 354 (C) - Voyeurism
 - 354 (D) – Stalking

- 5. The Employee's Insurance Act, 1948:** It is one of the most important social legislation in India. Under this act insured women, and workers get-
- Sickness benefit
 - Disablement benefit
 - Medical benefit
 - Funeral expenses
 - Maternity benefit

In certain cases of pregnancy, like a miscarriage of a child, premature birth of a child, etc., death occurs. In case of the death of a woman, the maternity benefit shall be payable to the nominee of the woman.

In Air India vs. Nargesh Mirza, the Supreme Court struck down the provisions of the rules which stipulated the termination of service of an air hostess on her first pregnancy, as it was arbitrary to the nations of civilized society.

6. Sexual harassment of women at workplace (prevention, prohibition & redressal) act, 2013:

This act makes provisions to protect women from sexual harassment in the workplace

- This act superseded the guidelines issued by the SC in the Vishakha vs. State of Rajasthan case.
- This act defines sexual harassment in the workplace and creates a mechanism for the redressal of complaints. It also provides safeguards against false or malicious charges.

- The definition of aggrieved women under this act covers all women irrespective of their age, status, employment, or whether they are in the organized sector or unorganized sector, private, public sector, and covers all client customer domestic workers as well. This act defines;
- Sexual harassment: any act or conduct of sexual nature whether physical verbal nonverbal.
- Delhi high court in Shanta Kumar vs. CSIR has held that any physical contact would constitute sexual harassment provided that such physical contact is a part of sexually determined behaviour. This act also provides circumstances when an act may amount to sexual harassment:
- Implied or explicit threat of detrimental treatment in her employment.
- Threat about her present or future employment status.
- Humiliating treatment likely to affect her health & safety etc.
- The important feature of this act is that it provides for the setting up of an internal complaint committee at every office of such an organization, an institution having more than 10 employees, to hear and redress complaints of sexual harassment.
- Where the number of employees in an organization is less than 10 act provides for setting up a local committee at the district level under the District office.

The Need for this Legislation:

- Essentially, the need for this legislation was raised at the time when the brutal gang rape of social women of Rajasthan took place, but in the absence of any strong legislation at that time, SC had to issue guidelines to stop the sexual harassment of working women at workplace in Vishakha vs. the state of Rajasthan.
- In due course, sexual harassment of female workers creates fear and terror in their minds and hearts, which destroys the confidence and self-respect of women, it creates a hostile work environment which discourages women from participating and working for earnings.
- Women are the builder of society and nation when they will live under fear and terror then how will they contribute to the development of the nation.

7. The contract labour (regulation and abolition) central rules, 1971): This act provides for the following provision in regards to the safety of women-

- This act provides for separate washing facilities for both male and female workers. Such facilities shall be conveniently accessible and shall be kept in a clean and hygienic condition.
- The act also provides for at least one latrine for every 25 female workers.
- Rule 41(3) provides that separate restrooms shall be provided for female employees.

Laws protecting the rights of women in unorganized sector

- 1. The maternity benefit act, 1961:** This act was enacted to provide maternity benefits to women, and to protect the employment of women workers during their maternity. Under this act, a woman worker is allowed to take full-paid maternity leave from work “for the

period of 26 weeks” added by the maternity benefit amendment act 2017.

- This act provides for the full paid absence from work for 12 weeks to a mother adopting a child under the age of 3 months.
 - This amendment also introduced an option to "work from home", which may be exercised after the expiry of 26 weeks.
 - This act also provides that the employer shall tell the female worker about their maternity rights at the time of their employment.
- 2. Equal Remuneration act, 1976:** This act provides for the payment of equal remuneration to both male and female workers for equal work, without being discriminated against based on gender. This act does not only give the right to equal pay to women, but also the right to equality concerning recruitment, job training, promotion etc.
- If the employer does not comply with the provisions of this act, then he shall be liable to punishment under this act.
 - Sec-4 of this act provides that no employer shall provide to any employee under him any remuneration either in cash or in kind at a rate less than that at which he provides to the workers of the opposite gender for performing the same work.
- 3. The beedi and cigar workers (Conditions of employment act, 1966):** This act provides for the following provisions-
- Sec.25- Prohibits the employment of women in any undertaking except between 6 a.m. to 7 p.m.
 - In every such undertaking, latrine and urinal facilities should be provided in the prescribed manner. If needed, then it should be separated for both men and women.
- 4. Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA):** The scheme was launched on August 25, 2005 by the Govt. of India to provide livelihood security to every household in the rural areas of the country by providing 100 days of guaranteed employment to every adult who's capable of performing unskilled work. This scheme has shown a positive influence on women's empowerment, especially in rural areas. Rural women's empowerment is critical to rural Indian development. In recent years, this scheme has boosted women's employment, and this increase in women's participation has significantly developed a sense of independence and security among women. For almost a decade of application of MGNREGA, it has succeeded in providing livelihood to deprived people in rural areas. During 2018–2019, approximately 4.6 crore households were given employment under this scheme, of which 54% were taken up by women. As of Jan 14, 2018, 54% of total employment was generated by women. 22% by SCs and 17% by STs. The trend of women taking up more than 50% of jobs under this scheme has been continuing since 2013-2014.

Findings and Suggestions

Therefore, since we realize that the main reason for breaching women's rights is women's illiteracy, especially in

rural areas, to avoid this issue, educational campaigns and legal education in every district should be implemented at a high level of law.

- It is very essential to create awareness among women about their rights and legal remedies. That is provided to them by the law of the country.
- Mass media, as well as social media, can play a crucial role in converging the message to all women about their rights and equality. Hence, mass media should be used for the proper execution of awareness programmes.
- In addition, in every such organization, workplace, or factory where women work, a separate female cell/committee shall be established, headed by a female.
- Gov. should set up special courts or fast track for handling and disposing of complaints of working women against their employers and employment issues.
- More changes are required in the country's labour laws as well as some more protections that should be included in labour laws to support women.

Conclusion

Finally, it can now be easily understood that our nation's security depends on its women's status. Pt. Jawaharlal Nehru rightly said that you can tell the condition of a nation by looking at the status of its women. In short, when a woman moves forward, the family moves; when the family moves, the nation moves. For the overall growth of society and community, women need to set aside their insecurity, and this can only be done by eliminating all the obstacles that hinder women from rising and by educating them, increasing their consciousness, building trust, and ensuring that their human rights are respected and they will not be subject to exploitation anymore. The government of India and the law of the country can play a vital role in achieving the goal of women's empowerment. Above all the debate and suggestions, the most significant role can be played by society's citizens at the societal level as well as at the individual level. The female labour force is always subject to misuse and discrimination, and the most important way to solve this issue is socially rather than legally. Society must help, motivate, and encourage women to achieve their personal and professional goals.

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