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## **WOMEN LABOUR PROTECTION: LEGISLATIVE TRENDS**

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### **Abstract**

Endeavouring a sense of responsibility towards women workforce at workplace and also in the society Legislature has taken major steps in securing the social protection also providing securities against the social evils. Mandatory adhering to the provisions of regulations and conventions of international treaties has great impact upon the objective enshrined in Indian constitution for securing women welfare at workplace. For full enjoyment of life a person should get favourable and healthy conditions of working as well as wages to meet their basic needs of life. Ensuring protection against sexual harassment, inequalities in income, discrimination, exploitation and to give regard to “right to work” various laws has been enacted to give women labour a shape of fruitful life. International conventions and treaties have been observed strictly to provide a healthy environment to women labour. Central government had enacted various Acts to enforce the objectives of directive principles of constitution also of International Labour Organisation for protection of women as Maternity Benefit Act, 1961, The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, The Factories Act, 1948 are the some major Acts of this cause.

### **Keywords**

Women Workforce, International Treaties, Sexual Harassment, Discrimination, Labour Organization, Right to Work, Legislation

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Over the years, several enactments have been passed for the welfare of the working people and protection of Indian employee rights. Some of these enactments carve out special provisions for the women workforce. Women constitute half the population of the society and it is presumed that best creations belong to the women. But it is a harsh reality that women have been ill-treated in every in every society for ages and India is no exception. Women are deprived of economic resources and are dependent on men for their living. From the cradle to grave, females are under the clutches of numerous evils such as discriminations, oppressions, violence, within the family, at the work places and in the society.

The Constitution of India puts the responsibility of paying living wage and decent working conditions. It provides that “the State shall endeavour to secure by suitable legislation of economic organisation or in any other way, to all workers, agricultural, industrial or otherwise work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and in particular, the state shall endeavour to promote cottage industries on an individual or co-operative basis in rural areas.<sup>1</sup>

In order to improve the condition of women in India, legislature enacted the large volume of enactments pertaining to industry or work contain special provisions for women such as:

- Maternity Benefit Act, 1961
- Employees State Insurance Act, 1948
- Employees Provident Funds and Miscellaneous Provisions Act, 1952
- Payment of Gratuity Act, 1972
- Employees Compensation Act, 1923
- The Factories Act, 1948
- The Mines Act, 1952

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- The Plantation Labour Act, 1951
- Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996
- The Beedi and Cigar Workers (Conditions of Employment) Act, 1966
- The contract Labour (Regulation and Abolition) Act, 1970
- The Inter State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979
- The Minimum Wages Act, 1948
- The Payment of Wages Act, 1936
- The Equal Remuneration Act, 1976
- The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013
- The Maternity Benefit Amendment Act, 2017

Amongst labourers, the conditions of working women is particularly vulnerable. To protect this vulnerable group, many legislative provisions have been provided in almost all labour statutes which address problems of women labourers in their employment situation. The Second National Commission on labour, 2002 has also justified the protective discriminatory legislation in favour of women by recommending that all such legislations are necessary for women workers. Early measures for their protection were simple in character and were designed only to regulate the hours of work and employment. The establishment of the International Labour Organisation in 1919 influenced considerably the activities of the State in this field. Consequently, such laws were passed which not only regulated the hours of work but also contained provisions of health, safety and welfare of women workers and guarantees equality before law and equal treatment to women workers. Most of these laws have been inspired by the Conventions and Recommendations adopted by the International Labour Organisation.

Social Security is a basic need of all women regardless of employment in which they work and live. It is an important form of social protection. In a general sense social security refers to protection extended by the society and State to its members to enable them to overcome various contingencies of life.

The important legislative measures adopted by the Government and which provide protection to the women workers in certain contingencies have been given as follows:

- **The Maternity Benefit Act, 1961:** The Act seeks to regulate the employment of women in certain establishments for certain periods before and after child birth and to provide maternity benefit and certain other benefits to women workers. A woman employee is entitled to maternity benefits under the Act irrespective of the number of children she has. This matter was considered in a high level Committee set up by the Central Government. The Committee thought that though it is contrary to the family planning norms being advocated by the Government, it is also not appropriate to deny a woman employee the benefits under the law, once she gave birth to a child. The Act was passed with a view to reduce disparities under the existing Maternity Benefit Acts and bring uniformity with

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regard to rates, qualifying conditions and duration of maternity benefits. The maternity benefits through the latest amendment by the parliament have been increased to 26 weeks from 12 weeks for women working at companies with at least 10 employees.

- **The Employees' State Insurance Act, 1948:** The Employees' State Insurance Act, 1948 provides for health care and cash benefit payments in the case of sickness, maternity and employment injury. The Act is applicable to non-seasonal factories using power and employing 10 or more employees and non-power using factories and certain other establishments employing 20 or more employees. Seasonal factories, mines and plantations have not been covered under the Act. It also does not cover the unorganised labour or self-employed workers. It is applicable to employees drawing wages not exceeding Rs. 10,000 per month.<sup>ii</sup>The main objective of the Employees' State Insurance Act, 1948, is to provide to the workers medical relief, sickness cash benefits, maternity benefits to women workers pension to the dependents of deceased workers and compensation for fatal and other employment injuries including occupational diseases, in an integrated form through a contributory fund. Benefits like sickness benefits, medical benefits, dependent benefits, disablement benefits, funeral and maternity benefits have also been provided in this act.
- **The Payment of Gratuity Act, 1972:** The Payment of Gratuity Act, 1972 envisages to provide a retirement benefit to the workmen who have rendered long and unblemished service to the employer, and thus contributed to the prosperity of the employer. Gratuity is a reward for long and meritorious service.<sup>iii</sup>The significance of this Act lies in the acceptance of the principle of Gratuity as a compulsory, statutory retirement benefit. Every employee, other than apprentice irrespective of his wages is entitled to receive gratuity after he has rendered continuous service for five years or more.
- **The Workmen's Compensation Act, 1923:** In case of an accident or some diseases occurred at workplace resulting in death or disability of women workers, is not merely a financial loss, but also of house keeping function. It is an irreparable loss to the family itself. Even if male member of the family come across some accident at workplace resulting in injury or death, the women are the real victims. The Workmen Compensation Act is one of the important legal provisions to deal with such cases. The Compensation has to be paid by the employer to a workman for any personal injury caused by an accident arising out of and in the course of his employment.<sup>iv</sup>The employer will not be liable to pay compensation for any kind of disablement (except death) which does not continue for more than three days. If the injury is caused when the workman was under the influence of Alcohol or drugs or willfully disobeyed a clear order or violated a rule expressly framed for the purpose of securing the safety of workman or willfully removed or disregarded a safety device. The rate of compensation in case of death is an amount equal to 50 percent of the monthly wages of the deceased workman multiplied by the relevant factor or an amount of Rs. 80,000 whichever is more. Where permanent total disablement results from the injury, the compensation will be an amount equal to 60 percent of the monthly wages of the injured workman multiplied by the relevant factor or an amount of Rs. 90,000, whichever is

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more. Where the monthly wages of a workman exceed four thousand rupees, his monthly wages for the above purpose will be deemed to be four thousand rupees only.

- **The Employees' Provident Funds and Miscellaneous Provisions Act, 1952:** The Employees' Provident Funds and Miscellaneous Provision Act, 1952 is a welfare legislation enacted for the purpose of instituting a Provident Fund for employees working in factories and other establishments. The Act aims at providing social security and timely monetary assistance to industrial employees and their families when they are in distress and/or unable to meet family and social obligations and to protect them in old age, disablement, early death of the bread winner and in some other contingencies.
- **Employees' Provident Fund Schemes, 1952<sup>v</sup>:** The Central Government may, by notification in the Official Gazette, frame a Scheme to be called the Employees' Provident Fund Scheme for the establishment of provident funds under this Act for employees or for any class of employees and specify the (establishments)<sup>vi</sup> or class of establishments to which the said Scheme shall apply and (there shall be established, as soon as may be after the framing of the Scheme, a Fund in accordance with the provisions of this Act and the Scheme).<sup>vii</sup>
- **The Factories Act, 1948:** The Factories Act is a welfare legislation enacted with an intention to regulate working conditions in the factories and to provide health, safety and welfare measures.<sup>viii</sup> Besides, the Act envisages to regulate the working hours leave holidays, overtimes, employment of children, women and young persons etc.<sup>ix</sup> The Act was drastically amended in 1987 whereby safeguards against use and handling of hazardous Substances and procedures for setting up hazardous industries were laid down. Specific provisions for females include:
  - Separate Latrine and Urinal Facilities
  - Prohibition of work by females in Hazardous Occupations
  - Separate Washing and Bathing Facilities
  - Crèches
  - Hours of Work: Daily hours of work of adult workers have been fixed at 9.<sup>x</sup> It does not permit women to work beyond this limit.<sup>xi</sup> Also in case of women workers there shall be no change of shifts except after a weekly holiday or any other holiday.
  - Maximum Permissible Load
    - Adult females : 65 lbs
    - Adolescent females : 55 lbs
    - Female children : 30 lbs
  - Prohibition of Night work
- **The Mines Act, 1952:** The Act has been enacted to amend and consolidate the law relating to the regulation of labour and safety in mines. It seeks to regulate the working conditions in mines by providing for measures required to be taken for the safety and security of workers employed therein and certain amenities for them. The Act contains detailed

provision relating to their health and safety, hours and limitation of employment, leave with wages.

- **The Plantation Labour Act, 1951:** To provide a mechanism for ensuring the safety, health and wealth of the about one million plantation workers in the country.
- **Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Act, 1996:** The purpose of this Act to regulate the employment and conditions of service of construction workers and to provide for their safety, health and welfare measures. The special feature of the Act is that it covers all private residential buildings if the cost of construction is more than rupees ten lakhs.
- **The Beedi and Cigar Workers (Conditions of Employment) Act, 1966:** Beedi manufacturing is one of the traditional and largely home-based industries in India. It is largely labour intensive and engages 45 million workers and nearly two thirds of them are women.<sup>xii</sup> The enactment is particularly relevant, as bulks of the home workers in beedi rolling are women.
- **The Contract Labour (Regulation and Abolition) Act, 1970:** Contract Labour (Regulation and Abolition) Act, 1970 was enacted not only to regulate the contract labour but also to abolish it. To lessen their burden and to avoid liability towards regular employees, employer devised a Scheme of getting their work done through contract workers. Contract labour which forms an unorganised sector of employment were Subjected to lot of discriminations and expenses. Contract Labour Act came to mitigate their sufferings and to regulate their employment.<sup>xiii</sup>
- **Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979:** The vast majority of migrant workers fall in the unorganised sector. Workers are recruited from various parts of a State through contractors or agents commonly known as 'Sardars', generally for work outside the State wherever construction projects are available. This system leads itself to various abuses. The promises that contractors make at the time of recruitment about higher wages and regular and timely payments are not usually kept. No working hours are fixed for these workers and they have to work all days in the week under extremely bad, often intolerable working conditions in hospitable environments. The provisions of various labour laws are not observed and migrant workers are often subjected to various forms of malpractices.
- **The Payment of Wages Act, 1936:** The Payment of Wages Act, 1936 was enacted to regulate payment of wages to workers employed in industries and to ensure a speedy and effective remedy to them against illegal deductions and/or unjustified delay caused in paying wages to them. The wage ceiling under Payment of Wages Act, 1936 was fixed at Rs. 1600/- pm. in 1982. With a view to enhance the wage ceiling to 6500/-p.m. for applicability of the Act, to empower the Central Government to further increase the ceiling in future by way of notification and to enhance the penal provision etc. the Payment of Wages (Amendment) Act, 2005, which was passed by both houses of Parliament, has been notified on 06.09.2005 as an Act 41 of 2005 by the Ministry of Law and Justice. Subsequently, the

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Ministry of Labour and Employment has issued the Notification S.O. 1577 (E) to make the Payment of Wages (Amendment) Act, 2005 effective from the 9th November 2005.<sup>xiv</sup> Recently the Labour Law Notification S.O. 1380 (E) has been issued which enhance the wage limit from 6500/- to 10000/- p.m.<sup>xv</sup>

- **The Equal Remuneration Act, 1976:** In Part IV relating to the Directive Principles of State Policy Article 39 of the Constitution envisages that the state shall direct its policy, among other things, towards securing that there is equal pay for equal work for both men and women. In order to give effect to this provision, in the year which was being celebrated as the International Women's Year, President of India promulgated the Equal Remuneration Ordinance, 1975 on 26th September, 1975 to provide for the payment of equal remuneration to men and women workers and for the prevention of discrimination on the ground of sex, against women in the matter of employment.<sup>xvi</sup> The ordinance was replaced by the Equal Remuneration Act, 1976 which received the assent of the President of India on 11th February, 1976.
- **The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013:** Sexual harassment at work is not uncommon and we come across various cases dealing with harassment in the workplace. India finally enacted its law on prevention of sexual harassment against female employees at the workplace in 2013. The statute was enacted almost 16 years after the landmark judgment of the Supreme Court of India, in the matter of Vishaka and others v. State of Rajasthan.<sup>xvii</sup> The Vishaka Judgment laid down guidelines making it mandatory for every employer to provide a mechanism to redress grievances pertaining to sexual harassment at work and enforce the right to gender equality of working women ("Guidelines"). Till the enactment of the Sexual Harassment Act, organizations were expected to follow the Guidelines, but in most instances, they fell short. The enactment of the sexual harassment act has brought the much-needed relief to the women workforce.

However, due to the nature of work of certain industries, they may require their female employees to work beyond the prescribed limits, for which they will need to take prior permission from the authorities. The approvals for allowing women to work late nights always comes with special conditions and obligations, on the part of the employer, such as, providing a safe working environment, providing adequate security during the night hours, provide transport to their residence after the late working hours, women employees should be placed in a group while working at nights and not alone, etc. The IT sector has seen an exponential growth in the recent past and this sector is one which typically has a huge manpower. We see equal number of men and women working in the IT sector, and they work late in to the nights for their shift work, due to catering to countries across the globe, with varied time difference. In order to address the safety of women workers in this sector, apart from the provisions under the SEA, the State Governments have their independent IT/ITES policies, which address the issues of women working night shifts and the various measures to be undertaken by the employer to ensure their safety.

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- i Constitution of India, Article 43
  - ii Revised from Rs. 7500 p.m. vide notification no. X-14/11/1/2004, P an D 29.09.2006 w.e.f. 01.10.2006.
  - iii Bombay Union Dyeing and Bleaching Mills v. Narayan Tukaram More (1980) 11 LLJ 424 (DB) (Bom.)
  - iv Section 3 of the Workmen's Compensation Act, 1923.
  - v Section 5 of Employees' Provident Fund and Miscellaneous Provisions Act, 1952.
  - vi Subs. by Act 94 of 1956, Sec. 3 for "factories".
  - vii Added by Act 37 of 1953, Section 4
  - viii Suresh V. Nadagoudar, "Right of Women Employees at their work place," Lab. IC. Feb. 2007
  - ix Ajay Garg, "Labour Laws one should know", 22nd edition 2007, Pub. Nabhi Publication, NewDelhi, p. 120.
  - x Section 54 of the Factories Act, 1948.
  - xi Section 66(1)(a).
  - xii Suresh V. Nadagoudar, "Rights of Women Employees at their Workplace," Lab. IC – Feb. 2007.
  - xiii G.Q. Mir, "Human Rights of Workers and Labour Laws," Kashmir University Law Review Vol. XII No. XII, 2005 p. 136.
  - xiv Annual Law Report 2006, 2007 p. 48.
  - xv Labour Law Notification No. S.O., 1380 (E) – 8-8-2007
  - xvi Labour and Industrial Law Manual, 2007 p. 343.
  - xvii AIR 1997 SC 3011

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