

Industrial Laws in India and its Gender Neutrality

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Introduction:

Nowadays Industrialisation is the modern trend in almost all developing countries, as the industry plays a vital role in shaping the economic structure of the society and where employers and employees are the two most important pillars of the economy. A developing country like India has also concentrated on the industrial sector. But the peculiar problem is that women's participation in the labour force is very low and still they lag behind men in terms of work participation and quality of employment.

Industrial Revolution and Woman:

Look into the history, under colonial rule India followed the non- industrial model. As the society developed gradually, they believed that true economic progress lied on industries and they concentrated on industrialization. Industrial revolution has been started mainly in the latter half of the 18th century in the rural agrarian societies in Europe and America and in India it was started in the mid-19th century. This is marked as a period of development and the steam engine, flying shuttle, telegraph, power loom, etc. all are invented in this period.

Before the industrial revolution women worked in their home usually, they manage the dairy, gardens, firm animals as well as raising their child and running of the household. During the industrial revolution women usually worked with their husband where they worked in urban areas and gradually women started working in textile

industries and other factories but the working condition of the factories was hazardous. Women were worked for longer hours than men still they received a much lower average wages and they suffering different types of diseases due to the extreme work hour in unsafe condition, so in 1836 women workers founded an association to organize a protest regarding their extreme work hours and in 1840 the 10 hours movement was innate and these problems were demarcated by the legislature and led to the enactment of Acts like Factories Act,1948, Equal remuneration Act, 1961, Maternity benefit act, 1961, Employees state insurance act, 1948 etc.

INDUSTRIAL LAWS IN INDIA:

➤ **Indian Constitution**

The constitution of India safeguards the right by putting her at par with man socially, economically, politically. The principle of the gender equality is enshrined in its Preamble, Fundamental Rights, Fundamental Duties, Directive principles of state policies etc. under Article14, Article15, Article15(3), Article16, Article39(a), Article39(b), Article39(c), Article42, Article51(c), Article51(A)(e), Article243D (3), Article 243D (4), Article 243T (3), Article 243T (4), etc.

- **The Preamble of the Constitution**

The preamble of the constitution itself secure to all citizens social, economic and political justice and also promote equality of status and opportunity among its citizens.

- **Right to Equality**

Article 14,15,16 of the constitution ensures gender equality and also empower the state to adopt special provisions for women and children for safeguarding their interest, which is not a violation of the fundamental rights in any sense.

- **Human Trafficking and Forced Labour**

Article 23 protects the right against exploitation and prohibit the trafficking of men, women, and children it also prohibits other similar forms of forced labour and any contravention of this provision shall be a punishable offence.

- **Equal Pay for Equal Work**

Article 39(d) ensures that the state shall direct its policy towards securing that there is equal pay for equal work for both men and women.

➤ **Equal Remuneration Act, 1976**

The Equal Remuneration Act, 1976 was passed to provide for equality of pay for equal work between men and women.

➤ **Maternity Benefit Act, 1961**

The act mainly empowers the women to avail paid maternity during their pregnancy and delivery and it also applicable at the time of adoption of a child.

➤ **Employees State Insurance Act, 1948**

The act mainly enacted to provide for certain benefits to employees and to evolve a scheme of socio-economic welfare. It also insured women workers get sickness benefits, dependants' benefit, disablement benefit, medical benefit, and funeral expenses along with insured men workers.

➤ **Factories Act, 1948**

In the year 1881 Factories Act first enacted in India and after that, in 1948 the act was amended again with certain laws. This is labour welfare codified law which mainly speaks about the working conditions in factories and to provide health, safety, and welfare measures even under this act exclusive provisions have been made for the employment of women in factories and also protects workers from being subjected to unduly long hours of strenuous or manual labour.

➤ **Mines Act, 1952**

This act is not included within the purview of Factories Act, 1948 so, to protect the health safety, and welfare of women employed in the coal and oil mines the Mines Act, 1952 was passed. The prohibition of employment in a mine that is below ground is made in the interest of women as the process or activity in mines is hazardous and causes material impairment to the health of women.

➤ **The Beedi and Cigar Workers Act, (Conditions Of Employment) 1966**

In rural areas, a large no of women and children are employed in making the process of beedi and cigar but they are exploited in terms of wages and working hours. So, In the year 1966 Govt. passed the Act which provided exclusive benefits to the women workers.

➤ **Sexual Harassment of Women at Workplace (Prevention, Prohibition And Redressal) Act, 2013**

In the year, 2013 government passed the act to provide a safe and secure harassment-free working environment for all women.

Gender Neutrality of Industrial Laws

Men and women both are integral parts of society. They are not substitute to each other they are complementary to one another. Both of them equally can establish a happy & peaceful environment in the society so we can't ignore their involvement in economic sector also. Where 50% of the population are women who are still unemployed, they lag behind the men around the world so that the true potential is left from being harnessed.

Government passed several acts to protect the women still, in mining sector and in factories women are unable to gain work experience, the employers' thoughts it will create hurdle for women. Even some employers recruit only unmarried women on the condition to resign their post on getting married and the statutory obligation on the employer to pay maternity benefit is considered a burden and which also affect the employment of women. This has been discriminatory, unfair, and unjust. The prohibition of night work of women under many legislations has affected the employment of women. Even still date in factories and industries women workforce is very less compare to men.

Role of Judiciary

In the year 1953 in **Dattatreya Motiram v State of Bombay**¹ Chief Justice Chagla said that as per Article 15(1) and 15(3) the state can adopt measures of affirmative discrimination in favour of women which is not violation of right to equality in any sense and after a decade in **1981, Air India v Nargesh Meerza**², where the airhostesses of India brought a case against their employer. In this case Supreme court upheld the discriminatory conditions of service and also mentioned that the termination of service on pregnancy was unreasonable and arbitrary. And it is clearly violating Article 14 of the Constitution. In **Mrs. Siva Marul v The state of Tamil Nadu and others**³ The court held that removal from service of a lady teacher of a private school on the ground that she got married was not only unreasonable, but also opposed to public policy. It also violated the right to life and personal liberty of individuals, that includes the right to live with dignity and Right to Livelihood is an integral part of Right to Life and termination of service on the ground of marriage is the violation of Right to Livelihood. In 1999,

¹ Bom 311(1953)

² SC AIR 1829 (1981)

³ II LLJ 133 (1985)

Vasantha R. Vs. Union of India (UOI) And Ors. ⁴, The Madras High Court declared the provision regarding, women not allowed to work between 7 pm to 6 am is unconstitutional and it is not applied to the whole India and it is laid down certain conditions for protection of women in case they are required to work beyond 10 PM, the employer should protect them against sexual harassment and provided them separate transportation facility, separate canteen facility/restrooms, women to work in groups etc.

International Laws

- Article 8 of the UN charter, 1945.
- Article 1 and 7 of the universal declaration of human rights, 1948.
- Article 26 of the international convention on civil and political rights, 1966.
- Article 3 of the international convention on economic social and cultural rights 1966.

Importance of Women Empowerment in Industry

- ❖ Around 50% of the world population consists of women population hence, if we ignore the employment of women then it'll give a negative impact on economy.
- ❖ To get rid of poverty equal opportunity in each & every sector is also necessary.
- ❖ Women played a vital role to maintain peace and harmony at home so if we empower them then they can easily promote harmony in society so, female involvement is vital for the smooth functioning of the each and every sector.

Suggestions:

- Government should take necessary steps to ensure that no exploitations of labour takes place.
- Provisions of the acts should be followed in a strict manner.
- industries need to develop commitment to diversity and introduce better policies as well as improved the recruitment, retention and career development policies for both men and women and also ensure that they can serve better infrastructures and transportation facilities would support women's mobility.
- A Supervisory Board should be there in each and every industry who monitor the proper implementation of each and every policy for the benefits of the women.
- For the Upliftment of women non-formal educational programs are needed.

⁴ W.P.4604-06 (1999)

- In rural areas, a large no. of women actively engaged in agriculture, but they don't have proper knowledge about the agricultural resources such as agricultural technologies, credit training, Etc. so it is need of the hour to improve the lot of the woman by designing and implementing such projects which could improve and promote the development of agricultural technologies and extension services for woman.

Conclusion:

In the modern era, society wants to protect individuals and provide benefits to women's security at the workplace and many programs are conducted to train such women around the world but the saddest truth is that we are still far away from achieving the goal of gender neutrality. And the deplorable condition of women is persisting in every region of the world, in spite of numerous international, national, and regional legislations. So, implementing authority has to empower the woman by enforcing these laws in true spirit. Hence, upholding the Dignity of Women and to empower them equally like men is the need of the hour, if we ignore it and if we are incapable to give them a dignified position of women in society, the society will break like a house of cards with the passage of time and the term 'gender neutrality' became an illusion.

Bibliography:

- Mishra, S.N., ed. 2014 *labour & industrial laws*, Allahabad: central law publication.
- Pandey, Dr. J.N. ed. 2012 *The Constitutional Law of India*, Allahabad: Central Law Agency.
- Rao, Mamta, ed. 2012, *Law Relating To Women And Children*, Lucknow: eastern book company.
- Muhammed Yasir, S.I.A. April 2016. "*Labour Legislation In India – A Historical Study*", Indian Journal Of Applied Research: 6 (4): 2249-555X: 34-36
- Kulushrestha, Sony, July 2019. *Provisions Of Labour Law To Safeguard The Interest Of Female Workers To Ensure Equality In India*, International journal of recent technology and engineering (IJRTE): 8 : 2277-3878: 975-978.
- Seerwani Prerna,(13-11-2020) Laws every women should know about in relation to safety at Indian workplaces <https://www.ungender.in/laws-every-women-should-know-in-relation-to-safety-at-workplace/>