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GENDER EQUALITY AND SAFE WORKPLACES FOR WOMEN EMPLOYEES IN INDIA: A CRITICAL EVALUATION OF THE LABOUR LAW FRAMEWORK

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Abstract

The participation of women in India's workforce has increased significantly over the past few decades, yet achieving substantive gender equality and ensuring safe workplaces continue to pose major challenges. Despite constitutional guarantees of equality and dignity, women employees frequently encounter gender-based discrimination, unequal remuneration, workplace harassment, unsafe working conditions, and barriers to career advancement across both the organised and unorganised sectors. The evolving nature of employment, including the growth of contractual, platform, and gig work, has further exposed gaps in the existing labour law framework, raising concerns regarding the adequacy and accessibility of legal protection for women workers. This research critically evaluates the effectiveness of the Indian labour law framework in promoting gender equality and ensuring safe workplaces for women employees. It examines the constitutional provisions, key labour legislations, including the Labour Codes, the Equal Remuneration provisions incorporated under the Code on Wages, 2019, the Occupational Safety, Health and Working Conditions Code, 2020, the Maternity Benefit Act, 1961 (as amended), and the Prevention of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. The study further analyses judicial interpretations, policy initiatives, and India's obligations under international labour standards and human rights instruments to assess the extent to which the legal framework conforms to principles of equality, dignity, and decent work.

Adopting a doctrinal legal research methodology, supplemented by a comparative and policy-oriented analysis, the study identifies legislative gaps, implementation challenges, institutional deficiencies, and enforcement barriers that undermine the effective protection of women

employees. Particular attention is given to issues relating to workplace harassment, gender discrimination, maternity protection, equal remuneration, occupational safety, and the emerging challenges faced by women engaged in informal, contractual, and platform-based employment.

The study seeks to contribute to the existing body of labour law scholarship by proposing legal and policy reforms aimed at strengthening gender-responsive labour governance and ensuring effective enforcement of workplace rights. It argues that a comprehensive and inclusive labour law framework, supported by robust institutional mechanisms and accountability measures, is essential for creating safe, equitable, and discrimination-free workplaces. The findings are expected to provide valuable insights for policymakers, legislators, employers, judicial institutions, and researchers engaged in advancing gender justice and labour rights in India.

Keywords: Gender Equality, Women Employees, Labour Law, Safe Workplaces, Workplace Harassment, Prevention of Sexual Harassment (POSH) Act, Labour Codes, Equal Remuneration, Occupational Safety, Maternity Protection, Women's Labour Rights, Gender Justice, India.

Introduction

Gender equality is a fundamental human right and an essential prerequisite for achieving inclusive economic development, social justice, and sustainable growth. In the contemporary labour market, women's participation has expanded significantly across diverse sectors, including manufacturing, services, information technology, healthcare, education, and the rapidly emerging gig and platform economy. Despite this progress, women employees continue to experience multiple forms of discrimination, unequal treatment, workplace harassment, occupational segregation, wage disparities, and limited access to leadership positions. These challenges not only violate the constitutional principles of equality and dignity but also undermine productivity, organisational efficiency, and national economic development.

The Constitution of India provides a strong foundation for gender equality by guaranteeing equality before the law, prohibiting discrimination on the grounds of sex, and ensuring equal opportunity in public employment. The Directive Principles of State Policy further require the State to promote equal pay for equal work, humane conditions of work, maternity relief, and social justice. In furtherance of these constitutional mandates, India has enacted several labour legislations aimed at protecting the rights of women employees. These include the Code on Wages, 2019, the Occupational Safety, Health and Working Conditions Code, 2020, the Code

on Social Security, 2020, the Maternity Benefit Act, 1961 (as amended), and the Prevention of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. Collectively, these laws seek to ensure equal remuneration, maternity protection, occupational safety, social security, and protection against workplace harassment.

Notwithstanding this comprehensive legal framework, the implementation of labour laws continues to present significant challenges. Many women employees, particularly those engaged in the informal sector, domestic work, contractual employment, and gig-based occupations, remain outside the effective protection of labour legislation. Under-reporting of workplace harassment, inadequate awareness of legal rights, ineffective functioning of Internal Committees under the POSH Act, weak enforcement mechanisms, and socio-cultural barriers continue to hinder access to justice. Furthermore, technological transformation, flexible employment relationships, remote working arrangements, and the expansion of digital labour platforms have introduced new dimensions of workplace discrimination and harassment that existing legal frameworks are yet to address comprehensively.

Internationally, gender equality at work has been recognised as a core labour standard through various international instruments, including the International Labour Organization (ILO) Conventions, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and the United Nations Sustainable Development Goals, particularly Goal 5 (Gender Equality) and Goal 8 (Decent Work and Economic Growth). As a member of the international community, India has undertaken commitments to promote equal employment opportunities, eliminate workplace discrimination, and ensure safe and dignified working conditions for women. However, translating these commitments into effective domestic implementation remains a continuing legal and policy challenge.

Against this backdrop, the present study critically evaluates the Indian labour law framework governing gender equality and workplace safety for women employees. It examines the extent to which existing labour laws adequately safeguard women against discrimination, workplace harassment, unequal remuneration, unsafe working conditions, and employment insecurity. The study also analyses judicial interpretations, administrative practices, policy initiatives, and institutional mechanisms responsible for enforcing these rights. Special emphasis is placed on identifying legislative gaps and implementation deficiencies affecting women employed in both organised and unorganised sectors, including emerging forms of employment such as platform and gig work.

The research adopts a doctrinal legal research methodology supported by comparative and policy analysis to assess the effectiveness of the current legal regime. It seeks to determine

whether the existing labour law framework sufficiently responds to evolving workplace realities and fulfils constitutional and international obligations relating to gender equality and decent work. Based on its findings, the study proposes legal and policy reforms aimed at strengthening institutional accountability, improving enforcement mechanisms, enhancing workplace safety, and ensuring substantive equality for women employees.

This research is expected to contribute significantly to the field of labour law by offering a comprehensive and contemporary evaluation of gender equality and workplace safety in India. It aims to provide meaningful recommendations for legislators, policymakers, employers, judicial institutions, labour administrators, and researchers to develop a more inclusive, equitable, and gender-responsive labour law framework capable of addressing the changing dynamics of the modern workplace.

Constitutional Framework for Gender Equality

The Constitution of India establishes a robust legal foundation for promoting gender equality and safeguarding the rights of women in all spheres of life, including employment. The constitutional vision extends beyond formal equality and seeks to achieve substantive equality by empowering women through affirmative measures, social justice, and protective labour legislation. Fundamental Rights, Directive Principles of State Policy (DPSPs), and Fundamental Duties collectively impose obligations on the State to create an equitable and safe working environment for women employees.

Article 14 guarantees equality before the law and equal protection of the laws to every person. It forms the cornerstone of gender justice by prohibiting arbitrary discrimination and ensuring equal treatment of women in employment. The Supreme Court has consistently interpreted Article 14 as encompassing fairness, reasonableness, and non-arbitrariness in state action, thereby strengthening the legal rights of women workers.¹

Article 15(1) prohibits discrimination on the grounds of religion, race, caste, sex, or place of birth. More significantly, **Article 15(3)** empowers the State to enact special provisions for women and children. This constitutional exception recognises that substantive equality often requires protective legislation to address historical and structural disadvantages faced by women. Labour welfare statutes such as the Maternity Benefit Act, 1961, and the Prevention of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act,

¹ The Constitution of India, art. 14; *E.P. Royappa v. State of Tamil Nadu*, (1974) 4 SCC 3.

2013 derive constitutional legitimacy from Article 15(3).²

Article 16 guarantees equality of opportunity in matters relating to public employment. It prohibits discrimination on the ground of sex and ensures that women have equal access to government employment and promotional opportunities. Judicial interpretation has expanded the scope of Article 16 by invalidating discriminatory service conditions that disproportionately affect women employees, thereby reinforcing gender equality in public service.³

The constitutional protection of women employees has also been significantly strengthened through **Article 21**, which guarantees the right to life and personal liberty. The Supreme Court has interpreted this provision to include the right to live with dignity, privacy, bodily integrity, and a safe working environment. In the landmark *Vishaka v. State of Rajasthan*, the Court recognised sexual harassment at the workplace as a violation of Articles 14, 15, 19(1)(g), and 21, thereby affirming that workplace safety is an essential component of the fundamental right to life and dignity.⁴

The **Directive Principles of State Policy** further reinforce gender-sensitive labour governance. **Article 39(d)** directs the State to secure equal pay for equal work for both men and women. Although originally non-justiciable, this principle has been judicially recognised as an important constitutional objective and subsequently incorporated into labour legislation, including the Code on Wages, 2019. Similarly, **Article 42** obligates the State to ensure just and humane conditions of work and to provide maternity relief. This provision has served as the constitutional basis for maternity benefits, occupational safety measures, and welfare-oriented labour policies designed to protect women employees.⁵

In addition to enforceable rights and directive principles, the Constitution also imposes societal responsibilities through **Article 51A(e)**, which makes it a Fundamental Duty of every citizen to renounce practices derogatory to the dignity of women. Although non-enforceable, this provision reflects the constitutional commitment to fostering a culture of respect, equality, and dignity in workplaces and society. It complements legislative initiatives aimed at preventing workplace harassment and gender-based discrimination.

The constitutional framework demonstrates that gender equality is not confined to formal legal guarantees but encompasses substantive justice, workplace dignity, and equal participation in economic life. Constitutional provisions have served as the guiding principles for labour

² The Constitution of India, art. 15; *Government of Andhra Pradesh v. P.B. Vijayakumar*, (1995) 4 SCC 520.

³ The Constitution of India, art. 16; *Secretary, Ministry of Defence v. Babita Puniya*, (2020) 7 SCC 469.

⁴ *Vishaka v. State of Rajasthan*, (1997) 6 SCC 241.

⁵ The Constitution of India, arts. 39(d), 42; *Randhir Singh v. Union of India*, (1982) 1 SCC 618; *Municipal Corporation of Delhi v. Female Workers (Muster Roll)*, (2000) 3 SCC 224.

legislation, judicial activism, and policy reforms that seek to eliminate discrimination and create safe and inclusive workplaces. Nevertheless, persistent implementation gaps, occupational segregation, wage inequality, and workplace harassment indicate that constitutional ideals have yet to be fully realised. Strengthening enforcement mechanisms, improving institutional accountability, and promoting gender-sensitive workplace practices remain essential to translating constitutional guarantees into meaningful protection for women employees in India.

Evolution of the Legal Framework for the Protection of Women Workers in India

The evolution of labour laws protecting women in India reflects the country's progressive commitment to achieving gender equality, social justice, and the protection of workers' rights. Historically, women's participation in the workforce was largely concentrated in agriculture, domestic work, and small-scale industries, where legal safeguards were either inadequate or non-existent. During the colonial period, labour legislation primarily focused on regulating industrial employment rather than addressing gender-specific concerns. Women were viewed as a vulnerable category of workers requiring protection rather than as equal participants in the labour market. Consequently, early labour laws adopted a welfare-oriented approach aimed at regulating working hours, prohibiting night work in certain industries, and ensuring basic health and safety measures for women employed in factories.

The first significant legislative intervention was the **Factories Act, 1881**, which introduced limited provisions relating to working hours and employment conditions in factories. Subsequent amendments and enactments, particularly the **Factories Act, 1948**, expanded these protections by incorporating comprehensive provisions relating to occupational health, safety, welfare facilities, prohibition of hazardous employment, and regulation of working hours for women workers. Although these legislations represented important milestones in labour welfare, they were criticised for adopting a paternalistic approach that often restricted women's employment opportunities instead of promoting substantive equality.

Following India's independence, the Constitution of India fundamentally transformed the legal landscape governing women's employment. The constitutional guarantees of equality before law, prohibition of discrimination on the ground of sex, equal opportunity in public employment, equal pay for equal work, humane conditions of work, and maternity relief provided a strong normative foundation for gender-responsive labour legislation. These

constitutional principles shifted the focus of labour law from mere protection to the recognition of women as equal participants in economic development. Consequently, post-independence labour reforms increasingly sought to eliminate discrimination while promoting equal opportunities and workplace dignity.

One of the most significant developments in this regard was the enactment of the **Maternity Benefit Act, 1961**, which recognised maternity as a social function rather than an individual burden. The Act guaranteed paid maternity leave, protection against dismissal during pregnancy, nursing breaks, and other employment benefits, thereby enabling women to balance their reproductive responsibilities with professional commitments. Similarly, the **Equal Remuneration Act, 1976**, enacted pursuant to India's constitutional commitment under Article 39(d) and international obligations, prohibited gender-based discrimination in recruitment and ensured equal remuneration for men and women performing the same or similar work. This legislation marked a shift from protective labour legislation towards the promotion of substantive gender equality in employment.

Judicial intervention has also played a transformative role in strengthening the legal rights of women workers. The Supreme Court, through its progressive interpretation of constitutional rights, has expanded the scope of labour protections available to women. The landmark judgment in *Vishaka v. State of Rajasthan* (1997) recognised sexual harassment at the workplace as a violation of fundamental rights under Articles 14, 15, 19, and 21 of the Constitution. In the absence of specific legislation, the Court formulated the Vishaka Guidelines, which remained binding until the enactment of the **Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013**. This legislation established a comprehensive legal framework for the prevention and redressal of workplace sexual harassment by mandating the constitution of Internal Committees, prescribing complaint procedures, and imposing obligations on employers to provide a safe working environment.

The changing nature of employment in the twenty-first century necessitated comprehensive labour reforms to address emerging workplace challenges. Accordingly, the Government of India consolidated numerous labour statutes into four Labour Codes, namely the **Code on Wages, 2019**, the **Industrial Relations Code, 2020**, the **Code on Social Security, 2020**, and the **Occupational Safety, Health and Working Conditions Code, 2020**. These Codes seek to simplify labour regulation while strengthening legal protections relating to equal wages, occupational safety, maternity benefits, social security, and welfare measures applicable to women employees. They also extend legal recognition to emerging categories of workers, including gig workers and platform workers, thereby acknowledging the evolving structure of

India's labour market.⁶

Despite these significant legislative advancements, numerous implementation challenges continue to undermine the effective protection of women workers. Gender-based wage disparities, workplace harassment, occupational segregation, inadequate maternity support, low representation in leadership positions, and the exclusion of women employed in the informal economy remain persistent concerns. Women engaged in domestic work, home-based work, agriculture, and platform-based employment often experience limited access to labour rights and social security benefits due to weak enforcement mechanisms and fragmented regulatory oversight.⁷

Overall, the evolution of labour laws protecting women in India demonstrates a gradual transition from welfare-oriented legislation to a comprehensive rights-based legal framework grounded in constitutional values of equality, dignity, and social justice. While substantial legislative progress has been achieved through constitutional guarantees, specialised labour statutes, judicial activism, and the recent Labour Codes, the realisation of gender equality in the workplace depends upon effective implementation, institutional accountability, and continuous legal reforms capable of addressing the complexities of the modern labour market.

International Legal Framework for Gender Equality and Safe Workplaces

The protection of women employees and the promotion of gender equality in the workplace are not merely domestic constitutional commitments but also form part of India's international legal obligations. As a member of the international community, India has endorsed several international instruments that recognise gender equality, non-discrimination, decent work, and safe working conditions as fundamental human rights. Among these, the conventions adopted by the International Labour Organization (ILO), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and the United Nations Sustainable Development Goals (SDGs) constitute the principal international legal framework influencing labour law reforms in India. These instruments have significantly shaped judicial interpretation, legislative policy, and labour law reforms relating to women workers.

⁶ The Factories Act, 1948; The Maternity Benefit Act, 1961; The Equal Remuneration Act, 1976; The Constitution of India, arts. 14, 15, 16, 39(d) and 42.

⁷ *Vishaka v. State of Rajasthan*, (1997) 6 SCC 241; The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013; The Code on Wages, 2019; The Code on Social Security, 2020; The Occupational Safety, Health and Working Conditions Code, 2020.

International Labour Organization (ILO) Conventions

The International Labour Organization (ILO), established in 1919 and functioning as a specialised agency of the United Nations since 1946, has played a pivotal role in developing international labour standards that promote equality, dignity, and decent working conditions. The ILO recognises gender equality as a fundamental principle of labour rights and has adopted several conventions specifically addressing discrimination, equal remuneration, maternity protection, occupational safety, and violence and harassment at work.

Among the most significant conventions is the **Equal Remuneration Convention, 1951 (Convention No. 100)**, which requires member States to ensure equal remuneration for men and women performing work of equal value. This convention laid the foundation for India's enactment of the Equal Remuneration Act, 1976, and its subsequent incorporation into the Code on Wages, 2019.

Similarly, the **Discrimination (Employment and Occupation) Convention, 1958 (Convention No. 111)** obligates States to eliminate discrimination in employment based on sex and other prohibited grounds. The Convention promotes equal opportunity in recruitment, vocational training, promotion, and working conditions. These principles are reflected in Articles 14, 15, and 16 of the Constitution of India and various labour statutes.

The **Maternity Protection Convention, 2000 (Convention No. 183)** recognises maternity protection as an essential labour right by providing standards relating to paid maternity leave, health protection, employment security, and breastfeeding facilities. Although India has not ratified Convention No. 183, many of its principles are incorporated into the Maternity Benefit Act, 1961 (as amended in 2017).

More recently, the **Violence and Harassment Convention, 2019 (Convention No. 190)** represents a landmark international instrument recognising the right of every person to a world of work free from violence and harassment, including gender-based violence. The Convention extends protection to all workers irrespective of employment status and encourages member States to establish comprehensive legal mechanisms to prevent workplace harassment. Although India has not yet ratified Convention No. 190, its principles complement the objectives of the Prevention of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

The **Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)**, adopted by the United Nations General Assembly in 1979 and ratified by India in 1993, is widely regarded as the international bill of rights for women. The Convention requires

State Parties to eliminate discrimination against women in political, economic, social, cultural, civil, and employment spheres.

Article 11 of CEDAW specifically obligates States to ensure equality in employment by guaranteeing equal opportunities, equal remuneration, safe working conditions, maternity protection, social security benefits, and protection against dismissal on grounds of pregnancy or maternity. The Convention further requires governments to adopt legislative, administrative, and judicial measures to eliminate discrimination and promote substantive equality.

The influence of CEDAW on Indian jurisprudence is particularly evident in the landmark decision of *Vishaka v. State of Rajasthan* (1997), where the Supreme Court relied extensively on the Convention to formulate legally enforceable guidelines against workplace sexual harassment in the absence of domestic legislation. The Court held that international conventions consistent with constitutional guarantees could be relied upon to interpret fundamental rights, thereby strengthening the protection of women employees in India.

United Nations Sustainable Development Goals (SDGs)

The adoption of the **2030 Agenda for Sustainable Development** by the United Nations in 2015 further reinforced the global commitment to gender equality and decent work. The Sustainable Development Goals (SDGs) provide an integrated framework for achieving inclusive economic development while ensuring social justice and human rights.

SDG 5 (Gender Equality) aims to eliminate all forms of discrimination and violence against women and girls, ensure women's full and effective participation in leadership and decision-making, recognise unpaid care work, and promote equal opportunities in employment. Achieving this goal requires the establishment of gender-sensitive workplace policies, effective grievance mechanisms, and legal safeguards against discrimination and harassment.⁸

Equally important is **SDG 8 (Decent Work and Economic Growth)**, which promotes productive employment, equal pay for work of equal value, safe and secure working environments, labour rights, and social protection for all workers.

The goal particularly emphasises the inclusion of vulnerable workers, including women employed in informal and precarious sectors. These objectives closely align with India's labour reforms and policy initiatives aimed at strengthening occupational safety, equal remuneration,

⁸ International Labour Organization, Equal Remuneration Convention, 1951 (No. 100); Discrimination (Employment and Occupation) Convention, 1958 (No. 111); Maternity Protection Convention, 2000 (No. 183); Violence and Harassment Convention, 2019 (No. 190).

social security, and workplace dignity.⁹

The international legal framework has therefore served as a significant catalyst for the evolution of gender-sensitive labour legislation in India. While India has undertaken substantial legislative reforms consistent with international standards, continued efforts are required to strengthen implementation, ratify emerging international conventions, and ensure that all women workers—including those engaged in informal, contractual, domestic, and platform-based employment—receive effective legal protection consistent with global labour standards.

Statutory Protection for Women Employees in India

Code on Wages, 2019

The **Code on Wages, 2019** represents a significant reform in India's labour law regime by consolidating four major wage-related legislations, namely the Payment of Wages Act, 1936, the Minimum Wages Act, 1948, the Payment of Bonus Act, 1965, and the Equal Remuneration Act, 1976. The Code extends its applicability to all employees irrespective of sector or wage threshold and reinforces the constitutional principle of equality by prohibiting gender-based discrimination in matters relating to wages and recruitment. Section 3 of the Code expressly prohibits discrimination on the ground of gender concerning wages payable to employees performing the same work or work of a similar nature. The Code also prohibits discrimination in recruitment except where employment of women is restricted by law due to the nature of work. By incorporating the principles of equal remuneration within a unified labour legislation, the Code seeks to eliminate gender-based wage disparities and promote equal economic opportunities for women employees. Although the Code strengthens the legal framework, effective implementation depends upon regular inspections, employer compliance, transparent wage structures, and robust grievance redressal mechanisms, particularly in the informal and unorganised sectors where wage discrimination remains prevalent.¹⁰

Code on Social Security, 2020

The **Code on Social Security, 2020** consolidates nine social security legislations into a comprehensive framework aimed at extending social protection to employees across organised, unorganised, gig, and platform sectors. The Code is particularly significant for women

⁹ Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979, art. 11; *Vishaka v. State of Rajasthan*, (1997) 6 SCC 241; United Nations General Assembly, Transforming Our World: The 2030 Agenda for Sustainable Development, A/RES/70/1 (2015), Goals 5 and 8.

¹⁰ The Code on Wages, 2019, ss. 3–9; Constitution of India, arts. 14, 15 and 39(d); *Randhir Singh v. Union of India*, (1982) 1 SCC 618.

employees as it incorporates provisions relating to maternity benefits, employee insurance, provident fund, gratuity, and social welfare schemes.¹¹ It retains the maternity protection available under the Maternity Benefit Act, ensuring paid maternity leave, nursing breaks, medical benefits, and protection against dismissal during maternity. Importantly, the Code introduces statutory recognition of gig workers and platform workers, thereby creating opportunities for extending social security benefits to women engaged in emerging forms of employment. It also empowers the Central and State Governments to formulate welfare schemes for unorganised workers, many of whom are women employed in domestic work, agriculture, and home-based industries. Despite these progressive provisions, the effectiveness of the Code depends on timely implementation, adequate funding, universal registration of workers, and efficient administrative mechanisms capable of reaching vulnerable categories of women workers.

Occupational Safety, Health and Working Conditions Code, 2020

The **Occupational Safety, Health and Working Conditions Code, 2020** consolidates thirteen labour laws relating to workplace safety, health, and welfare into a single legislative framework. The Code seeks to ensure safe, hygienic, and dignified working conditions for all employees, including women. It provides for adequate welfare facilities, sanitation, drinking water, first-aid, crèches, working hours, annual health examinations, and measures to prevent occupational hazards. One of the notable reforms introduced by the Code is the removal of the blanket prohibition on women working at night, subject to their consent and the employer providing adequate safety measures, transportation, and security. This reform promotes equal employment opportunities while balancing concerns relating to workplace safety. The Code also requires employers to maintain safe working environments, conduct risk assessments, and comply with occupational health standards, thereby contributing to the constitutional objective of ensuring humane conditions of work. Nevertheless, the practical success of the Code depends upon effective labour inspection, employer accountability, and strict enforcement of safety standards across both organised and unorganised sectors.¹²

Industrial Relations Code, 2020

The **Industrial Relations Code, 2020** consolidates the Trade Unions Act, 1926, the Industrial

¹¹ , Chapters III–V; The Maternity Benefit Act, 1961 (as incorporated); *Municipal Corporation of Delhi v. Female Workers (Muster Roll)*, (2000) 3 SCC 224.

¹² The Occupational Safety, Health and Working Conditions Code, 2020, ss. 6, 23, 43 and related provisions; Constitution of India, art. 42.

Employment (Standing Orders) Act, 1946, and the Industrial Disputes Act, 1947. Although the Code is gender-neutral, it plays a significant role in protecting women employees by ensuring fair employment practices, regulating service conditions, providing grievance redressal mechanisms, and facilitating collective bargaining.¹³ Women employees are entitled to equal participation in trade unions, protection against arbitrary termination, access to conciliation and adjudication mechanisms, and safeguards against unfair labour practices. The Code promotes industrial harmony by encouraging negotiation and dispute resolution, thereby enabling women workers to assert their labour rights in cases involving discrimination, wrongful dismissal, or unfair treatment. However, concerns have been expressed regarding the reduced scope for collective bargaining in certain establishments and the limited representation of women in trade union leadership, which may affect the effective protection of women's workplace rights.

Maternity Benefit Act, 1961

The **Maternity Benefit Act, 1961** is one of India's most significant social welfare legislations aimed at protecting the employment and reproductive rights of women workers. The Act recognises maternity as a social responsibility and ensures that women are not disadvantaged in employment due to pregnancy or childbirth. Following the 2017 Amendment, the Act provides twenty-six weeks of paid maternity leave for eligible women employees, adoption leave, commissioning mother benefits, nursing breaks, prohibition against dismissal during maternity leave, and mandatory crèche facilities in establishments employing fifty or more workers. The Act seeks to promote maternal and child health while enabling women to balance professional and family responsibilities. Judicial decisions have consistently interpreted maternity benefits as an integral component of the constitutional guarantee of social justice and dignity under Articles 21 and 42. Despite its progressive provisions, implementation challenges remain, particularly in the private sector and among women employed in contractual and informal employment where statutory coverage is often inadequate.

Prevention of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act)

The **Prevention of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013**, commonly known as the **POSH Act**, constitutes the cornerstone of

¹³ The Industrial Relations Code, 2020; Constitution of India, art. 19(1)(c); *B.R. Singh v. Union of India*, (1990) 4 SCC 598.

workplace safety legislation for women in India. Enacted pursuant to the Supreme Court's landmark judgment in *Vishaka v. State of Rajasthan*, the Act seeks to prevent, prohibit, and redress incidents of sexual harassment in all workplaces, including public and private establishments, educational institutions, hospitals, and the unorganised sector. The Act defines sexual harassment broadly to include physical contact, unwelcome advances, sexually coloured remarks, demands for sexual favours, showing pornography, and other unwelcome conduct of a sexual nature. It mandates the constitution of an Internal Committee in establishments employing ten or more workers and a Local Committee for smaller establishments and the informal sector. Employers are required to organise awareness programmes, formulate anti-sexual harassment policies, maintain confidentiality, and ensure timely inquiry into complaints.

¹⁴The POSH Act represents a shift from reactive legal remedies to preventive institutional mechanisms aimed at creating safe, dignified, and gender-sensitive workplaces. Nevertheless, under-reporting of complaints, inadequate awareness, procedural delays, and ineffective functioning of Internal Committees continue to impede the full realisation of the Act's objectives.

Landmark Judicial Decisions on Gender Equality and Protection of Women Employees in India

1. *Vishaka v. State of Rajasthan*, (1997) 6 SCC 241

The landmark judgment in *Vishaka v. State of Rajasthan* marked a turning point in the protection of women against sexual harassment at the workplace. The case arose following the brutal gang rape of Bhanwari Devi, a social worker employed under a government programme in Rajasthan, who was assaulted while attempting to prevent child marriage in her village. At that time, India lacked a specific law addressing workplace sexual harassment. The Supreme Court held that sexual harassment violates the fundamental rights guaranteed under Articles 14, 15, 19(1)(g), and 21 of the Constitution. Relying upon the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Court framed the **Vishaka Guidelines**, mandating every employer to establish mechanisms for preventing and redressing sexual harassment. These guidelines remained binding law until the enactment of the Prevention of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. The judgment firmly established that a safe workplace is an integral part

¹⁴ The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, ss. 2, 3, 4, 9, 19 and 26; *Vishaka v. State of Rajasthan*, (1997) 6 SCC 241; *Apparel Export Promotion Council v. A.K. Chopra*, (1999) 1 SCC 759.

of the constitutional guarantee of dignity and equality.

2. *Apparel Export Promotion Council v. A.K. Chopra*, (1999) 1 SCC 759

In this case, the Supreme Court reaffirmed the principles laid down in *Vishaka*. The respondent, a senior officer, had sexually harassed a female subordinate during the course of her employment. Although no physical assault occurred, the Court held that even an attempt to outrage the modesty or dignity of a woman employee constitutes sexual harassment. The Court upheld the dismissal of the officer and emphasised that employers have a legal duty to provide a work environment free from sexual harassment. The judgment broadened the understanding of workplace harassment by recognising that unwelcome behaviour affecting the dignity of women is sufficient to attract disciplinary action, irrespective of whether physical contact actually occurs.

3. *Medha Kotwal Lele v. Union of India*, (2013) 1 SCC 297

The Supreme Court delivered this judgment after finding that several governments and institutions had failed to implement the Vishaka Guidelines effectively. The petitioner highlighted widespread non-compliance with the mandatory guidelines issued in 1997. The Court directed all Central and State Governments, educational institutions, public authorities, and employers to ensure strict implementation of the Vishaka Guidelines until appropriate legislation was enacted. The Court further required the establishment of complaint committees and regular monitoring of compliance. This judgment significantly strengthened employer accountability and accelerated the enactment of the POSH Act, 2013, thereby ensuring statutory protection against workplace sexual harassment.

4. *Air India v. Nergesh Meerza*, (1981) 4 SCC 335

This landmark case challenged discriminatory service regulations applicable to air hostesses employed by Air India. The regulations required female cabin crew to retire earlier than their male counterparts and permitted termination upon first pregnancy. The Supreme Court held that compulsory termination on the ground of pregnancy was arbitrary, unreasonable, and violative of Article 14 of the Constitution. Although the Court upheld certain service conditions, it struck down the pregnancy-related termination rule as unconstitutional. The judgment became one of the earliest judicial recognitions that employment conditions based solely on gender stereotypes violate the constitutional guarantee of equality.

5. *Municipal Corporation of Delhi v. Female Workers (Muster Roll)*, (2000) 3 SCC 224

This case concerned the entitlement of daily wage and muster roll female workers to maternity benefits. The employer argued that maternity benefits were available only to regular employees. Rejecting this contention, the Supreme Court held that maternity relief is a fundamental aspect of social justice and cannot be denied merely because a woman is employed on a temporary or casual basis. The Court interpreted Article 42 of the Constitution and the Maternity Benefit Act liberally, recognising maternity protection as an essential component of the right to dignity and humane working conditions. The judgment considerably expanded maternity rights for women employed in non-permanent employment.

6. *Charu Khurana v. Union of India*, (2015) 1 SCC 192

The petitioner challenged the discriminatory rules of the Cine Costume Make-up Artists and Hair Dressers Association, which prohibited women from being registered as make-up artists in the film industry. The Supreme Court held that the exclusion of women from a profession solely on the basis of sex violated Articles 14, 15, 19(1)(g), and 21 of the Constitution. The Court directed the Association to register women as make-up artists and observed that gender stereotypes cannot be used to restrict women's employment opportunities. The judgment reinforced the constitutional principle that every woman has the right to choose her profession without discrimination.

Conclusion

Gender equality and the creation of safe workplaces for women employees have emerged as fundamental components of India's constitutional and labour law framework. The Constitution of India lays the foundation for gender justice through the guarantees of equality, non-discrimination, equal opportunity in employment, and the right to live with dignity. These constitutional principles are further strengthened by the Directive Principles of State Policy, which obligate the State to ensure equal pay, humane working conditions, and maternity relief. Collectively, these provisions establish that gender equality is not merely a constitutional aspiration but a legally enforceable commitment requiring both legislative and institutional support.

India's labour law framework has undergone significant transformation from a welfare-oriented approach to a rights-based regime. The enactment of progressive legislations such as the Code on Wages, 2019, the Code on Social Security, 2020, the Occupational Safety, Health and Working Conditions Code, 2020, the Industrial Relations Code, 2020, the Maternity Benefit

Act, 1961, and the Prevention of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 reflects the State's commitment to ensuring equal remuneration, maternity protection, occupational safety, social security, workplace dignity, and protection against gender-based discrimination. These legislations collectively seek to promote substantive equality by addressing the unique challenges faced by women employees in both organised and unorganised sectors.

International legal instruments have also played a significant role in shaping India's labour jurisprudence. The principles embodied in the International Labour Organization (ILO) Conventions, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and the United Nations Sustainable Development Goals have influenced legislative reforms and judicial interpretation, thereby strengthening the protection of women's labour rights. Indian courts have consistently relied upon these international standards to expand constitutional protections and bridge legislative gaps, particularly in matters relating to workplace harassment and gender discrimination.

The judiciary has emerged as a dynamic force in advancing women's employment rights through progressive interpretation of constitutional guarantees. Despite remarkable legislative and judicial advancements, several challenges continue to hinder the effective realisation of gender equality in the workplace. Wage disparities, occupational segregation, under-representation of women in leadership positions, inadequate implementation of labour laws, ineffective functioning of Internal Committees under the POSH Act, limited social security coverage for women in the informal and gig economy, and persistent socio-cultural barriers remain significant concerns. The gap between legal rights and their practical enforcement highlights the need for stronger institutional mechanisms, improved labour inspections, greater awareness among employers and employees, and effective grievance redressal systems.

In conclusion, the existing labour law framework provides a comprehensive legal foundation for protecting women employees and promoting safe and equitable workplaces. However, legislative enactments alone are insufficient to achieve genuine gender equality unless accompanied by effective implementation, judicial vigilance, employer accountability, and societal transformation. Future labour law reforms must focus on extending legal protection to women engaged in emerging forms of employment, strengthening compliance mechanisms, encouraging gender-sensitive workplace policies, and promoting inclusive organisational cultures. A holistic approach integrating constitutional values, international standards, statutory safeguards, and judicial activism is essential to ensuring that every woman in India enjoys the right to equality, dignity, safety, and equal opportunity at the workplace. Such an approach will

not only fulfil the constitutional vision of social justice but also contribute to sustainable economic development and an inclusive labour market.

Recommendations

1. **Strengthen the enforcement of labour laws** by conducting regular inspections, compliance audits, and imposing stringent penalties for violations relating to gender discrimination, unequal wages, and workplace harassment.
2. **Ensure effective implementation of the POSH Act, 2013** by mandating the constitution of Internal Committees (ICs), conducting regular awareness programmes, and monitoring timely disposal of complaints.
3. **Expand social security coverage** under the Code on Social Security, 2020 to include women working in the informal, domestic, contractual, gig, and platform sectors.
4. **Eliminate gender-based wage discrimination** through mandatory gender pay audits, transparent wage policies, and strict compliance with the Code on Wages, 2019.
5. **Strengthen workplace safety measures** by ensuring safe transportation, adequate lighting, CCTV surveillance, sanitation facilities, crèches, and emergency response mechanisms, particularly for women working night shifts.
6. **Promote gender-sensitive workplace policies** that provide equal opportunities in recruitment, promotion, leadership positions, flexible work arrangements, and work-life balance.
7. **Increase legal awareness among women employees** by organising regular training programmes, legal literacy campaigns, and awareness workshops on labour rights and grievance redressal mechanisms.
8. **Provide specialised training for employers and Internal Committee members** on gender sensitivity, workplace ethics, investigation procedures, and compliance with labour laws.
9. **Strengthen grievance redressal mechanisms** by ensuring confidentiality, timely investigation of complaints, victim protection, and effective remedial measures.
10. **Increase women's representation in leadership and decision-making positions** within organisations, trade unions, labour advisory boards, and policy-making institutions.
11. **Extend labour law protections to gig and platform workers** by providing statutory safeguards relating to social security, maternity benefits, workplace safety, and protection against workplace harassment.

12. **Ratify key International Labour Organization (ILO) Conventions**, particularly Convention No. 190 on Violence and Harassment at Work, to align domestic laws with international labour standards.
13. **Strengthen labour inspection systems** through digital compliance monitoring, periodic reporting, and independent oversight to improve accountability and enforcement.
14. **Encourage employers to adopt comprehensive gender equality policies** addressing equal pay, anti-discrimination measures, maternity support, and career advancement opportunities.
15. **Promote judicial and administrative accountability** by ensuring speedy disposal of labour disputes involving women employees and strict compliance with court directions.
16. **Periodically review and amend labour laws** to address emerging challenges associated with remote work, digital employment, artificial intelligence, and evolving workplace practices.
17. **Develop gender-responsive labour policies** through collaboration among the Government, employers, trade unions, civil society organisations, and academic institutions.
18. **Establish independent monitoring authorities** at the national and state levels to oversee the implementation of labour laws protecting women employees and recommend policy reforms.
19. **Improve data collection and research** on workplace discrimination, wage gaps, occupational safety, and sexual harassment to facilitate evidence-based policymaking.
20. **Foster a workplace culture based on equality, dignity, inclusivity, and zero tolerance towards discrimination and harassment**, thereby ensuring the effective realisation of constitutional guarantees and labour rights for women employees.

Bibliography

A. Books

- Agarwal H O, *Labour Laws in India* (2nd edn, Central Law Publications 2022).
- Johri CK, *Labour Law in India* (2nd edn, Kluwer Law International 2014).
- Malik PL, *Handbook of Labour and Industrial Law* (18th edn, Eastern Book Company 2022).
- Ravi MK, *Indian Employment Laws: A Reference Book* (Notion Press 2021).
- Srivastava SC, *Industrial Relations and Labour Laws* (7th edn, Vikas Publishing House 2021).
- Srivastava SC, *Social Security and Labour Laws* (Universal Law Publishing 2019).

Vaidyanathan N, *I.L.O. Conventions and India* (Minerva Associates 1975)

B. Journal Articles

Das RK, 'Labour Legislation in Indian States' (1938) 38(6) *International Labour Review* 794.

Fredman S, 'Substantive Equality Revisited' (2016) 14(3) *International Journal of Constitutional Law* 712.

McCrudden C, 'The Effectiveness of Positive Action Measures' (2007) 16 *International Journal of Discrimination and the Law* 1.

Rao MP, 'Women Workers and Labour Law Reforms in India' (2021) 63(2) *Indian Journal of Labour Economics*.

C. Statutes

The Constitution of India 1950.

The Code on Wages, 2019.

The Code on Social Security, 2020.

The Industrial Relations Code, 2020.

The Occupational Safety, Health and Working Conditions Code, 2020.

The Maternity Benefit Act, 1961.

The Maternity Benefit (Amendment) Act, 2017.

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

The Equal Remuneration Act, 1976.

The Factories Act, 1948.

D. Cases

Air India v Nergesh Meerza (1981) 4 SCC 335.

Apparel Export Promotion Council v AK Chopra (1999) 1 SCC 759.

Charu Khurana v Union of India (2015) 1 SCC 192.

EP Royappa v State of Tamil Nadu (1974) 4 SCC 3.

Government of Andhra Pradesh v PB Vijayakumar (1995) 4 SCC 520.

Lt Col Nitisha v Union of India (2021) 15 SCC 125.

Medha Kotwal Lele v Union of India (2013) 1 SCC 297.

Municipal Corporation of Delhi v Female Workers (Muster Roll) (2000) 3 SCC 224.

Randhir Singh v Union of India (1982) 1 SCC 618.

Secretary, Ministry of Defence v Babita Puniya (2020) 7 SCC 469.

Vishaka v State of Rajasthan (1997) 6 SCC 241.

E. International Instruments

Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13.

International Labour Organization, *Equal Remuneration Convention* (No 100) 1951.

International Labour Organization, *Discrimination (Employment and Occupation) Convention* (No 111) 1958.

International Labour Organization, *Maternity Protection Convention* (No 183) 2000.

International Labour Organization, *Violence and Harassment Convention* (No 190) 2019.

United Nations, *Transforming our World: The 2030 Agenda for Sustainable Development*, UNGA Res 70/1 (25 September 2015).

F. Online Sources

International Labour Organization, 'International Labour Standards' <https://www.ilo.org> accessed 29 June 2026.

United Nations Women, 'Women and the Law' <https://www.unwomen.org> accessed 29 June 2026.

Ministry of Labour and Employment, Government of India <https://labour.gov.in> accessed 29 June 2026.