



An Overview of Women Right in the work place in India

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Abstract: These guidelines were instituted by the supreme court of India to ensure the safety of women at workplaces and lay down the guidelines for dealing with the cases that are related to sexual harassment at the workplace. The Bhanwari Devi case is the most significant landmark case in the history of cases involving sexual harassment of women. The constitution of India is the supreme law of our country and must be protected and respected in every instance. The fundamental rights of equality and personal liberty should be protected and the citizens of our country should not be discriminated against on any grounds. Hence, it is legal as well as a moral duty to provide a safer work environment for women to prosper. So, we all should respect the constitution and all the authorities. It is also not only the responsibility of the judiciary but we also have some responsibilities. As a society, we have to develop our old and primitive thinking. It's the modern era everyone has their rights that what they have to do or what they don't have to do.

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Introduction

India though a democratic, sovereign, secular country still is among the most unequal country in the world that follows the trends of being a major gender bias country. But unlike the rest nations India starts its discrimination from being an embryo in womb itself. As per the Global Gender Gap Index which is released by the Economic Forum Places, India ranks 17th from bottom. Indian laws has many provisions in relation to safety, security and empowerment of women, still women are not being acknowledged much as compared to men's. The Constitution of India has guaranteed equal rights and opportunities to women in all areas may it be education, employment, promotions, etc. The constitution has also made provisions in order to safeguard the dignity of women workers at their workplace. This article will majorly focus on the constitutional laws or regulations which a working women should know in respect of her safety, dignity and growth.

During earlier phase women's were confined in four walls of house to do all the household chores, they were not allowed to get literate or gain an employment. But this scenario has changed now as majority of women go out, get educated, work and earn for their living, though the concern regarding a women's safety, security and the gender difference still prevails within the society. One of the greatest issue that arise is about the women's rights and privileges which they are been deprived off. Women's from ancient till today have struggled for their social status and a respectable

place in the society which will change only when society's mind-set changes.

The discussion around the rights of women in the workplace and society at large has increased over the past years. Women's right to express, grow, contribute, feel safe, etc. at the workplace should be a self-evident truth. They don't ask for special privileges or treatment, all they ask for is equal opportunities, equal encouragement, and appreciation.

Things like maternity leaves shouldn't be looked upon as a privilege, rather acknowledged as their Birthright as they are giving birth to the next generation. We belong to a society that has labeled women to be the weaker sex, Indian working women face difficult paths to make a place of their own in their workplaces. Today, there are women achievers in every field. The constitution of India has provided positive discrimination for women, the Indian state has passed several laws and implemented policies to improve their condition. But, still, Indian women face visible and invisible discriminations in their paths like sexual harassment in the workplace, unsafe road, a very big issue is thinking of the society, etc.

There are many cases in the last decades through which we came to know that nowadays what kind of difficulties women are facing in their workplaces. Here is a case that is one of the significant cases among the cases of women's safety as it paved the way to the Vishaka guidelines.

In this case, Bhanwari Devi was a Dalit government employee who was engaged in spreading awareness

about hygiene and running campaigns against dowry and child marriage. As part of her job, she is helping a young girl who was forced to marry at a young age by her parents. She tried to stop the marriage and carried out a rally. But she was not able to stop the marriage from happening.

To take revenge for the rallies, a group of people attacked Bhanwari Devi when she was walking along the road with her husband. She was gang-raped by these men. After that, she filed a criminal case of rape against these men. However, she was not taken seriously by the policemen and other law officers. The Rajasthan high court convicted the five men of assault whose degree of punishment is much lesser than the crime of rape.

The judgment of the Rajasthan high court gave rise to rallies and protests by various women's safety organizations and the general public. This forced the government and the legal system to provide justice to Bhawani Devi. That followed the case of [Vishaka v/s the state of Rajasthan](#) which results in the formation of Vishaka Guidelines.

The Vishaka guidelines

The Vishaka guidelines were a set of guidelines related to protecting women in the workplace. These were instituted by the supreme court of India in the year 1997. Features of the Vishaka guidelines. The main points of the guidelines issued by the Hon'ble.

Supreme Court of India are as follows:

Definition of sexual harassment.

Provide a safer working environment.

Duty of the employer to file a complaint.

Complaint redressal committee.

Employer to assist the employee if she is sexually harassed.

Duty of employer to spread awareness.

The government has to widen the scope of this guideline.

LAWS FOR WOMEN AT WORKPLACE IN INDIA

With time there are various laws introduced in India, which are related to the workplace and within which few are specially for women. These laws were introduced with the need of time. Whenever we come to the situation that there is a need for laws which can protect women and maintain peace in society, we have come with them. It is a continuous process where laws are introduced and same laws are amended with changing situations as per need. There are some laws related to women in general and the workplace.

Rights Under the Constitution of India

The Indian constitution covers almost every aspect of social, political and legal affairs. There are various rights given in the Indian Constitution for women. Fundamental Rights given in part III of the Indian Constitution mainly deals with overall development of

an individual. Article (Art) 14 focuses on achieving gender equality for men and women in the areas of political, economic, and social life. In essence, it forbids class-based regulation while allowing fair classification. Women are given equal legal protection from all offenses against women under this rule. It closes the gap between gender inequality and female injustice. It closes the gap between gender inequality and female injustice. Art. 15 stipulates that the state shall not discriminate against any of its citizens on the basis of their race, religion, caste, sex, or place of birth. However, this article also permits governments to implement specific positive measures that benefit women. Art. 16 Every Indian citizen is guaranteed equal work possibilities, as well as marriage-related rights and permission from both sexes. Art. 23 In essence, it argues that everyone has the freedom to work and select their place of employment and that gender equality must be upheld in all spheres, including employment, work, and remuneration. The maintenance or introduction of policies that provide for unique benefits in favor of the underrepresented sex is not prohibited by the equality principle. also, outlaws forced labor and human trafficking. Art. 39 It guarantees and orders the state to implement policies that emphasize that men and women have an equal right to basic means of subsistence and that equal compensation for equal effort. Additionally, it combats a number of prejudices that hold women to be less capable and strong than males. Art. 42 It mandates that states establish provisions for providing fair and compassionate working conditions, maternity assistance, and it was for this reason that the Maternity Benefit Act, 1961, was passed. Art. 243 Each Panchayat and Municipalities should reserve one-third of the total number of seats to be filled by direct election for female candidates, this is an attempt to improve the position of women in village areas. These are some rights given to women under the Indian constitution. And there are a few laws that grant women at work basic rights in places like offices, fields, mines, and other industries and construction sites.

The Mines Act, 1952 It outlines safety precautions for workers using shafts, opencast workings, conveyors, aerial ropeways, etc. when working in coal, metal, ferrous, and oil mines. "Section 20 provides separate latrines and urinals for female employees, while Section 46(1)(b) prohibits women from working in any mine below ground or above ground, save between the hours of 6 a.m. and 7 p.m." Additionally, it states that any woman working above ground in a mine must be given a break of at least 11 hours between the end of the day's labor and the start of the next day.

The Maternity Benefit Act, 1961 This statute provides several benefits to the ambitious mother who also enjoys her work and does not want to start over after her pregnancy. It offers women with 26 weeks of paid maternity leave, as well as one month of paid leave for illness caused by pregnancy or miscarriage, as well as a medical bonus of certain amount is to be given if the employer provides pre-natal and post-natal treatment. If the employee provides proof of delivery, the payment is made 48 hours in advance, and the employee dies without a legal heir, the maternity benefit will be paid to a designated beneficiary. No establishment may recruit you for six weeks following delivery, miscarriage, or medical termination of pregnancy under this Act. While you are on maternity leave, you cannot be fired by anybody. This act removes the fear of losing their jobs because of pregnancy.

The Equal Remuneration Act, 1976 It aids in closing the gap between the disparity in pay experienced by our country's women. Article 39 of the Indian Constitution allows you to make a claim for equal pay. Employers must pay both men and women equally for the same job. Employers are also prohibited from discriminating against women throughout the recruiting process except certain places. To eliminate prejudice against women and treat both genders equally and fairly, equal pay is given to men and women. The Central Industrial Relations Machinery (CIRM) was responsible for enforcing this law. Section 4&5 of this act mentions equal pay or wages for both male and female in equal position.

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 Women's rights to equality, life, and liberty are all considered to have been violated by sexual harassment in the workplace. It encourages an unstable and hostile work environment that dissuades women from working, which has an impact on their socioeconomic empowerment and the goal of comprehensive growth. The Act defines sexual harassment as unwanted actions or behavior, including physical contact, advances, requests for sexual favors, statements with sexual overtones, pornographic displays, and any other unwanted sexual behavior that is physical, verbal, or nonverbal. Any unwanted sexual behavior will be regarded as sexual harassment. The Internal Complaint Committee (ICC) should be established in complete conformity with the criteria under law. The committee may attempt to resolve the issue by conciliation between the complainant and the respondent after receiving the complaint; if a resolution is reached, no further inquiry is done. The committee will continue the investigation if the conciliation is unsuccessful or the respondent does not follow any of the settlement terms. If there is a strong

cause for filing a complaint against a domestic worker under Section 509 of the Indian Penal Code or any other applicable provisions of the same Code, the Local Committee (LC) must do so within seven days of receiving the complaint. Even though the Act went into effect in 2013, there is still a lack of knowledge about the effects of sexual harassment and how to report it. In addition to fostering an atmosphere where women can voice their complaints without fear and get justice, sensitizing males to how women are treated at work is also essential for the efficient implementation of the POSH Act.

IMPORTANT CASES

Vishaka v. The State of Rajasthan

Bhanwari Devi, a Dalit government official in this instance, ran campaigns against dowry and child marriage as well as cleanliness awareness initiatives. She is assisting a young woman whose parents pressured her into an early marriage as part of her employment. She attempted to prevent the marriage from taking place and organized a demonstration, but she was unsuccessful. A gang of individuals assaulted Bhanwari Devi when she and her husband were strolling along the road as retaliation for the protests. The victim was gang-raped by these men. She then files a lawsuit accusing these men of rape. Nevertheless, she received no attention from the police or any law enforcement officers. The Rajasthan High Court found the five men guilty of assault, a crime that carries a penalty that is much less severe than rape.

Numerous groups working to protect women's safety and members of the public staged protests and marches in response to the Rajasthan High Court's decision. This compelled Bhawani Devi to receive justice from the government and the court system. That came after the Vishaka v. State of Rajasthan case, which led to the creation of the Vishaka Guidelines. These guidelines state the description of sexual harassment, create a safer environment at workplace, there should be a complaint handling committee and employer must lodge a complaint also help the victim, awareness regarding this should be raised and government should expand the reach of the guidelines. Shanta Kumar v. Council of Scientific and Industrial Research (CSIR)

Here the petitioner first filed a complaint to the ICC about the fact that she was in the laboratory and the 3rd respondent entered and stopped all the machines and pushed her out of the laboratory and locked it, even using inappropriate language. The committee investigate the matter and found that the nature of the complaint was not sexual but administrative and managerial. Then a writ petition was filed before the Delhi High Court by Shanta Kumar challenging the proceedings of the ICC.

The Delhi High Court in this case, held that any physical contact would amount to sexual harassment provided it is made in the context of sexually oriented behavior. It was further observed that an unwelcomed touch, if accidental would not amount to sexual harassment. This is an important judgement as it clarified the meaning of the term “sexual harassment”. It may also serve as a deterrent to people who file false charges just to annoy or intimidate the accused.

The Maternity Benefit Act, 1961

The [Maternity Benefit Act, 1961](#) is legislation that protects the employment of women at the time of their Motherliness. It entitles women workers to ‘maternity benefit’ which is completely paid stipends during the absence from work and to take care of their child.

The act applies to establishments employing 10 or further workers. The Maternity Benefit Act, of 1961 has been amended through the Maternity (Amendment) Bill 2017 which was passed in the Lok Sabha on March 09, 2017. Later, the said Bill was passed in Rajya Sabha on August 11, 2016. Further, it entered assent from the President of India on March 27, 2017.

The vittle’s of the [Maternity Benefit \(Amendment\) Act, 2017](#) came into effect on April 1, 2017, and the provision about crèche installation (Section 111 A) came into effect with effect from July 1, 2017[2].

In the case of [Municipal Corporation of Delhi vs. Female Workers](#)[3] the Supreme Court declared that the maternity benefit applies to casual workers and diurnal paycheck workers also. In this case, the question was whether the muster roll workers (which are casual and diurnal paycheck workers) of a municipal corporation are entitled to motherliness benefits.

The Factories Act, of 1948

Women in our country form an integral part of our pool and the General Census 2001 stated that 127,220,248 people in the pool are women[4]. In other words, 149.8 million womanish workers[5] live, 121.8 million women work in pastoral areas, and 28 million work in civic areas. Women in our country face certain demarcation in the plant.

There was a time when women were not allowed to do certain jobs but that was latterly amended and now women can do any job they choose to do. Indeed, though there are laws against demarcation women still face demarcation occasionally, especially in work which is generally seen as a men’s job similar to working in manufactories or mines.

As stated in [Article 15 of The Constitution of India](#)[6] there will be no demarcation grounded on

gender in anything. Yet some women face demarcation while working in manufactories. Though the Factories Act, of 1948 does provide for numerous vittles related to women and women’s health, safety, well-being, and benefits, it still is lacking in certain areas[7].

The Equal Remuneration Act, of 1976

The introductory concept underpinning, the veritably controversial subject, Feminism, is “equity”. Equity refers to the treatment of equals with equals and Unequal with unequal. The Equal Remuneration Act, of 1976 does just that.

It provides Equal remuneration for both men and women but also understands the fact that it will not stamp any special treatment handed to women in the country. There was a time in India when women used to face heavy demarcation in pay. But, after the arrival of the equal remuneration act, 1976 women have been able to sue against malpractices prevailing in their workplace.

In the case of [Sanjit Roy vs. State of Rajasthan](#)[10], the Supreme court directed the state government not only to pay the minimal stipend but also to pay a stipend in agreement with the principle of equal pay for equal work to both men and women workers engaged in shortage relief work.

Also in the case of [Bhagwan Das vs. State of Haryana](#)[11], the Supreme court was of the view that persons doing analogous work cannot be denied equal pay on the ground that the mode of recruitment was different and a temporary or casual hand performing the same or analogous duties and functions is entitled to the same pay as that of a regular or endless hand.

CONCLUSION

The patriarchy that existed in medieval culture is deeply established, much like caste systems. Women’s bodies, movements, and economic and legal rights were severely restricted. Compared to the ancient and medieval eras, the current situation is quite different since people are more open and educated. In the majority of situations, women who leave the house to work are supported by their husbands. Women nowadays are aware of the societal vision of them and are capable to protect themselves and reply or react with the same strength. If not, the person reading this has to alter their perspective, get over their fear, gather power to fight against whatever has gone wrong with them, or get ready for the circumstance that will come up. Create a mental defense system for yourself to keep yourself safe. The laws for women are numerous,

but none of them matter if women are willing to put up with anything they go through. Nobody can intervene to improve their situation or support them until they speak out, thus we must fight against anything that we find objectionable. Each person has a personal limit on how open they can be, and we all need to be aware of this. We must demand the things we are due, which may include privacy, respect, pay, and honor, etc. Within a predetermined time frame, awareness must be spread in this respect. In order for us to all strive to overcome these obstacles and for the government to take appropriate action, women in particular need to stand up and describe the difficulties they face in the modern world. We won't be able to advance in this sector further unless we cooperate. Despite the fact that there are different laws in the society, women still have to overcome barriers before entering the workforce and still have to dispel the stereotype that women are helpless, dependent on protection, and incapable of defending themselves. Why do women only need protection? Why do people ask women about their whereabouts? Why is it necessary to have laws protecting women at work? The day these issues are resolved will signal women's full freedom.

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