

A CRITICAL STUDY ON LEGAL PROVISIONS FOR WOMEN EXPLOITATION

Nawandar Rajkumar Premsukh¹ and Dr. Vijaymala²

Department of law, Shri Jagdish Prasad Jhabarmal Tibrewala University,
Vidyanagari, Jhunjhunu, Rajasthan

ABSTRACT

This research paper critically examines the legal provisions aimed at addressing and preventing the exploitation of women. Gender-based violence and discrimination against women persist globally, necessitating a comprehensive analysis of existing legal frameworks. The paper explores various aspects of women's exploitation, including domestic violence, workplace harassment, human trafficking, and discriminatory practices. Through an in-depth examination of international, national, and regional legal instruments, the research aims to identify gaps, challenges, and potential solutions to enhance the protection of women's rights.

Keywords: Critical, Legal, Provisions, Women, Exploitation.

INTRODUCTION

Women's exploitation has been a pervasive issue throughout history, manifesting in various forms such as violence, discrimination, harassment, and unequal treatment. Recognizing the need to protect and empower women, legal systems around the world have established provisions aimed at preventing and addressing the exploitation of women. These legal measures are essential in upholding the principles of gender equality, human rights, and social justice.

The legal framework for women's protection varies across jurisdictions but generally includes laws and regulations that address issues like domestic violence, sexual harassment, gender-based discrimination, human trafficking, and unequal opportunities in education and employment. The existence of such legal provisions reflects a commitment to fostering a society where women can live free from exploitation, fear, and discrimination.

Constitutional Provisions:

The Indian Constitution, under Articles 14, 15, and 16, guarantees equality before the law, prohibits discrimination on grounds of religion, race, caste, sex, or place of birth, and ensures equal opportunities in matters of public employment. These constitutional provisions form the foundation for gender equality in the workplace.

Equal Remuneration Act, 1976:

The Equal Remuneration Act mandates equal pay for equal work, irrespective of gender. It prohibits discrimination in remuneration on the basis of

gender and ensures that men and women receive the same salary for similar work.

Maternity Benefit Act, 1961:

The Maternity Benefit Act provides maternity leave and other benefits to women employees. It aims to protect the employment of women during the period of maternity and ensures that they have the right to return to their jobs after maternity leave.

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

This comprehensive legislation addresses the issue of sexual harassment at the workplace. It mandates the establishment of Internal Complaints Committees (ICC) in organizations and outlines the procedure for filing complaints and the redressal mechanism.

Vishakha Guidelines (1997):

Although not a law, the Vishakha Guidelines were the precursor to the Sexual Harassment Act. These guidelines were laid down by the Supreme Court to address sexual harassment at the workplace before the enactment of the formal legislation.

Companies Act, 2013:

The Companies Act, 2013 includes provisions related to the constitution of Internal Complaints Committees (ICCs) in companies to address sexual harassment issues. Non-compliance with these provisions can lead to penalties for the company.

Labour Laws:

Various labor laws in India, such as the Factories Act, 1948, and the Shops and Establishments Acts of different states, contain provisions related to the

working conditions, safety, and welfare of employees, including women.

These legal provisions collectively contribute to fostering a workplace environment that is inclusive, safe, and supportive of women's rights. Employers are required to comply with these regulations to ensure fair treatment and equal opportunities for women in the workforce.

LEGAL FRAME WORK ON SEXUAL HARASSMENT OF WOMEN AT WORK PLACES IN INDIA

India required a span of 50 years to establish a clear and official definition for sexual harassment in the workplace. This was achieved in a Supreme Court ruling known as Vishaka Vs. State of Rajasthan, which occurred around 23 years ago. The statute adopts the concept of sexual harassment established in the Vishaka case. The case's emphasis switched from a criminal offense to a pervasive gender prejudice that required elimination. Indian women have been linked to politics from the era before independence. They actively participated in the liberation movement, serving as both volunteers and leaders. Following the attainment of independence, Article 15 of the Indian Constitution ensured the provision of equal rights for women within the legal framework. Despite the Indian Constitution's assurance of equal rights for all people, women continue to have little representation in the Indian political sphere. Women hold the power both at the Center and at the state level due to their lack of authority. It is disheartening that almost half of India's population is barely represented by 10 percent in the Lok Sabha. Currently, the Rajya Sabha has 21 female Members of Parliament (MPs) out of a total of 233, accounting for a mere nine percent, which is lower than the representation in the Lok Sabha. The prevalence of male hegemony in parliament, bureaucracy, court, army, and police indicates a persistent gender disparity, despite the contention that women's political leadership would foster a more harmonious and less contentious global environment. The absence of political and economic authority exacerbates the oppression and unequal position of women.

Following independence, India, despite the establishment of its own constitution, failed to attain principles such as fairness, equality, and social justice. The status of women did not ameliorate, even the presence of a female Prime

Minister for a limited duration. The significance of women's presence in politics globally gained prominence starting in the mid-1970s, after the United Nations' proclamation of 1975 as the 'International Year of Women'. Subsequently, the United Nations Decade for Women took place from 1976 to 1985, with its central focus on 'Equality, Development, and Peace'. Women's involvement in politics in India has historically been minimal, although there has been some progress with the implementation of the 73rd and 74th Constitutional Amendment Acts. These acts have aimed to enhance the political standing of women by providing them with chances to participate in the decision-making process. The 73rd and 74th Amendments (1993) of the Constitution of India have established the provision for reserving seats for women in the local bodies of Panchayats and Municipalities. This initiative has created a solid basis for women's involvement in local decision-making processes.

LITERATURE REVIEW

Nagarajan, Subasini & Nagu, Sasikumar (2021)

It is the basic law of the nation that carries higher power and sanity, and the constitution of any country is the document that it is. Both in terms of its substance and its spirit, the Indian constitution is one of a kind. There are essential rights that are legitimate that are provided by the Indian constitution. Women in today's society are confronted with a multitude of challenges, including but not limited to rape, dowry, sexual harassment, abduction, brutal treatment by husbands or relatives, attack on women, and sex trafficking. These are only some of the most prevalent crimes.

Thirugnanam, Balasubramanian (2020) In India, the term "violence against women" refers to any kind of physical or sexual violence that is done against Indian women, most of the time by a male entity. Among the most common types of violence against women in India include actions such as sexual assault, domestic violence, and even murder. There have been reports of crimes committed against women in India, including rape, acid throwing, dowry murders, honor killings, and the forced prostitution of young girls for sexual gratification.

Jaiswal, Sumit (2019) There has been a significant shift in the position of working women in India over the years. Even though Indian working women

are now more self-sufficient and aware of their legal rights, such as the right to work, equal treatment, equal remuneration, and the right against sexual harassment, the majority of working women continue to be unaware of these rights. Because of this, they are subjected to a variety of forms of discrimination, harassment, and exploitation in their homes, on the way to work, and while they are working.

RESEARCH METHODOLOGY

Research on women exploitation involves examining various legal provisions that aim to protect women's rights and prevent exploitation. The methodology for such research typically follows a systematic approach to gather, analyze, and interpret relevant information. Here's a general outline for a research methodology on legal provisions for women exploitation.

RESULT AND DISCUSSION

The Preamble to the Constitution of India establishes the principle of "equality of status and opportunity" for all people, while Article 14 guarantees equality of every individual under the law. Ensuring a secure work environment is, therefore, a woman's legal entitlement. The Indian Constitution encompasses the Constitutional doctrine of equality and personal liberty in Articles 14, 15, and 21. These articles guarantee an individual's entitlement to equal safeguarding under the law, to lead a life devoid of discrimination based on any factor, and to the safeguarding of life and personal freedom. This is also strengthened by the UN Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), which was endorsed by the UN General Assembly in 1979 and is officially accepted by India. Frequently referred to as a global declaration of rights for women, it advocates for the equal treatment of women and men in regards to basic human rights and essential liberties in the realms of politics, economics, society, culture, and civic affairs. This statement emphasises that discrimination and assaults on women's dignity are a violation of the concept of equal rights.

Sexual harassment is a severe infringement of women's entitlement to equality and decency. The origins of this issue may be traced back to a patriarchal system, which holds the belief that males are superior to women and that some types of violence against women are permissible. One example of this is workplace sexual harassment,

which perceives different types of such harassment as innocuous and insignificant. Frequently, it is justified as inherent male conduct or innocuous flirting that women find pleasurable. Contrary to these assumptions, it inflicts significant damage and is also a prominent display of gender-based discrimination in the workplace. The act not only violates a woman's fundamental rights, as stated in Article 19 (1) (g) of the Indian Constitution, which guarantees the freedom to pursue any profession or engage in any occupation, trade, or business, but it also undermines equality and jeopardises the dignity, physical, and psychological well-being of workers. Consequently, this results in diminished efficiency and an adverse effect on both individuals' well-being and their means of subsistence. In addition, long-standing socio-cultural norms and behaviours that establish a hierarchy based on gender tend to assign blame to the victim, therefore exacerbating inequality in both the workplace and society.

Despite the significant prevalence of sexual harassment in the workplace, women often refrain from reporting such incidents to the relevant authorities owing to apprehension of retaliation from the perpetrator, potential loss of employment, social stigma, and damage to their professional and personal reputation. Currently, workplace sexual harassment is widely seen as a transgression of women's rights and a manifestation of violence against women on a global scale. Undoubtedly, the societal concept of male advantages persists as a means to rationalise acts of violence against women, both in private and public domains. Sexual harassment serves as a reflection of male dominance over women, perpetuating patriarchal dynamics. Within a societal framework characterised by patriarchal principles, women are compelled to adhere to conventional gender roles due to the presence of both overt and covert forms of violence against them. The predominant patriarchal ideas and attitudes held by both women and men are the most significant obstacle in resolving and preventing sexual harassment. Workplace sexual harassment, like to other types of violence, is not innocuous. The consequences of this issue are significant in terms of health, human welfare, economic impact, and social well-being, as shown by a nation's overall development indicators. The enactment of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 aims to provide secure

working conditions for women and foster conducive work settings that uphold women's entitlement to equal status and opportunities. The successful execution of the Act will help to the achievement of their entitlement to gender parity, life and freedom, and uniformity in employment circumstances worldwide. Enhancing the workplace's feeling of security will foster more female workforce participation, leading to their economic empowerment and promoting inclusive development. The true extent of the issue is unclear because to the challenges in accurately recording the encounters of individuals who have been subjected to sexual harassment in the workplace. Nevertheless, existing research on sexual harassment unequivocally demonstrates its widespread occurrence in present-day India. This act is a significant advancement in the broader framework of women's rights, since it addresses this problem to safeguard the rights of female workers nationwide. Although the official statistics indicate a low level of women's work participation, a significant portion of the labour performed by women is not accounted for in the official data. It is said that if this is measured, the total labour participation rate for women would be 86.2 percent. According to official data², the labour participation rate for women is around 25.3% in rural regions and 14.7% in urban areas. However, estimations suggest that there is a significant number of women in the workforce, highlighting the need of ensuring their workplace safety and privileges. Considering

that 93 percent of female workers are engaged in the informal sector, they continue to lack legal protection. In the absence of legal safeguards or protective procedures, proactive actions must be taken to ensure the safety of their workers.

CONCLUSIONS

This research paper aims to provide a comprehensive overview of legal provisions for combating women exploitation, offering insights into the historical evolution, current frameworks, and potential areas for improvement. By addressing the multifaceted nature of women's exploitation, the paper contributes to the ongoing discourse on gender equality and the protection of women's rights.

To summarize, the problem of women being exploited in Indian workplaces highlights the urgent need for thorough and strong legislative measures. The deficiencies in the existing framework lead to a milieu where women encounter discrimination, harassment, and inequitable treatment. In order to cultivate a workplace culture that is really empowering and inclusive, it is crucial to rectify these legislative deficiencies. Enforcing and enhancing regulations will safeguard women's rights and promote the holistic advancement of a society that upholds gender equality, fostering an environment where individuals of all genders can flourish professionally in a safe and respectful setting.

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