

A STUDY OF THE WOMEN'S RIGHT TO WORK



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ABSTRACT

After more than thirty years of work, the United Nations Commission on the Status of Women (CSW) finally finished drafting "The Convention on the Elimination of All Forms of Discrimination against Women" (CEDAW). This was done in response to the increasing number of atrocities and instances of discrimination that were committed against women. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) was approved by the United Nations General Assembly (UNGA) on the 18th of December 1979; however, it did not become an official international treaty until the 3rd of September 1981. As of this moment, about 189 nations have ratified CEDAW, and 165 nations have ratified CEDAW-OP (Optional Protocol). The work done by the CSW has been critical in bringing to light all of the domains in which women have been denied equality with men. This is an important goal of the organization. Their attempts to advance the status of women have led to the creation of a number of declarations and conventions, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) being the most important and all-encompassing of these. The text of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) was drafted by working groups of the CSW in 1976, and a working group of the Third Committee of the General Assembly carried out lengthy deliberations between 1977 and 1979. The execution of the

recommendations made during the World Conference of the International Women's Year, which took place in Mexico City in 1975, by the World Action Plan was another factor that contributed to the encouragement of the creation of the CEDAW statement. As a result, the United Nations General Assembly passed resolution 34/180, which led to the adoption of the CEDAW text in order to codify thoroughly international legal norms for women.

KEYWORDS: Legal Norms For Women, CEDAW, International Women's Year.

INTRODUCTION

The principles that underpin the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) are deeply rooted in the objectives of the United Nations, which are to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, and in the equal rights of men and women. The Convention on the Elimination of All Forms of Discrimination Against Women elucidates the concept of equality as well as the steps necessary to realize it. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) does this by establishing not only a global bill of rights for women, but also a set of guidelines for nations to follow in order to ensure that women are able to fully exercise those rights. A preamble and thirty articles make up the Convention in its entirety. In the preamble to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), it is stated unequivocally that there is still "extensive discrimination against women" and that this discrimination "violates the principles of equality of rights and respect for human dignity." The Convention takes a multifaceted approach to the problem of gender inequality by addressing all three aspects of women's lives. In addition, and in contrast to previous human rights treaties, the CEDAW is concerned with the aspect of human reproduction as well as the influence of cultural elements on gender relations. This is because the CEDAW recognizes that human reproduction is a human right. At a minimum of once every four years, the States Parties are obligated to provide the Committee with a national report in which they detail the steps they have taken to implement the CEDAW's provisions in a manner that is consistent with the requirements of the convention. During the annual session of the Committee, the members review these reports with the representatives of the Government and explore with them areas that may benefit from additional action on the part of the specific nation. On July 9, 1993, India became a party to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), therefore setting a national agenda for the State Parties to abolish

discrimination against women in India. Despite this, the Optional Protocol to CEDAW has not been approved by India as of yet. The 58th session of the CEDAW Committee took place on July 2, 2014, and it was during this session that the combined fourth and fifth periodic reports of India were discussed.

DIAGRAMMING OF VIOLATIONS OF WOMEN’S RIGHTS

A list of the regions in India that are accountable for the violation of the rights of women can be seen below: (Saryal, 2014).

Missing Women and Girls - When it was determined that a low proportion of women in comparison to males is present in the population, the term "missing women" has been used in a number of developing nations. This is because the term "missing women" Because of this, people now talk about "missing ladies." In several of India's states, women and girls have been reported missing without a trace. One of the primary contributors to their disappearance is a practise known as trafficking in human beings. Girls who are victims of trafficking are subjected to severe types of exploitation and, most of the time, are prevented from accessing food and other necessities. Northern India has a problem with an unequal gender ratio that is more visible there, and the girls who come from families that are trying to make ends meet are sold by brokers to males in northern India. These men buy the girls because northern India has a problem with this. In addition to this, there have been allegations of situations in which married women have just disappeared from their homes without a trace. The biggest cause that leads to their absence is the prevalence of violent and unlawful crimes perpetrated against women both inside and outside the house. This is true regardless of where the crimes take place.

Forced Evictions and Exclusions - After the death of their spouses, widows in India are expected to provide for all of their own demands and needs while also being expected to be evicted from the homes in which they had lived with their husbands during their marriages. Evictions and exclusions against people's will are two names for this type of practise. Their children, along with the rest of the family, are also kicked out of the apartment. In general, women are more vulnerable than men, and women who are the primary carers for their children are more vulnerable. When a woman loses her husband, society has the expectation that she would suffer through a number of difficult life changes as a direct result of her partner's passing. In the event that they are expelled from their homes, they are obliged to remain resilient in the face of any and all challenges in order to guarantee that they will

always have sufficient food to eat. A lone woman who does not have any land or family to care for will almost always end up living in an urban slum since they have nowhere else to go.

Sexual Harassment in the Workplace - The occurrence of sexual harassment in the workplace is seen as the most damaging problem that imposes hurdles in the course of their advancement. This is because sexual harassment in the workplace is seen as one of the most damaging problems that affects their advancement. This is due to the fact that sexual harassment in the workplace is often seen as being the most problematic issue. Women in India confront a huge wage disparity both in terms of the remuneration they get for their labour and the perks that are associated with it. Within the framework of the working environment, they are subjected to unjust treatment with regard to questions of advancement and promotions. This is a fact that is true regardless of whether one is in an urban or rural setting. When it comes to getting the cash and resources necessary to begin any kind of business, female business entrepreneurs sometimes confront a more difficult terrain. This is especially the case when it comes to venture capital. When a woman is subjected to sexual harassment on the work, it interferes with her ability to address problems from a psychological standpoint. Despite the fact that she is not in a financially secure situation and that she might benefit from the cash that her career provides, she finds that she is compelled to quit her job.

There has been a surprising increase in the number of rape incidents that have been recorded in India over the course of the last decade. Hostility, wrath, rage, or any other bad feeling may frequently be traced back to the motivation behind violent crimes such as rape. According to the data provided by the National Crime Records Bureau, there were a total of 250,000 instances of rape that were documented in the year 2012. As a means of asserting their authority over people who belong to lower castes, members of higher castes in India's rural areas, particularly those located in the northern part of the country, have been known to resort to carrying out mass rapes. This is especially true in areas that are located in the north of the country. The Criminal Law (Amendment) Act 2013, which was designed to deal with rape incidents that occurred throughout the country, was introduced as a result of the brutal gang rape that took place in Delhi in December of 2012. This event was the catalyst that led to the introduction of the new law, which is known as the Criminal Law (Amendment) Act 2013.

STRUCTURE OF THE UNORGANISED SECTOR

It is essential to be aware that the phrases "informal sector" and "unorganized sector" are considered to be interchangeable terms that refer to the same geographical region. Keith Hart is credited as being the one who initially proposed using the term "informal sector." In September 1971, not long after this event, a delegation of the International Labor Organization (ILO) to Kenya in the field of employment produced a study titled Employment Incomes and Equality (ILO, 1972). On the basis of whether the activity involved paid work or self-employment, Hart differentiated between formal and informal (both lawful and illegitimate) revenue prospects. Therefore, the idea of the informal sector as it was utilized by Hart was restricted to individuals working for themselves in small businesses. The introduction of Hart's concept of the informal sector made it possible to incorporate activities that were previously ignored in theoretical models of development and in national economic accounts. Despite the fact that Hart's concept of the informal sector had some limitations, the introduction of this concept made it possible. The unorganized sector was defined by the first National Commission on Labour⁴, which Justice Gajendra Gadkar presided over, as the part of the workforce that has not been able to organize in pursuit of a common objective due to constraints such as (a) the casual nature of employment, (b) ignorance and illiteracy, and (c) the small size of establishments with low capital investment per person employed. The unorganized sector accounts for a large portion of the workforce in India.

The National Commission on Self-Employed women found that the unorganised sector is characterized by a high prevalence of casual labour, with the majority of workers performing sporadic tasks for extremely low salaries. The commission also found that the unorganised sector is dominated by women. There is absolutely no job stability, much alone any benefits related to social security. There is a significant level of exploitation in several regions, which results in long hours, less than ideal working conditions, and potential risks to workers' health. The most recent and widely accepted definitions of "unorganised sector" and "unorganized employment" in the Indian context were recently provided by the National Commission for Enterprises in the Unorganized Sector (NCEUS), which has merged all of the definitions into the following list:

"The unorganised sector consists of all unincorporated private enterprises owned by individuals or households engaged in the sale and production of goods and services operated on a proprietary or partnership basis and with less than ten total workers," the definition of "the unorganised sector" states. Additionally, "Unorganized employees consist of individuals working in the unorganised companies or homes, excluding regular workers with social

security benefits, and the workers in the formal sector who do not get any employment or social security benefits offered by their employers".

The unorganised sector is not in any sense a separate or exclusive sector, that much is abundantly clear. Through a diverse network of connections, it is connected to the organised sector and the rest of the economy, and in many instances, it is dependent on both of these. It is reliant on the organised sector for the provision of raw materials and other necessary capital, the creation of job opportunities, and various marketing facilities, among other things. The formal sector engages labour in the unorganised sector via the subcontracting model, which is adopted by the formal sector. According to the National Commission on Self Employed Women, people who labour outside the scope of the organised sector are considered to be unprotected employees.

WOMEN PARTICIPATION IN THE UNORGANISED SECTOR

In most nations, the proportion of working women has increased, which has resulted in a shift in the gender makeup of the overall labour force. This shift has been represented in the shifting sex composition of the entire labour force. It would appear that women have benefited from the expansion of globalisation in terms of the creation of new career opportunities. However, with the exception of Latin America, the vast majority of economically active women in developing nations do not have formal jobs that provide a full-time income and instead engage in unofficial forms of employment. A relatively insignificant proportion is employed in the formal sector, the vast majority of which is in the public sector. More than ninety percent of working women are employed in the unofficial economy, which is not taken into account in official statistics (The World Bank, 1991). Eighty percent of women who work outside of agriculture in Peru and seventy-five percent of women who work outside of agriculture in Zambia are employed in the informal sector. 43 percent of women in South Korea, 79 percent of women in Indonesia, and 57 percent of women in India are employed in the unofficial sector of their respective nations' economies, respectively. The empirical evidence suggests that a significantly higher proportion of women than males are employed in the informal sector. The majority of women in the workforce are either self-employed traders and producers, part-time workers, or subcontractors. Only a small percentage of them are the owners of a company that employs other people to work for them. Both men and women have different opportunities available to them within the informal labour market. There are occupations that are more commonly associated with men, such as

masons and blacksmiths, whereas others are more frequently associated with women (Beedi binding, transplantation of seedlings etc.). Even if the average income level of both men and women is lower in the informal sector, the wage gap between men and women is significantly larger in the informal sector than it is in the formal sector (USAID, 2006).

REVIEW OF LITERATURE

Arundhati Bhattacharyya (2015) In order to carve out a position for themselves in their separate occupations, working women in India have had to overcome a number of challenges that have been placed in their path. There are now successful women employed across all sectors of the economy. In the past, social reformers had a tremendous influence on the spread of education, which eventually led to the empowerment of women. Provisions of the Constitution of India that are discriminatory in favour of women's rights may be found throughout the document. The Indian State has enacted a variety of laws and policies, as well as enacted a number of laws and policies, in an effort to improve their status. However, Indian women in today's culture still face both overt and hidden kinds of bias on a regular basis.

Radhika Kapur (2018) In the past, the concept of human rights was conceived in a manner that did not take into account the realities of the lives of women and the fact that they were subjected to acts of violence, criminality, discrimination, and coercion. In other words, these aspects of women's lives were not factored into the conception of human rights. This understanding of human rights survived throughout the course of history. In the past, it was expected of women that they would comply to a set of norms and practises that placed a great degree of limitation on their actions and the choices they might make. This was especially true in communities in which males held the majority of the political and economic power. The work done by activists, human rights mechanisms, and states has been critical in ensuring that the human rights framework has developed and adjusted to summarise the gender-specific aspects of human rights violations in order to protect women in a more effective manner.

Mallappa B Salagare (2015) The research focuses on issues such as the abuses of women's rights in India, the identity of women in India, the many perspectives on women's rights, the effect of patriarchy on concerns of equality, and the link between the law and the status of women. In addition to this, an examination of the constitutional provisions pertaining to women's rights and the pervasiveness of discrimination against women should be carried out in a society in which males predominate. This piece of writing was constructed on the basis

of secondary data, and in order to accomplish this objective, descriptive research approach was chosen as the research methodology.

Shahnawaz Alam (2020) The emancipation of women is contingent upon the first step, the freedom of women, and this step is of the utmost significance for all nations since the participation of women is a primary factor in the growth of economic activity. The sense of support that is communicated not just for the family but also for the nation as a whole is communicated via the liberties that are provided to women in terms of their participation in the job. The vast majority of women who originate from households that have an income somewhere in the middle-class work at least one job in order to contribute monetarily to the expansion of their families. However, in many societies, women are not given the right to participate in economic decision-making, and as a result, they are forced to depend on their family for financial assistance throughout their whole lives. Despite this, it has been demonstrated that the engagement of women in the economic sphere is a crucial component in the accomplishment of sustainable development. This research will seek to analyse the trends of women's participation in the workforce as well as the factors that affect the amount of contribution that women make to the Indian economy. This is the goal of the study that will be carried out.

METHODOLOGY

For the purpose of this investigation, secondary data are compiled from a variety of sources including-

- The report from the NCEUS (2004-13).
- 2007 report by the National Commission for Enterprises in the Unorganized Sector (NCEUS) on the Conditions of Work and Promotion of Livelihoods in the Unorganized Sector (The Arjun Sen Gupta Committee Report).
- A Report on the Statistics of the Unorganized Sector Prepared by the Committee on Unorganized Sector Statistics of the National Statistical Commission of India in February 2012
- May 2016 edition of the Ministry of Women and Child Development's national strategy for women.

DATA ANALYSIS AND RESULT

The course of history demonstrates that people all throughout the world care about the rights of women. The fact that the Feminist movement started in the 18th century may be

demonstrated by Olympe de Gouges' Declaration of rights of women and female citizens, which was published in 1791. The protection of women was significantly improved as a result of global developments in this area, and various states signed international treaties. Since ancient times, India has been a leader in the fight to uphold and protect human rights and principles. When it comes to the expansion and protection of their human rights, the leaders of our nation do not lose track of the rights that women are entitled to. In this chapter, we will investigate and have a conversation about the legal and institutional mechanisms that are given by the Constitution and other pieces of legislation to preserve the rights of women and working women in informal sectors. These rights are given to us by the Constitution and other pieces of legislation.

CONSTITUTIONAL SAFEGUARDS FOR WOMEN IN INDIA

Since the beginning of human history, women have been used for inappropriate purposes. In the past, she was treated more or less like a commodity. It was widespread practise to engage in human trafficking, slavery, and prostitution. There was danger for the women who stayed at home. In the past, women were not allowed to leave the house without a "Pardhaa," and they were not allowed to be married if they worked outside the home. The violence that took place in her house ultimately led to her passing. She was killed for her dowry and for the honour of her family.

Women found work in both the formal and informal sectors of the economy as a result of the effects of modernization, industrialization, and inflation. Even after seven decades of independence, women are still stereotyped as being more fragile and face bias in all walks of life. Additionally, she is subjected to either organised or unorganised sexual harassment at her place of employment. More than 85 percent of the working population in India is unorganised, which includes more than 120 million working women. According to statistics provided by the National Commission on Self-Employed Women, the majority of women who are employed in India do so in the informal or unorganised sector (94%), while just 6% are employed in the official sector.

PROVISIONS UNDER FUNDAMENTAL RIGHTS

The provisions of the Bill of Fundamental Rights that deal with women's welfare are both explicit and implicit, and they are separated between the two. The provisions for welfare are:

1. **Article 15 (1)** It is against the law for the state to treat people differently on the basis of a person's religion, race, caste, sex, or birthplace.
2. **Article 15 (2)** prohibits disabilities, liabilities, limitations, or conditions that are based on a person's gender. This covers places such as restaurants and shopping, among others. It is also efficient when used in conjunction with public utilities such as wells, roadways, and other locations that are either maintained with money from outside the state or are specifically allocated for public use.
3. **Article 15(3)** permits the state to safeguard vulnerable groups such as mothers and children.
4. **Article 16** Everyone should have access to equal job and appointment opportunities.
5. **Article 21** A ensures that children aged 6 to 14 will get a free and compulsory education.
6. **Article 24** prohibits the employment of children younger than 14 in hazardous industries like as manufacturing, mining, and other fields.

The clauses that aren't explicitly stated but nevertheless deal with women's rights and welfare are as follows:

1. Article 14- Equality before law.
2. Article 21- Right to life and Personal Liberty
3. Article 23- Prohibition of traffic in human beings and forced labour.

A comprehensive listing of essential rights may be found in Part III of the Constitution. These rights are considered to be basic because they are of the utmost importance to the individual in the process of the formation of his or her self. If these rights are denied, then individual personalities will not have the opportunity to grow. Article 15 of the Indian Constitution stipulates the following:

"The state shall not discriminate against any citizen based solely on the grounds of religion, race, caste, sex, and place of birth or any of these factors," the constitution states.

In addition to these, it offers:

"Nothing in this Article should be interpreted as preventing the State from making any specific provision for Women and Children."

Article 15, clause 3 stipulates that states have the authority to enact supplementary legislation in order to protect the rights of children and women. The language of clause three is written

in absolute terms, and it does not appear to restrict in any manner, shape, or form the type or scope of the special provision that the state may make in favour of women and children. However, the special accommodations that are made by the state ought to be in the best interests of children and women, and they shouldn't be in any way detrimental to their interests.

In topics pertaining to public employment, Article 16 ensures that all individuals are afforded equal opportunities. While Article 16(1) ensures equality of opportunity for all citizens, including women, in matters relating to employment or appointment to any office under the state, Article 16(2) prohibits discrimination in respect to any employment or office under the state on the ground, among other things, of sex. This provision comes after Article 16(1), which ensures equality of opportunity for all citizens, including women, in matters relating to employment or appointment to any office under the state.

PROTECTION UNDER DIRECTIVE PRINCIPLES OF STATE POLICY

In the Constitution, several provisions may be found in section IV, which is referred to as the Directive Principles of State Policy. These provisions were added so that the goals of improving the welfare of women might be attained. This chapter was drafted with the sincere intention of working toward and promoting the general well-being of the people. This will be accomplished by securing and protecting, to the greatest extent possible, a social order in which social, economic, and political justice shall inform all of the institutions that make up national life. It is possible that a successful execution of this will result in the promotion of the welfare of the people via social and political justice, and in turn, it is anticipated that this will enhance the welfare of women in a proportionately greater amount.

According to Article 39, "The State shall, in particular, direct its policy towards securing" the following:

- (1) That the citizens, men and women equally, have the right to an adequate means to livelihood;
- (2) That the ownership and control of the material resources of the community are so distributed as best to serve the common good;
- (3) That the operation of the economic system does not result in the concentration of

wealth and means of production to the common detriment;

- (4) That the health and strength of workers, men and women, and the tender age of children are not abused, and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;
- (5) That children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity, and that childhood and youth are protected against exploitation and against moral and material abandonment;

CONCLUSION

One third of rural labourers in India are women, making up the majority of India's female labour force. Women in the workforce face a number of significant challenges and restrictions related to their jobs, including a lack of continuity, insecurity, wage discrimination, unhealthy job relationships, absence of medical and accident care, low wages that are frequently insufficient to meet minimum living standards including nutrition, long working hours, hazardous working conditions, a lack of basic services such as first aid, drinking water, and sanitation at the worksite, and other similar issues. Both horizontally and vertically exploitative relationships exist between employers and their female workers in rural areas. They confront additional gender disparities due to the fact that they are women working in a vulnerable and underprivileged field. The condition of working women is one of the most disadvantaged and deprived in the world. Even while they are working longer hours than their male counterparts, they are nevertheless in a precarious state. These women have no or only a few skills, yet owing to financial pressures, they have no choice but to labour in the unorganised sector of the economy. The government has passed a number of laws in an effort to improve the working conditions of its workforce. These laws aim to provide workers with social security, safety, hygienic facilities, medical facilities, and leave rules, among other things. However, the catch is that these laws only apply to the organised or formal sector of the country's economy.

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