

DECODING WOMEN'S RIGHTS in Workplaces



Case Laws | Legal Rights |
Government Schemes



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Executive Summary

The evolution of women's rights in India has been a remarkable journey, marked by key legal reforms and social changes aimed at empowering women and ensuring gender equality. Landmark cases such as *Vishaka v. The State of Rajasthan*, which laid the foundation for workplace harassment laws, have been pivotal in advancing women's rights. Following these judicial interventions, constitutional guarantees have further ensured that women in India enjoy numerous rights that protect their position in society. These include the right to education, equal pay, protection from violence and harassment, and reproductive rights.

Additionally, various government schemes have been introduced to promote women's welfare, including Maternity Benefit Schemes, Mahila E-haat, and initiatives for financial independence like the Women Entrepreneurship Platform. These schemes are aimed at improving access to education, employment, and entrepreneurial opportunities for women.

However, in spite of these advancements, the gap between policy and practice remains to be addressed. Lack of awareness about rights and improper enforcement of laws hamper the realization of benefits for many women, especially in rural and marginalized communities. Societal norms, lack of education and gender biases aggravate these issues.



Introduction

Women play a crucial role in India's workforce, contributing significantly across diverse industries. As of 2023-24, the female Labour Force Participation Rate (LFPR) in India for individuals aged 15 and older was 41.7% (rural areas at 47.6% vs. urban areas at 28%).

It is estimated that there are about

268 million,
female workers in india
(total labor force of 643 million).

Over the years, legislative reforms and progressive policies have created new opportunities, enabling women to excel in fields once considered unconventional.

With strong constitutional safeguards, including Article 15 of the Indian Constitution, and labour laws like the Maternity Benefit Act, 1961, India has made significant strides in fostering a more inclusive work environment. These frameworks provide essential protection for women's health, safety, and well-being. As industries evolve, there is a growing opportunity to enhance workplace policies, ensuring that women not only participate but also thrive in every sector.

With this research paper, we aim to empower women with the knowledge of their rights at their workplaces, providing them with a deeper understanding of legal protections, workplace policies, and strategies to navigate challenges effectively. By raising awareness and advocating for stronger enforcement of existing laws, we aspire to contribute to a more equitable and empowering professional landscape for women in India.



Key Rights for Women in the Workplace

Hillary Clinton, "Human rights are women's rights, and women's rights are human rights, once and for all."

Women in India are entitled to several legal protections under labour and employment laws. This section categorizes key legal provisions that safeguard women at work:

Constitutionally guaranteed rights

- **Right to Equality (Article 14-16)** – Protection against discrimination based on gender, caste, religion, or place of birth.
- **Right to Freedom (Article 19)** – Includes the right to form associations or unions.
- **Right Against Exploitation (Article 23-24)** – Prohibits forced labor and employment of children in hazardous industries.

Article 39(a) and (d) of the Indian Constitution are part of the Directive Principles of State Policy (DPSP), which provide guiding principles for the governance of the country. Although not enforceable by the courts, these principles are fundamental in the governance of the nation and aim to achieve social and economic justice.

- **Article 39(a)** directs that the citizens, men and women equally, have the right to an adequate means to livelihood;
- **Article 39(d)** mandates that there is equal pay for equal work for both men and women.
- **Article 42** The state is directed to make provisions for securing just and humane conditions of work and for maternity relief.

Article 243D(3) and Article 243T(3) deal with the reservation of at least one-third of the total seats for women in Panchayats and Municipalities, respectively, ensuring women's participation in local self-governance.

As of January 2024, elected women representatives (EWRs) constitute 45.6 per cent of total Panchayati Raj Institution (PRI) representatives in India, per a RBI report. In the 32 States and Union Territories (UTs), out of 3,187,320 PRI representatives, 14,53,973 were women, per the Report on Finances of Panchayati Raj Institutions.



The Companies Act, 2013

- The second clause in Section 149(1) of the act requires certain classes of companies to have at least one woman director on its board. This is to ensure that women are represented at the highest levels of decision-making in a company.
- The Securities and Exchange Board of India (SEBI) has also incorporated this requirement into Regulation 17(1) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, further reinforcing the mandate.

As of November 30, 2024, there are approximately 11.6 lakh women directors associated with public and private companies in India, including listed and unlisted entities.

Equal Remuneration Act, 1976

- **Section 4** talks about the duty of employers to pay equal remuneration to men and women workers for the same work or work of a similar nature. Employers are prohibited from discriminating based on gender in wage payments.
- **Section 5** prohibits employers from discriminating against women during recruitment for the same or similar work, as well as in conditions of service after recruitment, such as promotions, training, or transfers, except where laws in force restrict or prohibit the employment of women in certain work.

Maternity Benefit Act, 1961

- Under Section 5, women are entitled to maternity leave of 26 weeks (for the first two children). For subsequent children, maternity leave is 12 weeks.
- As per Section 11, a woman is entitled to two nursing breaks in addition to the regular intervals of rest during her work until the child is 15 months old.
- As per Section 11A, establishments with 50 or more employees must provide crèche facilities for the benefit of working women.

In 2020, 49,197 women workers claimed maternity benefits under the Employees' State Insurance Act, 1948, with a total of Rs. 3,83,61,85,834 paid out as maternity benefits.

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

- Under **Section 3**, every woman has the right to be protected from sexual harassment at the workplace. Employers must ensure a safe working environment and take appropriate actions to prevent harassment.
- As per **Section 4**, every employer must constitute an Internal Complaints Committee (ICC) at each office/branch employing 10 or more employees to address complaints of sexual harassment.
- In cases where the workplace does not have an IC (e.g., in organizations with less than ten employees or in certain specific circumstances), the district officer shall constitute a Local Committee to receive and redress complaints.

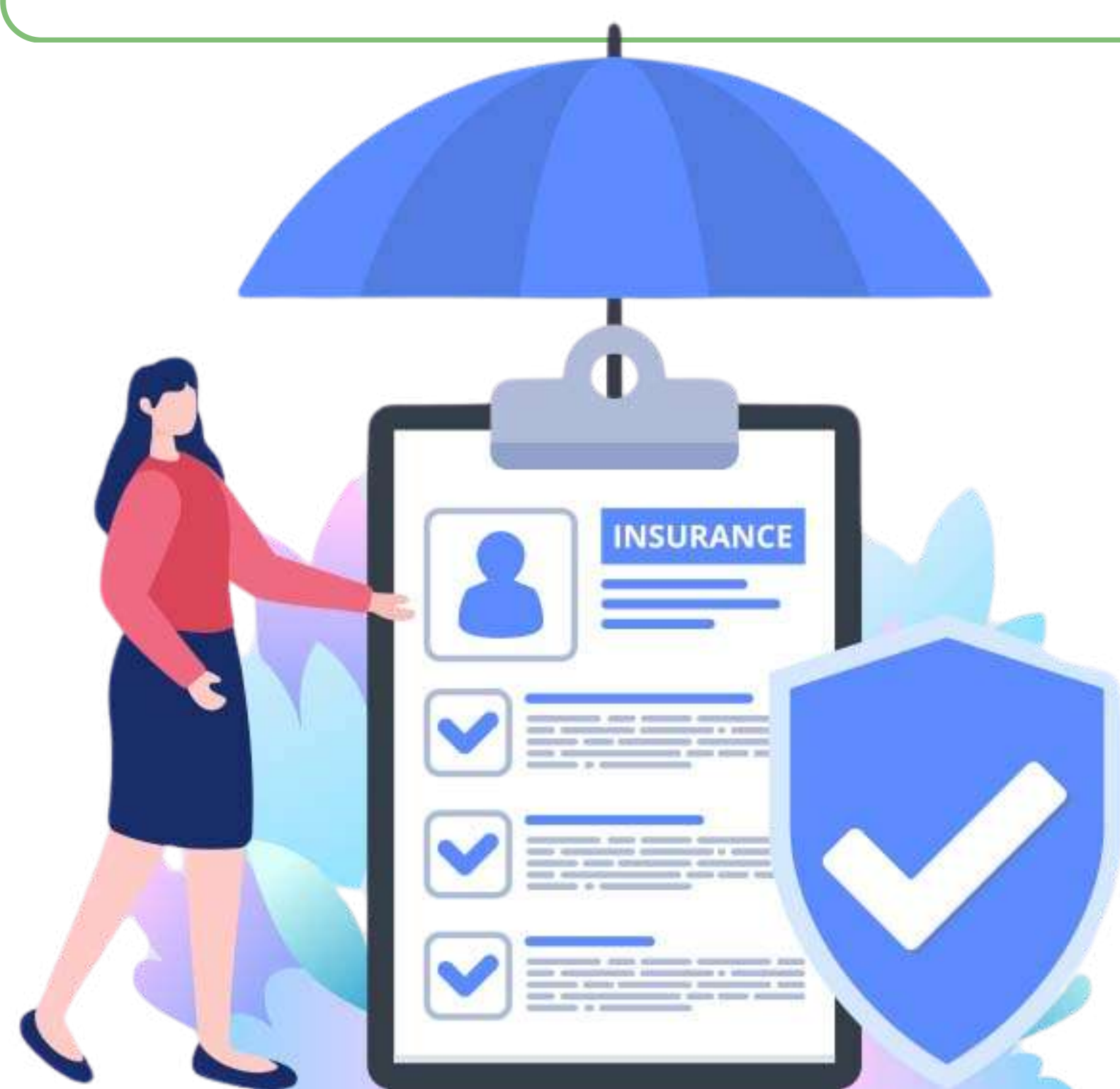
In 2024, the National Commission for Women registered around 26,000 complaints, including around 1000 related to sexual harassment. An analysis of companies listed on 700 NSE showed a 29% increase in sexual harassment complaints from 1800 in FY23 to 2300 in FY24, while pending complaints rose by 67%.

The Factories Act, 1948

- **Section 19** of the Factories Act mandates that every factory must have enough latrine and urinal accommodations for both men and women, which should be accessible to all the workers at all times.
- The Factories Act very clearly states in **Section 22** that the lubrication of machinery and/or adjustment of any machinery or any part of it, while it is in motion, will not be done by any woman or a young person.
- **Section 27** prohibits the employment of women and children in any part of a factory where a cotton opener is in operation for pressing cotton, unless the feed-end of the cotton opener is separated from the delivery end by a partition extending to the roof or a height specified by the Inspector, in which case they may work on the side where the feed-end is located.
- As per **Section 66**, earlier, women were restricted from working between 7 PM and 6 AM. However, amendments now allow women to work during night shifts with their consent and under conditions ensuring their safety.

The Employee State Insurance (ESI) Act, 1948

- **Section 46** extends comprehensive social security benefits to both women and men workers. It ensures their well-being by providing various benefits, including medical and cash benefits in instances of sickness, maternity, disablement, or death.
- Under **Section 50** if an insured woman dies due to an employment injury, her dependents (including husband and children) are eligible for dependents' benefits.
- Under **Section 56** female employees and their family members are entitled to medical benefits during and after pregnancy, including prenatal and postnatal care.
- As per **Section 61**, if a female employee is covered under ESI, she cannot claim benefits under the Maternity Benefit Act, 1961.
- Rules 56 to 60 of the ESI (Central) Rules, 1950, outline the eligibility, amount, and extended maternity benefits, confinement expenses for those unable to access ESI hospitals, and coverage for miscarriage and pregnancy-related sickness.



The Employees' Provident Funds (EPF) and Miscellaneous Provisions Act, 1952

It ensures the establishment of a provident fund for social and financial security and retirement benefits for all eligible employees, regardless of gender. Under this Act, both the employer and the employee make contributions to the provident fund, creating a pool of savings that can be utilized by the employee upon retirement or in case of certain contingencies, such as disability.

Mines Act 1952

Section 46 prohibits employing women in mines below ground or in mines above ground between 7 P.M. and 6 A.M. Women working above ground must have an 11-hour break between shifts. The Central Government may modify working hours for women in above-ground mines, ensuring no employment between 10 P.M. and 5 A.M. under such modifications.

Trade Unions Act, 1926

Recognizes and upholds the right of workers to freely form and actively participate in trade unions, enabling collective bargaining activities. The Act ensures that all workers have equal opportunities to voice their concerns, contribute to negotiations, and participate in union activities, thereby promoting gender inclusivity within the trade union framework.

The Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA)

Also has a welfare provision for children accompanying the women working under MGNREGA. The Act states that in case the number of children below the age of six years accompanying the women working at any site is five or more, provisions shall be made to depute one of such women workers to look after such children.

The Beedi and Cigar Workers (Conditions of Employment) Act, 1966

Requires that every industrial premises where female employees more than the specified number are ordinarily employed, a suitable room or rooms for the use of children under the age of six years of such female employees shall be provided and maintained. Such room(s) shall be provided with adequate accommodation, be adequately lighted and ventilated, maintained in a clean and sanitary condition and be under the charge of women trained in the care of children and infants.

The Inter State Migrant Workmen (Regulation of Employment and Conditions of Service) Central Rules, 1980

Mandated for separate latrines and urinals, separate washing facilities, creches and accommodation for migrant workers.



UPCOMING LABOUR CODES

India's four labour codes aim to consolidate 29 central labour laws into a streamlined framework, with states and union territories tasked with finalizing draft rules by March 31, 2025. The four labour codes aim to strike a balance between easing labour market restrictions and enhancing workers' rights and welfare.

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

Incorporates provisions to address the occupational safety, health, and welfare of workers including women workers.

- Under **Section 24**, the Central Government may issue regulations to provide for the availability of a creche or rooms for the use of employees' children.
- Under **Section 43**, women workers may, with their consent, be employed in an establishment outside the standard working hours of 6 a.m. to 7 p.m., provided other amenities as directed by the appropriate government.
- Under **Section 44**, the appropriate Government may prohibit the employment of women in any establishment or class of establishments if the nature of operations is deemed dangerous to their health and safety.
- Under **Section 77**, the government may make rules specifying certain manufacturing processes or operations as dangerous and prohibiting or restricting the employment of pregnant women in any factory where such processes pose serious risks of bodily injury, poisoning, or disease.

The Code on Wages, 2019

Underscores the principles of gender equality and nondiscrimination by explicitly prohibiting wage disparity based on gender.

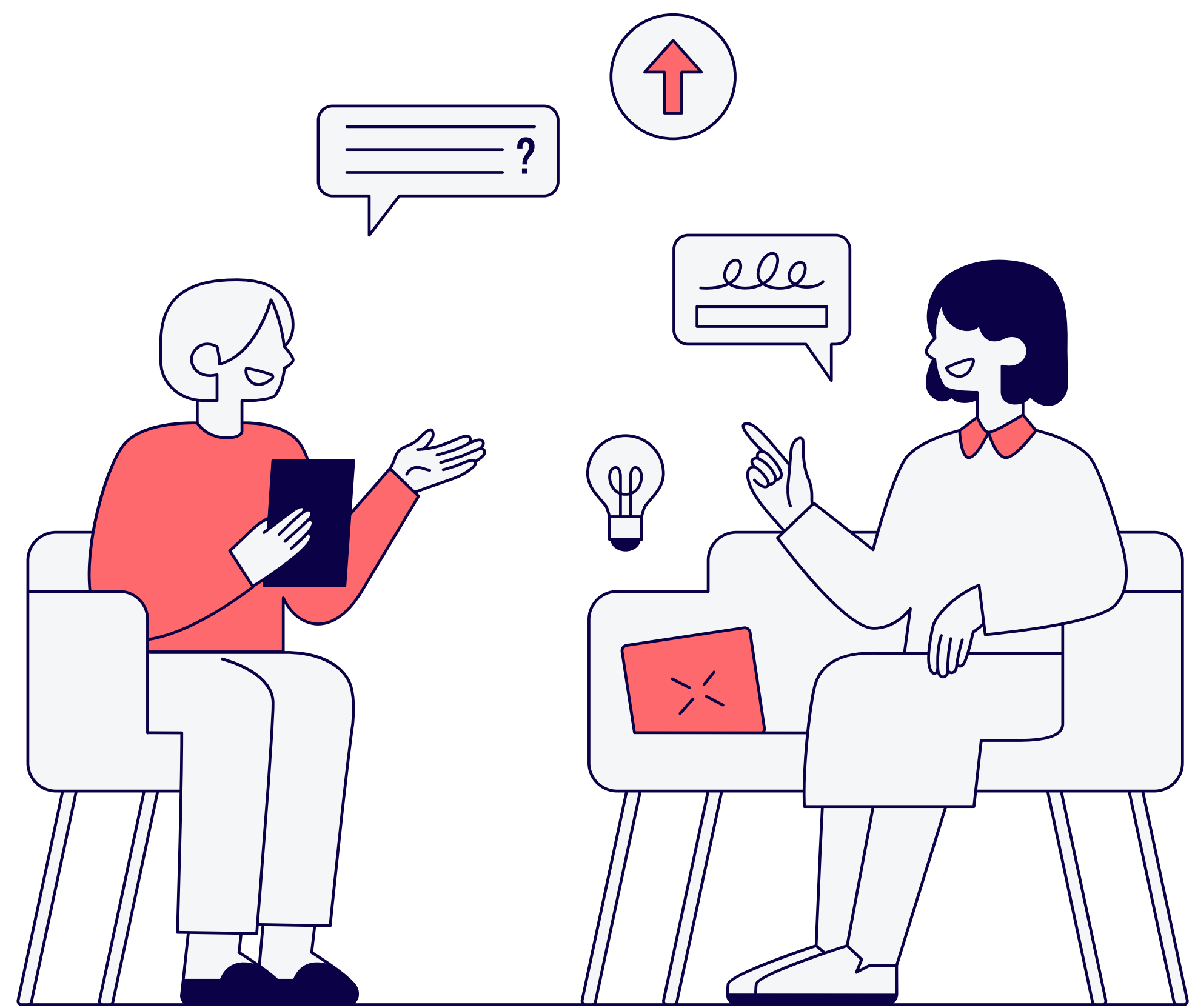
- As per **Section 3**, there shall be no gender-based discrimination in wages or recruitment for the same or similar work in any establishment.
- Under **Section 42**, the Central Government shall constitute a Central Advisory Board with one-third of the members as women. It must advise on increasing women's employment opportunities, work conditions, and regulations, while considering factors like workforce size, work nature, hours, and the need for part-time employment.

The Code on Social Security, 2020

Was formulated with the primary objective of consolidating laws related to social security, aiming to extend comprehensive social security coverage to all workers. Notably, the code ensures the extension of these benefits to all workers, including gig workers and platform workers, marking a significant stride in guaranteeing the rights and protection of workers in the unorganized sector. It is especially noteworthy that women in the unorganized sector now have access to social security rights.

The Industrial Relations Code, 2020

Aims to consolidate laws relating to industrial relations. The code introduces the concept of fixed-term employment and sets rules for the retrenchment of workers. The code emphasizes the fair representation of women in the Grievance Redressal Committee and mandates that representation should be proportionate to the number of women workers in relation to the total workers employed in the establishment. The aim is to ensure that women have a meaningful role and participation in resolving individual workplace disputes.



Landmark Judgements that led to the Evolution of Women's Workplace Rights

Ruth Bader Ginsburg: *"Women belong in all places where decisions are being made. It shouldn't be that women are the exception."*

The evolution of women's workplace rights in India has been shaped by a series of landmark judgments that have progressively established gender equality and enhanced protections for women in professional settings. These rulings have addressed issues ranging from equal pay, protection against sexual harassment, maternity benefits, and working conditions to representation in leadership positions.

CB Muthamma v. Union of India and Others (1979)

CB Muthamma, the first woman to be appointed as an IFS officer, faced discriminatory practices that denied her promotion. She took the matter to the Supreme Court, challenging these practices. She argued that the Indian Foreign Service (Conduct and Discipline) Rules, 1961, violated her constitutional rights under Articles 14 and 16. The rules restricted women officers from serving in certain foreign posts and imposed conditions on their promotion, particularly if they got married.

The Supreme Court recognized the clear gender-based discrimination in these rules and held that they violated the constitutional principles of equality. The Court stressed that the Constitution ensures equal opportunities for both men and women in public employment, and gender cannot be a legitimate basis for differential treatment. This ruling reinforced the right to equal treatment for women in government service.

Air India v. Nergesh Mirza (1981)

In this case, an air hostess was discriminatorily terminated by Air India as the company had a policy requiring air hostesses to resign either within four years of service or upon getting married, whichever came first. Additionally, as per the airline's rules, air hostesses had to retire at the age of 35, or upon marriage, or on their first pregnancy, depending on which event occurred earlier.

The apex court held that Air India's policy was arbitrary and unreasonable. The court stressed the importance of gender equality in employment and rejected the idea that marriage could serve as a valid reason for termination. The court's ruling reinforced the protection of women's rights in the workplace.

Neera Mathur v. Life Insurance Corporation of India and Another (1991)

A female employee was dismissed as she inaccurately declared her last menstruation date and her pregnancy date on the employment declaration form at the time of joining. She challenged the same in the Supreme Court on the grounds that the discharge is arbitrary and violates her right to equality as guaranteed under Article 14 of the Constitution. The court overturned the dismissal ruling that the requirement to disclose such personal information was embarrassing, humiliating, and infringed upon the employee's modesty and self-respect. The court further directed the company to remove these questions from the declaration form and highlighted that denying employment or maternity benefits to a pregnant woman violates the constitutional rights of a woman.

Vishaka and Others v. State of Rajasthan and Others (1997)

This landmark judgement stemmed from the gang-rape of a social worker in Rajasthan, which led women's rights groups to petition the Court for guidelines to combat workplace harassment. The Supreme Court tackled the issue of sexual harassment in the workplace, establishing critical guidelines and a framework for preventing and addressing such incidents. The Court ruled that sexual harassment at the workplace violated the fundamental rights of women under Articles 14, 15, and 21 of the Constitution. International conventions were also referred to by the apex court, including the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), to underscore the necessity of legal protection against workplace harassment.

These guidelines eventually paved the way for the enactment of the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 (POSH Act).

Apparel Export Promotion Council v. A.K. Chopra (1999)

The case involves allegations of sexual harassment against the Respondent, A.K. Chopra, who was working as the Chairman of the Apparel Export Promotion Council. In this case, the court ruled that sexual harassment includes unwelcome behavior violating a woman's dignity, even without physical contact, strengthening protections under the Vishaka Guidelines. The complainant, a female employee, accused Chopra of attempting to molest her at the workplace, specifically at the Taj Palace Hotel. The incident occurred on August 12, 1988, when Chopra insisted that the female employee accompany him to the hotel for dictation purposes. Despite her objections, Chopra allegedly engaged in objectionable behaviour, attempting physical contact and making inappropriate advances.

The incident was reported to the Director (Personnel) on August 17, 1988 by the female employee and a subsequent inquiry was conducted by an Enquiry Officer, J.D. Giri. The Enquiry Officer found Chopra guilty of acting against moral standards and engaging in behaviour that did not meet the test of decency and modesty. Based on these findings, Chopra was suspended on August 18, 1988, and later removed from service on June 28, 1989.

Secretary, Ministry of Defence v. Babita Puniya and Others (2020)

The Supreme Court, in this case, held that irrespective of their service length, women in the Army must be granted Permanent Commission in all ten streams where the Central government had already approved Short Service Commission for women. The court further held that completely excluding women from command roles violated Article 14 of the Constitution. It also declared the policy restricting women to only "staff appointments" as not enforceable, affirming the right of women to equal opportunities in command positions.



Deepika Singh v. Central Administrative Tribunal (2022)

The Supreme Court in this case held that a woman's legal right to maternity leave cannot be denied on the ground that she had previously taken child care leave for her non-biological children. The Court stated that the provisions of the Central Civil Services (CCS) Rules regarding maternity leave must be interpreted in accordance with the purpose and intent of the Maternity Benefits Act. It clarified that the Maternity Benefits Act is a beneficial legislation designed to encourage women to join and continue in the workforce.



Government Initiatives for Equality and Growth

While workplace policies play a crucial role in ensuring women's rights, the government has also introduced several initiatives that provide broader support for women in employment, education, and entrepreneurship.

Mahila Shakti Kendra (MSK)

The Mahila Shakti Kendra (MSK) Scheme was approved in November, 2017 as a centrally sponsored scheme to empower rural women through community participation. This aims to facilitate inter-sectoral convergence of schemes and programs meant for women.

Pradhan Mantri Matru Vandana Yojana (PMMVY)

Pradhan Mantri Matru Vandana Yojana (PMMVY) is a Centrally Sponsored Conditional Cash Transfer Scheme providing maternity benefits to Pregnant Women and Lactating Mothers, except those in government employment or receiving similar benefits, for their first living child. Eligible beneficiaries receive ₹5,000 in three installments during pregnancy and lactation, and an additional amount under the Janani Suraksha Yojana, totaling ₹6,000.

Mission Shakti

'Mission Shakti' (Integrated Women Empowerment Programme) - an Umbrella Scheme, is a mission aimed at strengthening interventions for women's safety, security and empowerment. It seeks to realise the Government's vision for 'women-led development' by addressing issues affecting women on a life-cycle continuum basis and by making them equal partners in nation-building through convergence across Ministries/ Departments and different levels of governance.

Drone Didi Scheme

The Drone Didi women empowerment scheme in India aims to train 15,000 workers of the Self Help Groups (SHGs) to become drone pilots. These trained women can perform various economic activities like delivering medicines and groceries using drones and earn their livelihood. They are also useful in mapping the agricultural land to digitalise the land records across rural India.

Rastriya Mahila Kosh (RMK)

Rastriya Mahila Kosh provides micro-finance services to the needy and poor women in the informal sector through a client friendly, without collateral security and third party guarantee. The loans are granted for Income Generating Activities (IGA), housing, micro-enterprises, family needs, etc.

Lakhpati Didi Scheme

Under this scheme, the government eyes to empower two crore women working in Self-Help Groups (SHGs) to build a capital of more than Rs. 1 lakh.

Standup India Mission

The Standup India Mission seeks to provide loans between Rs.10 lakhs and Rs.1 crore to SC, ST and women entrepreneurs. This loan covers up to 75% of the total project cost. It is a great women's empowerment scheme in India, and it ensures that women entrepreneurs get the necessary investment.

STEP

STEP is a government scheme for women's empowerment in India that provides grants to institutions to run training programmes for women. The objective of the program is to ensure employment for women through skill development.

PMMY (Pradhan Mantri Mudra Yojana)

The scheme provides collateral-free loans to small business owners up to Rs. 20 lakhs (limit increased in budget 24-25). With an increased budget allocated for MUDRA loans, the focus is on providing more loans to women-led enterprises.

TREAD Scheme

The objective of this scheme is to develop women entrepreneurs. For this reason, the government provides 30% of the total loan eligibility of women entrepreneurs up to Rs. 30 lakhs. The rest of the loan is provided by banks, through NGOs that work for women's empowerment and can handle large funds.

Mahila E-Haat Scheme

It is an e-marketplace for women to showcase their products. They can also add proper product descriptions and photos to attract customers. It promotes Make in India while ensuring women's empowerment.

Mahila Udyam Nidhi (MUN) Scheme

It is a scheme offered under the Small Industrial Development Bank of India (SIDBI) to encourage and empower women entrepreneurs and promote women Entrepreneurship by providing financial assistance at concessional interest rates. The funding provided by Mahila Udyam Nidhi Scheme can be used by MSMEs to undertake service, manufacturing and production-related activities.



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