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SAFETY MEASURES FOR WOMEN WORKERS IN "DANGEROUS OPERATIONS"

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ABSTRACT

This paper looks at the special rules in Indian Labour Law that protect women's rights at work. It explores the main ideas that support these rules and takes a closer look at important laws like the Equal Remuneration Act, the Maternity Benefit Act, and the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act. The paper also talks about how these laws fit into the new Labour Codes and what it takes to make sure they're used and followed well, especially in places like the informal sector. Plus, it checks how well these legal protections work to help women get equal chances in jobs, comparing them to what other countries do and what India has agreed to. The abstract wraps up by pointing out the ongoing issues and suggesting ways to make the legal system stronger and really get gender equality going in Indian workplaces. Even though India has passed many laws to help women at work, they still face a lot of challenges. A big issue is that women often don't get paid fairly and face discrimination because of their sex. These problems have been around for years, which is why laws like the Maternity Benefits Act, 1961, and the Equal Remuneration Act, 1976, were created. These laws were made to help achieve the country's goal of equality and to follow the rules that tell the government to include helpful and protective measures in the laws. This paper looks into the laws that are designed to help women in the workplace.

Keywords: Labour Law, Gender Equality, Employment, Rights of Women

INTRODUCTION

As more women join India's workforce, we're seeing a big shift that could really boost the country's economy and society. For years, women's roles have moved from mainly being at home to playing important parts in many jobs. But this change hasn't been easy, as women often face special challenges because of how society sees them, their bodies, and past gender differences. To help women, Indian lawmakers have made some special labor laws that protect their rights and make workplaces fairer. These laws tackle important issues like harassment, maternity benefits, and pay fairness, showing India's dedication to making gender equality a reality and ensuring women can fully participate in the workforce.

Companies are also getting more creative, like offering paid menstrual leave, to really support their female employees. This paper will look at the main special rules in Indian Labor Law that protect women, see how well they're working, and talk about the ongoing challenges and what we can do to make these protections even stronger. To ensure that women workers are protected, all labor laws in India include special rules about their health and safety. In the important case of *Vishaka & Others v. State of Rajasthan*¹¹²⁸, the Supreme Court of India ruled that sexual harassment of women at work is a violation of their right to gender equality, which is a fundamental right for every citizen. This also means it goes against their right to practice any

¹ *Vishaka & Others v. State of Rajasthan*, 1997 S.C. 3011 (India).

profession, occupation, trade, or business¹¹²⁹. The Court also defined “sexual harassment,” outlined preventive measures, a way to file complaints, and stressed the importance of educating women workers about their rights. In a recent case, *Anshu Rani v. State of UP* (2019), the Allahabad High Court decided that women workers are entitled to a full six-month maternity leave. The principle of “equal pay for equal work¹¹³⁰” was explained in the SC case of *Associate Banks Officers Association v. State Bank of India*¹¹³¹. The Court stated that there should be no discrimination based on gender when it comes to the pay of workers doing the same job in the same organization.

The Safety Challenges for Female Employees during Night Shifts in India

India, a country with a rich cultural history, also faces some social challenges, like gender-based violence and harassment. Female employees in India often encounter unique safety issues when working night shifts, such as:

- **Public Transport Safety:** Late-night public transportation can be unsafe and unreliable, putting female employees at risk while they travel to and from work.
- **Isolation and Harassment:** Working alone at night can lead to feelings of isolation, which can make female employees more vulnerable to harassment or violence.
- **Road and Street Safety:** Poorly lit streets and limited security in some areas can be dangerous for women traveling alone at night.
- **Cultural Stigma:** In some areas, women working late shifts might face social stigma, which can prevent them from getting help or reporting incidents.
- **Limited Support Services:** Access to emergency services and medical

facilities might be limited during late hours, making it difficult for female employees to get help when they need it.

In India, the laws that protect women employees during night shifts mainly aim to create a safe place to work. The main laws that cover this are the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, and the Shops and Establishments (Regulation of Employment and Conditions of Service) Act, 1961.

The Indian Constitution, in Article 14, makes sure everyone has the right to be treated equally and without discrimination. This right is more important than any other rules that might unfairly treat women. Because of this, the Factories Act, 1948, which used to limit hiring women for night shifts, was found to be invalid in the case of *K.S. Triveni v. Union of India*, Ministry of Labour. The court ruled that this rule was against the Constitution and removed it in the case of *R. Vasantha v. Union of India* in 2000.

Strengthening Safety for India’s Hazardous Sector

Industries like mining, petroleum, metallurgy, chemical, and heavy manufacturing are super important for India’s economy. Many people in these industries work in tough conditions. To make sure everyone is safer and better prepared for the future, the Government has created the new Labour Codes, which combine 29 Central labour laws into 4. The Occupational Safety, Health and Working Conditions Code, 2020 (OSH&WC), includes a more comprehensive safety system with risk assessments, free annual health check-ups, training, PPE, emergency planning, and more. These changes make safety rules stronger, require better risk management, and hold everyone accountable. They also provide employers with clearer, simpler, and more predictable rules. The new system is designed to create safer workplaces, stronger protections, and better working conditions for India’s hazardous-sector workers. The Labour Codes are designed to boost safety and well-being for

¹¹²⁹ INDIA CONSTI. art. 19 cl. 1(g).

¹¹³⁰ INDIA CONSTI. art. 39 cl. (d).

¹¹³¹ *Associate Banks Officers Association v. State Bank of India*, 1996 SCC (4) 378 (India)

India's workers in dangerous industries, making sure everyone is protected, held responsible, and better prepared to handle risks. This includes all workers in hazardous processes or industries like chemicals, explosives, gas, radiation, mining, construction, docks, and heavy engineering. OSH&WC covers everyone in these areas.

- **Employment Conditions:** Women should not be forced to work in dangerous or hazardous mines, and they should have the option to participate in risky processes, with their consent and, in some instances, specific approvals.
- **Mandatory Safeguards:** If the government finds that a particular operation poses a risk to women's health or safety, it can require employers to put in place sufficient safety measures before allowing them to work there.
- **Protective Equipment:** Employers are responsible for providing the right personal protective equipment (PPE), like respirators, nose masks, or appropriate clothing, especially when dealing with fumes, dust, or toxic substances.
- **Health Surveillance:** Employers must conduct mandatory pre-employment, regular, and post-exposure medical exams, as well as annual health check-ups to help catch occupational illnesses early.
- **Working Near Machinery:** Women should be given the right safety gear when working near moving machinery, and they shouldn't be assigned to tasks that don't have good ergonomics, as these could harm their health.

Safety Committee and Safety Officers

The government can ask any business or group of businesses to set up a Safety Committee. This committee should have people from both employers and workers who work at the business, and they should do this in a way that the government says is right.

This applies to any business that:

- Has five hundred or more workers.
- Does work that's dangerous and has two hundred fifty or more workers.
- Builds or constructs things and has two hundred fifty or more workers.
- Has a mine and has one hundred or more workers.

The employer should also pick out the right number of safety officers. These officers should have the right skills and do the right jobs, just like the government says.

When employees get their annual physical check-up during the hiring process, it helps states, organizations, and employees understand the importance of health. It also helps prevent workplace injuries, illnesses, and chronic diseases among employees. Plus, it contributes to a healthier workforce, which positively affects families and reduces the risk of interpersonal diseases. This, in turn, leads to a healthier family life cycle, including a healthy relationship between partners, parents, and children. Overall, annual physical check-ups during hiring are a smart way to boost health awareness and reduce the risk of diseases and injuries. It's important to remember that while money is important, health is even more crucial. People work to earn money for a good, healthy life, not to suffer from diseases, injuries, or death.

JUDICIAL INTERVENTION ON HAZARDOUS OPERATIONS FOR WOMEN

The way courts have stepped in to protect women from hazardous work in India has changed a lot. It used to be all about keeping them safe by limiting what they could do. But now, the focus is on giving women the same rights as everyone else, making sure they're safe and empowered. Back in the day, women weren't allowed to work in dangerous factories to keep them healthy. But now, especially with the Supreme Court's help, the courts are saying it's time to lift those restrictions and make sure employers create a safe, fair place for everyone. To create more inclusive workplaces for women, we need to open up operations like

electrolysis, glass making, lead production and treatment, gas and petroleum generation, blasting, tanning hides and skins, graphite powdering, dichromates and carcinogenic dye intermediates, fireworks and match factories, manganese production, hazardous pesticides, benzene use, and high noise and vibration operations. Taking down legal barriers is the first step toward making workplaces fairer. While this is vital for changing the long-standing gender roles in society and industry, it's not enough on its own. We also need to provide women with the right amenities and facilities, such as separate toilets, changing rooms, and private areas for medical checks, which are often required in these industries. Additionally, we should offer drop-off facilities in areas where women haven't worked before. This will require some investment, strong management involvement, and at least initial oversight from State labor authorities. The government should also ensure that women who might not be able to participate in these jobs aren't forced into them or penalized for not choosing these tasks. Without these measures, any progress toward a more equitable job market in India will be incomplete.

- **Lifting Restrictions and Ensuring Safety:** Courts have helped remove blanket bans on women working in dangerous industries like chemical, lead, and fireworks factories. But, this is only possible if the employer makes sure there are enough safety measures, separate facilities (like toilets and changing rooms), and someone to keep an eye on things.
- **Voluntary Participation and Night Shifts:** Judicial decisions, often in line with new labor codes (OSH Code 2020), let women choose to work in hazardous or night shifts with their own permission. Employers are required to provide safe transportation, security, and well-lit places.

- **The “Protective” vs. “Equality” Dilemma:** The Supreme Court has worried that too much protectionist stuff, like not letting women work in dangerous areas, can be a way to keep them from getting the same job chances as everyone else.
- **Right to Health and Dignity:** The judiciary has said that the right to life includes the right to work in safe and kind conditions, even for pregnant women, who might need special, non-dangerous jobs.
- **Liability of Employers:** Judicial activism has made sure that if someone gets hurt or sick because of dangerous work, employers are really responsible and have to pay for it and make sure things are safe (like in *Consumer Education and Research Centre v. Union of India*).

CASE STUDY

Gaurav Jain v. Union of India (1997)¹¹³²

This Supreme Court decision, which mainly focused on helping sex workers, highlighted that Article 15(3) should be used to offer “special protective discrimination.” This would help women escape the “moribund of formal equality” and protect them from being exploited in “foul social environments” (Jain, 1997).

Hotel Priya v. State of Maharashtra (2022)

The Supreme Court looked at the limits on women working in “hazardous” or “morally sensitive” places, especially as performers in bars.

- **The Ruling:** The court decided that gender-based limits on the number of female performers weren't allowed by the constitution. It pointed out that the state can't use “protection” as an excuse to take away a woman's right to make a living under Article 19(1)(g).

Charu Khurana v. Union of India (2015)¹¹³³

¹¹³² Gaurav Jain v. Union of India, AIR 1997 SC 3021 (1997).

The Supreme Court made a significant decision by removing gender-based limitations in the film industry. These limitations had previously prevented women from being “make-up artists” and restricted them to “hairstylists.”

- The Court’s Decision: The Court emphasized that “gender justice is a constitutional goal,” stating that trade practices that seem like protection but are actually restrictive violate Articles 14, 15, and 21.

Sanya v. State of Kerala (2023)

The Kerala High Court tackled the restriction on women working as “Night Shift Supervisors” or in jobs involving dangerous machinery.

- The Court’s Decision: The Court pointed out that “the world has moved on,” and any rule that stops a woman from working just because of her gender—even in a dangerous job—is unconstitutional. The Court stressed that the State’s responsibility is to keep people safe, not to stop them from having opportunities.

Occupational Health and Safety Association v. Union of India (2014)¹¹³⁴

The Supreme Court really emphasized that the right to health is a basic right for workers in dangerous jobs, like those at thermal power plants.

- The Court’s Decision: The Court said that the “right to live in a clean, hygienic and safe environment” comes from Article 21. They also pointed out that when women are working in risky jobs, the State has a bigger responsibility to make sure everyone is treated with respect.

Conclusion and Way Forward

India’s Labour Law has made some great strides in protecting women’s rights at work, showing how much we value gender equality. The current legal system, including the Equal

Remuneration Act (now part of the Code on Wages), the Maternity Benefit Act, and the POSH Act, along with other welfare measures in the Factories Act and other laws, has really helped raise awareness, improve benefits, and create ways for women workers to get help when they need it. But, it’s important to remember that we still have a long way to go to truly achieve gender equality in employment in India. Issues like the gender wage gap, not enough women in leadership roles, safety worries, and balancing work and family life are still holding women back from fully participating. It’s super important to make sure these laws are actually followed and enforced, especially in the big, varied world of informal work. To really boost the legal framework and its effects, here are a few ideas: We should make sure the new Labour Codes are applied with a strong focus on gender, so we don’t weaken the protections we already have. Also, we need to make sure the rules are enforced better by keeping a close eye on things, doing more checks, and making sure people who break the rules get the consequences they deserve. It’s also important to teach everyone, both employers and workers, about their rights and responsibilities under these laws so we can create a culture of respect and fairness. We should also think about designing policies that really consider the different challenges women face, no matter their background. Plus, adding more comprehensive and well-paid parental leave could help share caregiving more fairly. Finally, we need to make sure working mothers have the support they need, including making sure everyone has access to affordable and good childcare would really help women, allowing them to keep working and moving up in their careers. To create workplaces that are truly fair and empowering for women in India, we need to do more than just change the laws. We need to change how people think and act, have employers who really care about making workplaces inclusive, and for women to get involved in fighting for their rights. If we work together to fix the problems we see, India can

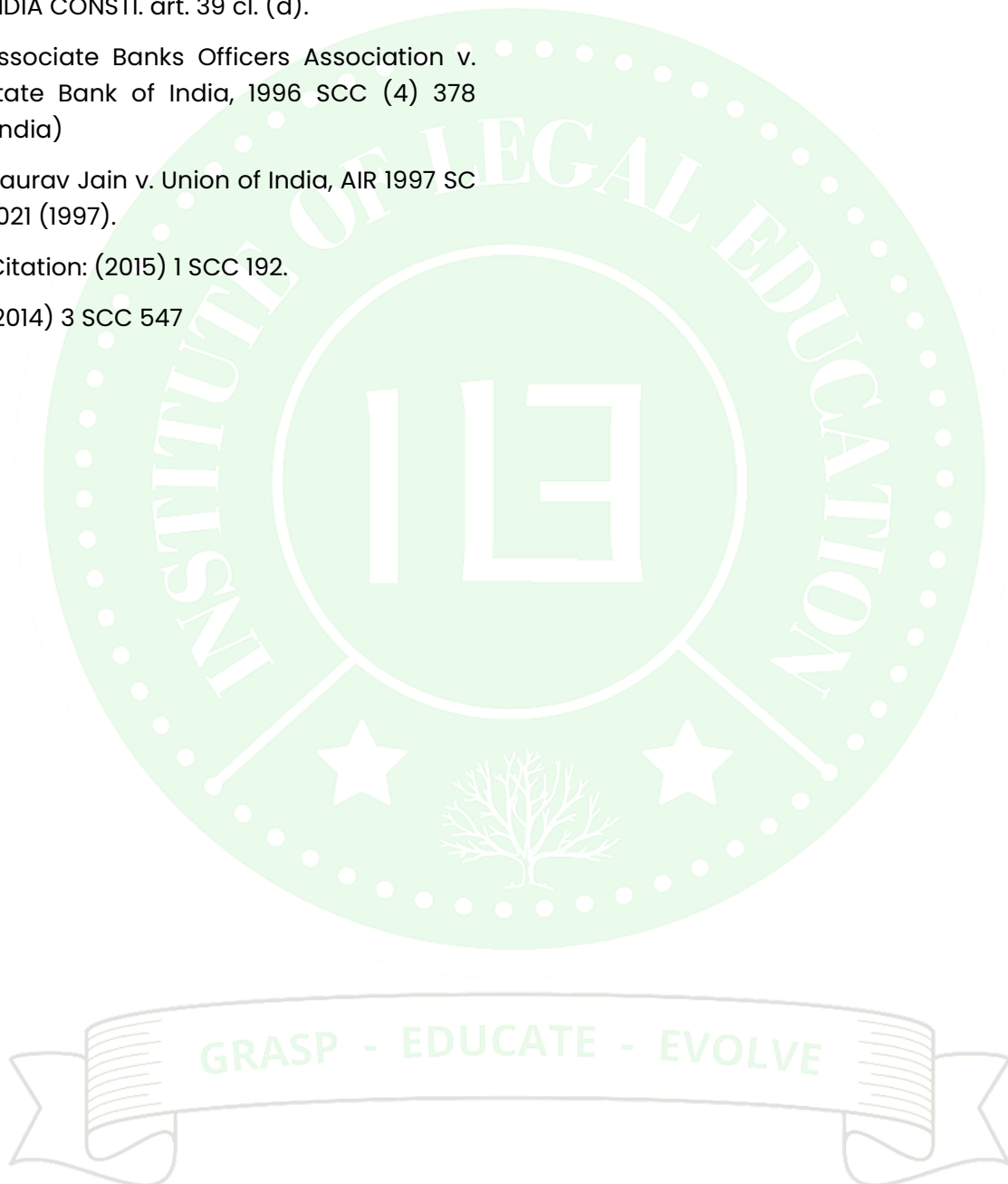
¹¹³³ Citation: (2015) 1 SCC 192.

¹¹³⁴ (2014) 3 SCC 547

get closer to achieving the goal of gender equality in everything we do.

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