

## MUFFLED VOICES – THE TRUE AND RAW HARDSHIPS FACED BY INDIAN FEMALE LABOURERS

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### ABSTRACT

Women constitute a substantial chunk of the workforce in India and are still lacking in work participation, as well as the quality of employment if they are employed. The reasons for this lack of female participation are the disparity between what they can do and what is available to them. The issue of safety is another reason for the low participation of women in the workforce. Hence, the importance of women's sense of security in encouraging them to take up jobs needs to be addressed by the government.

India is a heavily labour- and agricultural-dependent country, with a majority of its population working in these fields. For most Indians, it is these limited wages that ensure food on their tables. The issue of wages faced by workers is not an unmentioned topic, and it is a vicious cycle that leads into the discussion of where, how, and why child labour stems from and persists despite the government providing free and mandatory education up until the age of 16. It is the very reason that one earning member cannot sustain even the minimum necessities. Labourers face common risks of losing fingers or limbs, leading to amputation, which forces every member to be a child or another adult to be forced to work. And one might even ask why go through such harsh working condition its never been a choice as the only motivation isn't food as these people are more aware of feeling of empty stomachs from starvation than that of a full one after hearty meal, the situations are also derived from forces of desperations of mere survival either due to loans that they are trapped in unable to repay or lose of family members in life threatening work such as those in the mines. And it is about time we listen to their desperate cries that are known yet not spoken of enough.

**KEYWORDS:** Female Labour Force Participation (FLFP), Unrecognised Sector, Vulnerable Backbone, Labour Exploitation, Bare Acts.

### INTRODUCTION

Imagine a scenario where you are curtailed from making choices and decisions about your properties or are forced into adjustments. As teenagers, we fight for these small freedoms and find it unfair when they are denied, which trickles down into adulthood as well, where we want to be heard and stand out.

There are several problems that bring about the need for female protection, specifically in the labour-intensive field. One of them is the

problem that the sectors that employ women fall under the "unorganised sector," and this is problematic, as there is no strong set of workplace rules, which leads to a lack of women in the active workforce. This vulnerable position and adverse terms and conditions worsen causing a sudden negative impact on the industry. On top of all of this, they have to cope with childbirth and related issues and deal with

domestic responsibilities, especially in a patriarchal society.<sup>24</sup>

Channels like refinery<sup>29</sup> have covered and documented the unfiltered nature of how kids aged 10, even 6, work in mines, the threat of the caves falling onto them at any moment, without any proper gear or medical assistance to access all for the cosmetic industries to run.<sup>25</sup> In Rajasthan, women are forced to continue tedious work like sandstone mining in place of their spouses who have lost their lives due to inhaling the dust filled with silica particles, which is a threat to human lungs, resulting in severe diseases like TB, merely to get by or come out of an endless debt cycle they get trapped in by lenders.

Down to the very overlooked condiments, which are staple household items that cannot be avoided like sugar, to undenounced to us demand life-altering sacrifices, as recent news reports bring to light how the natural phenomenon of menstruation has, for most women in Maharashtra working in sugarcane fields, become a livelihood hindrance rather than something that their body is required to do to keep them healthy. The Beed report presents the statistical representation of over 13,000 women who undergo the surgery of removing their uterus, as contractors don't entertain women, thereby labelling menstruation in a negative light for loss of labour, facing losses of wages of around 500 rupees due to leave during the cycle, and or even pregnancy, which is a life-altering amount for them. Often, more young women in their 20s are even tricked into such surgeries, but contractors ... about medical conditions such as cancer. These procedures, called hysterectomies, cause severe long-term effects like chronic pain, early menopause, and unregulated hormonal imbalances. And this is just the start, the investigated statistics are of those women who are alive to say their stories, and that have come out; many do not due to lack of education and societal pressures or those

who die as these surgeries are not always done by proper, experienced medical facilities and hospitals.

This is yet again the tip of the iceberg in places like Jharkhand, where women from minority tribal communities are forced to consume violent as well as pornographic materials for hours on end as they work for AI data modification jobs to earn something to support and provide their children a better life.

### A) AIMS AND OBJECTIVES

The following are the aims of this paper –

- To bring about separate and specific acts as well as provisions for safeguard of women in labour-intensive work.
- To ensure and strengthen wage and healthcare policies.
- Provide safer alternative means of work through policy formations for pregnant women and or women unable to do physically demanding work, like sewing.
- To bring rigorous punishments for employers' misbehaviour, undue influence and coercion.

### RESEARCH PROBLEM

Although India has enacted several acts as well as provisions to ensure the safeguard of women's labour rights, the enforcement still remains inconsistent. This research seeks to analyse and examine why the legal framework protections, regardless of their existence, still fail to translate into workplace equality and safety for women.

### B) RESEARCH METHODOLOGY

This research paper adopts the doctrinal method of research to examine the factual situations and grounds associated with the research topic. The study primarily relies on secondary sources, including academic articles, books, journals, newspaper articles, and other relevant online materials related to the subject matter. Furthermore, the researcher follows the

<sup>24</sup> [oecd.org/en/publications/determinants-of-the-low-female-labour-force-participation-in-india](https://oecd.org/en/publications/determinants-of-the-low-female-labour-force-participation-in-india).

<sup>25</sup> Lebsack, L. (May 4, 2019). *The Makeup Industry's Darkest Secret Is Hiding In Your Makeup Bag*. Refinery29.

Bluebook 21st Edition citation style for referencing the works of various jurists and other sources.

#### LITERATURE REVIEW

Various socio-economic factors such as education, marital status, social group, and household structure significantly influence women's labour force participation, like a burden that almost seems to be strung onto them from birth, especially the underprivileged sectors of the Indian society, which sadly is still a vast majority of the population. A distinct U-shaped relationship is observed, where participation is higher among women with very low or very high education levels but lower among those with intermediate education.

Women constitute half the population, which is around 50 per cent, and if they are not allowed to work, then our country is bound not to reach its growth. The government has introduced various special legislations and enactments dealing with the sector of labour, including The Mines Act, 1952, The Factories Act, 1948, The Plantation Labour Act, 1951, The Contract Labour Act, 1970, The Beedi and Cigar Workers Act, 1966, and so on. And these acts have provisions that exist for women, like section 48 of the Factories Act, 1948, section 44 of inter-state migrant workmen at, 1979, section 12 of the Plantations Labour Act, 1951, section 14 of the Beedi and Cigar Workers Act, 1966, section 35 of the Building and Other Construction and Conditions Act, 1996. Various scholarly works state that there is a upsurging need for employment of women who are already not in the labour force, and the lack of education, as well as sheer desperation, make the vulnerable and susceptible to unfair and coerced immoral practices is not of help.

The analysis of one of the scholarly articles published addressing the issue points out that this rise is largely concentrated in informal and unpaid work, which raises concerns with regard to the quality and security of employment available to women. The gender gap in the

labour force remains a substantial and unaddressed issue. Relevant published articles show that the gap is not something that can be explained with factors like education or income, pointing to the deep-rootedness of issues of violence against women and gender-specific challenges—particularly marriage and familial care, as well as responsibilities. It is where economic desperation overrides fundamental human and reproductive rights.

To summarise the findings, state the fact that increasing participation alone is not sufficient. There is an urgent requirement to improve the quality of employment, break the systemic barriers, and create environments that support equitable and safe integration into the labour market.

#### PROVISIONS AND STATUTES

The statutes and provisions provided by the government that have been taken into account concerning women in the labour force industry so far are briefly discussed below. They mention several solutions in the aspects of health care, separate washing and bathroom facilities, including addressing night shifts, wage provisions, as well as practical timings for physically challenging labour. This comparison is to bring to light the revisions required and how far we still are with regards to issues that seem to be spoken so often about and how, on the surface, seem to be addressed, yet have a long way to go with regards to actual elimination. Statutory provisions are not to simply remain passive guidelines; they must be backed by aggressive enforcement and mandatory cooperation from both the government and employers.<sup>26</sup>

#### SAFETY AND HEALTH MEASURES

- Section 22 (2) of The Factories Act, 1948 provides that no woman will be allowed to clean or adjust any part of a prime mover machinery while the machinery is in motion

<sup>26</sup> In this article, Kabir Jaiswal discusses Women's Rights and Labour Law Statutes in India. <https://blog.ipleaders.in/womens-rights-labour-law-statutes-india/>

- Section 34 of The Factories Act, 1948 states that no woman employee shall lift, carry, or move by hand any material, tools, or appliances exceeding the maximum limit in weight of 30 kilograms
- Section 46 (2) (d) of The Factories Act, 1948 states that there shall be at least one woman (worker) on the Canteen Managing Committee.
- Section 41, Section 43 of The Contract Labour (Regulation and Abolition) Act, 1970, ensure separate restrooms and canteens.

#### PROHIBITION OF HAZARDOUS OCCUPATIONS

- Section 22(2) of the Factories Act, 1948, prohibits women from working with machinery in motion or in any case whatsoever.
- Section 87 of the Factories Act, 1948, empowers the State Government to prohibit the employment of women in all dangerous operations.

The Factories Act also prohibits the employment of women in pressing cotton where a cotton-opener is at work under section 27. The separate proviso is that the feed end of a cotton-opener is in a room separated from the delivery end by a partition to the roof or height as the inspector may in specified in writing.<sup>27</sup>

- Section 34 states the Maximum Permissible Load to ensure the safety of women against the dangers arising because of lifting heavyweight, the Factories Act authorises the appropriate Governments to fix the maximum load to be lifted by women.

#### PROHIBITION OF NIGHT WORK (6 a.m. – 7 p.m.)

- The Factories Act, 1948, Section 66 (1) (b) ensures that no woman will be required or allowed to work in any factory except between the hours of 6 a.m. and 7 p.m.
- The Beedi and Cigar Workers (Conditions of Employment) Act, 1966, Section 25

specifies that no woman will be allowed to work in any industrial premise except 6 a.m. and 7 p.m.

- The Mines Act, 1952, under Section 46 (1) (b) prohibits employment of women in any mine above ground except between the hours of 6 a.m. and 7 p.m.
- The Plantation Labour Act, 1951, clearly states that under section 25, except with the permission of the State Government, no woman or child worker shall be employed more than the hours of 6 a.m. and 7 p.m.:– Provided that nothing in this section shall apply to midwives and nurses employed in any plantation.
- The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, brings to light how no woman shall be required or allowed to work in any establishment after 9:30<sup>28</sup>

#### SEPARATE LATRINES AND URINALS

Facilities to answer nature's call are to be conveniently situated and accessible to workers at all times while they are in the factory, and every latrine is required to be covered along with partitioning to ensure privacy and have a proper door and fastenings. Sweepers are required to be employed to keep such washing places clean. Hence, the standard of construction as well as the scale of the latrine accommodation are to be provided for men and women workers and are to be contained in the rules framed by the concerned state government.

According to **Section 42 (1)(b)** of the Factories Act, 1948, facilities of washing will be convenient and accessible and shall be kept clean. Moreover, the State Government is empowered to set the standards for adequate and suitable facilities for washing.

Despite the brief mention of the aforementioned statutes and provisions, which address assurance of basic amenities, late-night work,

<sup>27</sup> [https://www.indiacode.nic.in/bitstream/123456789/15097/1/factory\\_acta1948-63.pdf](https://www.indiacode.nic.in/bitstream/123456789/15097/1/factory_acta1948-63.pdf)

<sup>28</sup> In this article, Kabir Jaiswal discusses Women's Rights and Labour Law Statutes in India. <https://blog.ipleaders.in/womens-rights-labour-law-statutes-india/>

and heavy load risks, the acts fail to address another primary concern, which is the main focus of this paper. In often time the lack of direct and actual addressing of the issue leads to more harm than good as the one, the underprivileged women who need work are most often shone by contractors due to the provisions as it comes of as some sort of burden more than help and two, due to the vagueness of the provisions and lack of its strict measures women are forced to be unemployed or agree to harsh conditions put forth by the employers for sustenance of their families.

#### ANALYSIS

This study is not merely to address the gender inequalities faced by women in the workforce, as the topic is a vast one; this article focuses on addressing the recent problems that have surfaced in that field, a work sector that is not spoken enough about, the labour-intensive one where women and children are often forced and have to deal with inhumane amounts of mistreatment. Despite women from Scheduled Tribes and rural backgrounds showing higher participation in the workforce compared to urban women and those from relatively advantaged groups, they often face social and structural barriers that limit their workforce engagement. Regardless of the various acts and provisions brought about, there are still major gaps and overlooked struggles that require light to be thrown on. We all agree that reproductive rights are a basic human right by nature. Imagine such a right being snatched from you, where a stranger has a say in a human organ that is biologically that of a female. Recent news reports briefly mention how women from rural areas who work in sugar paddle filed where tricked, coerced or influenced unduly into the removal of their uterus, as the mere cycle that is responsible for the hormonal balance of women has been a costly one. The menstrual leaves or exhaustion caused by it, and the possible pregnancy that requires mandatory and obvious

leaves, are not worth the bare minimum wages these females receive after a highly tiring day of physical labour. Naturally, it's the rural women who exhibit higher participation rates compared to their urban counterparts, often driven by necessity and engagement in agriculture and informal sectors and yet the issue is not spoken enough to bring actual changes. This article aims to exactly do that by thoroughly yet briefly discussing and comparing various case laws as well as provisions that exist but barely help, thereby giving direction as what changes are to be brought additionally into these acts. We require contractor accountability and community-level literacy at least through advertisements and the radio. Only the enforcement of these acts can bridge the gap between words and reality. And it's only then that India can truly guarantee a safe, equitable, and dignified working environment for its "vulnerable backbone". Hence, India's labour framework needs to undergo a paradigm shift.

#### CASES LAWS

The following cases set the tone for how the court has been sought at multiple instances on the basis of similar issues and how providing relevant acts, policies, and sections will reduce not only the occurrence of such malpractices by labour contractors but also the time and red tape in the courts.

- In the case of **Suresh Kumar vs. Sainik School Society**: This case involves a low-paid class VI contractual sweeper Suresh Kumar who claims resignation on the grounds of repeated ill treatment and unfavourable working conditions. The employers provide him with his resignation without addressing the workplace discrimination. The court clarifies the doctrine of forced resignation, where, when an employee resigns due to unbearable situations, it is still a coerced one and thereby is a forced resignation.<sup>29</sup>

<sup>29</sup> *Suresh Kumar v. Sainik Sch. Socy*, CWP No. 1983 of 2015, at ¶ \_\_ (H.P. High Ct. Aug. 21, 2018).

- In **Central Inland Water Transport Corporation Ltd. v. Brojo Nath Ganguly**, the Supreme Court highlights one of the most powerful and compassionate doctrines in Indian jurisprudence, which is the Doctrine of Inequality of Bargaining Power. The Court noted that the strong cannot be permitted to ride roughshod over the weak.<sup>30</sup>
- **I.E.L. Ltd. vs. P.O., Labour Court and Ors (1991)**: This case deals with situations where labour unions' threatening behaviour as a result of unfair labour practices. When the management introduced a new plant to boost production, workers enjoyed higher incentive wages for a few months, but the incentives were eventually stopped. In protest, the workmen resorted to a strike and the Deputy Plant Manager was assaulted. The High Court ruled in final judgement that although the workmen were guilty for the assault, the management is required to pay the workmen what they were promised.<sup>31</sup>

Factories handle dangerous chemicals, making it a protected area under relevant statutes. Factories, by nature of work, pose a high risk of explosion, and safety protocols are paramount.

- **M.C. Mehta vs. State of Tamil Nadu (1996)**: This is one of those several cases that are hard to avoid, especially as a law student, and although it is focused mainly on child labour, the Supreme Court decisions highlight and affirm the requirement of protection of workers from exploitation and to recognise the right to compensation for such forced labour to support their livelihood.<sup>32</sup>
- **S.G. Chemical and Dyes Trading Employees Union vs. S.G. Chemicals and Dyes Trading Ltd. (1986)**: In this case, the Supreme Court discuss the doctrine of Functional Integrity, wherein the court

rejected the idea that the physical distance or registration under different local statutes makes businesses separate. The core of the test is operational interdependence. The Court stated that the factories cannot run until products are marketed, accounts are maintained, and lastly until salaries are processed and that it is cohesive as a whole. In this case, the aggregated employee strength of the units was 150, which exceeds the statutory threshold of 100 and the company's failure to apply for government permission, which renders the closure illegal under Section 25-O(6). It is an implied condition of every agreement that parties have to act in conformity with the law. By executing an illegal closure and withholding wages, the company constructively breached the 1979 settlement of this case. This is directly quantified as an Unfair Labour Practice under Item 9 of Schedule IV of the Maharashtra Act, and emphasized that unfair labour practices, including those violating settled agreements, are prohibited and actionable.<sup>33</sup>

- **Bandhua Mukti Morcha v. Union of India (1984)**: This is another landmark Supreme Court decision that identified stone quarries as mines and brought them under the purview of the Mines Act, 1952. The court highlights that contractors in these mines are more often coercive in nature and use tactics like withholding wages and restricting freedom of movement in order to keep employees, especially in a state of bonded labour. The judgment mandates the rehabilitation of such labours that are forced to work in humane conditions.<sup>34</sup>
- **Mukesh Advani v. State of M.P.**: This case addresses extreme exploitation where workers are bound by debt and

<sup>30</sup> Cent. Inland Water Transp. Corp. Ltd. v. Brojo Nath Ganguly, (1986) 3 S.C.C. 156 (India).

<sup>31</sup> I.E.L. Ltd. v. P.O., Lab. Ct. & Ors., 1993 I.L.L.J. 294 (Pat. H.C. 1991).

<sup>32</sup> M.C. Mehta v. State of Tamil Nadu, (1996) 6 S.C.C. 756 (India).

<sup>33</sup> S.G. Chems. & Dyes Trading Emps.' Union v. S.G. Chems. & Dyes Trading Ltd., (1986) 2 S.C.C. 624 (India).

<sup>34</sup> Bandhua Mukti Morcha v. Union of India, (1984) 3 S.C.C. 161 (India).

threatened with violence by contractors. The court noted that in the absence of minimum wage implementation, workers are subjected to "naked and unabashed exploitation".<sup>35</sup>

- **P. Sivaswamy v. State of Andhra Pradesh (1988):** The following Bandhua Mukti Morcha case precedent, this case reinforces that the state authorities are to act against quarry owners using intimidating tactics. It highlights Article 23, which prohibits forced labour, and Article 42, which addresses the humane working conditions that are violated and where workers are subjected to threats and confinement, particularly in mining areas.<sup>36</sup>

#### CONCLUSION

The structural vulnerability of female labourers in India is an unrecognised grey area that displays a profound crisis that almost always goes unheard. This paper has only illuminated the grim realities behind the statistics, laws and cases—from the forced hysterectomies to the silent trauma of algorithmic exploitation and the lethal dust of Rajasthan's sandstone quarries. These are not just any ordinary disputes; they are violations of the right to live with dignity.

The primary paradox of the Indian labour landscape is not the absence of laws and provisions, but the failure of their proper and highest form of execution. India possesses comprehensive protective legislation, but the bare acts only provide for the bare minimum basic amenities with regard to working hours, permissible loads, prohibitions against dangerous machines in motion, and hazardous environments. But it is to be noted that all these provisions can only come to effect when women find it safe to actually work with being stripped of their humanity, as for unlike most of the privileged people they have no choice as the failure of one day without minimum wages is the constant fear of losing the unstable roof that

they have over their heads and days that might be filled with the starvation of their families.<sup>37</sup>

This article aims to bring to reach all those "muffled voices" to be translated into actionable changes leading to empowerment.

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MINES ACT, 1952

LABOUR ACT, 1951

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THE CONTRACT LABOUR (REGULATION AND ABOLITION) ACT, 1970

<sup>35</sup> *Mukesh Advani v. State of M.P.*, (1985) 3 S.C.C. 162 (India).

<sup>36</sup> *P. Sivaswamy v. State of Andhra Pradesh*, (1988) 4 S.C.C. 466 (India).

<sup>37</sup> *An Analysis of Gendered Pattern of Labour Force Participation in India: Trends, Socio-economic Differentials, and Determinants.*