

Effectiveness of Legal Framework for the Protection of Women at Workplace and Child Labour Issues in India

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ABSTRACT

Women continue to face a heightened risk of gender-based violence in the workplace, with financial independence often increasing their vulnerability to harassment, despite legal safeguards like the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act). NCRB data shows a rise in reported cases of workplace sexual harassment from 402 in 2018 to 422 in 2022. However, this likely reflects only a fraction of the reality, as many women under-report such incidents due to fear of backlash, lack of awareness, and deep-rooted societal biases. Similarly, there is a stark gap in data on child labour cases. While the NCRB recorded only 1,329 cases under the Child Labour Act between 2015 and 2022, e-Courts data shows 9,193 trials in the same period—eight times more. A deeper analysis of 10,800 cases across six states reveals widespread underreporting, largely due to NCRB's "Principal Offence Rule," which overlooks lesser charges like child labour when more serious crimes are involved. These discrepancies highlight the urgent need for more accurate and transparent data collection to inform better policy and protection measures. This paper aims to Effectiveness of legal framework for the protection of women at workplace and Child Labour Issues in India.

Keywords: Women Harassment, Child Labour, NCRB, POSH, Landmark Judgment.

Introduction

The legal framework for the protection of women and children in India plays a crucial role in advancing gender equality, safeguarding rights, and promoting social justice. These laws are vital across various areas of society. They ensure safety and security by protecting women against domestic violence, harassment, and discrimination, while child protection laws shield minors from abuse and exploitation. They also promote gender equality through measures such as equal property rights, maternity benefits, and workplace protections, helping to narrow the gender gap. Laws like the Right to Education Act empower children, especially girls, by ensuring access to education and helping break the cycle of poverty and dependence. Furthermore, these laws provide legal recourse for women and children facing abuse, ensuring justice and accountability. Stringent provisions against trafficking, child labour, and sexual offenses act as deterrents, helping create a safer society.

Child labour, in particular, remains a critical concern in India, where millions of children are forced into work that robs them of their childhood, education, and development. According to the 2011 Census, India had 10.1 million working children aged 5–14, with over 42.7 million out of school. Though child labour declined by 2.6 million between 2001 and 2011, urban areas have seen a rise, reflecting the growing informal economy's demand for child workers. Factors such as poverty, lack of quality education, and limited awareness among parents contribute significantly to this issue. Child labour has severe consequences—not only stunting children's physical, cognitive, and emotional growth but also undermining human rights, fueling poverty and inequality, and hampering national development through human capital loss and increased social welfare costs.

To tackle this, India must strengthen its legislative framework, ensure access to quality education, and address the root causes of poverty. Public awareness, community empowerment, international collaboration, and effective rehabilitation programs are equally important. Eliminating child labour and upholding the rights of women and children is essential for building a just, equitable, and progressive society.

Women continue to face a heightened risk of gender-based violence in the workplace, with data indicating that the pursuit of financial independence may increase their vulnerability to harassment in professional environments. This persists despite the implementation of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, commonly known as the POSH Act. According to the National Crime Records Bureau (NCRB), reported cases of workplace sexual harassment rose from 402 in 2018 to 422 in 2022. This trend is particularly alarming, given that it is widely acknowledged that such incidents are significantly under-reported due to fear of retaliation, limited awareness of legal protections, and prevailing societal norms. Globally, violence against women and girls (VAWG) remains a pervasive and deeply rooted issue. The World Health Organization reports that at least one in three women worldwide has experienced physical or sexual violence in her lifetime, and nearly one in ten girls has been subjected to forced intercourse or other sexual acts.

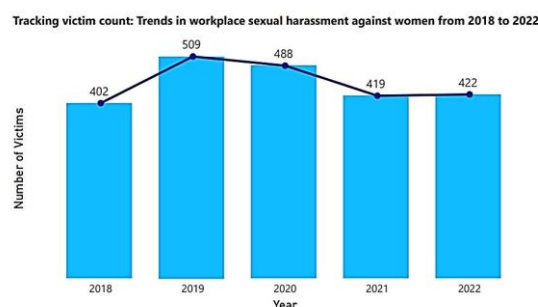


Fig. 1: Tracking Victim Count

In India, deep-rooted gender bias and patriarchal norms continue to limit women's agency and deter them from reporting crimes due to fear of consequences. Reflecting these challenges, India ranks 128 out of 177 countries on the Women, Peace and Security Index 2023 by the Georgetown Institute. According to the National Crime Records Bureau, the rate of crimes against women rose by 12.9% from 2018 to 2022—rising from 58.8 to 66.4 cases per 100,000 women. This increase may reflect a combination of factors, including a genuine rise in incidents, better reporting mechanisms, and greater willingness among women to report violence.

Laws Related to Women Protection at Workplace

In India, multiple laws have been enacted specifically to protect and empower women employees in the workplace, ensuring equality, dignity, safety, and welfare. The **Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013**, commonly known as the POSH Act, is a cornerstone legislation that mandates the formation of Internal Complaints Committees in establishments with more than 10 employees, defines what constitutes sexual harassment, and lays down detailed redressal procedures to create a safe working environment for women. This Act was a legislative response to the Supreme Court's guidelines in the *Vishaka v. State of Rajasthan* (1997) case.

The **Maternity Benefit Act, 1961**, amended in 2017, safeguards the rights of pregnant women in the workplace by providing 26 weeks of paid maternity leave for the first two children, mandating crèche facilities for establishments with more than 50 employees, and prohibiting dismissal or demotion due to maternity leave. This Act affirms women's right to both employment and motherhood without compromise.

The now-repealed **Equal Remuneration Act, 1976**, whose provisions are retained in the **Code on Wages, 2019**, ensures that men and women receive equal pay for equal work and prohibits discrimination in recruitment, training, and promotions. Similarly, the **Factories Act, 1948** provides special provisions for women such as restricted night shifts, adequate sanitation, safety measures, and medical aid in factories to promote occupational safety and health.

The **Code on Social Security, 2020**, consolidates laws related to maternity, provident fund, and insurance benefits and extends social welfare to women workers, including those in the unorganized sector. Meanwhile, the **Shops and Establishments Acts**, which vary by state, include gender-sensitive provisions like regulated work hours, safety during night shifts with consent, and separate facilities for women.

Under the **Companies Act, 2013**, listed companies are required to appoint at least one woman director, promoting gender diversity in corporate leadership. Criminal provisions under the **Indian Penal Code (IPC)**, particularly Sections 354A and 509, also play a crucial role in addressing acts of sexual harassment and insulting the modesty of women in professional environments.

Together, these laws form a comprehensive legal framework aimed at eliminating workplace discrimination, promoting equal opportunity, and ensuring a safe and inclusive environment for women in India's workforce.

Child Labour Protection Legal Framework

India has enacted several important laws to prohibit and regulate **child labour**, aiming to protect children's rights and ensure their healthy development. The cornerstone of this legal framework is the **Child and Adolescent Labour (Prohibition and Regulation) Act, 1986**, which was amended in 2016. This Act **prohibits the employment of children below 14 years** in any occupation or process and **bans adolescents (aged 14–18)** from working in hazardous occupations. It allows children to help in family enterprises or perform as artists after school hours, but strictly under conditions that do not compromise their education or well-being.

Complementing this is the **Right of Children to Free and Compulsory Education Act, 2009 (RTE Act)**, which mandates **free and compulsory education for children aged 6 to 14 years**. It works in tandem with child labour laws to ensure that children are in schools, not workplaces. Violation of this right, especially by employing children in labour, undermines the law and is punishable.

The **Factories Act, 1948**, and the **Mines Act, 1952**, explicitly prohibit the employment of children under 14 in factories and mines, recognizing the hazardous nature of such environments. Similarly, the **Bonded Labour System (Abolition) Act, 1976**, helps rescue children trapped in debt bondage, a form of exploitative child labour, and provides for their rehabilitation.

Furthermore, the **Juvenile Justice (Care and Protection of Children) Act, 2015** categorizes employing a child in any hazardous occupation or process as a **cognizable offence**, punishable by imprisonment and fine. It also mandates the proper care, protection, and rehabilitation of rescued children.

India is also a signatory to key International Labour Organization (ILO) conventions, particularly **Convention No. 138 (Minimum Age)** and **Convention No. 182 (Worst Forms of Child Labour)**, which align with domestic laws to reinforce child labour prohibition.

Together, these laws provide a legal shield against the exploitation of children and are supported by rehabilitation schemes such as the **National Child Labour Project (NCLP)**, which offers education and vocational training to rescued child labourers. The aim is not only to eliminate child labour but to ensure every child has the opportunity to grow up in a safe, nurturing, and educational environment.

Landmark judgments on harassment at workplace and Landmark Judgments That Transformed Women's Rights

- **Equal Remuneration Act, 1976**
Mackinnon Mackenzie & Co. Ltd. v. Andrey D'Costa (1987)

In this case, the Supreme Court addressed the issue of equal pay for equal work. The Court held that employers cannot justify paying women less than men for performing the same work, emphasizing that such discrimination is impermissible under the Equal Remuneration Act.

- **Maternity Benefit Act, 1961**
Municipal Corporation of Delhi v. Female Workers (Muster Rolls) (2000)

The Supreme Court ruled that female workers employed on a muster roll basis are entitled to maternity benefits, reinforcing the Act's applicability to all women workers, regardless of their employment status. **Dr. Kavita Yadav v. Ministry of Health and Family Welfare (2023)**

This recent judgment clarified that women on fixed-term contracts are entitled to maternity benefits if they have completed 80 days of employment, even if their contract expires before they can avail the full benefits.

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

Vishaka and Others v. State of Rajasthan (1997)

Following the gang rape of Bhanwari Devi, a social worker in Rajasthan, the Supreme Court laid down the Vishaka Guidelines, which defined sexual harassment and mandated the establishment of internal complaints committees in workplaces. These guidelines formed the basis for the 2013 Act.

- **Factories Act, 1948**

Nauroti Devi v. State of Rajasthan (2016)

Nauroti Devi, a Dalit woman, led a campaign against wage discrimination between male and female workers in a stone-cutting unit. Her efforts brought attention to the enforcement of provisions under the Factories Act, ensuring better working conditions and equal pay for women workers.

- **Minimum Wages Act, 1948**

Nauroti Devi v. State of Rajasthan (2016)

In addition to her work under the Factories Act, Nauroti Devi's campaign also highlighted the need for equal pay under the Minimum Wages Act, ensuring that women workers received the same wages as their male counterparts for similar work.

- **Mines Act, 1952**

While specific landmark cases under the Mines Act are limited, the Act's provisions, such as the prohibition of women's employment in underground mines, have been upheld in various judicial pronouncements to ensure the safety and well-being of women workers in the mining industry.

- **Child and Adolescent Labour (Prohibition and Regulation) Act, 1986**

Hemant Goswami v. Union of India (2013)

In this Public Interest Litigation, the Punjab and Haryana High Court addressed the enforcement of child labor laws, emphasizing the need for effective action against violators and the rehabilitation of affected children. The Court's directions have been instrumental in strengthening the implementation of the Child Labour Act.

These landmark cases have played a pivotal role in shaping India's labor laws, ensuring that women in the workplace are afforded the rights and protections they deserve.

Landmark judgments on sexual harassment have played a crucial role in shaping India's legal landscape, setting precedents that guide current practices and policies. Understanding these cases helps in appreciating the judiciary's approach to tackling sexual harassment and ensuring justice for victims.

Conclusion

The legal framework protecting women and children in India is foundational to achieving a just, equitable, and progressive society. Laws addressing workplace safety, gender equality, and child protection are instrumental in promoting inclusion, safeguarding rights, and enabling empowerment. While significant progress has been made through landmark legislations like the POSH Act, Maternity Benefit Act, and the Child and Adolescent Labour Act, persistent challenges such as under-reporting, societal norms, and poverty continue to undermine their effectiveness. Rising incidents of workplace harassment and the enduring prevalence of child labour underscore the need for stricter enforcement, greater public awareness, and systemic reforms. By strengthening legal implementation, expanding educational access, and addressing socio-economic inequalities, India can move closer to realizing the constitutional promise of dignity, equality, and protection for all its women and children. India's labor laws collectively aim to create a just and inclusive working environment for women. From equal pay and maternity benefits to safety and protection from harassment, these laws reflect the country's commitment to gender equity in employment. However, while the legal framework is robust, effective implementation and awareness remain key to ensuring that women in India can fully realize their rights at work.

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