

# LEGALFOXES LAW TIMES

## EQUAL PAY FOR EQUAL WORK – WOMEN

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**ABSTRACT:** women are being paid less though they work more than men. The imbalance between women and men persists. This would lead to financial instability for women and would face poverty when women are at the poverty level. Gender wage discrimination increases in the contemporary world among rural wage women workers and also prevails among urban women workers. Wages and incomes in India have risen over time, but gender disparities remain. Women in the agricultural field, in tea garden faces gender discrimination in every state in India. Also, women who work service jobs, retail trade, agriculture, and personal service industries are likely to have poor pay. This wage discrimination has been continuously living with us. The stubborn persistence of the structure of inequalities in the sphere of occupational concentration, where women continue to be concentrated in lower-wage jobs. Due to this the biases against women increases. For this, the government has to formulate policies and bring strict schemes of work of equal value.

**KEYWORDS:** women labour, Belgium, India, Disparities, inequality, ILO.

### INTRODUCTION:

The 18th of September is International Equal Pay Day. The Equal Pay International Coalition (EPIC) would like to use this occasion in 2022 to highlight some of the pay transparency measures being implemented around the world, including various tools and responses to key questions. Leaders from various countries, as well as representatives from employers' and workers' organisations, will gather to discuss the benefits and drawbacks of some of the current pay transparency measures, as well as their potential and actual effectiveness in reducing the gender pay gap and, as a result, broader gender inequalities in the labour market.

<sup>1</sup>MacKinnon Mackenzie vs Audrey d' Costa, in which different remuneration was granted to male and female stenographers, and the latter were dubbed Confidential Lady Stenographers to distinguish the categories. The Supreme Court ruled that this was a violation of the ERA if "two jobs in an establishment are accorded an equal value by the application of those criteria which are themselves non-discriminatory (i.e. those criteria which look directly to the nature and extent of the demands made by the job) as opposed to criteria which set out different values for men and women on the same demand and it is found that a man and a woman employed on these two jobs are paid differently, then sex discrimination arises."

PROBLEM STATEMENT: Equal remuneration act was formulated in 1976 but still, disparities between men and women exist. Many legislations have been taken to eradicate this equality and acts were adopted still the wage gap has not stopped yet.

ILO- INDUSTRIAL LABOR ORGANISATION:

The gender wage gap,

According to the report in 1995

ILO – Geneva

Women are being paid less for comparable work than men and also the wage gap was narrowed only slightly over the past decade. 2003 There is an experiment which was to test whether women get paid less than men in an experiment by using the test efficiency wage theory .it is a variant of Fehr and Falk's (1999) double auction with effort.

Low-wage female workers: The low-wage female workforce is around young, less educated, and single. In 1998, approximately 16 million women, or 39 per cent of female wage and salary workers, were paid low wages. Even among women who were of prime working age, those

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<sup>1</sup> <https://theleaflet.in/the-gender-wage-gap-part-ii-how-the-indian-judiciary-has-time-and-again-upheld-unconstitutional-laws-perpetuating-sex-based-discrimination-at-the-workplace/>

between the ages of 25 and 45), 31 per cent worked in jobs that paid low wages. Nearly 2 out of every 5 women hold low-paying occupations. Women who are young, single, have less education, or have particular jobs are more likely to receive poor pay.

Women who work part-time and those in service jobs, retail trade, agriculture, and personal-service industries are likely to have poor pay. Furthermore, women are unlikely to receive health insurance benefits from low-paying jobs. Living close to the poverty line is frequently a result of low-paying jobs. Women who earn low wages make up one-third of the population who live below the poverty line. Marlene Kim, Women Paid Low Wages: Who They Are and Where They Work, 123 MONTHLY LAB. REV. 26 (2000)<sup>2</sup>

Data from the March 1998 Current Population Survey are used in this article. ' Low-wage labourers, as many in the field have done, are defined as those employees who, after working a total of 2,080 hours over 52 weeks per year at a rate of 40 hours per week, could not sustain a family of four above the official poverty line set by the government. Low-wage workers are those who were paid little more than \$7.91 per hour ( $\$16,450/2,80\text{hours}$ ) in 1998-99 for those who were paid on an hourly basis. For employees paid weekly, hourly wage rates were calculated by dividing the worker's typical weekly earnings by the typical number of hours they put in each week.



#### WOMEN LABOUR IN THE TEA GARDENS OF WESTBENGAL:

Here in 18 the century, this tea production was started by the colonial government to meet the supply-demand of tea in the world market. Labours from various places worked in tea gardens but the labourers hated gender discrimination towards wages. they received only less pay compared to men .so abandonment has created a socio-economic hazard in the life of the tea garden workers. Due to this the workers, their families, and in particular the children from tribal and nontribal groups who are socially and economically marginalised were directly impacted by illness and the shutdown of tea gardens. labourers in the majority of tea estates suffer from widespread hunger, poverty, and unemployment, as well as issues with illiteracy, dropout rates,

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<sup>2</sup>Equal remuneration act was formulated in 1976 but still, disparities against men and women exists.

malnutrition, and several incurable diseases. These issues are exacerbated by the vulnerability to trafficking, which affects women and children in particular. West Bengal, which is made up of a sizable tea belt, has been experiencing fewer and fewer of these terrible events over the last few years. West Bengal, which is made up of a sizable tea belt, has been experiencing fewer and fewer of these terrible events over the last few years. Some of West Bengal's northern districts, like Jalpaiguri and Darjeeling, have become very economically prosperous due to the closure of tea gardens, which started some social ills like domestic abuse, human trafficking, etc., with gender-based violence becoming the most prevalent. [1] \*Report. (2009). Socio-economic and Educational Background of the Victims of Domestic Violence in India. Ministry of Women and Child Development, Govt of India.

#### Role of women in agriculture:

In India, 60% of people are engaged in agriculture. The effects of persistent starvation and poverty are worst on women, as they are in all such circumstances. Despite investing far more time in agricultural work than men, they receive much lesser pay for the same work. Women are not given the status of farmers in their own right because they do not have legal title to land and do not control the "breaking in" activity of ploughing. This situation persists despite the high rates of male out-migration in Women's roles in agriculture have become more visible in dryland areas than previously. When we look back in history, we can see that men have always had the first pick of jobs.

#### Status of women in Andhra Pradesh agriculture:

According to the 2001 census, women make up 49.43% of the total population in Andhra Pradesh. In terms of percentages, women's literates registered 169.26 lakh out of a total of 408.74 lakh, while men's literates registered 239.08 lakh. 51.17% of the female population is literate, compared to 70.85% of the male population; however, 48% of the female population is illiterate, compared to 29.15% of the general population. In 1995-96, the female labour participation rate, defined as the percentage of female labour participation in the total female population, was 56%, compared to 85.3% for male labour participation. More than 25.4% of

female primary workers were classified as agricultural labourers, compared to 9.02% of male primary workers.

Wage discrimination:

Male labourers in tobacco, paddy, and plant fields earned Rs 57.66/-, Rs 55.9/-, and Rs 50.12 per day in 1994-95, and Rs 66.42/-, Rs 63.12/-, and Rs 60/- per day in 1998-99, while female workers earned Rs 41.25/-, Rs 44.6/-, and Rs 60/- per day. 34.0/- in 1994-95 and Rs. 43.75, 45.00, and 37.5 per day in 1998-99 for the same work and working hours. In this context, we can easily understand that male workers in tobacco fields earn more than female workers in other fields, and female workers in paddy fields earn more than male workers in other crops.

In tobacco fields, male workers earn Rs 50/- and female workers earn Rs 45/- at the plantation operation; similarly, child male labour earns Rs 30/- and child female labour earns only Rs 25/- per day for the same operation in 1998-99. In paddy Male workers in cultivation for transplantation earn Rs. 60/- per day, while female workers earn Rs. 50/-.

Baud, I.S.A, Forms of production and women's labour: gender aspects of industrialization in India and Mexico, sage publications, New Delhi, 1992<sup>3</sup>.

The focus of this paper is on gender disparities in income and wages in Indian labour markets, to investigate the nature of prevalent discrimination and biases against women. While wage disparities exist across regions, occupations, and industries.

**REAL WAGES AND INCOMES FOR WOMEN IN INDIA:**

Inequalities between men and women workers differ because there is an element of discrimination involved in such variations. Consideration of wage inequalities in the context of Indian labour markets, where one-half of the workforce is self-employed and the majority works in the informal, unorganised sector, must go beyond simple monetised payments and wage calculations. To examine gender dimensions within remunerations and income earnings in India, the context of gendered participation of female labour supplies must be taken into account in its entirety. Dimensions influence pre-entry conditions, which influence capabilities. Factors

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<sup>3</sup> <http://www.rcssindia.org/jge/index.php/jge/article/view/207/165>

influencing women's worktime distribution among paid and unpaid activities, owned and hired labour, extended SNA (System of National Accounts) activities of household maintenance, caregiving, socially derived, traditional roles, and sexual division of labour. Changes in women's labour-force participation have influenced their remuneration and returns; however, the wage gap persists. Wages and incomes in India have risen over time, but gender disparities remain (Jose, 1987; Dev, 2002; Matta, 1998). Unbalances between men and women persist. An examination of economic trends reveals the stubborn persistence of the structure of inequalities in the sphere of occupational concentration, where women continue to be concentrated in lower-wage jobs. Discrimination and biases against women seen in social spheres are mirrored in economic spaces not only through direct, legal routes but also through resilience in perceptions and mindsets among labour market agents who reconfigure to retain elements of gender imbalances. This paper emphasises the limited potential of economic growth and increasing women's economic participation to eliminate these inequalities unless accompanied by concerted efforts to change attitudes toward women's roles and responsibilities.

Individual-oriented work, effort, leisure, or even wage remuneration-based considerations do not adequately explain factors influencing women's labour supply. Most labour supply decisions, particularly for women, must be viewed through the lens of the household.

women have additional responsibilities as domestic caregivers:

(Tinker ed., 324 THE INDIAN JOURNAL OF LABOUR ECONOMICS 1990; Agrawal, 1993). In terms of age of entry, inherent human capital attributes, marital status and social class position affecting mobility in public spaces, fertility or reproduction, and so on, women's labour supply behaviour differs from that observed for male labour.

Individual factors such as work, effort, leisure, or even wage remuneration do not adequately explain factors influencing women's labour supply. Most labour supply decisions, especially for women, must be viewed through the household lens. The nature of work that involves women in rural agricultural labour activities, construction work, or urban home-based manufacturing and certain services is commonly perceived to be either appropriate for them or something that they are adept at doing. Largely Manual tasks, which any individual, male or female, can perform,

define a pattern of labour utilisation over time. While women and even children are employed in some cases to reduce labour costs, there are other instances of changes in production processes to include women's labour, which is then used to justify lower wages.<sup>4</sup>

Women's increased participation in paid labour market activities is seen as a positive outcome for improving women's status by bridging the gap in this critical sphere of economic involvement. However, simply increasing participation is insufficient to affect change. Gender inequalities will persist unless the nature of the work they do is decent, lucrative, equally remunerative, and secure. If illiterate women are crowding into low-wage, manual labour jobs that are hazardous to their health and safety, such a situation cannot be lauded or appreciated. However, if more women's labour supplies are deployed and there is a demand for their labour, it is worthwhile to consider the circumstances that led to this employment. To some extent, this could be attributed to increased desperation and poverty-induced compulsion. Women are forced to enter paid labour markets, whereas, at the other end of the spectrum, these may be the results of higher educational attainment, which provides women with the opportunity to pursue previously unattainable jobs.

However, if there is a demand for women's labour and more women's labour supplies are deployed, it is worthwhile to consider the circumstances that led to this employment. This could be attributed to increased desperation and poverty-induced compulsion to some extent.

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<sup>5</sup> EQUAL REMUNERATION ACT 1976

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[https://www.wiego.org/sites/default/files/publications/files/Rustagi\\_Gender.Inequality.Wages\\_.Income.India\\_.pdf](https://www.wiego.org/sites/default/files/publications/files/Rustagi_Gender.Inequality.Wages_.Income.India_.pdf)

<sup>5</sup> <https://spb.kerala.gov.in/sites/default/files/inline-files/2.GENDER.pdf>

Women have begun to participate in activities that were previously thought to be solely the domain of men, and in modern India, women are no longer limited to low-wage or traditional jobs. They are employed on par with men to protect their interests and ensure gender equality.

The Workmen's Compensation Act, Payment of Wages Act, Factories Act, Minimum Wage Act, Equal Remuneration Act, Maternity Benefits Act, and other legislation provide statutory recognition for justice. The Equal Remuneration Act, passed by the parliament in 1976, is one of the most important pieces of legislation. The employer is required by Indian law to pay "equal remuneration to men and women for the same or similar work." In a business or workplace, and is also known as the "Equal Wage for Equal Work" law.

Under this act, inequalities in recruitment processes, job training, promotions, and transfers within the organisation can also be challenged.

#### STEPS TAKEN BY INDIA

India has taken several legislative steps to close the gender pay gap, particularly at the lower end of the wage distribution. In this regard, it was one of the first countries to pass the Minimum Wage Act in 1948, followed by the Equal Remuneration Act in 1976. In 2019, India implemented comprehensive legislative reforms and enacted the Wage Code.

The Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) of 2005 benefited rural women workers and helped reduce the gender pay gap, both directly and indirectly, according to evidence. Directly, by increasing the pay levels of women workers who participated in the program, and indirectly, by increasing earnings for women in agricultural occupations, as MGNREGA contributed to the rapid rise in overall rural and agricultural wages in the country.

In 2017, the government amended the Maternity Benefit Act of 1961, increasing maternity leave with pay protection for all women working in establishments employing 10 or more workers from 12 weeks to 26 weeks. This is expected to narrow the motherhood pay gap among mothers earning median and high-end wages in the formal economy.



Aside from enabling legislation, the Skill India Mission is working to equip women with market-relevant skills in order to close the learning-to-livelihood and gender pay gaps. While the gender pay gap is gradually closing, it will take more than 70 years to close completely at the current rate of progress. Accelerated and bold action is required to prevent the gender pay gap from widening and to close the existing gap.

One of the UN Sustainable Development Goals 8 targets is "achieving full and productive employment and decent work for all women and men, including young people and people with disabilities, and equal pay for equal work" by 2030. In support of this goal, the Equal Pay International Coalition (EPIC) was established in 2017 as a multi-stakeholder initiative led by the ILO, UN Women, and the Organization for Economic Cooperation and Development (OECD) to achieve equal pay for men and women everywhere.

Worlds higher gender wage gap in Belgium:

In comparison to their male counterparts, an increasing number of women retire in poverty each year. In fact, on a global scale, women earn \$0.77 for every \$1.00 earned by men doing the same work. Despite putting in equal effort and skills, women are undervalued and underpaid. The gender pay gap widens even more for mothers. Several initiatives are underway in Belgium to close the gender wage gap.

#### **GENDER PAY GAP REDUCTION ACT FORMULATED IN BELGIUM.**

Since 2012, Belgium's legislature has required that the gender pay gap be considered when determining salaries for unions and employers. According to the Gender Pay Gap Reduction Act, each company must outline the labour cost difference between men and women. This would later be made available to the general public via the National Bank. Furthermore, if it is reported that a company's female employees are earning less than their male counterparts, the law requires

employers to provide a plan of action. If women believe they are being discriminated against, they are encouraged to contact their company's mediator.<sup>6</sup>

#### GENDER PAY GAP REDUCTION ACT:

On April 22, 2012, Belgium passed legislation to close the gender pay gap. This Act requires that differences in pay and labour costs between men and women be documented in the company's annual audit ('social balance').

#### EUROPEAN COUNTRIES:

The gender pay gap in the EU stands at 13.0% in 2020, with only minor changes over the last decade. This means that women earn 13.0% less per hour than men. Among that Germany comes first.

Women face inequalities in the EU in access to work, and progression:

1. Sectoral segregation
2. Unequal share of paid and unpaid work
3. The glass ceiling
4. Pay discrimination<sup>7</sup>

#### CONCLUSION

WORK OF EQUAL VALUE-refer to jobs that are the same or similar, as well as jobs that are not the same but are of equal value. This distinction is significant because women's and men's work may require different types of qualifications, skills, responsibilities, or working conditions while being of equal value and thus meriting equal pay. Equal pay is important because it is a

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<sup>6</sup> <https://borgenproject.org/gender-wage-gap-in-belgium/>

<sup>7</sup> [https://ec.europa.eu/info/policies/justice-and-fundamental-rights/gender-equality/equal-pay/gender-pay-gap-situation-eu\\_en](https://ec.europa.eu/info/policies/justice-and-fundamental-rights/gender-equality/equal-pay/gender-pay-gap-situation-eu_en)

glaring injustice that condemns millions of women and families to lives of poverty and opportunity gaps.

Closing the gender pay gap necessitates a series of policies that promote decent work for all. This includes measures to encourage the formalisation of the informal economy, bringing informal workers under the protection of the law and empowering them to better defend their interests.

“Accelerated and bold action is needed to prevent a widening of the gender pay gap and close the existing gap.”

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