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**Report on Enablers for
“Women Empowerment”
at Workplace in India**



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1. Introduction

1.1 Need for a re-look at women related labor laws

The International Women’s Day 2017 was themed as “Women in the Changing World of Work: Planet 50-50 by 2030”. This calls for a review of laws for working women, and whether they are in readiness to provide the foundation and catalyse goal attainment by 2030.

Gap between women’s and men’s labor force participation is 26%, while women spend 2.5 times more time performing unpaid care and domestic work than men. Globally, women on an average are paid 24% less than men. Disparities such as these are areas which need to be addressed. The first step in this direction is to analyse how current laws have performed and what are the gaps emerging.

According to the World Bank Report ‘Women, Business and the Law 2016: Getting to Equal’, 90% of 173 economies covered by the World Bank Group’s Women, Business and the Law 2016 report have at least one law limiting women’s economic participation, restricting them from certain types of professions, hindering their freedom to travel outside the home or country, or constraining their ability to inherit or own land.

ILO through its recommendations and Conventions has repeatedly emphasized the need and importance of labor laws for women over a period of time and most of the current laws have their genesis in these ILO conventions. It continues to revisit these and bring in fresher perspectives which need to be imbibed by our law makers. The ILO defines “decent work” as productive work for women and

men in conditions of freedom, equality, security and human dignity. ILO’s “decent work” concept covers employment, social protection and social dialogues, as well as fundamental principles and rights at work and international labor standards with the underlying theme of gender. One of the key ways to provide this is through enabling labor laws.

The Second National Commission on Labor, 2002 justified the protective discriminatory legislation in favor of women by recommending that such a legislation is essential for women workers.

According to “Leave No One Behind” — report of the UN Secretary-General’s high-level panel on women’s economic empowerment— “Provisions strengthening mechanisms for women’s participation in collective bargaining, providing tax incentives for women entrepreneurs, addressing sexual violence and harassment in the workplace and regulating domestic work; all foster women’s economic empowerment by creating opportunities and spaces for women to realize their economic potential on equal terms with men.”

As per the World Economic Forum’s “The Industry Gender Gap, Women and Work in the Fourth Industrial Revolution”, on an average women are more educated than men globally and participate more in professional and technical occupations than 10 years ago. As of today, their chances to rise to leadership positions are only 28% of those of men. There is a need to understand and remove factors that impede women from realizing their potential.

In the recent ILO’s report, “Women at work: Trends 2016”, between 1995 and 2015, the global female labor force participation rate decreased from 52.4 to 49.6 per cent. The corresponding figures for men are 79.9 and 76.1 per cent, respectively. Worldwide, the chances for women to participate in the labor market remain almost 27 percentage points lower than those for men. It is time to look into structural and judicial deficiencies that have led to such a scenario.

1.2 Present status of Women in the workplace

According to the most recent ILO reports, India has seen a significant decline in the female workforce. There has been a decline of nearly 10% between 2005 and 2015.

According to the United Nations Statistics Division Report, “The World’s Women 2015”, only 50% women of working age are in labor force compared to 77% men. Over the past 20 years, an increasing number of countries have adopted legislation providing maternity and paternity benefits, enabling workers to meet their responsibilities outside work. Over half of all countries currently offer at least 14 weeks of maternity leave and 48% of countries have provisions for paternity leave.

An international survey done by Barbara Annis, renowned thought leader in the field of gender differences and diversity, comprising 240,000 women says that 81% women feel some sort of exclusion at work but on the contrary 90% men believe that they are aware of no such exclusionary practices at all. This contradiction in perceptions needs to be addressed and interventions based on law hold promise in this regard.

An online survey platform—InHerSight—that collects exclusively women’s ratings of corporate environments points to gender pay gap as the biggest workplace issue for women even when organisations are mandated to implement Acts like the Equal Remuneration Act.

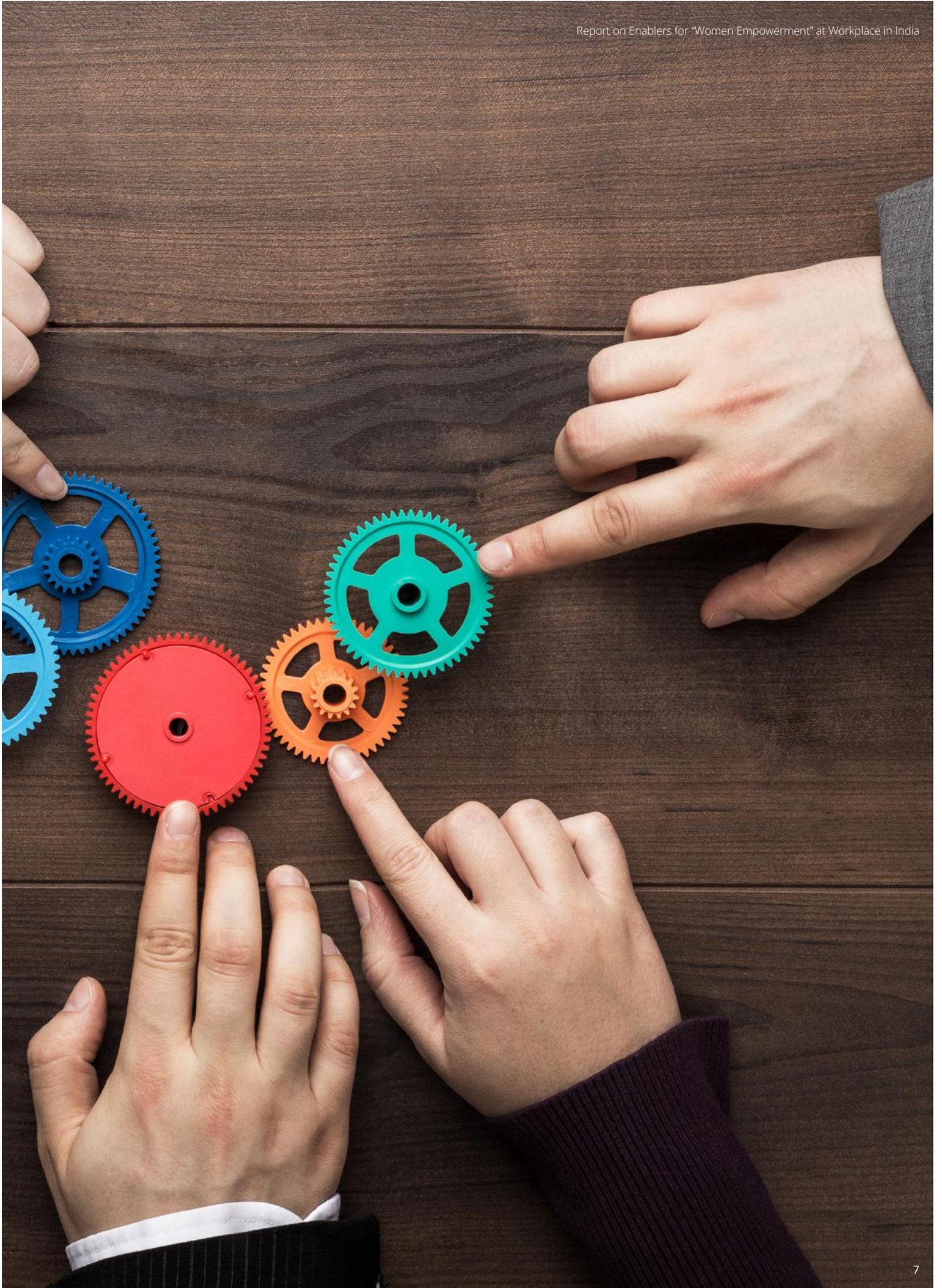
A lot of companies have differentiated practices with respect to hiring pregnant women, some have guidelines like the woman must have worked with organization for at least 80 days before being entitled to maternity leave. Such practices have restricted women’s mobility and by their very nature are restrictive.

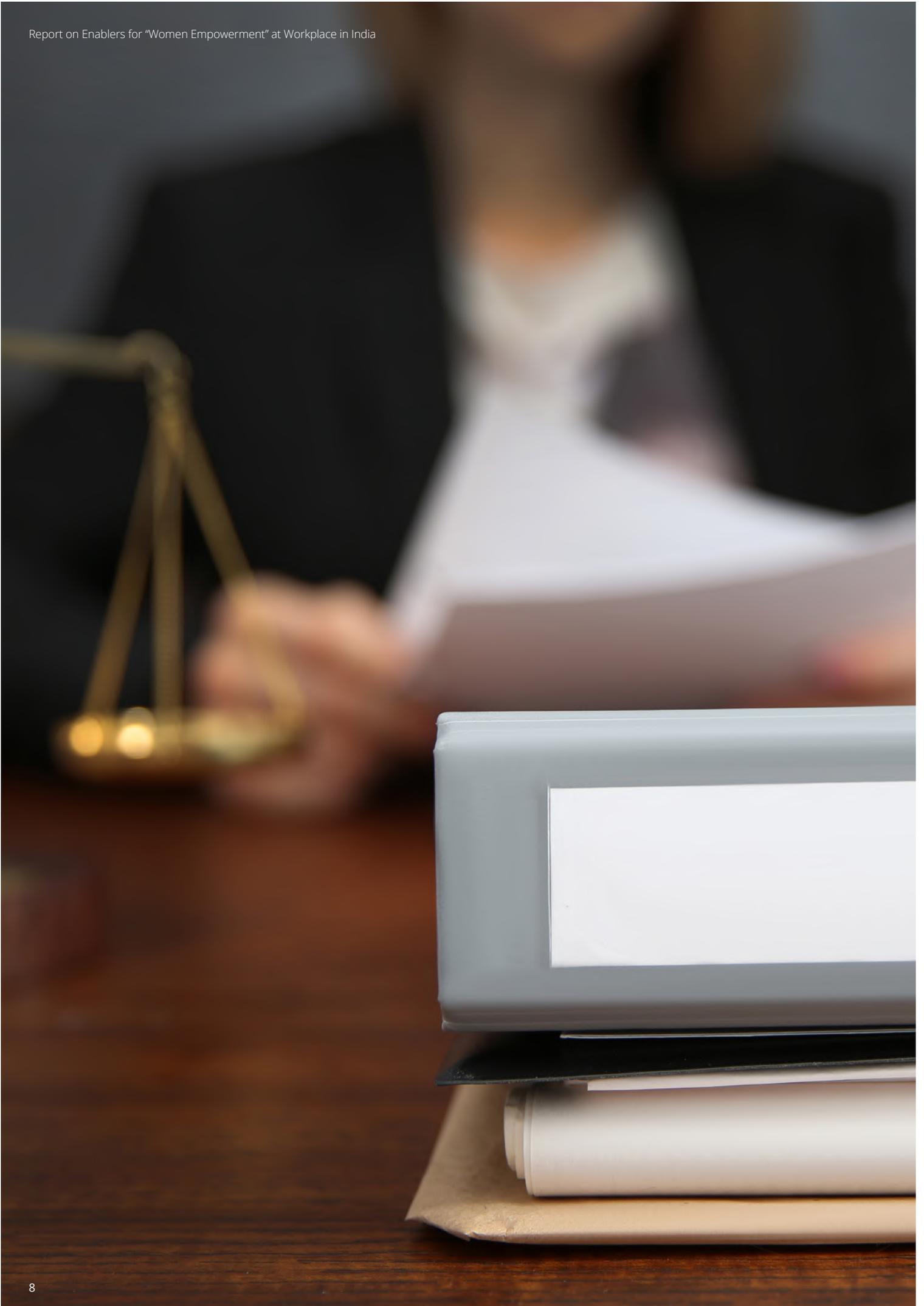
Interestingly as per Indian statistics 2012-13, the number of women working in rural sector was 25% compared to 15% in urban sector in 2011-12. This gap only seems to be increasing and is surprising. These statistics again are only signalling the need for systemic changes in the way women are viewed at the workplace.

1.3 Trend of common practices to help retain women in Corporates:

- Flexible work schedules
- Compressed work weeks
- Job Sharing
- Telecommuting
- Reduced workload and part time jobs
- Most maternity integration efforts like flexible leave arrangements, skill training, and manager coaching and mentoring.







2. Statutory Enablers

2.1 Shops and Establishments Act/ Factories Act, 1948

Special provisions relating to women

Latrine and Urinal Facilities- The Factories Act, 1948 makes it obligatory for every factory to maintain an adequate number of latrines and urinals of the prescribed type separately for men and women workers

Prohibition of work in Hazardous Occupations- The Factories Act, 1948 prohibits employment of women in dangerous occupations.

Washing and Bathing Facilities-

Separate facilities washing and bathing are provided for women workers under the Factories Act. According to Section 42 (1)(b) of the Act, separate and adequately screened washing facilities shall be provided for the use of male and female workers.

Crèches- Section 48 of the Factories Act, 1948 provides that in every factory wherein more than 30 women workers, are ordinarily employed there shall be provided and maintained a Crèche for use of children under the age of 6 years.

Prohibition of Night work- The Factories Act, 1948 prohibit the employment of women during night hours. It is under special circumstances and in certain industries that this restriction may be relaxed.

2.2 The Maternity Benefit (Amendment) Act, 2017

The Maternity leave amendment –

increase the maximum period of maternity benefit from the existing twelve weeks to twenty-six weeks, in case of women who have less than two surviving children and in other cases, the existing period of twelve weeks;

Maternity Leave for Adoption and

Surrogacy – to extend the maternity benefits to a "commissioning mother" and "adopting mother" and they shall be entitled to twelve weeks maternity benefit from the date the child is handed over;

Work from home provision - to facilitate "work from home" to a mother by inserting an enabling provision;

Crèche facilities in Establishments -

to make it mandatory in respect of an establishment having fifty or more employees, to have the facility of creche either individually or as a shared common facility within such distance as may be prescribed by rules and also to allow four visits to the creche by the woman daily, including the interval for rest allowed to her;

Nursing Breaks - Every woman who returns to duty after delivery of child, shall in addition to the interval of rest allowed to her, be allowed in the course of her daily work, two breaks of 15 minutes duration each for nursing the child until the child attains the age of 15 months;

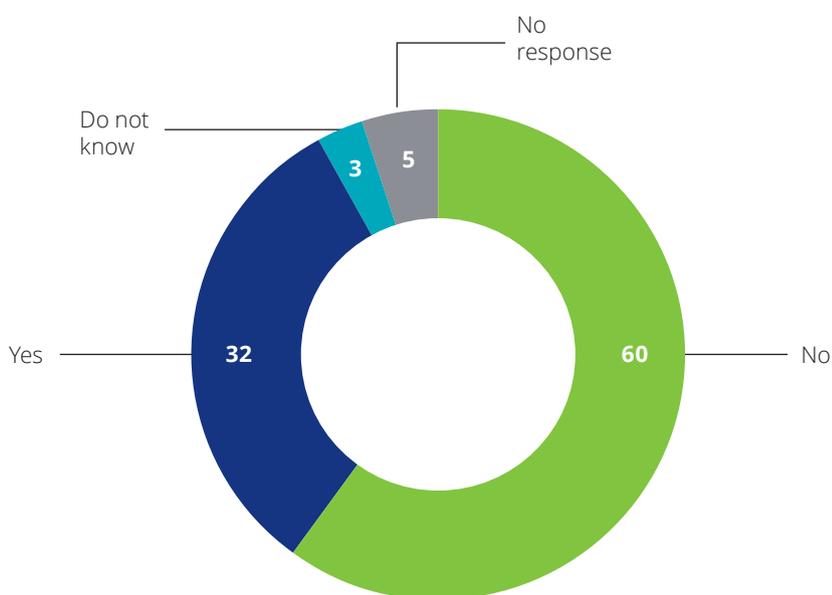
Payment of medical bonus- Every woman entitled to maternity benefit under this Act shall also be entitled to receive from her employer a medical bonus of one thousand rupees, if no pre-natal confinement and post-natal care is provided for by the employer free of charge.

2.2.1 Analysis on Effectiveness of the Implementation of the Maternity Benefit Act, 1961- Study supported by the National Commission for Women, Govt. of India May 2014

A study on the effectiveness of the Maternity Benefits Act, 1961 was undertaken by Centre for Social Research with support from National Commission for Women, GoI. The study comprised women belonging to various sectors of the labor market. It brought to light many loopholes in the implementation of the Act which need to be taken cognizance of. The major findings are summarized below:

On a positive note, around 73% respondents said a maternity policy exists in their organizations. But in implementing provisions related to medical bonus, the Act has been adhered to only in bits and pieces. Among women who were not entitled to free medical care by their employer, 72% were not entitled to any medical bonus either. The Maternity Benefits Act provides for two nursing breaks but only 32% of the participants responded that such breaks are provided during work hours. (The number is as high as 84 % in the public sector). Many who are provided such breaks also say that these are at times treated as part of their rest hour and are not provided in addition to their rest hour.

Pie Chart 1: Nursing Breaks



Recommendations

As can be understood from above, amendments made to the Maternity Benefit Act are undoubtedly progressive. However, there are some shortcomings that should be noted. First of all, the Maternity Benefit Act is restricted to female workers who are registered and on the rolls of their employer. Although casual and daily wage workers are covered by the Act, the implementation and coverage of these employees is likely to be limited. This is on account of the fact that since they are present at the workplace less often/less regularly or do not have an identifiable employer or a designated place of work. This situation could create a bias of maternity benefits in favor of permanent full-time workers. In addition it should be noted that according to a report on maternity protection in India written by the Ministry of Labor and Employment of India and International Labor Organization, only 6 million of 138 million (4.4 per cent) female workers aged 15 to 49 in India work in the formal sector. As a corollary, the Maternity Benefit Act is not applicable to 95.6 per cent of female workers in the reproductive years in India.

Secondly, the Maternity Benefit Act is one of the four laws of social security in India which is based on the principle of employer’s liability. This principle means that workers are protected through labour codes whereby employers are required to provide payments or services to their employees. In case of the Maternity Benefit Act, this means that the liability for payment of maternity benefits is placed directly on each employer. Because of this, the Act is likely to impact the intake of young women who are in the motherhood age. Pregnant women might be afraid of losing their job or might apprehend getting a decreased salary if they apply for maternity benefits, while employers might be worried that they will face a financial loss if they allow for maternity benefits. Due to the balance of power in favor of the employers, which exists since workers are dependent on their employers for employment and salary, it is likely that the interests of employers could override the interests of working women. It is worth noting that the principle of employer’s liability actually contradicts one of the general guiding principles in the ILO recommendation no. 67, which states that

income security as far as possible should be organized on the basis of compulsory social insurance. There is great need to improve t implementation of the Act with regard to access to medical bonus and nursing breaks.

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

The Act was brought in with the intention of making the workplace safer for women and providing them with a supportive and secure environment to work in. It was an effort to bring in much needed objectivity to the entire issue of sexual harassment by trying to identify crucial issues like what exactly sexual harassment entails and what is implied by the term employer. The Act has also widened scope to cover prevention of sexual harassment in domestic employment as well as well as the extended workplace. The coverage is wide spread.

Internal Complaints Committee

(ICC)- The provision of the ICC with an external representation encourages the spirit of objectivity and unbiased opinion. The Act makes it mandatory for every employer to constitute an internal complaints committee ("ICC") which looks into and addresses complaints made by any aggrieved woman.

Alternative for Incapacity to file complaint-

As per the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013, in case the aggrieved woman is unable to make a complaint on account of her physical incapacity, a complaint may be filed inter alia by her relative or friend or her co-worker or an officer of the National Commission for Woman or State Women's Commission or any person who has knowledge of the incident, with the written consent of the aggrieved woman.

Powers- Complaint Committees have been granted the powers of Civil Courts in garnering evidence. This provision is again very progressive and acts as a deterrent in the system.

Penalty-If the employers fail to comply with provisions of the Act they will be liable for penalties up to fifty thousand rupees.

Deloitte India survey report on creating a safe work environment, 2016:

The survey report shows that only 52% of organizations have made sure that employees undergo proper training on the prevention of sexual harassment of women at the workplace. 71% of organisations have provided various other means of communication with relevant material on internal portals. Similarly, 52% of organisations made employees aware of these requirements while signing the code of conduct. However, at the same time there is still lack of awareness and implementation as stated by 38% organizations who did not provide practical tips to employees to identify possible instances of sexual harassment and how to prevent it. According to the survey only 50% organizations have a whistle blowing mechanism in place to report allegations.

Status as of today

As of today there are very few cases in the court of law under the Act. The administration is not very clear on accepting the Annual Report which is to be submitted to the Government and there are instances where the administration even refuses to accept the Annual Report. It is necessary to further strengthen the implementation mechanisms.

There are no studies to show case the effectiveness and impact of the implementation of the Act.

It is also to be seen if genuine cases are really being reported within organizations or is there a reluctance which inhibit reporting of genuine cases on account of various social, and other internal reasons.

2.4 Companies Act, 2013

Provisions relating to women directors: Proviso to Section 149(1) stipulates that Companies with such criteria to be announced shall appoint woman directors. Rules currently displayed on the MCA web site for comments indicate the following for

appointment of women directors on the boards of companies:

- a. Every listed company shall appoint at least one woman director within one year from the commencement of the second proviso to Section 149(1).
- b. Every other Public company: - having paid up capital of 100 crores or more or - a turnover of 300 crores or more have to compulsorily appoint within 3 years from the commencement of second proviso to Section 149(1) of the Act.

Time limit of one year is provided to fall in line with the new requirement. Search for right kind of women directors has to be made and it is certainly a time consuming exercise.

Under SEBI Listing Agreement:

SEBI, vide circular no. CIR/CFD/ POLICYCELL/2/2014 dated April 17, 2014 has made it mandatory to have one women director on the Board of all the listed companies.

2.4.1 Women Director – Governance & Empowerment

Benefits of Having Women on the Board:

According to a study by the Catalyst organization, titled **The Bottom Line: Corporate Performance and Women’s Representation on Boards (2004–2008)** diversity of talent is associated with diversity of thought. Research shows a direct correlation in having women in the boardroom and improved corporate business results.

Global Perspective on Women Director: role in Women Director – Governance & Empowerment (* Source: European Union website)

In 2003, Norway was the first country to pass a law that mandates public companies achieve 40 percent representation of women on their boards within five years. Non-compliant companies risk fines or even dissolution. In Germany, all listed companies are required to fill 30 percent of their supervisory board seats with women. Similarly, representation of women in decision making roles across regions is as follows:

- Malaysia – At least 30 percent representation of women in decision-making positions.
- France – 40 percent of executive Board member shall be female on the board by 2016.
- Belgium – minimum 1/3 female directors.
- Spain - has introduced a quota at 40%, to be reached by 2015.

However, developed countries like, USA, UK, Canada, Singapore, Australia and many more do not have gender quota systems.

2.4.2 Scenario in India

According to India’s National Sample Survey, the proportion of working women in urban areas has increased from 11.9% in 2001 to 15.4% in 2011. (National Sample Survey of India website).

In addition various studies have shown that having women on board leads to:

-  Strong financial performance
-  Ability to attract and retain top talent
-  Heightened innovation
-  Enhanced client insight
-  Strong performance on non-financial indicators
-  Improved board effectiveness

"India needs not only an employment revolution but also an educational revolution that allows—and encourages—women play their full part in a modern Indian economy."

Current Indian Inc. Position

Since, female participation in the workforce is rising along with educational levels, India can expect to reap huge dividends.

For this, "India needs not only an employment revolution but also an educational revolution that allows—and encourages—women play their full part in a modern Indian economy".

Current Indian Inc. Position

Notwithstanding this potential, as per the report of **Indianboards.com, a joint initiative of Prime Database and NSE**, roughly two-thirds of Indian companies (966 out of the 1,456 NSE-listed entities) do not have a woman director.

There are 9,009 persons occupying a total of 11,596 directorships in NSE-listed companies. Of these, only 597 positions are held by women, which is a mere 5.1 percent.

According to the **Spencer Stuart 2012 India Board Index**, Women accounted for only 7% of directors on the boards BSE 100 companies.

According to data compiled by **Bloomberg**, Almost half of the top 100 companies traded on BSE Ltd., including the biggest two by market value don't have a single female member on their Board.

2.4.3 Key Challenges

In a country where only 5.1% of board seats were held by women in 2014, finding qualified women for the roles is itself a big challenge but timely regulatory intervention can make all the difference. The following can be seen as major impediments to achieve this:-

1. Corporate Level

- Limited pool of women candidates from the corporate sector.
- Restrictions on women from banking, financial services and insurance sector Boards due to conflict of interest.
- Incidents of sexual harassment at the workplace.

- Lack of decent job opportunities for women other than unskilled manual labor.
- Tokenism and nepotism.
- Rigid time frame - window offered must be extended.
- Absence of conducive work environment for women.
- No women employee-friendly HR policies.

2. Education Level

- Poor Adult level education and vocational programme.
- Lack of skill oriented institutions.

3. Regulatory Level

- Different company law rules and sanctions for not complying with gender balance laws. Can lead to complications for businesses and have a deterrent effect.
- No unified body.
- No proper check and Balance. Excessive discretionary power. Loopholes in legal provisions.
- No appropriate and dissuasive sanctions for companies in breach of the Directive.

Apart from these general challenges, there are some other factors which are compounding the problem such as:

- Imposing high gender quotas with tight deadlines can be detrimental for companies.
- Diversity milestones must vary from company to company and be tailored to reflect the particular needs of each board.
- Heavy-handed enforcement could subvert spirit of the law.
- The Indian law doesn't specify if women directors have to be independent or non-executive or executive.
- Absence of "flexi quota" - an obligation for listed companies to set themselves individual, self-regulatory targets

2.5 Reports on other statutory enablers

2.5.1 Night Shift for women- A study by The Associated Chambers of Commerce & Industry of India

Keeping in mind the various arguments against the lifting ban on nightshifts for women employees, Madras High Court made several provisions for safety and security of women and preservation of their dignity and honor.

The measures given by Madras High Court stated that before the Central and State Government introduce rules following measures should be adopted by every employer who wants to employ women in their factory in nightshifts;

- Employers should prevent and deter any sexual harassment and provide procedures to resolve, settle or prosecute any such act;
- Employers should maintain a complaint mechanism, including a complaint committee headed by women and half the members of the committee should be women;
- Women should be employed only in batches, of not less than ten or not less than two thirds of the total nightshifts’ strength;
- Separate work sheds, canteen facilities, all women transport facility, additional paid holiday for menstruation period;
- Medical facilities should also be provided besides two or more women wardens to work as special welfare assistants;
- Employer shall provide proper working conditions with respect to work, leisure, health and hygiene and there should be proper lighting in and around the factory where female workers may move;
- There should be security at entry and exit points of factory and at least twelve consecutive hours of rest or gap between shifts;

- Employers should send fortnightly reports to the inspector of factories about night shifts including any unwanted incident and also to the local police station.

A research study was undertaken by ASSOCHAM on Night Shift for Women, sponsored by National Commission for Women. The research sample comprised of 272 women out of which 216 were working in night shifts. Participants were randomly chosen from different industries across cities. The research findings were segmented based on various stakeholders including employees, employers, NGOs, Advocates and lawyers and also the police.

Employees voiced two major concerns, one related to lack of childcare facilities during night shifts and the other was lack of any additional benefits to compensate for sacrificing social life by virtue of night shifts.

Women organizations and NGOs too support working nightshifts for women but advocate full responsibility of the employer for the employees’ security. However, doctors have raised concerns over physiological and emotional problems that may result from night shifts. This aspect is often neglected.

The legal fraternity and the police suggested keeping escorts for female employees from home to workplace, keeping photo records and histories of the drivers hired for commuting purpose. They also advocated that representatives of women employees must be equipped with adequate powers and linkage with police and law enforcing organizations in factories that have night shifts for women.

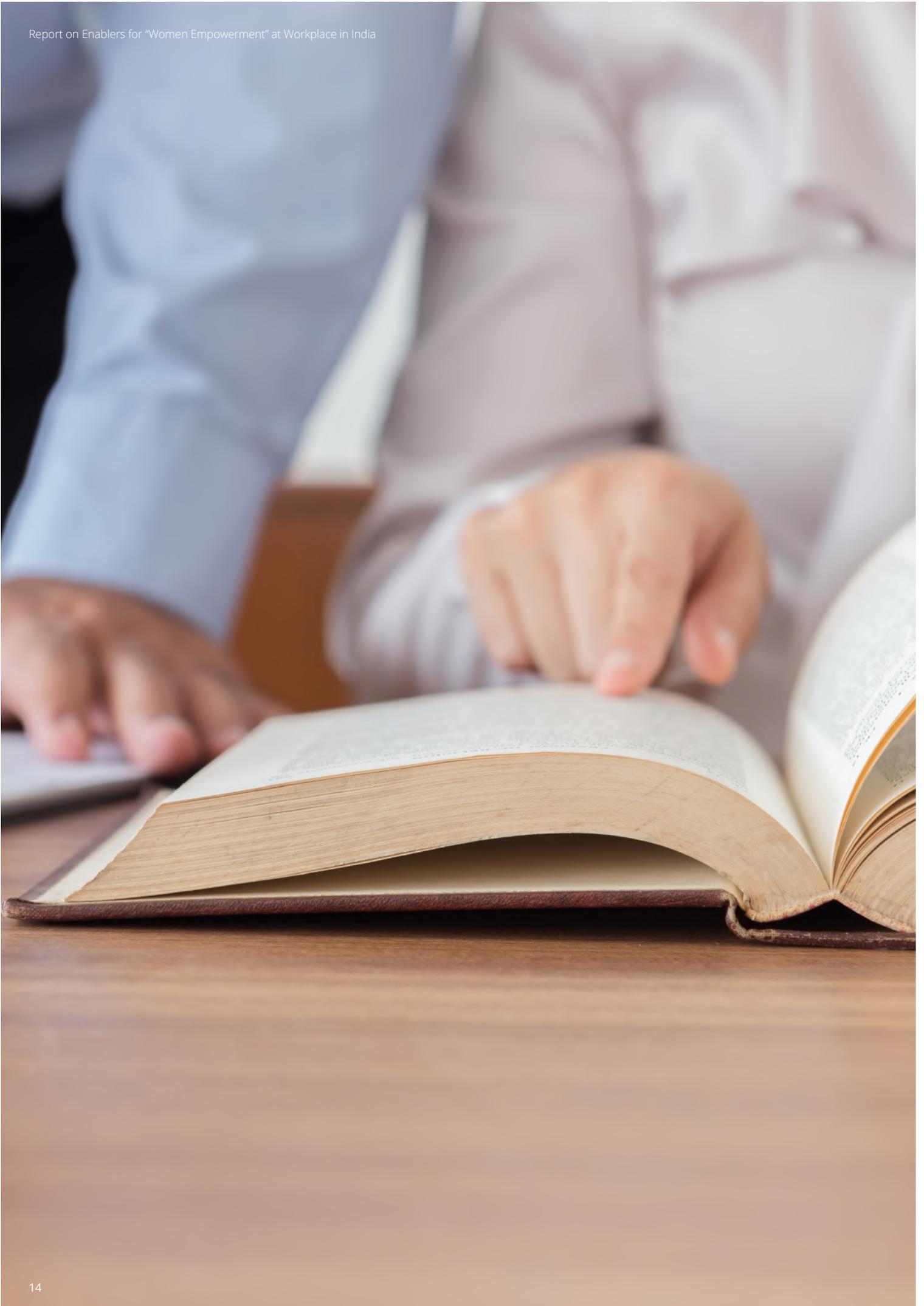
2.5.2 Employment Rights of Disabled women- A study by for Disability and Rehabilitation Studies, New Delhi

A study on compliance and impact of Persons with Disability (PwD) Act was undertaken by Society for Disability

and Rehabilitation Studies, New Delhi sponsored by NCW. It also looked at the employment rights of disabled women in India. Findings reveal that there are many obstacles to the implementation of the 3% job reservation quota: these include (i) discriminatory and paternalistic societal attitude, (ii) lack of literacy and social awareness and (iii) political will. More than 74% of the respondents were of the opinion that private sector does not comply with reservation provision for the persons with disabilities. Diverse reasons were given by the respondents for non-compliance of the act by the private sector like underestimation of the capabilities of the PwD, liability of disabling situations and misconceived notions about disabling situations. Respondents suggested various measures to improve the working conditions and job prospects of women with disabilities. These included: strict enforcement and compliance of the PwD Act, ensuring the equal participation of the PwD in PRIs and introducing job-oriented courses.

The report suggests some aspects that can be looked into to enhance employment opportunities for women with disabilities:

- The public and private sector must jointly address employment needs of women with disabilities and provide them with ample job opportunities;
- Development of home-based income generation programmes for women;
- The system of coaching for employment may also be encouraged;
- Improve accessibility and facilitate modifications in the design of machinery, workstation and work environment as necessary;
- Assist through appropriate agencies—such as Marketing Boards, District Rural Development Agencies (DRDAs), Private Agencies and Non-Governmental Organizations in marketing of goods and services produced by women.



3. Non Statutory Enablers

3.1 Women at Work: Trends 2016- ILO report:

A 2015 poll of more than 9,500 women in the G20 countries found that work-family balance was the top work-related issue for women, flagged as such by 44 per cent of the respondents. Equal pay and harassment came in as the second and the third respectively (Ipsos MORI, 2015). In a 2015 ILO survey of 1,300 private sector companies in 39 developing countries, the greater burden of family responsibilities was borne by women than by men was ranked as the number one barrier to women’s leadership (ILO, 2015g)

3.2 Career Trajectories of Indian Women Professionals in the IT Industry:

The report brings to light the fact that 37% of India’s IT-BPO workforce is comprised of

women, as of 2011 (as reported in National Association of Software Services Company (NASSCOM) HR survey 2011).

However research shows that a significant percentage of women employees in the IT sector attrite every year. This attrition results in a whopping 48% women dropping off from the workplace before the age of 30. Consequently, a huge talent pool of women with about 3- 10 years of work experience who have taken such career breaks is created.

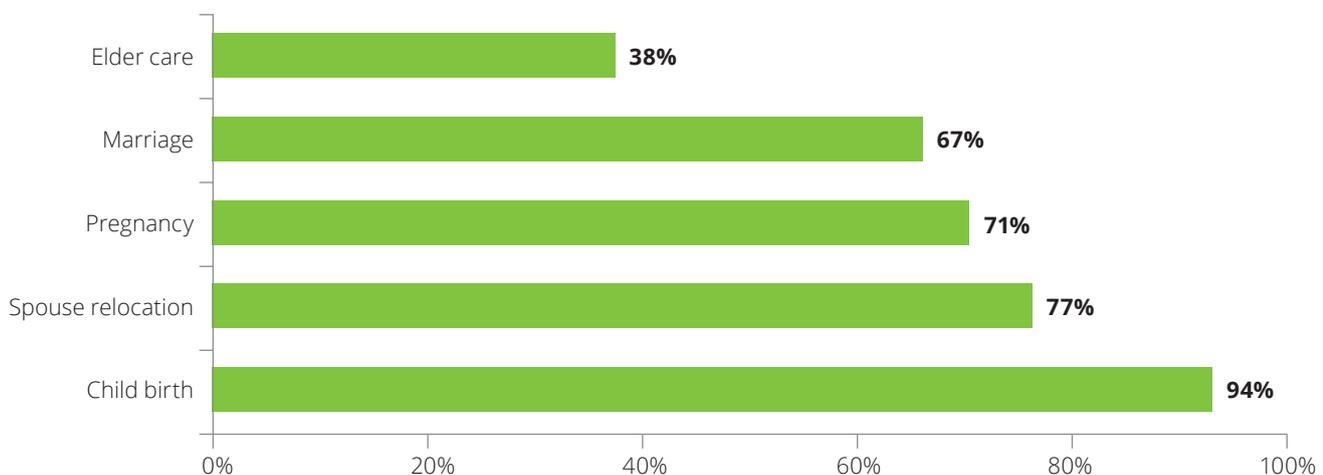
The study on Career Breaks of Women in Information Technology (IT) was conducted by FLEXI Careers India under the aegis of Grace Hopper Celebration of Women in Computing India; for use as an input for deliberations in a conference held in India. Respondents to the study included both

men and women from across major cities in India that have warmed up to the IT boom. Of the 235 respondents, 14% were males. The respondent sample was spread across Delhi, Mumbai, Kolkata, Chennai, Hyderabad, Bengaluru, Gurgaon and Pune. Professionals from the Indian IT hubs, Bengaluru and Chennai were most active in the survey, accounting for 55% and 23 % respectively of the total respondents.

The major reasons why a woman professional in IT takes a break in her career is discussed below:

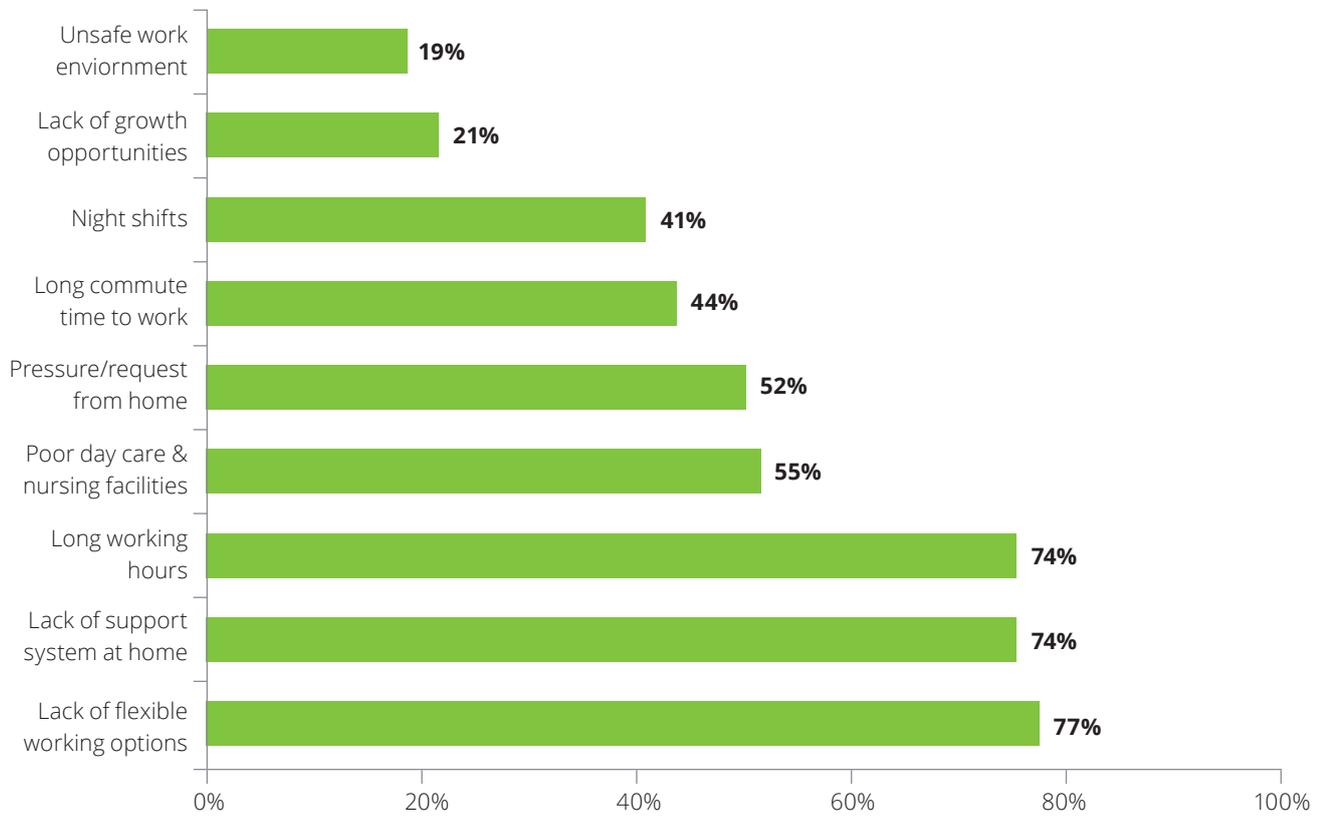
Social Factors:

Chart 1: Social Factors- Indian Women Professional



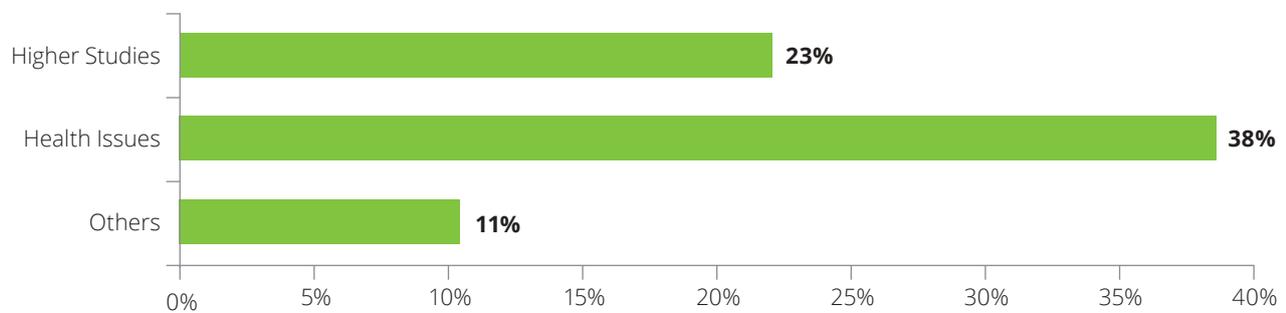
Structural Factors:

Chart 2: Structural Factors- Indian Women Professional



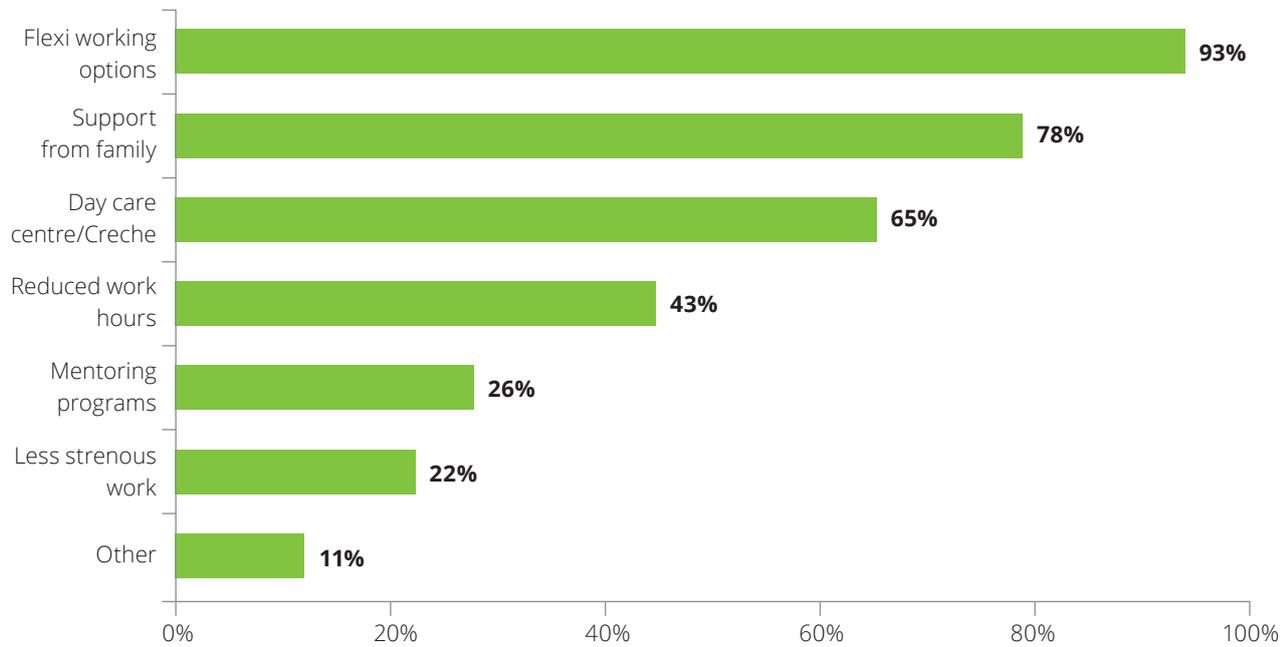
Personal Factors:

Chart 3: Personal Factors- Indian Women Professional



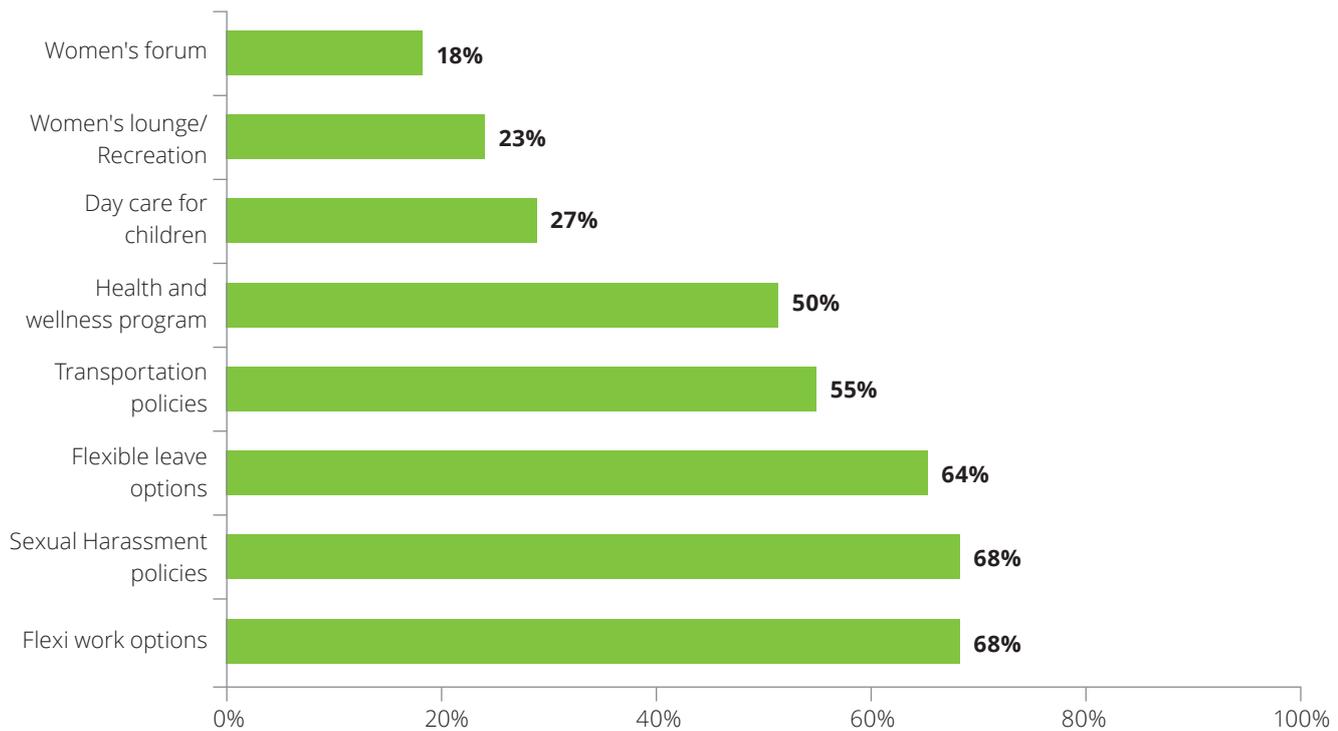
Can career break of a woman professional be minimized in duration? Here are some recommendations:

Chart 4: Recommendations- Indian Women Professional



Factors contributing to satisfactory work environment for women

Chart 5: Factors for satisfactory work environment- Indian Women Professionals





4. Current State of Labor laws, Perspective and the Way Forward:

It can be seen from the multiple special provisions made for welfare of women that both at the national and international levels, there has been a movement towards empowerment of women in labor laws. There has been a clear move towards making equal pay, equal access to opportunity, prevention and redressal of sexual harassment and provision of maternity benefits a reality in India. In fact a majority of laws in relation to the special provisions for women have been modeled after the ILO conventions. However it is important to note that some of these protective legislations have backfired and proved to be counterproductive in nature. For instance prohibition of night work by much legislation has deprived women laborers of the agency of deciding for them whether or not they would like to work at a certain time or not. In many instances women workers who are willing to and want to work overtime or night shifts are unable to do so because of these regulations leading to a gross denial of the right equal opportunity of employment to women.

Critique of Maternity Benefits Act, 1961 and the proposed amendment:

Though the country is progressively moving towards more flexible environments and more generous policies, there are still concerns over many aspects.

First, though there is talk of increasing the maternity leave to 26 weeks, but the provision for women who adopt or opt for a child through surrogacy, is limited to 12 weeks. A fundamental question arises whether it is fair to discriminate?

The leave available for adoption of child below 3 months is 12 weeks. However, the law is silent in case of adoption of a child over 3 months of age – the eligibility and entitlement in this case needs to be clarified.

Second, the provision to have flexible work hours post maternity leave (which is followed in the West) has been left as the employers’ prerogative. Both private and public sectors often do not provide women any incentives to continue working with an organization after having a baby.

It is necessary that a degree of uniformity be introduced in this aspect and rules be made to ensure uniformity in compliance.

Third, with an increase in the number of weeks of maternity leave, adequate thought needs to be given if the woman employee’s absence from work would affect overall employability of women? Is such an absence likely to have a negative impact on the future career growth of the woman employee? If other employees learn to manage without the woman employee who is on leave, companies might be tempted to draw a conclusion that the woman employee is dispensable. There is no mention of this aspect anywhere in the statutes. Since promotions are largely performance-based and not tenure-based, a woman’s maternity leave often gets recorded as a time of average or no performance.

Fourth, there is absolutely no mention of paternity leave in the act which constitutes a major component of the leave policies in the West. This puts the onus of the newborn’s rearing on the mother. This is contradictory to gender equality and equal parenting.

The next level of effort that India needs to make is to develop effective implementation and redressal mechanisms. The best way to ensure effective implementation of these provisions and redressal of any complaints is to begin implementation at a grassroots level, i.e., at the level of individual enterprises, and employers. This will ensure that actions are more specific in nature and will bring about more concrete outcomes

International Perspective:

Sweden has a very progressive approach. Most Swedish companies are flexible regarding parental duties, and employees still get 80% of their pay when they have to stay home with sick children or dependents. This temporary parental leave is available for up to 120 days per child per year for children under 12 years. Children aged 12–15 require a doctor’s certificate. Parents whose children are sick or disabled for more than six months can also receive an additional allowance until the child turns 19.

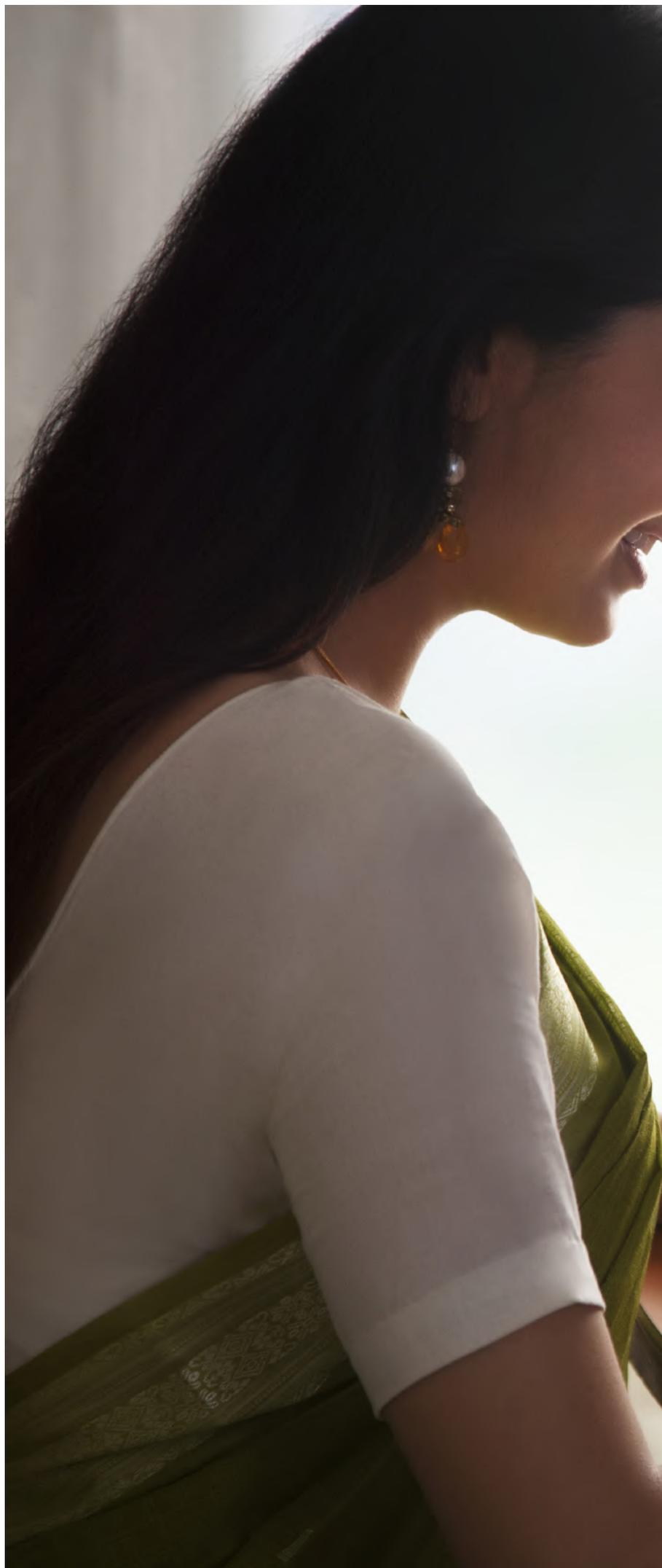
Even without introducing quotas, companies can announce targets for promoting women, as demonstrated by Germany’s 30 biggest publicly listed

companies. Corporate codes stressing the importance of diversity and gender equality have been introduced in Sweden and Finland (UN and ILO, 2012). **Sweden’s** high Female Labour Participation Rate, with a gender gap of only 6%, is mostly attributed to a generous and flexible parental leave policy with a high coverage rate for child care, job guarantees, and eligibility for reduced working hours.

Benchmarks for benefits under the Act are as follows:

- Western Europe: average maternity leave- 40.5 weeks
- Sweden: 56 weeks at 80% of salary, thereafter another 13 weeks at fixed pay
- Norway: 36 to 46 weeks (depends on parental benefits paid at 100% and 80% respectively)
- Romania: One to two years (variation in the percentage of paid benefits and ceiling on total compensation accordingly)
- India: 12 weeks, now amended to 26 weeks
- UK or England: 39 weeks of paid leave
- China: 14 weeks, paid at the average wage of the company
- US: 12 weeks, employers not obliged to pay anything
- Canada: 17 weeks paid leave; employee can take up to 52 weeks of leave without pay

According to ILO, The Maternity Protection Convention 2000 (No. 183) sets out a number of minimum requirements for maternity leave and related entitlements. In 2015, 102 of the 185 countries for which data were available (55 per cent) provided at least 14 weeks of maternity leave, in line with Convention No. 183. The countries which have extended the duration of maternity leave since 2013 include: El Salvador (from 12 to 16 weeks); the Gambia (from 12 weeks to 6 months); Paraguay (from 12 to 18 weeks), Trinidad and Tobago (from 13 to 14 weeks) and Uruguay (from 12 to 14 weeks). Israel has also extended this entitlement from 14 to 20 paid weeks.







5. Data Analysis for Survey on Women Empowerment

A survey was initiated on women empowerment for white collar employees by Bangalore Chamber of Commerce & Industry alongwith Deloitte and Tata Institute of Social Sciences. The survey consisted of a total of 68 questions, out of these 48 were multiple choice questions, 8 were agreement scale questions and 12 were open ended questions. A total of 103 responses were recorded from different industries such as Manufacturing, IT, construction, Legal, Textile, etc. The respondents were men and women across hierarchical grade. Based on the responses of survey conducted the data analysis is done under a few prominent themes that represent a holistic view to the entire question set. The identified themes are:

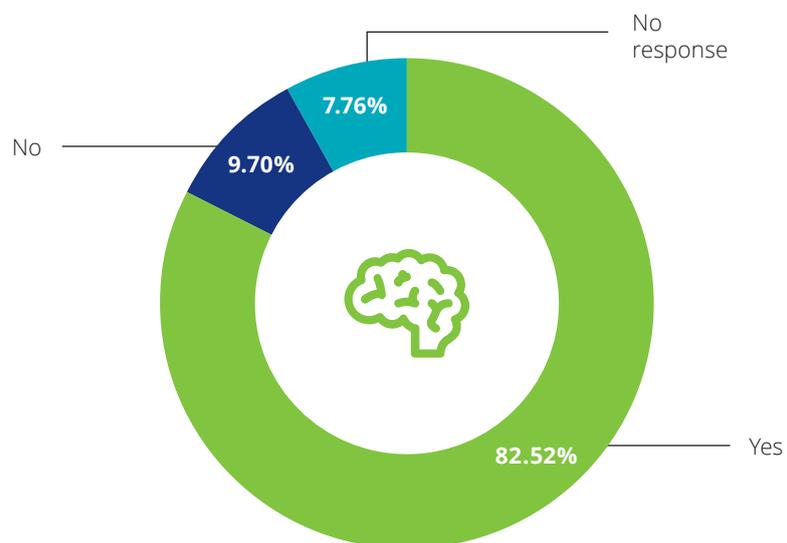
- Awareness of policies
- Maternity benefits at workplace
- Safety at workplace
- Organizational support for female employees

5.1 Awareness of policies

The first set of questions focused on the awareness of the respondents about various company policies and laws governing their work area pertaining to white collar female employees such as-crèche facilities, presence of women director on board, equal remuneration for both genders, leave provisions. Presence of Internal Complaint Committee etc. Overall the awareness is quite high pertaining to the company with only 9% of respondents being unaware about their company policies.

Awareness to company policies

Pie Chart 2: Awareness to company policies

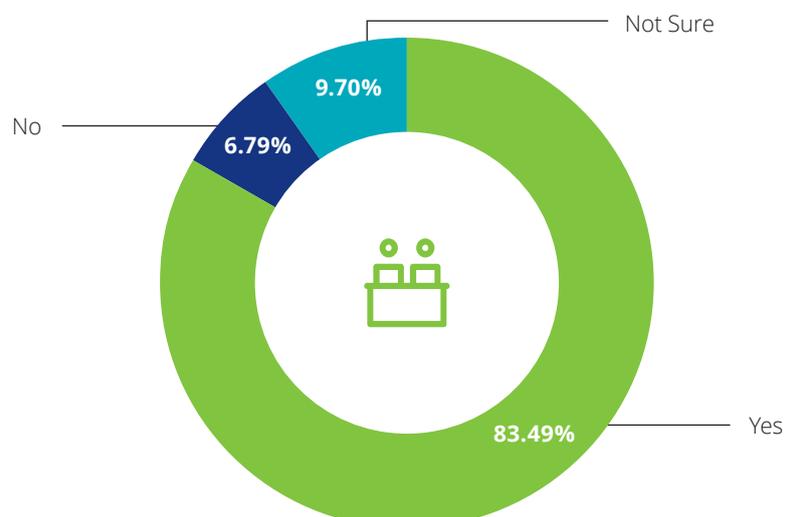


Similarly when talking about the constitution of Internal Complaint Committee at the work place again 83% are aware of a presence of such a committee

at work. Around 6% of respondents denied the presence of an Internal Complaint Committee.

Presence of an Internal Complaint Committee

Pie Chart 3: Presence of internal Anti-Sexual Harassment Committee

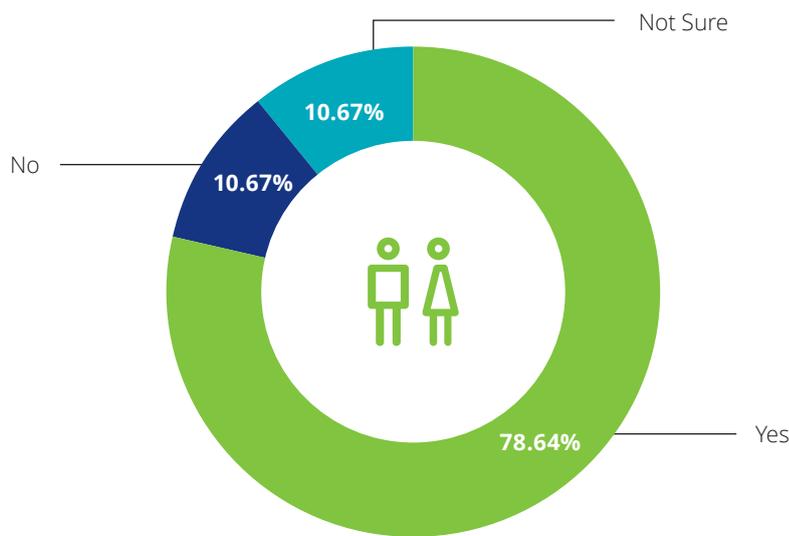


Another key area under the theme was awareness of equal remuneration to both genders. Around 78% of respondents said that their organization has a gender

independent remuneration policy and only 10 % of employees believed that the pay system at their organization was biased towards one gender.

Equal remuneration for similar jobs for all genders.

Pie Chart 4: Equal remuneration for similar jobs for all genders



Interpretation: on Awareness of Policies

Overall nearly 80% of the respondents were aware about the various company policies and reaffirmed that their organization was compliant with the various laws governing their work area. This re-establishes the fact that not only have organizations realized the importance of awareness related to compliance and policies but it also points to the fact that some work still needs to be done, compliance at any organization should be 100% and also each and every employee of organization needs to be educated on the same. These policies and laws serve as the basis for protection of white collar women employees and more focus is needed in these areas to make women employees feel safer and comfortable at the workplace. Basic facilities such as crèche, creating safe work environment. Effective implementation and constitution of Internal Complaint Committee are not only necessary but crucial for any

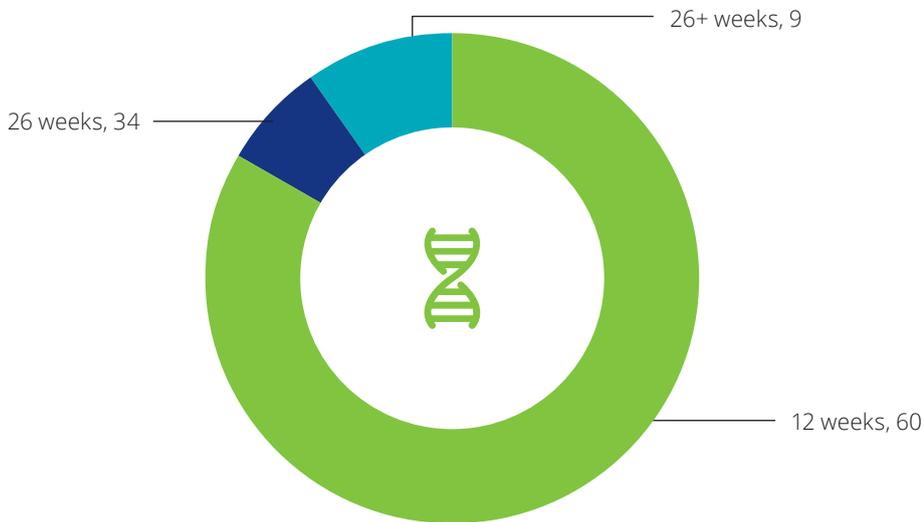
female employee to work comfortably and securely and 100% of all organizations need to ensure that these basic entities are in place.

5.2 Maternity benefits at workplace

Maternity is a key part in any female employee's life and it is not only a personal but also a professional challenge for all employees. Keeping this in mind the Government of India in 1961 passed the Maternity Benefits Act which safeguards the interests of working class female employees. An amendment to this Act has been passed from both Rajya Sabha and Lok Sabha. The amendment increases the duration of paid maternity leave from 12 weeks to 26 weeks. 100% of the organizations from which the respondents had participated had the mandatory 12 weeks of maternity leave with 43 respondents confirming that their organization already provides 26 weeks or more of paid maternity leave.

Period for which a woman is entitled to maternity benefits

Pie Chart 5: Period for maternity benefits

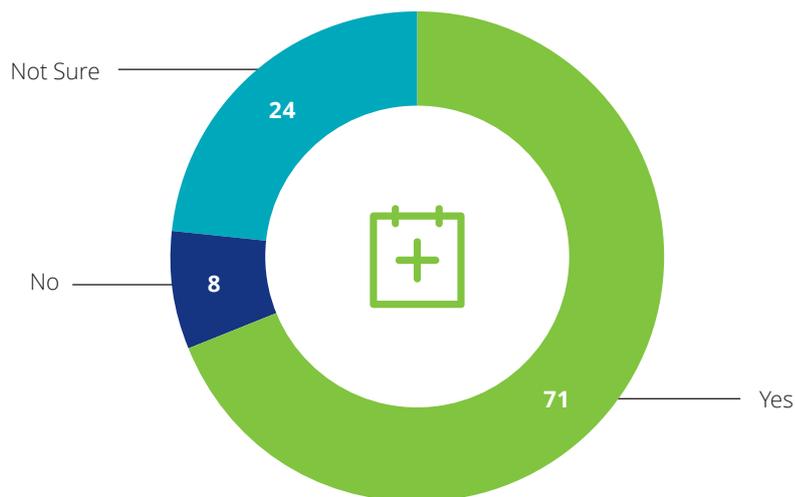


Another key aspect under the theme of maternity benefits is the 'extended leave' for female employees. 71 among the 103 respondents confirmed that their

organization provides additional maternity leave, if needed, to female employees but out of these 71 only 46 confirmed that the additional leave is a paid leave.

Extended leave granted post maternity leave

Pie Chart 6: Extended leave after maternity leave

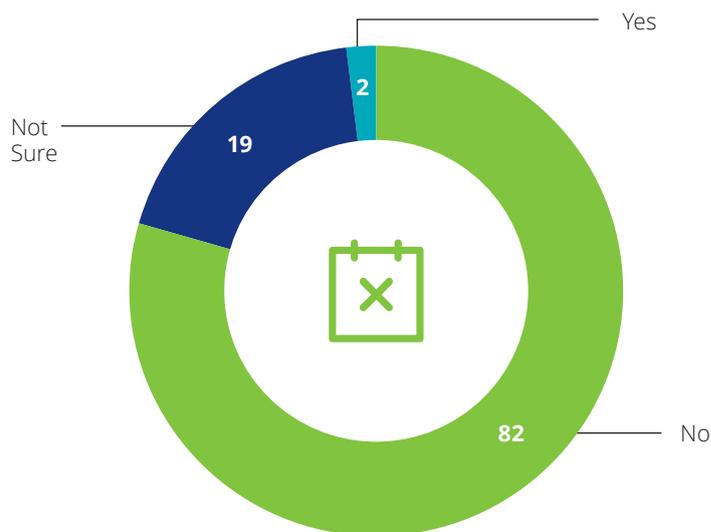


Under the theme of maternity benefits responding to a question whether the benefits such as maternity leave are implemented in its true spirit or not, only 2 out of 103 respondents revealed that there has been a case of inappropriate treatment of female employees or termination on returning from maternity leave. Additionally, only 2 out of 103 respondents said that a women employee had been asked to report for work during the maternity leave or during the extended maternity leave.

At the same time the 19 respondents said that they were not sure of the treatment to women when on maternity leave or joining post maternity leave. This response raises concerns, since it indicates that organisations are not transparent in their dealings in such situations, apart from reflecting on the culture of the organization.

Case where a woman has been terminated/ inappropriately treated while on maternity leave or joining organization after maternity leave?

Pie Chart 7: Cases for termination of women on maternity leave

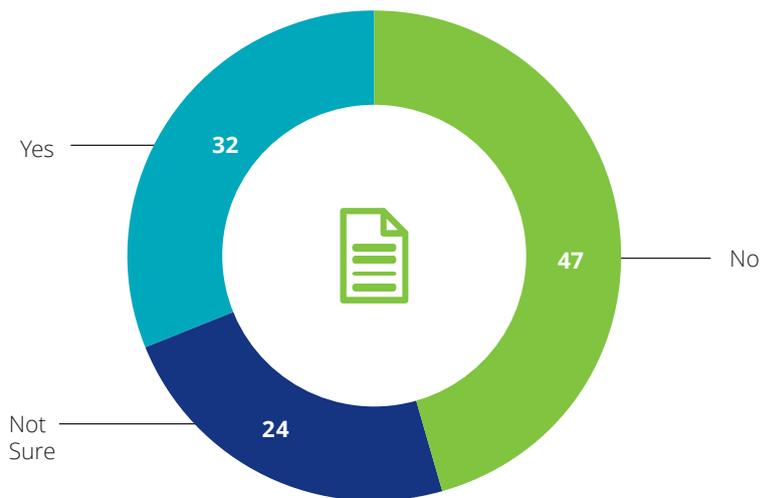


For any working woman professional, childcare remains a key aspect and crèche facilities are a pivotal to the process.

However, only 32 respondents confirmed the presence of crèche in their facility

Has your organization made crèche facilities available?

Pie Chart 8: Crèche facility

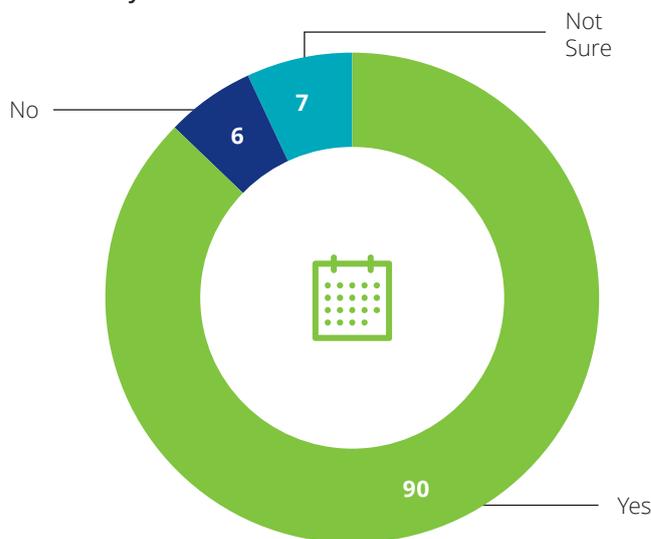


The other important factor under maternity benefit is paternity leave—even though it is mandatory in a lot of western countries, it still takes a back seat in India

but, as per the survey, 90 out of 103 respondents wanted a ruling on paternity leave as well

Do you think paternity leave should mandatorily be made a part of the Maternity Benefit Act?

Pie Chart 9: Paternity leave

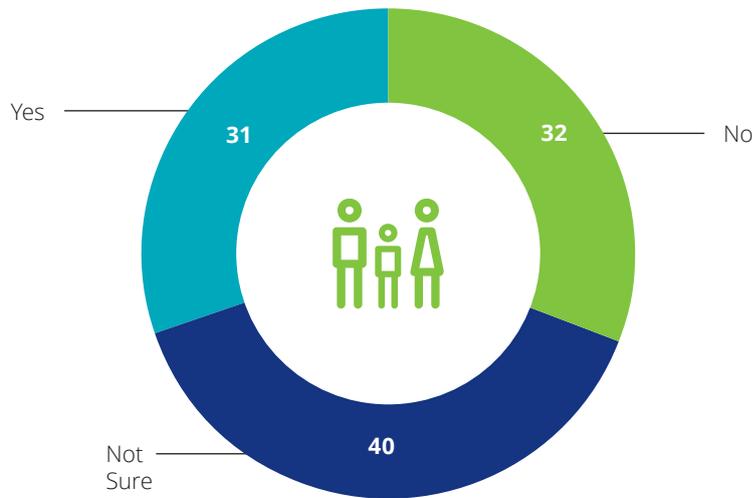


Since adoption is not a common practice in India, in the provision under the maternity benefit act on the adoption leave and being an uncommon practice in India, only 31

respondents were aware of a leave policy for the same, whereas 40 were unsure about existence of any such policy at workplace.

The organization has an adequate adoption leave policy for adoption of children?

Pie Chart 10: Adoption polices



Interpretation: Maternity Benefits

Maternity benefits have been the focus area for both the government as well as organizations. Steps such as increasing the maternity leaves from 12 weeks to 26 weeks is a step in the right direction. Many organizations are also taking firm steps to ensure that such rules are strictly followed. As is evident from the survey all organizations had a provision for 12 weeks of leave with nearly 40% providing 26 weeks or more of maternity leave already, prior to the legislative mandate coming in. Having said that the extended maternity leave in majority of the surveyed organizations was unpaid leave and such practices should be avoided as it creates a negative impression on female employees. Another key observation was that nearly

90% respondents believed that paternity benefits should be improved and brought in line with global standards. Organizations also need to take steps to ensure that the spirit of the act is maintained and cases of misuse of maternity leave are also kept in check. Organizations are also taking steps to ensure that there is no communication gap with the employee in regard to the benefits etc. for maternity leave. These steps include frequent mails from department, telephonic contact with the employee etc. Still it remains as one of the major areas of improvement for organizations and "Back-To-Work" policies for female employees need to be improved.

5.3 Safety at workplace

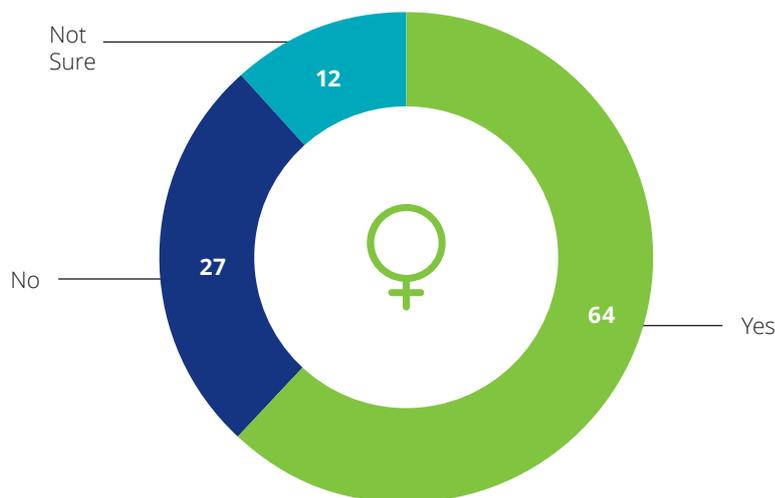
Safety is the most important aspect for any employee; no employee can truly perform to their potential if they don't feel safe at their workplace. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 was one of measures that were introduced in 2014 to safeguard the interests of women employees at workplace. As highlighted from the survey, some of the major steps taken by organizations to ensure women safety include presence of security guards, installation of CCTV cameras at workplace, transportation facility for female employees accompanied by a security guard or a colleague. Another key area would be safety of female employees while on business trips. Some \ organizations have taken steps to address this proactively by pre booking of flight tickets, providing pick-up and drop facilities and providing emergency contacts to the employee just

to name a few. Most \ organizations in the survey provide basic facilities such as restroom, transport, medical facilities to women employees working in night shift. 86 of the 103 respondents agreed that their organization has an internal Anti-Sexual Harassment Committee in place and 78 of these 86 respondents agreed that their Anti-Sexual Harassment Policies are gender neutral. Even though this is quite high, ideally it should be 100% as it is mandated by law.

Creating safe work environment is the statutory obligation of the employer, as well as creating awareness and training on provisions of the Act is the responsibility of the employer. Only 64 of 103 respondents had periodic awareness workshops on sexual harassment, 27 employees said they didn't get any such workshops and 12 were unaware about it.

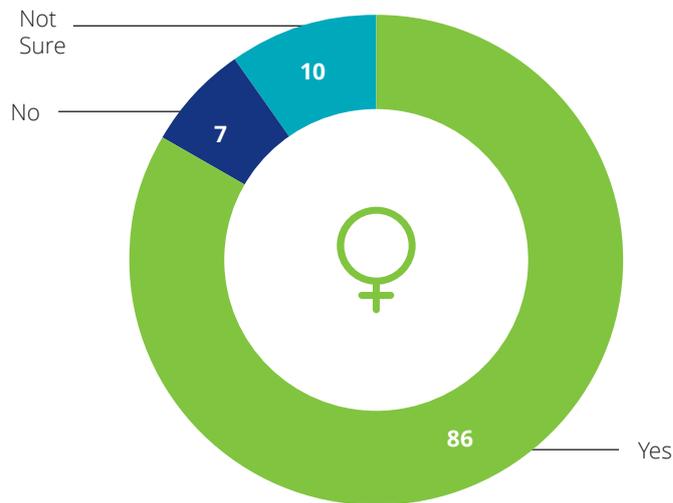
Are periodic awareness workshops conducted to create awareness about sexual harassment and consequences?

Pie Chart 11: Periodic awareness workshops for sexual harassment and consequences



Is there an internal Prevention of Sexual Harassment at workplace Policy in your organization?

Pie Chart 12: Internal Anti Sexual Harassment Policy

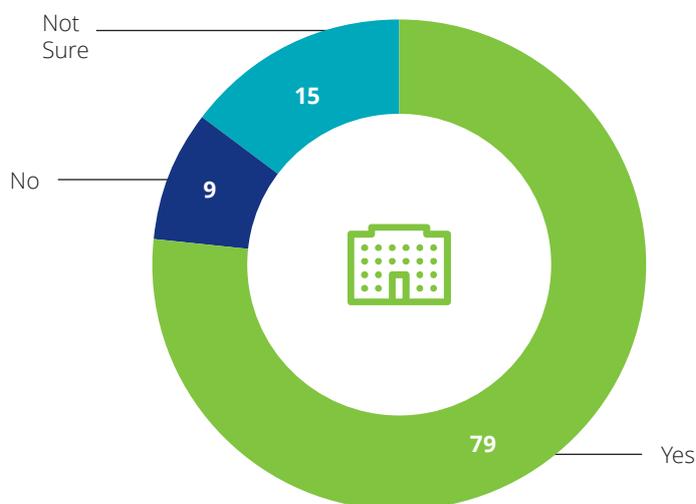


The internal complaints committee (ICC) is one of the bodies mandated by Prevention of Sexual Harassment Act, 2014. This is a mandatory requirement and should be there in each and every organization. However, only 79 of 103 respondents confirmed the presence of

internal complaints committee (ICC) at their workplace. These redressal mechanisms are of utmost importance to the help prevent any cases of sexual harassment at the workplace and organizations need to give due importance to implement these laws.

Is there an Internal Complaints Committee (ICC) constituted as per the provisions of the act?

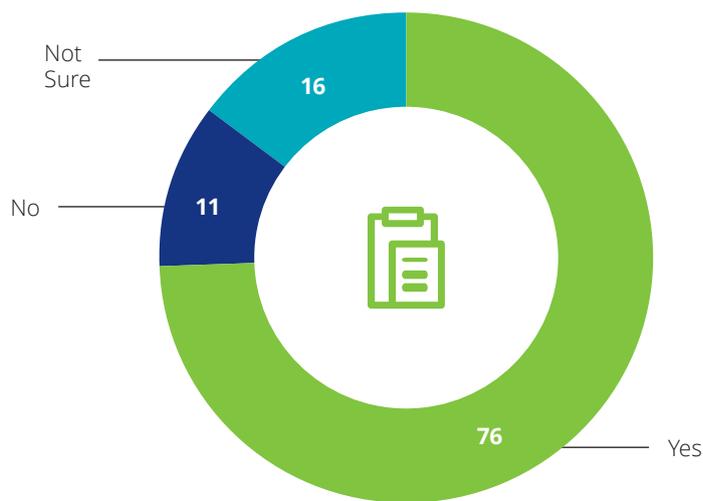
Pie Chart 13: ICC at workplace



Even though 86 of the 103 respondents said that they have a committee for sexual harassment at workplace, only 76 of these are aware of the mechanism of register a complaint related to sexual harassment.

Defined mechanism/process to register any complaint related to sexual harassment?

Pie Chart 14: Process to register sexual harassment complaint

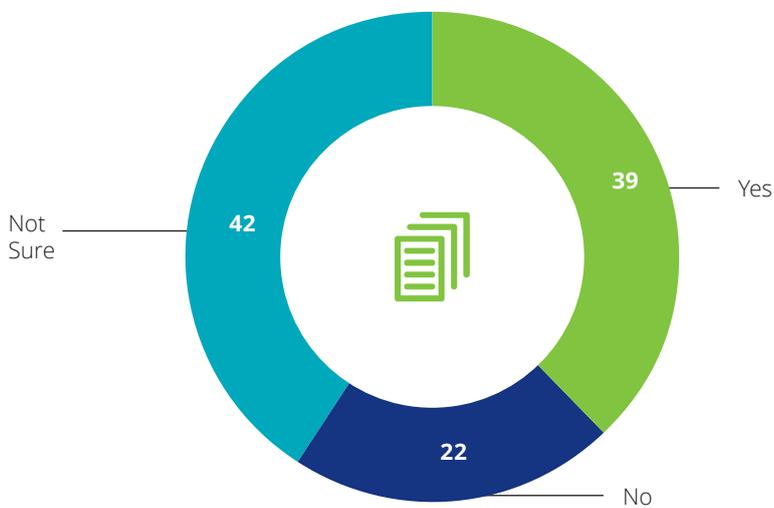


Organizations should also take steps such as publishing status of pending sexual harassment cases in their annual reports so as to increase transparency pertaining to sexual harassment but only 39 of the

103 respondents revealed that such practices exist in their company. Safety measures also need to be improved so as they are proactive in nature rather than being reactive in nature.

Is the information about pending and resolved sexual harassment cases included in the annual report of your company?

Pie Chart 15: Pending sexual harassment cases in annual report



Interpretation: Safety at work place

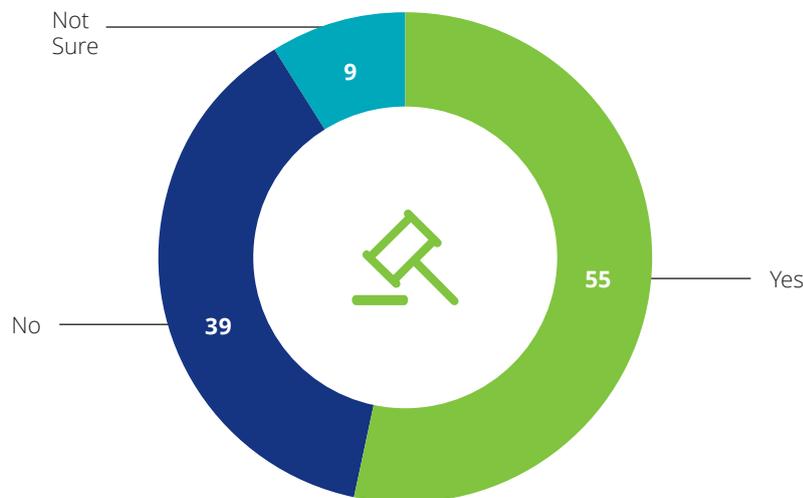
Although majority of respondents are aware about prevention of sexual harassment, such aspects of law should be followed in their entirety, both in letter and spirit. Where needed organisations should re-assess their levels of compliance and take steps for removing shortcomings. Organizations must conduct timely workshops to reinforce anti sexual harassment practices. Most companies provide basic facilities such as transportation, security guard, etc. but these are stop gap measures and organizations should focus on improving the culture of organization so that cases of sexual harassment can be permanently eliminated.

5.4 Organizational support for female employees

Role of an employer is not just to follow the law of the land but to ensure overall well being and growth of its female employees. Policies of any organization should be such that they protect the interests of all their employees and ensure comfort and safety of employees. Flexible timings is one such area, which allows freedom of work to the employees. Most respondents highlighted this is a key area for female employees and yet only 55 respondents said their organization provides such an option at work—39 respondents had no such provision at their workplace.

Does your organization have a flexible work arrangement policy?

Pie Chart 16: Flexible Work arrangement policy

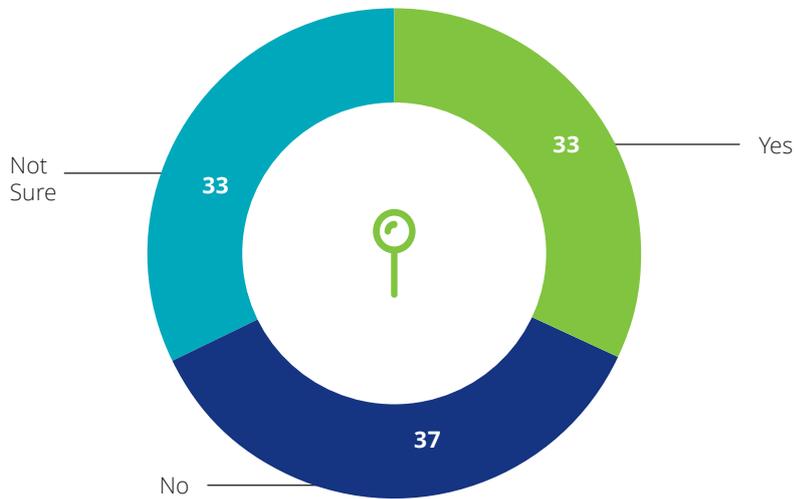


Post marriage or spouse relocation is a major concern for many employees. With an increasing influx of female workforce, organizations need to focus on relocation as a key area. Only 33 respondents said

that their company has a proper relocation policy. This is very low as compared to other themes and subthemes and progressive organisations would do well to factor this into their HR Policies.

The organization has supportive policies in cases of spouse relocation?

Pie Chart 17: Spouse relocation

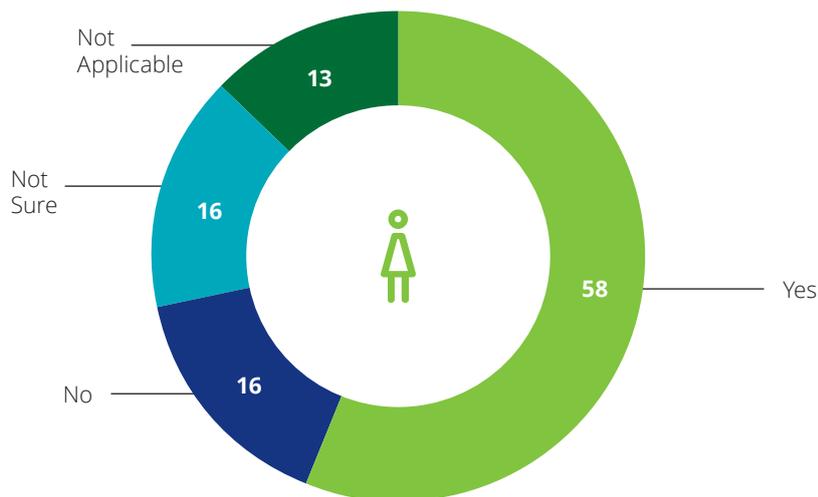


Shopfloors in manufacturing sector act like a major glass ceiling for female employees and have been an all male field for far too

long. Even this survey confirms that only 58 respondents have a provision for female employees on shopfloor.

Are female managers allowed to work on shop floor (production site) in your organization?

Pie Chart 18: Female managers at shop-floor

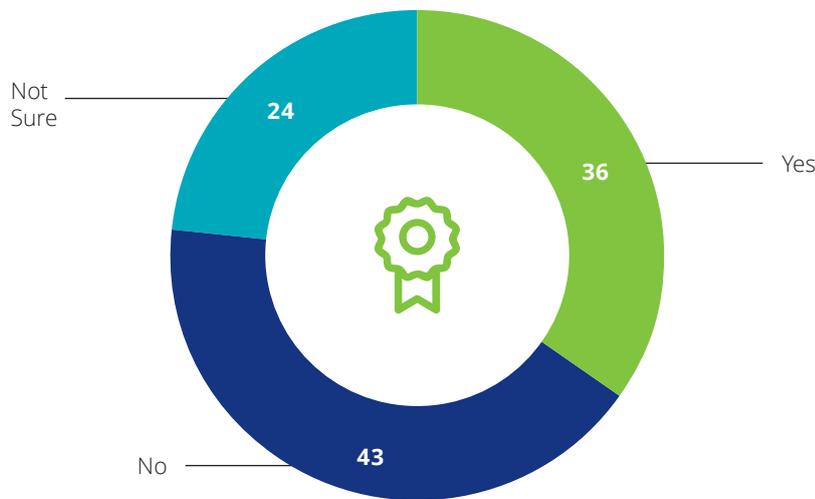


With the recent influx of white collar women managers in India, the need for a proper orientation and mentorship program is higher than ever before. It helps female employees settle down

more easily in an organization, yet only 36 respondents out of the 103 affirmed that they have such an arrangement at their organization.

Our organization provides a mentorship program to female employees, right from start of their careers.

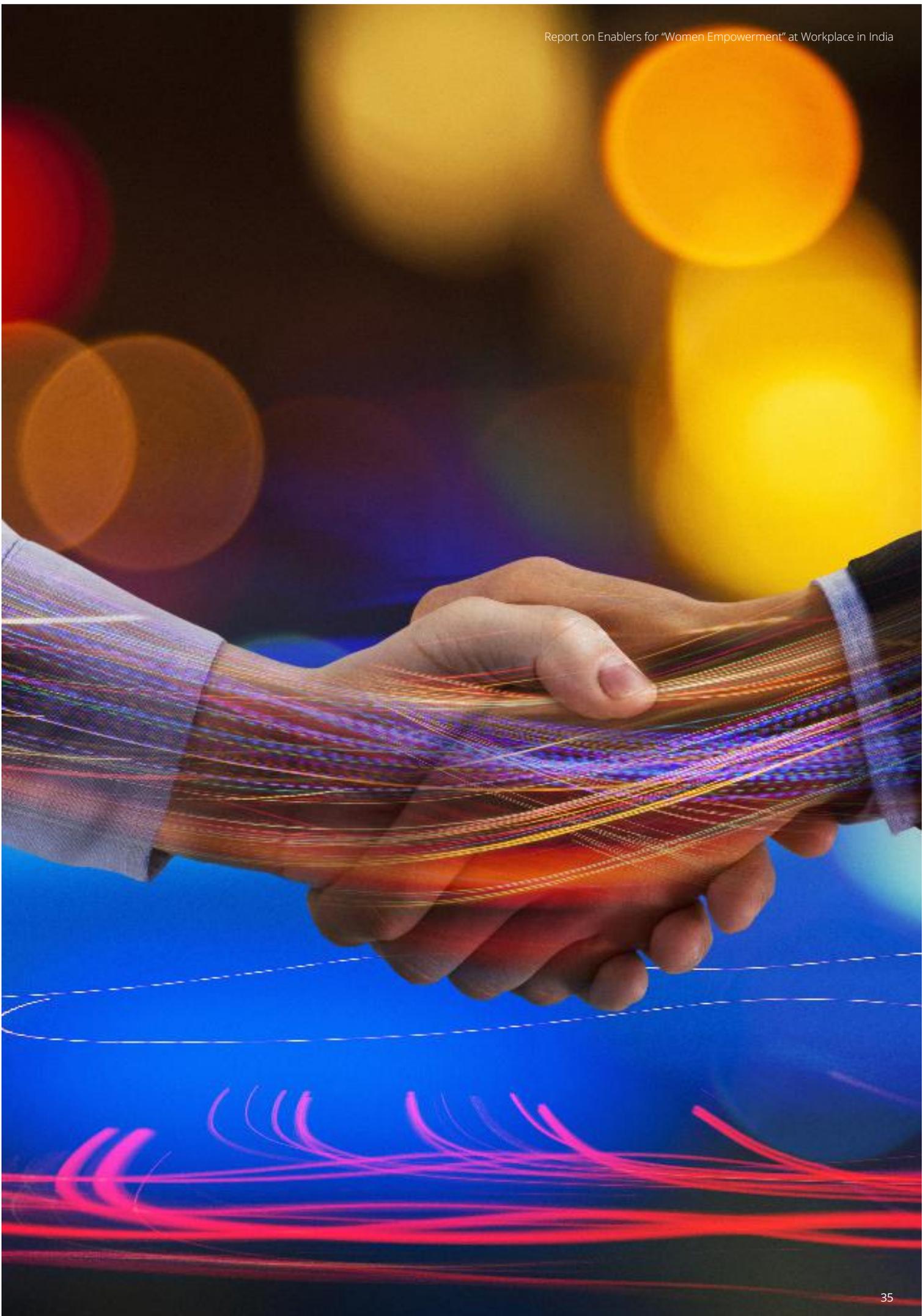
Pie Chart 19: Mentorship program for female employees



Interpretation: Organizational support for female employees

In any industrial setup there are three key players—employees, employer, and government. There is only a certain degree to which the government can establish rules and norms, after which the organization needs to ensure implementation and compliance. As is evident from the responses, in the first three themes, responses indicate that the majority of them are in the right direction. However, issues like spouse relocation, flexible timings, and mentorship program for female employees reveal a less than satisfactory state of affairs. It highlights the need for organizations to realize their role

and provide proper organizational support to female employees. Across industries in India the culture for non-family caretaker allowance for childcare and eldercare is non-existent. Even as per the survey only 2 and 3 respondents respectively said that they had a provision of non-family caretaker allowance. This acts as a major hindrance for female employees and organizations would do well to consider this issue as well. Overall Organizations are realizing the importance and potential of female workforce but they need to provide support over and above what has been mandated by law to ensure a healthy and safe work environment for female employees





6. Recommendations

Initiatives from government and industry are necessary to overcome the structural challenges faced by women professionals. Taking insights from report in section 3.2 and survey analysis done in section 5, following points can be considered:

- Day care and nursing facilities should be available conveniently and affordably, this would assist in child care and elder care, with specific focus on allowance on hiring domestic help for childcare and elder care.
 - Keeping in mind the increasing time taken in commuting to office due to traffic and reported cases of crimes against women especially while travelling to offices located in remote locations, flexi-timings and flexi-work models (e.g., work from home, job sharing models, etc.) is need of the hour. Many countries have the concept of providing flexible work timings post maternity that help women smoothly make the transition back into work at a regulated pace without making them go through unnecessary pressure. This should be made a norm rather than a practice followed scarcely.
 - Also, as we witness increasing health issues for women with increase in age, special provisions for leaves and more additions to types of medical reimbursements could be made.
 - Introduction of government led or private mentoring programmes for women who join after a career break is crucial to give the necessary push to their career (also known as second-career support).
 - Up-skilling/re-skilling programmes to give additional training to women returning after a break to meet requirements of her current job role.
 - Performance management systems must take into account such constraints and avoid any kind of bias resulting from this unavoidable absence from the workplace and job in performance rating.
- The report highlights the current unsatisfactory position of Indian Inc. regarding women at higher levels in organizations, with special reference to women representation at Board Level in form of holding Directorship. However, this in the backdrop of a positive scenario of female participation in the workforce rising along with educational levels, makes sure that India can reap huge dividends. Specific focus areas for industry and government to facilitate this include:
- Window offered to meet the statutory requirement of women director should be increased, to ensure that a better pool can be developed and the position is filled competently filled instead of being filled as a dummy position, as happens in most cases, in order to avoid non-compliance.
 - To put in place appropriate and dissuasive sanctions for companies in breach of the Directive.
 - The Indian law must specify if women directors have to be independent or non-executive or executive for better clarity, implementation and meeting the intent of the move.
 - Availability of provision for "flexi quota"—an obligation for listed companies to set themselves individual, self-regulatory targets.
 - Provision for vocational education and training programmes for women especially in STEM (Science, Technology, Engineering, and Mathematics), to increase their representation and reduce pay discrimination against them in technical jobs.
 - Vocational programmes to shift women from unskilled manual work to entry level jobs in organized sector.
- A stringent effort on implementation of Maternity Benefits Act 1961 is essential. Even today, women professionals face the challenge of difficult work environment. Following government, industry and organizational initiatives can play a big role in the direction of providing a safe and conducive workplace to women employees.
- Bringing NGOs in the purview of the Maternity Act, by adding a statutory requirement for their registration or through some other means. Simultaneously increasing stringency for private organizations including SMEs.
 - Ensuring maternity policies framed by private sector companies and NGOs cover provisions for free medical care, or do not take away the right to free medical care from women employees by virtue of any provision in the policy.

- Strict vigilance for ensuring that appropriate nursing breaks are provided as per the Act. Grievance mechanism for affected employees should be in place to highlight breach of such provisions by organizations.
- It is worth noting that the principle of employer’s liability actually contradicts one of the general guiding principles in the ILO recommendation no. 67, which states that income security as far as possible should be organized on the basis of compulsory social insurance. A step towards joint-liability for maternity benefits by the state and employer can go a long way in the interest of working women.
- Maternity leave of 26 weeks is definitely a progressive step and is much better than many Asian countries but in comparison to countries like Sweden, Norway and Romania, India still has a long way to go. These countries have shown that a woman can definitely achieve a complete work-life balance if all stakeholders come together.
- The Maternity Benefit Amendment Bill provides for a 12 week leave in case a mother adopts a baby below 3 months of age but there is still ambiguity over maternity leave for an adoption case where child is above that age. It is self-evident that a child marginally older than 3 months would require attention from the mother and also take time to acclimatize for which the mother’s proximity is necessary. This needs to be promptly addressed.
- In case of large business parks, export zones etc, it should be mandated by local authorities that adequate space and infrastructure be provided where common crèche facilities may be provided and this can be done on a sharing basis by the various businesses houses which are part of the complex. In case of smaller establishments where there are lesser number of women, the onus for providing crèche facilities should be of the employer’s association operating in that premises.

- Facilities including a nutritionist, counsellor and on call pediatrician should also be made available in these day care centres. It should also keep in mind needs of differently abled children.
- The infrastructure, facilities, and benefits will have to be provided keeping in view the United Nations Convention on the Right of the Child.

With constant emphasis on making policies gender neutral, there is a need to relook at the concept of maternity leave and broaden it to include parental leave. This should also include paternity leave because both parents are equally responsible for the upbringing of a child and both have equal rights when it comes to the work and workplace. There is a need for the compulsory provision of paternity leaves as well which shall take forward the case of gender parity in the true sense.

For ensuring safe and conducive working environment during night shifts for women, a statutory audit mechanism for companies employing women in night shifts for various facilities to be provided at workplace. (as stated by Madras High Court; refer report on Night Shift for women under section 2.5.1. Similar guidelines for organizations should also be made for employment of women in night shifts.

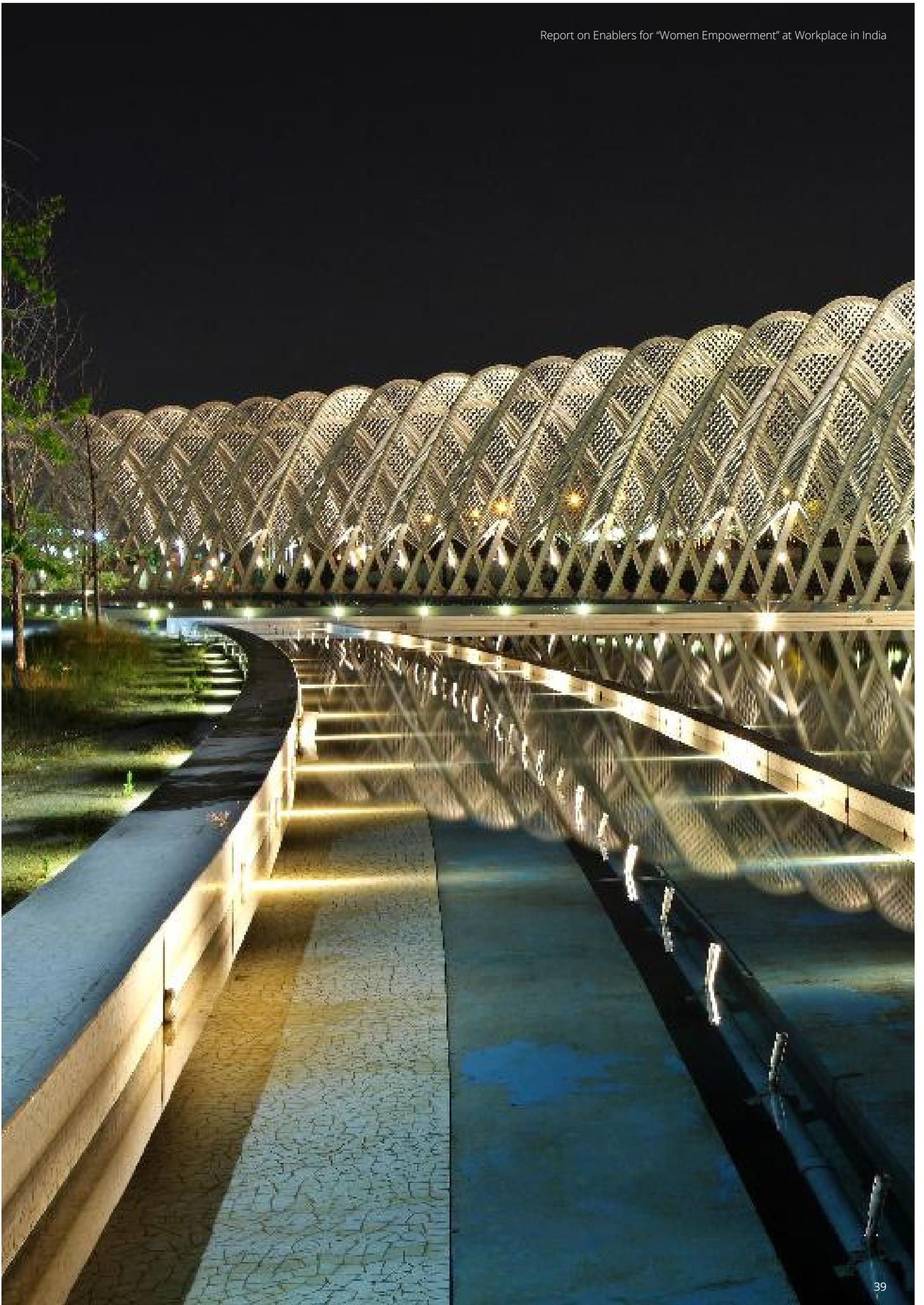
With respect to the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, there is still is debate and ambiguity around the very definition of sexual harassment. There is also a need for increased awareness of the issue and the provisions o of the act by leveraging various media available especially the social media. Though the intent has been good but the implementation needs to be streamlined further to increase the effectiveness of the Act.

For facilitating the representation and equal employment opportunities of differently abled women, following initiatives can be taken.

- Streamlining the selection process by taking steps like a more representative panel, strict enforcement of job reservation quota, providing for punitive measures for non-compliance.
- Statutory audits for barrier-free work site by laying down minimum facilities and infrastructure to be provided for disabled employees.
- Providing for job-related and vocational courses for differently abled women

Future scope of study can include a report to assess productivity of women workers who return post maternity leave and who are provided with the organizational support mentioned above. This would effectively serve to dispel some myths that women employees are not productive enough upon their return from maternity breaks.

Along with mentoring program which focuses on building work skills and capabilities, organizations should extend counselling programs for women to balance personal and professional lives. Organizations should further intensify interventions for men and women to handle diversity, inclusion and sensitivity at workplace.



7. Conclusion

In most parts of the world the dialog needs to shift towards augmenting the productive capacity of women and increasing their participation in the workforce. Legal enablers need to be seamlessly implemented and deviations be stringently penalized.

There still are laws that differentiate between women and men and it eventually hinders the economic prospects of women. There is a need to relook at the labour laws and amend provisions that discriminate against women.

There is also a need to recognize, reduce and redistribute unpaid work and care. At the same time there is a need to strengthen the collective voice and representation of women.

Women still are underrepresented in various sectors in line roles like in the Mobility, Information and Communication Technology, Energy and Basic and Infrastructure sectors among others and hence cannot really be part of the higher decision making panel. This needs to change, ensuring more participation of women through various enablers like training and skilling.

There is a need to fight unconscious bias in society with respect to a successful working woman.

Awareness is key in this regard.

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9. Acknowledgement

Bangalore Chamber of Industry & Commerce (BCIC) has consistently striven towards living up to its Vision **"To be the preferred Chamber in Karnataka to facilitate business growth and add value to its stakeholders"**.

In keeping up with its Vision and its Mission to **"Address the needs of the stakeholders through Government interactions, policy advocacy and thought leadership"**, in 2016 – 17, BCIC commenced an ambitious initiative in the sphere of **"Creating enablers in the organised sector for women workforce"**.

The genesis of this initiative lay in a deep seated desire to address issues of gender diversity in the workplace, the challenges in promoting it, the steps taken by Organisations and Government in this direction and the other approaches that provide enablers and catalyse overcoming gender diversity issues at the workplace.

Inclusion of women workforce in the growth of the economy of the country is increasingly becoming a business imperative. The overall intent of this initiative is to provide thought leadership in creating an environment which allows women in the workplace to thrive, grow and contribute to the economy as a whole.

As we come to the finale of the program, we are presenting the survey report of the enablers in the environment available statutory and non - statutory provisions. This survey is a seminal work in this area to leverage best practices, create awareness on statutory requirements and, in general, seed ideas to be nurtured along with the policy makers, the industry and society at large.

We would formally like to acknowledge and record our deep appreciation of the following individuals without whose participation, support and guidance this initiative would not have been possible at all:

Mr. K. R Sekar, Partner with Deloitte who not only suggested the initiative but played a pivotal role as mentor and guide for the entire initiative.

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Thyagu Valliappa
President
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