

Workforce Participation and Employment Laws: Gendered Analysis of Women in India



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| Varada Marathe

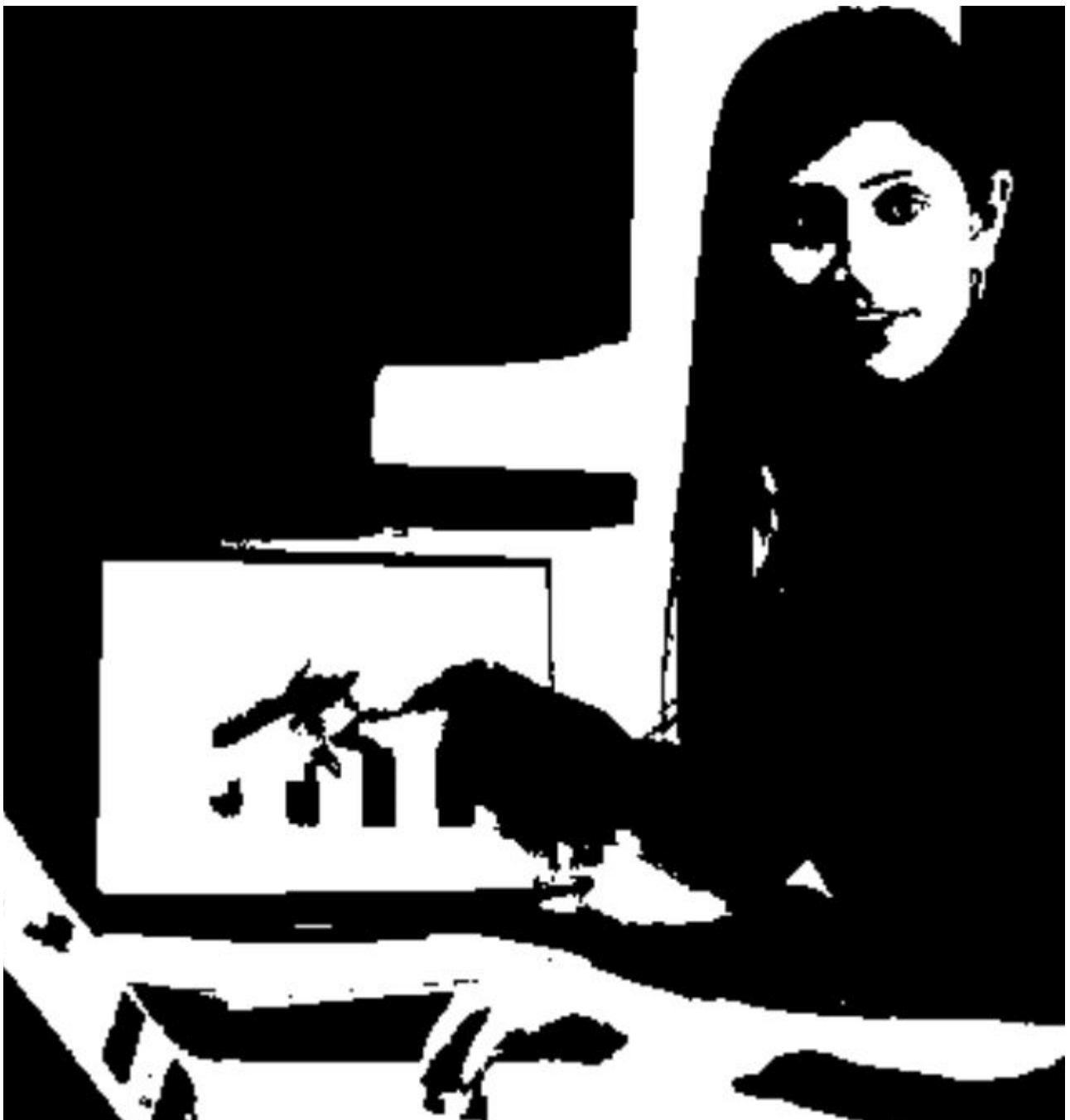


TABLE OF CONTENTS

1. Abstract	03
2. Introduction	04
3. Current State of Employment Regulations in India	05
4. Overview of Women in Workforce	06
5. Gendered Impact of Employment Regulations on Women	07
6. International Comparisons: Worktime Regulations and Women's Participation	08
7. Economic and Social Impact of Female Workforce Participation and Worktime Regulations	09
8. Policy Gaps and Recommendations	10
9. Conclusion	11
10. Refernces	12

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DISCUSSION PAPER

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ABSTRACT

The death of a 26-year-old EY employee in Pune sent shockwaves across the nation, bringing the intense pressures employees face in the current corporate environment to the forefront. The relentless work pressure, prolonged hours of overtime, and the blurring of boundaries between professional and personal life that the young woman was subjected to has reignited a crucial discussion about the work-life balance crisis faced by many Indian professionals. This tragedy underscores the need to assess India's employment regulations concerning work hours, overtime, and the protection of employees' well-being. The issue of excessive work hours and inadequate worktime regulations becomes even more pressing when viewed through the lens of female labour force participation in India. Absence of flexible work time policies, proper overtime regulations, and supportive workplace practices often force women out of the workforce entirely or discourage them from advancing

I. INTRODUCTION

The recent death of a 26-year-old EY employee in Pune sent shockwaves across the nation, bringing the intense pressures employees face in the current corporate environment to the forefront. The relentless work pressure, prolonged hours of overtime, and the blurring of boundaries between professional and personal life that the young woman was subjected to has reignited a crucial discussion about the work-life balance crisis faced by many Indian professionals.

This tragedy underscores the need to assess India's employment regulations concerning work hours, overtime, and the protection of employees' well-being. While the global discourse around employee rights and work-life balance has advanced significantly in recent years, India's regulatory framework offers limited safeguards against excessive work hours. The absence of the enforcement of maximum working hours and overtime compensation policies intensifies the risk of burnout, health issues, and fatal consequences.

The issue of excessive work hours and inadequate worktime regulations becomes even more pressing when viewed through the lens of female labour force participation in India. With the additional burden of unpaid domestic and caregiving responsibilities, many women find it difficult to sustain long hours or cope with the demands of a high-pressure work environment. Absence of flexible work time policies, proper overtime regulations, and supportive workplace practices often force women out of the workforce entirely or discourage them from advancing in their careers.

II. CURRENT STATE OF EMPLOYMENT REGULATIONS IN INDIA

The provisions related to working hours, overtime, leaves, etc. in India are governed by the Factories Act 1948, which is applicable for the whole of India, and the Shops and Establishments Acts of various states. The Factories Act is primarily concerned with overseeing manufacturing processes and safeguarding the welfare of workers employed in factories, while the Shops and Establishments Acts focus on regulating working conditions in commercial establishments.

The Factories Act of 1948 mandates that no worker in a factory should be required to work more than 48 hours per week. Similarly, the Shops and Establishments Acts in most states, including Maharashtra, Tamil Nadu, Karnataka, and Delhi, also cap the workweek at 48 hours for employees in commercial establishments. Under the Factories Act, any worker exceeding this limit is entitled to overtime pay at twice their regular wage. This provision is mirrored across various states, ensuring that employees in both industrial and commercial sectors receive fair compensation for overtime work. On paper, these regulations fairly compensate employees for overtime work. However, on ground reality is a different story altogether.

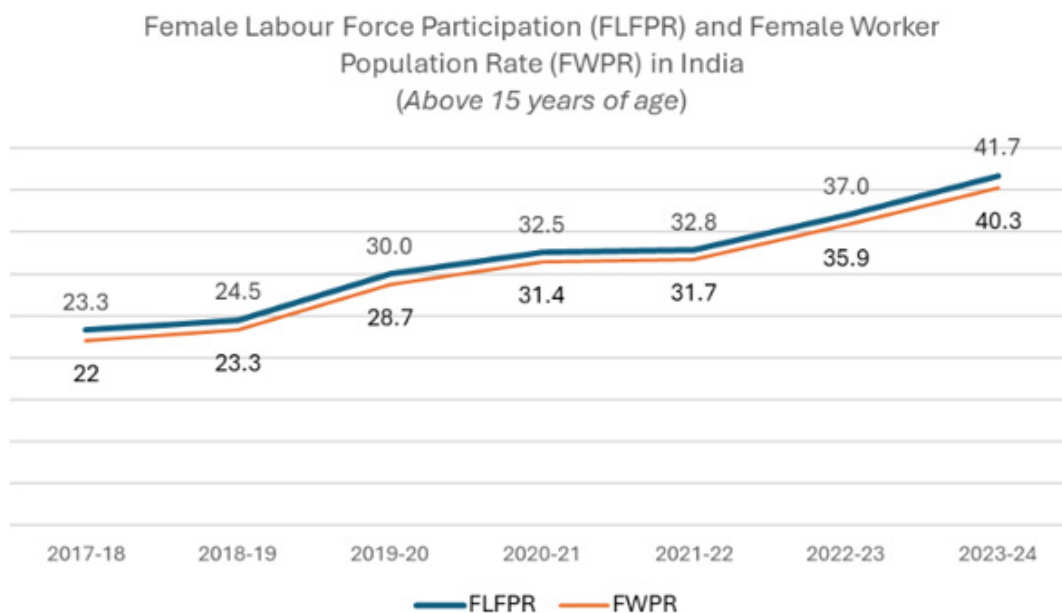
There are multiple reports which expose how many multinational companies evade these rules on the grounds of technicality. Many private sector employees report regularly working 12 to 14 hours a day. Legally, they should be paid for the overtime they put in. However, this provision applies specifically to “factory workers” or “workers” as per the Acts’ legal definition. Thus, companies often circumvent these regulations by designating employees as “officers” or “executives” – categories to which the overtime provisions do not apply. This creates a legal grey area, leaving many employees without the protection of overtime compensation. Even the Supreme Court in 2023 ruled that government employees are not liable to claim overtime compensation under the Factories Act.

III. OVERVIEW OF WOMEN IN WORKFORCE

The two indicators—Female Labour Force Participation Rate (FLFPR) and Female Worker Population Rate (FWPR)—reflect the level of female engagement in the labour market in the country. FLFPR measures the proportion of women either working or seeking employment, and FWPR focuses on those actively employed. The labour force includes individuals engaged in both formal and informal employment, including those working in agriculture.

In 2017-18, female participation in the labour force was relatively low, with an FLFPR of 23.3% and an FWPR of 22%. However, this trend gradually improved over time. By 2023-24, the FLFPR had risen significantly to 41.7%, while the FWPR reached 40.3%. This upward trajectory indicates a substantial increase in female engagement in the labour market over the last several years. The consistent growth in both participation and actual employment suggests that many women entering the labour force have been able to secure jobs, reflecting improved labour market conditions for women in India.

Notably, the period from 2021-22 onwards saw a sharp rise in both participation and employment rates, with FLFPR and FWPR reaching their highest levels by 2023-24. The data suggests a positive trend in female labour force participation and employment in India.



IV. GENDERED IMPACT OF EMPLOYMENT REGULATIONS ON WOMEN

While there has been a notable upward trend in women's participation in the workforce, significant room remains for further progress. India ranks 129th in the World Economic Forum's Gender Gap Index 2024. The report highlights that 39.8% of the Indian sample falls below the global weighted average for gender parity, placing India among the countries with the lowest levels of economic parity. Adding to these challenges, a report by the UKG Workforce Institute reveals that 78% of employees in India experience some form of job burnout, driven by work-related stress, leading to physical and emotional exhaustion. Given that women, even when employed in paid positions, still carry the majority of household responsibilities, their vulnerability to burnout is likely much higher. Supporting this, a study by the Centre for Economic Data and Analysis shows that over 34% of women leave their jobs due to work-life balance issues, whereas only 4% of men do so, highlighting the gender disparity in managing professional and domestic obligations.

Further, the Female Labour Utilisation in India report by the Government of India shows that 44.5% of women who are not in the labour force cite childcare or domestic responsibilities as the primary reason. In stark contrast, less than 1% of men cite the same reason. Additionally, 3.4% of women attribute social factors as reasons for their non-participation in the workforce. The Periodic Labour Force Survey 2021-22 also reveals that 46% of working-age women in rural areas and 57% in urban areas are fully engaged in household duties, which further constraints their participation in the labour market.

This data underscores the urgent need to address the structural barriers and social expectations that disproportionately affect women's workforce participation in India. The gender pay gap also remains a significant issue in India, contributing to broader gender inequality in the labour market. Among salaried employees, the disparity is particularly striking. The Female Labour Utilisation in India report suggests that, in urban areas, women earn, on average, over ₹4,500 less per month than their male counterparts, while in rural areas, this gap widens to nearly ₹6,000 per month. This income inequality highlights the persistent undervaluation of women's work across different sectors and geographical regions.

In the case of casual labour, where workers are often employed on a temporary or seasonal basis, the gender pay gap, though smaller in absolute terms, is still substantial. Women engaged in casual labour earn ₹150 less per day compared to men, underscoring the economic disadvantages women face, especially in informal or unregulated sectors. These pay disparities not only reflect unequal pay for equal work but also reinforce the broader socio-economic challenges that hinder women's full participation in the labour force.

Additionally, despite having one of the most laws on maternity benefits, more than 90% Indian women are deprived of those benefits due to being engaged in informal work. Even in urban areas, the drop of women in the workforce after maternity is significant. The 2017 amendment to the Maternity Benefit Act of 1961 mandates companies with more than 50 employees to provide crèche facilities. However, its implementation has been inconsistent, with many companies failing to meet the requirements. A survey of IT employees revealed only 48% had crèche services in their companies. Such lack of enforcement leads to non-compliance, leaving many women without adequate childcare options.

Women often face a difficult choice between enduring burnout or withdrawing from the workforce altogether, due to factors such as poor work-life balance, insufficient implementation of maternity benefits, and deep-rooted social conditioning. Despite holding paid jobs, women are still overwhelmingly

expected to shoulder the majority of domestic responsibilities, leaving them overburdened and prone to stress or exhaustion. This imbalance forces many women to step back from their careers, either temporarily or permanently. To improve women's active participation in the workforce, these barriers must be addressed through stronger legal protections, better enforcement of existing policies, and societal shifts in the perception of gender roles.

V. INTERNATIONAL COMPARISONS: WORKTIME REGULATIONS AND WOMEN'S PARTICIPATION

Many countries have fared much better than India when it comes to imposing strict worktime regulations. The European Union has implemented several directives aimed at improving work-life balance, flexible working hours, and parental leave to encourage higher female workforce participation across its member states. The Work-Life Balance Directive (2019/1158) is particularly important, as it sets out minimum standards for parental, paternity, and carers' leave, while also promoting flexible working arrangements. The directives go on to recommend slightly reduced working hours for the caregivers – as opposed to saddling them with more work and stretching them too thin. The directive aims to ensure that both men and women can balance work and family responsibilities, thereby encouraging greater female participation in the workforce.

As early as in 1998, France brought in the Loi Aubry (Aubry Laws) which made all private companies to have a maximum 35-hour workweek mandatory. This policy, combined with extensive parental leave provisions and state-funded childcare services, has contributed to higher female employment rates. The policy also allows employees the right to request flexible working hours, further easing the burden on working mothers. In 2023, the Female Labour Force Participation Rate in France was 52.8%. According to the World Bank, the FLFPR in France has increased since 1990, especially after implementation of the Aubry Laws. In 2017, France also enforced 'Right to Disconnect' under its Labour Laws, which gives employees the right to not have to take calls or read emails related to work during their time off.

In Sweden, policies are even more progressive, with generous parental leave that allows parents to share 480 days of paid leave per child, and strong protections for flexible working hours under the Parental Leave Act (Föräldraledighetslagen). This has made Sweden a leader in promoting gender equality in both the workplace and at home.

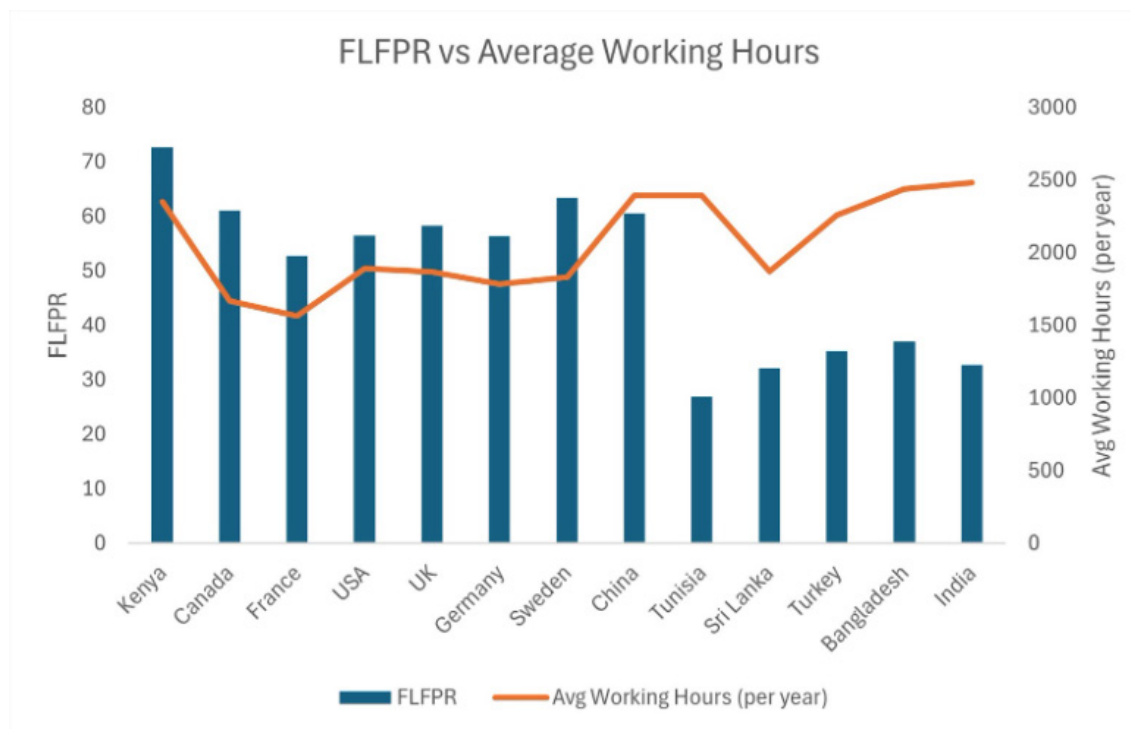
The right to disconnect is currently not explicitly defined under EU law, but efforts are underway to address this gap. In January 2021, the European Parliament called on the European Commission to propose legislation that would grant employees the right to disconnect from work outside of their official working hours without facing any negative repercussions. Several European countries, in addition to France and Belgium, have adopted the Right to Disconnect though.

A survey conducted in Australia last year revealed that Australians worked on average 281 hours of unpaid overtime annually – which equates to \$130 billion of lost income per year. To remedy this situation, in 2024, the Australian government enforced the Right to Disconnect law which gives employees the liberty to not respond to work calls or emails after working hours.

If similar surveys were conducted in India, they would likely expose the alarming reality of unpaid overtime that many employees are forced to endure. In 2018, the Right to Disconnect Bill was introduced in the Indian Parliament. However, despite its potential to address the pervasive issue

of overwork and improve work-life balance, the bill has seen no progress even five years after its introduction, leaving millions of employees vulnerable to excessive demands on their personal time. A 2020 report revealed that, in 2017, Indians worked an average of 2,117 hours per year, which is substantially higher than the OECD average of 1,749 hours.

The chart highlights a clear inverse relationship between FLFPR and average working hours across various countries. Countries with higher FLFPR, such as Kenya, Canada, and Sweden, tend to have relatively moderate or lower average working hours, indicating that better work-life balance may support greater female participation in the workforce. In contrast, countries like India, Bangladesh, and Sri Lanka, which have some of the highest average working hours, also exhibit much lower FLFPR. This suggests that long working hours, coupled with inadequate work-life balance policies, may discourage women from joining or remaining in the workforce.



VI. ECONOMIC AND SOCIAL IMPACT OF FEMALE WORKFORCE PARTICIPATION AND WORKTIME REGULATIONS

Productivity Gains

Increased female workforce participation has been strongly linked to enhanced economic outcomes. According to a report by McKinsey Global Institute, closing the gender gap in labour force participation could add \$12 trillion to global GDP by 2025. A 2018 McKinsey report stated that raising female participation rates to match those of men in India could increase the country's GDP by as much as \$700 billion by 2025, representing an 18% growth in the economy. This demonstrates that improving gender diversity within organisations not only fosters innovation and inclusivity but also drives overall productivity gains.

Worktime regulations also play a critical role in productivity, especially in sectors where long hours are the norm. Studies have shown that excessive work hours can diminish output and lead to employee burnout, while more regulated work hours, particularly for women balancing multiple roles, can boost performance and retention. Countries that have implemented stricter regulations on work hours, such as France and Sweden, have seen productivity gains coupled with improved gender diversity in the workplace.

Social Impact

Increasing women's participation in the workforce fosters their financial independence, which is a key driver of empowerment. Research by the International Labour Organization (ILO) highlights that women's economic participation leads to broader societal benefits, including improved standards of living, better educational outcomes for children, and a reduction in poverty rates. Moreover, greater gender equality in the labour market helps break down societal stereotypes about traditional gender roles, leading to a more balanced and equitable society.

Health Implications

Worktime regulations are also closely tied to the health and well-being of women, particularly those balancing both work and caregiving duties. Studies by the World Health Organization (WHO) have shown that overwork is linked to higher rates of stress, burnout, and long-term mental health issues. WHO noted that long working hours increase deaths from heart disease and stroke. For women, the dual burden of professional and domestic responsibilities exacerbates these risks. The same study claimed that working 55 hours a week or more is a serious health hazard. Considering women end up doing domestic chores in addition to their paid jobs with the unpaid overtime, this is a serious alarm for women. Without proper worktime regulations and support, such as flexible hours or the right to disconnect, women are more likely to face both physical and mental health challenges, which further limits their participation in the workforce and negatively affects long-term productivity.

VII. POLICY GAPS AND RECOMMENDATIONS

India's current work hours regulations, while applicable across industries, fail to address the specific needs of women in the workforce. Gender-responsive policies that consider the additional burden of domestic responsibilities and caregiving on women are largely absent from the regulatory framework. Additionally, India lacks robust provisions for flexible work arrangements or the Right to Disconnect, which are crucial for enabling women to balance their work and personal lives. Without these supportive regulations, many women are forced to either endure long working hours or withdraw from the workforce altogether.

A significant portion of India's female workforce is employed in the informal sector, which includes domestic work, agriculture, and small-scale industries. The informal sector operates largely outside the purview of existing labour laws, leaving millions of women without protection. According to the National Commission for Enterprises in the Unorganised Sector (NCEUS), over 90% of women in India are engaged in informal work, where they are exposed to exploitative working conditions, including excessive working hours and no formal recourse for grievances. This structural exclusion from labour protections exacerbates the economic vulnerability of women in the informal sector, preventing them from achieving financial independence or social mobility.

In the corporate world, especially in high-pressure jobs like consulting, finance, and technology, implementing supportive work time regulations remains a challenge. As discussed earlier, many companies circumvent overtime regulations. This creates a legal loophole, enabling companies to demand excessive working hours from their employees without providing overtime compensation. Furthermore, flexible work policies and remote working options, which could support better work-life balance, are not uniformly implemented across the corporate sector. As a result, women in high-pressure roles often face burnout or career stagnation due to the lack of structural support in managing both professional and personal responsibilities.

Addressing these policy gaps requires a comprehensive approach. Following are the possible solutions that could take us forward in terms of female labour force participation.

Gender-Sensitive Worktime Regulations

To effectively support women's workforce participation, India needs to adopt gender-sensitive work-time regulations that account for the unique challenges faced by women in balancing professional and personal responsibilities. Current regulations do not address the disproportionate burden of unpaid care work, which continues to fall largely on women. India already has very strong maternity benefits. However, their implementation needs to be monitored with iron fist to ease the burden on working mothers not just on paper but in real life.

Promoting Flexible Work Models

Introducing flexible work models is crucial to improving women's participation in the labour market. Remote work, part-time roles, and flexitime arrangements offer women the flexibility they need to manage caregiving responsibilities while maintaining their professional commitments. Evidence from countries like Sweden and the Netherlands demonstrates that flexible work policies can significantly improve work-life balance and prevent women from dropping out of the labour force. In India, such policies should be incentivized to encourage employers to adopt flexible work structures.

Furthermore, codifying the right to disconnect is the need of the hour.

Social Protection for Women in the Informal Sector

Given that over 90% of women in India are employed in the informal sector, extending social protection to these workers is critical. A comprehensive framework should be developed to extend maternity benefits, paid leave, health insurance, and pension schemes to informal workers. Policies such as the Unorganized Workers' Social Security Act 2008 should be strengthened to ensure broader coverage for women in sectors such as agriculture, domestic work, and small-scale industries.

Enforcement Mechanisms

Strong enforcement mechanisms are essential to ensure compliance with gender-sensitive work-time regulations and labour laws. Despite the presence of labour laws in India, their implementation remains weak, particularly in the corporate and informal sectors. Regular audits of companies and workplace inspections should be conducted to monitor compliance with work time regulations, overtime provisions, and maternity benefits. Penalties for non-compliance must be strictly enforced to deter employers from circumventing regulations.

Implementing these recommendations will create a more inclusive and equitable workforce in India, ensuring that women are not only able to participate in the economy, but do so in an environment that supports their well-being and professional growth. Without these reforms, women's participation in the workforce will continue to be constrained, limiting both their economic empowerment and broader gender equality in India.

VIII. CONCLUSION

In order to fully realise the potential of women's participation in the Indian workforce, it is essential to address the structural barriers that disproportionately affect them, particularly in relation to work time regulations. While the Female Labour Force Participation in the country is seeing a steady growth over the past few years, the number of women moving out of the workforce for multiple reasons including domestic and caregiving duties is considerably high. The current regulatory framework fails to account for the dual burden of professional and domestic responsibilities that many women face, contributing to higher rates of burnout, withdrawal from the workforce, and persistent gender inequality. By introducing gender-sensitive worktime regulations, promoting flexible work models, and extending social protections to women in the informal sector, India can create a more supportive environment for women to thrive professionally. Additionally, robust enforcement mechanisms are crucial to ensuring that labour laws are not just policies on paper but actively upheld in both the formal and informal sectors.

A comprehensive, gender-responsive approach to work time regulation will not only empower women economically but also drive broader social and economic gains for the country. Improving women's access to fair working conditions and flexible employment will strengthen their financial independence, enhance productivity, and contribute to a more equitable society. Ultimately, these reforms are essential for promoting gender parity in the labour market and creating a sustainable future for the Indian economy.

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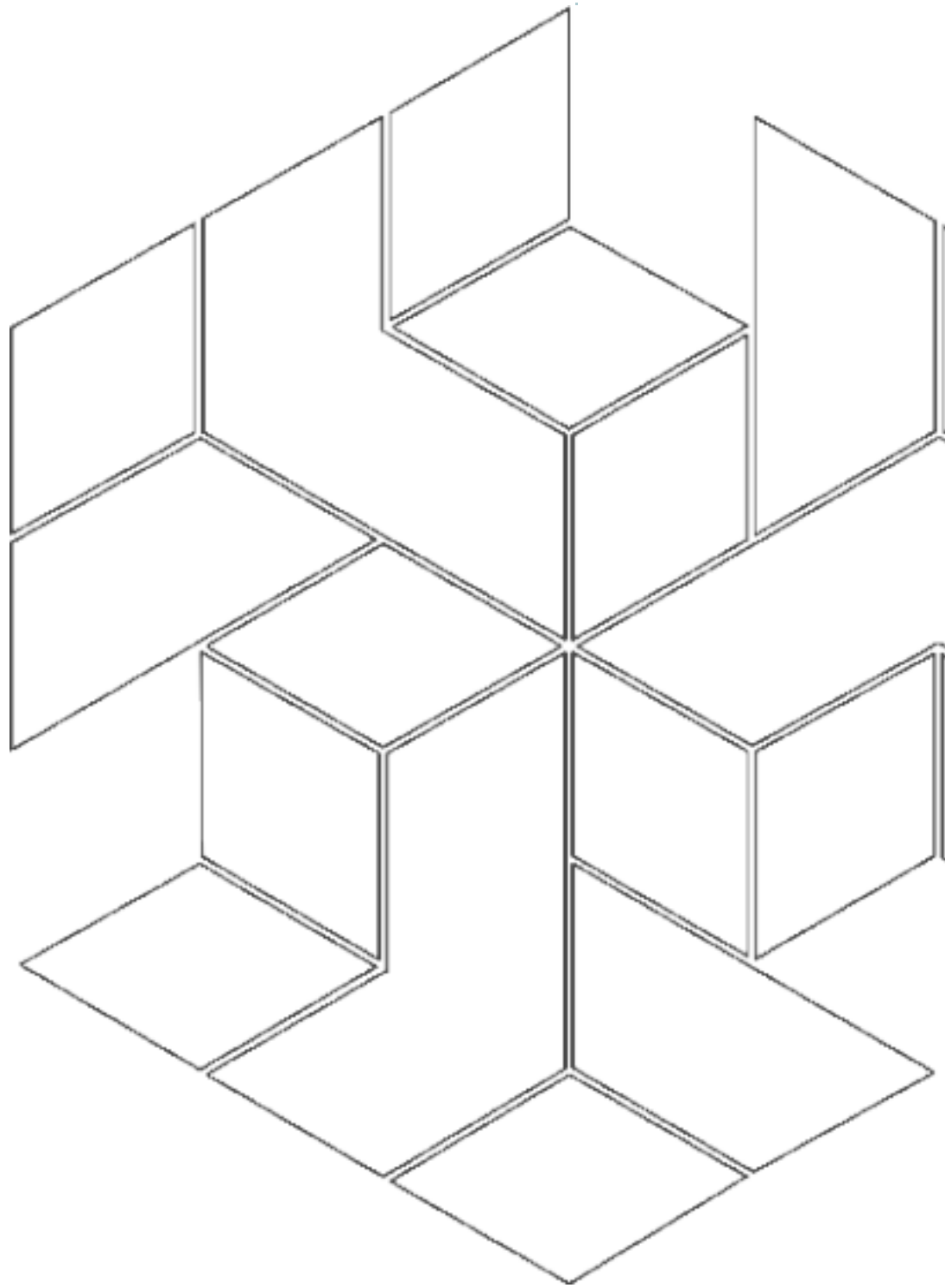
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