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Challenges to Contemporary Human Rights Protection: A Study on Women Workers in the Tea Gardens of Assam, India

Sushma Kharka and Sneha Badhiye
Symbiosis Law School, Pune, Symbiosis International (Deemed University), Pune, Maharashtra, India
Corresponding Author Email ID: kharkasushma@gmail.com
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Abstract

The tea gardens of Assam constitute an integral part of the state's economy alongwith the historical identity. The establishment and expansion of large-scale tea production by the British East India Company laid the foundation for an industry that continues to sustain the State's economic landscape. Basically, the women workers form the backbone of this sector, representing the majority of the plantation workforce. Despite constitutional guarantees and protective labour legislation such as the Plantation Labour Act, 1951, and the Equal Remuneration Act, 1976, women workers in tea plantations continue to face persistent violations of their fundamental human rights. This paper critically examines the contemporary challenges to the protection of human rights among women workers in Assam's tea gardens from a gender-sensitive and rights-based perspective. The paper focuses on various dimensions of exploitation such as economic, social, and institutional, stemming from inadequate enforcement of labour laws. It highlights a gap between the legislative intent and actual implementation of the laws and as a result, various issues such as unequal wages, unsafe working environments, poor living conditions and limited access to healthcare services remain pervasive. Through a doctrinal study, the paper analyses constitutional provisions, judicial interpretations and India's international commitments under instruments such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and key International Labour Organisation (ILO) Conventions through which the study exposes structural gaps that perpetuate gender inequality within the plantation sector. Later on, the paper concludes by advocating for gender-responsive legal reforms, robust enforcement mechanisms, and inclusive policy interventions. It also emphasises the need to recognise women workers in the tea gardens of Assam as a matter of human dignity, equality, and justice, to strengthen institutional accountability and ensure participatory governance in the implementation of labour regulations.

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Introduction

It is pertinent to mention that the tea plantations of Assam are among the most historically and economically important areas in the country's agrarian and industrial life. Moreover, the tea economy of the region has been dependent on the labour supply of Adivasi and tribal populations that were transported into the area via indenture-like labour recruitment strategies since the mid-nineteenth century and when the British East India Company institutionalised the idea of plantation systems (Borah & Dutta, 2025). Basically, the plantation workforce of the region remains one of the most de facto marginalised and impoverished layers of the Indian society. Almost two-thirds of this labour force is women, who are concentrated especially in plucking, which is arguably the most labour-intensive and vital activity in this entire value chain (Arhana, 2023). Thus, they remained systemically disadvantaged as they are a minority through their gender, class, ethnicity, and vested labour hierarchies.(Sankrityayana, 2018)

Such historical background plays a critical role in explaining why there has always been a gap in human rights in the area. Therefore, the entire idea of creating plantation labour was tailored to maximise productivity and minimise welfare provisions for employers, though legal provisions that have ensued after independence have brought some redressal laws in India to address the unfairness; the structural weaknesses of plantation labour relations are yet to be eradicated. Furthermore, various reports show that the health, nutrition, education, and income levels of workers in Assam tea gardens are below national averages, with a disproportionate number of women among plantation

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workers affected by these problems (Gogoi & T, 2023). As indicated by the reports by Oxfam India (Addressing the Human Cost of Assam Tea, n.d.), National Human Rights Commission (NHRC, 2021) and International Labour Organization (ILO) (*Safety and Health for All Plantation Workers in South Asia, International Labour Organisation*, 2025), there is an even greater urgency to critically look at the human rights issues of plantation workers.

This indicated that the study focuses on women workers who, despite being invisible, remain central in the plantation economy. Although the informal sector and migrant labour have increasingly been the subject of research in labour law in India, plantation workers have been understudied in the academic literature, despite being among the oldest regulated labour groups in India. Moreover, the underrepresentation of women workers, especially, is a phenomenon that does not disappear regardless of the fact that they are the largest in number and have gender-specific vulnerabilities (Jumi et al., n.d.). Thus, the study highlights on the gap and it can be resolved by taking a gender-sensitive and rights-based approach towards analyzing labour protection in tea gardens in Assam. Moreover, the paper also deals with the recent changes in labour legislation, such as the Code on Wages (2019) and the Occupational Safety, Health and Working Conditions Code (2020), which have brought up the issue of the dilution of welfare protections previously guaranteed through the Plantation Labour Act, 1951, and thus the need to assess local circumstances against international standards.(Taxmann, 2025)

Nevertheless, the existing provisions under the constitutional and statutory frameworks remained deprived of availing the fundamental human rights. Moreover, the paper also differentiates between the legal entitlements and the lived realities of women workers employed in the plantation. Mainly, the major issue is the poor implementation of welfare provisions under the Plantation Labour Act, such as housing, medical treatment, sanitation, and creches, which have been either unmet or dysfunctional at most plantations (Plantation Labour Act 1951 and Social Cost, n.d.). Secondly, the inadequate

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wages received by workers, which are below international standards for a living wage, are particularly due to the gendered division of labour (Saha et al., n.d.). Thirdly, from the occupational health perspective and workplace safety deficits, in which women workers face long hours of strenuous labour, exposure to pesticides and inadequate maternity protection, factors contributing to high rates of anaemia, malnutrition, and reproductive health complications (Donzelli et al., 2023). Fourthly, there is the limited access to social security and grievance redressal mechanisms, exacerbated by weak enforcement, procedural barriers, and fear of retaliation (*From Workplace-Based to Work-Related Violence: Reframing HRM Research and Practice in the Era of Growing Tensions - Cooke - 2025 - Human Resource Management - Wiley Online Library*, n.d.). Therefore, the problem also arises from intersectional discrimination, in which most of them belong to Adivasi and Scheduled Tribe communities, historically subjected to marginalisation and economic dependency (Kumar, 2022). In sum, there exists a persistent misalignment between India's international human rights commitments and the domestic conditions experienced by women in the plantation sector.(Dharamshi et al., 2023)

Research Objectives

- To analyse the constitutional, statutory, and international legal frameworks regarding the rights of women in the Indian plantation workers;
- To find out the gaps in doctrines, enforcement failures, and institutional impediments to the implementation of modern human rights protection;
- To examine how the judiciary has reacted to infractions of labour rights in the plantation industries with specific reference to gendered labour conditions.

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- To come up with doctrinal and policy changes with an aim of enhancing human rights-enforcing institutions among women workers in the Assam tea gardens.

Research Methodology

In light of the above objectives, the researcher adopts a doctrinal legal methodology, which includes the normative principles, interpretive frameworks and structural gaps in the existing laws that were used to regulate the workers in the plantations. The primary sources are such as constitutional amendments, labour laws, judicial rulings, and international human rights document such as CEDAW, ICESCR, and ILO, which influence the discourse of rights related to women workers of the plantation. Furthermore, the paper includes secondary sources such as scholarly texts, socio-legal commentaries, and empirical research; policy documents from other institutions such as the ILO, NHRC, Oxfam India, NITI Aayog, or the Government of Assam; and newspaper reports. Thus, the secondary sources will help place the harsh realities of the women's workforce and determine the modern trends in labour regulations. Moreover, the doctrinal approach to the study makes possible, through the methods of analytical interpretation and not empirical study, the study to establish inconsistencies between the stipulations of the law and the ground-level realization of these requirements, to monitor the possible structural flaws of enforcement systems, and to determine how constitutional and statutory guarantees are transformed into practice in the plantation industry.

Legal and Constitutional Framework

The constitutional and legal framework that regulates the rights of women plantation workers in Assam is based on the constitutional provisions on equality, dignity, and the protection of labour in India. The constitutional rights on labour rights, including humane working conditions, occupational health and safety, and access to welfare measures, have been developed by the

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judiciary as a robust normative formulation and interpretation of the constitution in relation to plantation cases, which are not well adhered to in statutory provisions as well as the inherent structural inequalities associated with gender vulnerabilities.

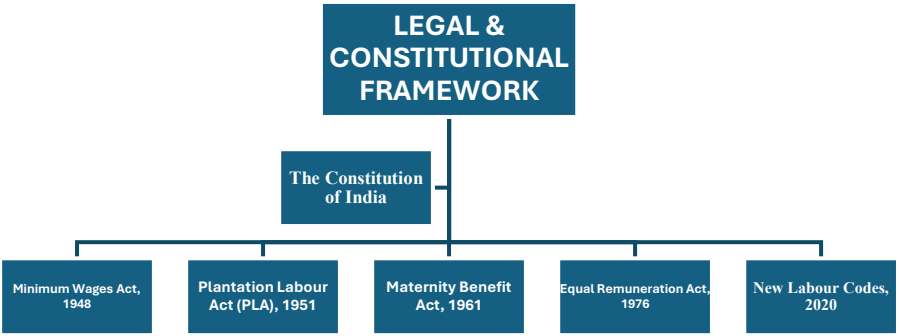


Fig 1: Highlights the Legislative Frameworks related to Workers Employed in the Tea Gardens of Assam.

In the first instance, the Constitution enshrines the equality before the law and equality of protection of the laws principle which can be availed by the citizens (Constitution of India, 1950, art. 14).

Moreover, women workers employed in plantation mainly who tend to be victims of deep-rooted discrimination in the form of wages, task allocation as well as access to welfare services, the right to equality principle can be applied so that they can rely on it and fight against the discrimination associated with their labour practices. Similarly, the Constitution prescribes that the State make special provisions for women so that labour laws and welfare programmes are made gender-responsive to accommodate the precarious position of women workers in the tea plantations (Constitution of India, 1950, art. 15(3)).

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Likewise, the provision of right to life and personal liberty has been applied broadly to include the right to live with dignity, right to health, and right to humane working environment (Constitution of India, 1950, art. 21). In this regard, it will be applicable especially to the plantation communities who used to face the threat of unsafe working environments, pesticides exposure, poor housing and limited access to medical services. Similarly, the Supreme Court has reiterated that the right to health is part of Article 21, and the State has the constitutional requirement of providing humane work conditions (Consumer Education & Research Centre vs Union of India, 1995).

Similarly, another provision on forced labour includes that any form of exploitative labour may be brought out of economic compulsion (Constitution of India, 1950, art. 23). In a series of rulings, the Supreme Court has made it clear that the receipt of wages that are lower than the statutory minimum is considered forced labour within the meaning of Article 23 (People's Union for Democratic Rights vs. Union of India, 1982).

In light of the above judgment, the workers employed at the tea plantation continue to receive lower living wages, despite the fact that it remains one of the largest tea producers in the country. Further, the Constitution also bans child labour in dangerous professions, which is especially important in the case of plantations that were traditionally linked to intergenerational labour cycles. (Constitution of India, 1950, art. 24)

Likewise, the Directive Principles of State Policy under the Constitution incorporate the duty of the State to guarantee humane working conditions, maternity leave, a living wage, and improvements in nutrition and health (Constitution of India, 1950, Arts. 39, 41, 42, 43, and 47).

Nevertheless, the courts apply the provisions as guiding principles in interpreting the constitution, particularly in matters of plantation labour, and tend to entrench welfare, dignity, and gender justice within the broader objectives of social and economic democracy.

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Statutory Frameworks

The Plantation Labour Act, 1951, which remains the major legislation to govern the welfare and working conditions in the tea plantations of Assam. Additionally, the Act requires that employers provide housing, sanitation, drinking water, health institutions, baby nurseries, canteens, and recreational facilities. Moreover, employers are obligated to have welfare officers, maintain labour records, control working hours, and ensure workplace safety (Plantation Labour Act, 1951). Although the PLA is comprehensive, many studies and government reports point to non-compliance in the tea gardens in Assam, housing is still poor, medical facilities are not sufficiently equipped, and the creche services are dysfunctional, which is especially problematic in women workers who bear the double burden of productive and reproductive labour.

Another significant piece of legislation is the Minimum Wages Act, 1948, which addresses minimum wage entitlements under the minimum wages notified by the State government. Thus, the existing wage rates are also well below national and international standards for a living wage, and this interacts with gendered labour division, with women, who work mainly in plucking, having to work in low-paid positions (Minimum Wages Act, 1948).

Although the Equal Remuneration Act, 1976, is now superseded under the Code on Wages, 2019, wage discrimination based on sex is now prohibited; nevertheless, evidence shows that there exists de facto inequality in the allocation of tasks and other benefits, including bonuses and welfare services, even where nominal equality is observed on paper. Thus, the Code is an amalgamation of three key wage legislation, but has been criticised for undermining the enforcement provisions and labour inspection capabilities. (Code on Wages, 2019)

Additionally, the Maternity Benefit Act ensures paid maternity leave, breaks to nurse, and protection from hazardous work during pregnancy. Furthermore,

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these protections are vital to women workers, where their labour is hard and continuous, not to mention extensive exposure to chemicals, which leads to an increased number of maternal health problems recorded in the plantation areas.(Maternity Benefit Act, 1961) However, as several field studies show, maternity benefits in tea gardens are not always observed and are sometimes restricted to permanent, not casual, workers.

Similarly, the OSH replaces several labour regulations, including the PLA, and aims to update occupational safety systems (Occupational Safety, Health and Working Conditions Code, 2020). Although the Code specifies the employer's responsibilities, its enforcement has been very sluggish, and its provisions have been criticised for diluting previous welfare provisions, weakening enforcement, and hindering under-resourced labour inspections. Accordingly, the replacement of the PLA in the OSH Code creates apprehension about diminished statutory specificity, reduced enforcement, and under-resourced labour inspectorates among workers on the plantation.

International Frameworks

India's international human rights engagement underscores the need to safeguard the rights of women plantation workers. Most instruments are not directly enforced within countries, but Indian courts have consistently held that international treaties, especially those concerned with human rights, can be consulted to provide insight into constitutional provisions when there is no contradictory law. (Chadha, n.d.)

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Fig.2: Highlights the International Legislative Frameworks related to Labour

Likewise, the international declaration ensures the right to dignity, equality, fair working conditions and social security, which can be termed as the moral principles of the labour protections in India (Universal Declaration of Human Rights, 1950). Another significant Covenant, to which India is a member state, requires states to provide fair wages, safe working conditions, protection of mothers before and after childbirth, and the highest attainable standard of health (International Covenant on Economic, Social and Cultural Rights, 1966). The abovementioned international standards are the crucial elements of the lived experience of the women workers at the plantations of Assam (Brown, 2016).

In addition, the Convention on All Forms of Discrimination Against Women, 1979, also requires States to abolish any form of discrimination against women in the workplace, provide them with safe working environments, maternity provisions, and promote substantive equality (Cusack & Pusey, n.d.). Further,

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the CEDAW Committee has worked hard to highlight states' responsibility to ensure the safety of women in vulnerable areas of the labour force, such as agriculture and plantations, thereby contributing to its interpretive capacity in domestic labour jurisprudence.

Moreover, the ILO Conventions also define the international labour standards that apply to the plantation workers (*ILO Fundamental Conventions*, n.d.). Besides, it also requires the equal reward of work of equal value (ILO Convention 1951, art. 2) and focuses on equality in opportunity and employment and occupation, along with eliminating discrimination (ILO Convention 1958, art. 2). Thus, it is legally obligatory for India as a member country of the Convention. Another significant Convention, on violence and harassment, offers an authoritative guideline on how gender-based violence in workplaces can be handled (ILO Convention, 2019), which an ever-growing number of plantation settings are recording (Meraj, 2025).

Besides, the recommendation from another Convention provides more elaborate provisions on housing, health facilities, maternity, and welfare facilities for plantation workers (ILO Convention, 1958). Though India has not ratified, it is still a convincing point of reference as to what is lacking in the domestic legal regime (Meraj, 2025).

Consequently, the international human rights framework enhances the normative basis for securing the rights of women on plantations and raises awareness of discrepancies between responsibilities and reality in tea gardens in Assam (Rao, n.d.).

More specifically, the International standards support policy frameworks for workers employed on plantations and highlight the necessity of gender-sensitive reforms, effective labour inspection, and enhanced accountability mechanisms to ensure compliance with both domestic and international standards.

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Key Challenges to Human Rights Protection

Some of the key challenges which are faced by women workers of tea gardens are as follows:



Fig. 3 Highlights the Key Challenges Faced By Workers In Protecting Human Rights

In the first instance, from colonial times, a number of laws were enacted to govern labour on plantations, such as the Transport of Native Labourers Act 1863, the Inland Emigration Act 1882, the Workmen Breach of Contract Act 1859, and the Plantation Labour Act 1951. Despite the colonial-era legislation enacted to safeguard tea garden labourers in Assam, the majority of them did not achieve their goals. Similarly, in the post-independent era, the PLA was enacted to improve the working conditions and welfare of plantation workers. Special considerations of women are also given in the Act, including creche facilities (Plantation Labour Act, 1951, s. 12), restrictions on employment of

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women and children at night (PLA, s. 25), and of maternity benefits (PLA, s. 32). Nonetheless, even with these stipulations, there are a lot of gaps in their practical application.

On the contrary, to enforce the principle of equal pay for equal work, there remains a wage gap between male and female workers (Equal Remuneration Act, 1976). The Constitution also strengthened the equal pay principle (Constitution of India 1950, art. 39). Similarly, there are other significant pieces of legislation, such as the Minimum Wages Act of 1948, the Factory Act of 1948, and the Mines Act of 1952, which incorporate relevant provisions for workers. Notwithstanding, the four new labour codes were introduced, the Code on Wages 2019, the Industrial Relations Code 2020, the Code on Social Security 2020 and the Occupational Safety, Health and Working Conditions Code 2020, which consolidate and subsume many of the previous labour laws into a more streamlined format.

Likewise, the issue of low wages is not new to women in tea plantations since the colonial days and this has not changed even in the current days. Basically, there is an urgent need to address such issues as soon as possible because all workers should be paid equally regardless of their gender. Despite the fact that women used to work similar jobs as their male counterparts in plantation, they have always received much lower wages. Mainly, women and child workers earn less than the male workers engaged in the plantation. Moreover, the employers also created the division between genders in the workforce during the British rule, which allowed providing women with lower wages. Besides, women of the tribal community, who are already one of the most marginalised groups, still experience social and economic disadvantages. Whereas women workers have the same number of working hours as men, and sometimes they have to work extra hours, including Sundays, they are still paid very little (Awasthi, 2024).

Additionally, the plantation industry has a very high rate of gender discrimination and the sexual division of labour. It is noteworthy that planters

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have underestimated the value of women workers since British times; they have contrived to assign roles to workers according to their gender. Another significant aspect is the sexual division of labour, which divides work and discriminates between men and women in the plantations. However, women were seen as best at plucking tea leaves, a job thought to require fast and delicate fingers. On the contrary, activities such as pruning, which were essential, were left to men. Furthermore, male workers had the opportunity to be supervisors, clerks, and hold other higher posts, whereas women were not given the same opportunity. Thus, the majority of women workers remain active as daily-wage labourers and are usually forced to perform hard manual labour.

Likewise, poor sanitation, particularly among workers, is another major problem for women employees. As reported by the Daily Star, employees at tea gardens lack access to sanitary latrines at their workplaces, resulting in high rates of chronic health conditions. In addition, approximately 50 per cent of the affected people obtain treatment in dispensaries, 20 per cent get care at home, and 20 per cent go to the government hospitals (Address Menstrual Health Crisis of Tea Workers, 2025).

Besides, the requirement of a sufficient number of separate toilets in every tea plantation for male and female workers is stipulated in the PLA 1951, yet the situation on this aspect is not at all in line with this requirement. Moreover, there are no toilets, and those that exist are often in poor condition and unclean across most plantations.

The introduction of the Swachh Bharat Abhiyan (SBA) aimed to achieve open-defecation-free conditions and provide universal sanitation. Although a large number of public toilets have been developed in Assam through the SBA, the scheme has not been effectively implemented in tea estate regions, and workers, particularly women, are deprived of proper sanitation facilities (sbmgramin, 2017).

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Judicial Approach & Case Analysis

A number of case rulings in India indicate the court's recognition of the vulnerable position of employees in tea gardens. They are listed below:

In Bandhua Mukti Morcha v. Union of India (1984), the court issued a number of orders to the State of Haryana, the Central Government, and the administrative authorities to enhance efforts against bonded labour in India. Furthermore, the Court found that the labourers working in the stone quarries were bonded labourers under the Bonded Labour System (Abolition) Act, 1976. Thus, the ruling highlights the importance of the application of the anti-forced labour rules effectively, and it supports the validity of the right to life with dignity within the framework of Article 21.

Another significant judgement on child labour, the Court emphasised the protection of children's fundamental rights, particularly those working in hazardous industries (M.C. Mehta v. State of Tamil Nadu, 1996). Besides, the Court ordered the prompt withdrawal of children employed in dangerous occupations and the safeguarding of children's rights, and mandated free and compulsory education (Constitution of India 1950, art. 24, 39 (e), 41 & 47). Likewise, several domestic laws, such as the 'Conditions of Employment for Bidi and Cigar Workers Act', the 'Apprentices Act, and the Child Labour (Prohibition and Regulation) Act' also reinforce the similar provisions for workers. Furthermore, the adoption of the 'Convention on the Rights of the Child' broadens the scope of protections available to children in various aspects of their lives.

Additionally, the Supreme Court (1985) extended the scope of Article 21 by recognising that the right to life included the right to livelihood (*Olga Tellis v. Bombay Municipal Corporation* 1985). Hence, the Court confirmed that Article 21 goes beyond mere presence and encompasses the right to live with dignity. Besides, the judgment also cites that the State must ensure sufficient means of livelihood to its citizens (Constitution of India, 1950, art. 39(a)) and

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to provide its people with public assistance in the cases of unemployment, old age, illness, and other hardship situations (Constitution of India, 1950, art. 41).

From the above-mentioned judicial decisions, it can be established that the Constitution of India has adopted a positive judicial approach to the upliftment and protection of the marginalised and vulnerable workers engaged in factories by applying fundamental rights, especially the provisions of the right to life and personal liberty, in a substantive manner. Likewise, the judgements are relevant among the women workers of the tea garden community who used to face such vulnerable situations in their day-to-day life due to poor working conditions, gender discrimination in the workplace, wage disparities etc. Although the judgements are not directly related to the tea garden workers, the principles developed in these cases develop the judicial frameworks to examine the contemporary challenges to human rights faced by the women workers in the tea gardens. The challenges faced by women workers in the tea industry during the British era demonstrated a gap between the constitutional provisions and their effective implementation in practice.

Recommendations

- To amend the old legislation on plantation industries and also to put emphasis on the current demands and rights of the female labourers in the tea gardens of Assam.
- To enhance the enforcement mechanisms in order to make sure that the constitutional and statutory protections are properly enforced at the ground level.
- To deal with the structural gender discrimination in the plantation systems in a more focused approach through the policy, which will enhance equality and protect the dignity of women.
- To increase the accountability of the administration by requiring frequent inspection, transparent reporting and punitive measures against infractions.

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- To empower women workers by educating them, training them on leadership skills, collective bargaining, and the availability of grievance-redressal mechanisms.
- To transition away with a welfare-based system towards rights-based system where the primary focus is on women employees of tea gardens as a right holder who deserves dignity, a livelihood and humane working conditions.

Conclusion

Although human rights and constitutional guarantees are in place, the plight of women workers in tea gardens remains very pathetic, hence the need to empower women so that the tea plantation industry can experience rapid expansion. Thus, the disillusioning experience has a number of reasons including ineffective execution of government laws, low remuneration, and discrimination on the basis of gender. Even so women workers continued to be the target of the long-standing negligence on the part of the tea garden authorities and patriarchal social systems since the British era especially concerning the issue of health, wages and working conditions. Despite the introduction of international and national legislations, there is still a wide gap between the laws and their real application, which leads to ongoing gender-based inequalities. Through the judiciary, constitutional and fundamental rights have been greatly preserved and labour laws enforced on industries. Nevertheless, the legislature and the judiciary should join hands to improve the plight of women workers in Assam's tea gardens. Thus, it demonstrates that empowering women socially, economically, and politically is extremely significant, as it will also help the tea industry grow in the most sustainable way.

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