

# Gender Discrimination at Work Place: A Significant Barrier for Women Empowerment

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## Abstract

*This research paper is based on gender discrimination at the workplace. Although every country admits that gender inequality must be removed, but still, it is a big issue specially for social development of a women and a challenge for the society. In most of the gender discrimination cases at work place, the attitude of higher authorities and fellow workers were not supportive instead of it they face hostile environment which results stress and other psychological problems in victims. This paper discussed current laws and possible future strategies to prevent such cases.*

**Keywords** - gender Inequality, discrimination, environment, laws, work places, rights, empowerment, awareness

## I. INTRODUCTION

GENDER, word in itself discriminatory as it perceived by the society where as sex is a biological term. Cases or reports about discrimination at work places reflect that there is a need to pay equal attention on working women they are economically empowered but not socially empowered which is a significant barrier to social development of our country. In India gender discrimination specifically has been in existence since ages, initially it was not

about work but it influence social aspects of women's life and thier well being. There are various reasons behind hostile environment at work places in modern society like patriarchy one of the salient feature of indian society, feeling of superiority to the opposite gender, unprogressive behaviour for welcoming women, viewing them as less capable to do so called male dominated jobs or to perform tasks at an acceptable level. This behaviour leads to the development of such environment and social culture where women feel inferior, less motivated to perform their tasks. It made working places unequal on the basis of opportunities and compensations and also violate their fundamental and basic rights. Therefore this study emphasis on the various issues, laws and cases faced by women employees. As discrimination having no sense with gender, it increase tension and conflict at work

places and make that area less productive. India having worst levels of gender wage disparity (men earning more than women in similar jobs) with the gap exceeding 30%: ILO (international labour organization) inspite of having good average gdp rate of 7% at annual basis low pay and inequality persist in India according to India Wage Report: Wage policies for decent work and inclusive growth (international labour organization). This report shows a bad picture of a fast growing nation.

## II. LITERATURE REVIEW

Many empirical studies have been done on the topic of gender discrimination and they discussed about causes, effects, and remedies of gender discrimination and their social, political, economical and cultural factors.

Brian Welle, Madeline E. Heilman (2005), "Formal and Informal Discrimination against women at work" talks about the stereotypes and social sanction that restrict a female from being aggressive, tough and her dominant nature in the society. If they take action against this prevailing culture and discriminatory practices, they often face social penaltie and disapproved.

Katie Scire, (2008) "Gender Discrimination in the workplace", talks about the Glass ceiling effect for moving a women upward for achieving higher level of management or the top level of her career she have to break the glass ceiling. This term came into existence in the 1980's.

Sampson Quain, (2018) "The causes, effect and remedies for gender discrimination" talks about gender discrimination in wages and the negative environment for female employees during work which create tensions and focused on the awareness among women for their legal rights and moral based seminars and sessions for male employees.

## III. HEALTHY ENVIRONMENT AT WORK PLACE

Employees should have unbiased environment for a stress free workplace with equal opportunities for faster

growth in career. Discrimination free environment will lead to maximum job satisfaction and it will increase productivity and higher retention rate. For this these objectives should be kept in mind at work places:

- unbiased growth opportunities with healthy relationship at workplace
- Fair reward, recognition and incentives for good work and achievements
- policies for overall development of employees without any discrimination
- Healthy competition between teammate and co-workers
- Higher Retention and less prejudice at work place

#### IV. CONSTITUTIONAL AND LEGAL PROVISIONS FOR WOMEN EMPOWERMENT IN INDIA

There are various provisions in Constitution of India which provide equal rights and opportunities for both men and women to develop their skill and talents for pursuing their goals and ambitions. Constitution makers of India and our founding fathers were very determined to provide it. There are various articles in the Constitution which safeguard women's rights socially, politically and economically.

The Preamble, the Fundamental Rights, DPSPs, Fundamental Duties and other constitutional provisions provide several general and special safeguards for securing women's rights.

##### A. Preamble

The Preamble assures justice, social, economic and political; liberty of thought, expression, faith and worship; equal status and opportunity and dignity of the individual. Thus it secures all citizens in equal manner irrespective of gender.

##### B. Fundamental Rights

The policy regarding women empowerment is well entrenched in the Fundamental Rights enshrined in Constitution of India. For instance:

Article 14 ensures right to equality.

Article 15(1) specifically prohibits discrimination against any citizen on grounds of religion, race, caste, sex or place of birth

Article 15(3) permits 'Protective Discrimination' empowers the State to make special provisions in favour of women.

Article 16 of Indian constitution provides equal opportunity for all citizens in matters of public employment or appointment to any office.

Article 19(1) of the constitution of India protects 6 rights of freedom that are speech and expression, assembly, association, movement, residence and profession.

Article 21 provides a dignified life to every citizen

Article 23 is a right against exploitation and prohibits human trafficking and forced labour

These rights being fundamental rights are guaranteed and protected by the constitution with a sense of all round development of an individual.

##### C. Directive Principles of State Policy

Under Directive principles of State Policy it is the duty of state to formulate policies and enact laws for women. Various rights have been implemented through legislation which are as follows:

Article 39 (a) promotes equal justice by providing free legal aid, by suitable legislation it ensures equal opportunities to all citizens

Article 39 (d) ensures equal pay for both men and women without any discrimination and adequate means of livelihood for their well being

Article 42 State to make provision for securing just and humane conditions of work and for maternity relief

##### D. Fundamental Duties

Fundamental duties are enshrined in Part IV-A of the Constitution and stressed that citizens with their enjoyment should be conscious about their duties. It also focuses on rights related to women:

Article 51 (A) (e) expects from the citizen of the country to promote harmony and the spirit of common brotherhood amongst all the citizens of India transcending religious, linguistic, and regional or sectional diversities and to renounce practices derogatory to the dignity of women.

##### E. Other Constitutional Provisions

Through 73rd and 74th Constitutional Amendment of 1992, provides political right to women which is a landmark in the direction of women empowerment in India. With this amendment state has to reserve 1/3 seats for women at different levels of elections in local

governance i.e. at Village panchayat, Block and Municipality elections.

Thus it can be said that these Constitutional provisions ensure same platform to both men and women and make special provisions for women for uplifting them. It is state's duty which bound to apply these principles in taking policy decisions as well as in enacting laws.

## **V. OTHER EXISTING LAWS**

### **A. Equal Remuneration Act, 1976**

Equal Remuneration Act, 1976 obliges equal pay for equal work without any discrimination and adequate means of livelihood for their well being. This act focus on equal benefits and incentives for equal work without any wrong motive.

This law is having aim to prevent gender discrimination at work places including issues related to wages, hiring, promotion, or training. It can be circumvented through wage reclassification of both skilled and unskilled workers. Often, women are placed in the unskilled, lower-paid wage category, while men are placed in the skilled, higher-wage category. There should not be discrimination in recruitment and service conditions, except the places where employment of women is restricted by the law. Amendment of this act was done in 1987 by expanding certain punishments for guilty parties, and it also provide jurisdiction for a trial of offences. The Factories Act, 1948 was amended in 1976 make creche facility mandatory when there are more than 30 women workers (earlier it was 50) to kids. Maternity Benefit Act was extended in 1976 to cover those women who were not qualified for advantage under the ESI Act of 1958. It further amended in 2017 and increased the duration of paid maternity leave from 12 weeks to 26 weeks for women employees.

**National Commission for Women Act, 1990 (Act of Parliament)** National Commission for Women to statutory assurance of women; get reports to the Central Government which ensure women's rights.

### **B. Sexual Harassment**

In spite of the fact that India passed law on sexual harassment in 1977, women are not mindful of their reality. The concept of sexual harassment of women come in light and gain a moment when social activist come on front against the brutal gang rape of a social worker in a village of Rajasthan. Bhanvari Devi rape case in Rajasthan face different kind of difficulties like victim were segregated by society, doctors and police all refused to provide her any kind of help, later decision of the trial court acquitting the accused, all tried to make

her life more panic and miserable. Social activist tried to find the reliable solution of such problems and suitable methods for realization of true spirit of gender equality and to prevent cases related to sexual harassment of women at work places through judicial process and to fill the vacuum in existing legislation was a good achievement and a great reform.

### **C. Vishaka and Others Vs. State of Rajasthan**

After the case of Bhanvari Devi, Vishaka and others filed a writ petition and certain guidelines laid down by the court. There should be a framework for workplace protocol, with an emphasis on the prevention of sexual harassment. Supreme Court guidelines imposed a duty on the employers to notified, published and circulate among employee that the act of such nature are not tolerated within the establishment, person shall be prosecuted and punished if his act covered under penal law, service rules or any other employment rules in private establishment. A duty imposed on employer to develop the mechanism of complaint committee to redress the acts covered under sexual harassment and the employee should be allowed to raise issue of sexual harassment in employer-employee meeting. The apex judiciary has played a creative role in this regard and has upheld the basic principle of equality of sex and tried to maintain the dignity and honour of women (AIR Journal 48, Mishra, 2004). This has been projected in landmark judgements. Vishaka Judgement guidelines have become influential in the workplace.

The Supreme Court expressed that sexual harassment violate a working woman's constitutional as well as legal rights. Through the Vishaka Judgment, progressions of rules were made, including:

“It is the responsibility of companies to prevent sexual harassment. Organizations must create a sexual harassment oversight committee headed by a woman. Organizations must initiate disciplinary action against offenders, and victims must be protected. Women workers must be made aware of their rights”.

## **VI. CONCLUSION AND SUGGESTIONS**

From the above discussion it can be concluded that there are many constitutional and legal provisions have been done for safeguarding the women's rights and for providing a hassle free environment at work places. These protections are important for women's economic, social and psychological development but not sufficient. Through the legislative actions state protected women both in domestic and public front but still education among women working and awareness about their rights matter a lot. Lack of awareness about the rights at some extent responsible for the forfeiture

of these legislations or government policies and schemes. Therefore it is a need of the time to be conscious and claims for their rights fearlessly.

In spite of several acts, laws and national and international commitments women's condition is not satisfactory and it can not be until their co-workers and opposite sex have a healthy competition or leave the dominating attitude. Socialization play an important role and as a primary agency of socialization steps should be taken from families.

The need of us is to educate and sensitize male members of the society regarding women issues and try to inculcate a feeling of togetherness and equality among them so that they would stop their discriminatory practices towards the fairer sex and support them in their next step. We must motivate and empower female members of our family by providing them equal opportunities of health education nutrition, work and decision making without any discrimination.

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