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Gender Discrimination at The Workplace in India: A Serious Problems and Challenges

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Abstract:

Women have been treated as second class citizens since time immemorial. Patriarchal norms in a male dominated society have dictated the dos and don'ts to women in every aspect of their lives, from conducting themselves in public to choices of reproduction. The public sphere has always been seen as the male domain with limited number of women venturing out to test the treacherous waters of the workplace. Discrimination faced by women at the workplace includes unequal pay for equal work, sexual harassment, lack of adequate Sanitation facilities, unsafe roads and transportation, denial of promotions, inadequate work-life balance and so on. This paper seeks to provide a critical and analytical perspective on the various issues confronting women at the workplace. Based on secondary sources, it examines the existing the role of the Indian state in making workplaces equal and safe for women by enforcing the various provisions of the Indian Constitution. There is a need and demand to enact a fully specific related to the purpose of gender discrimination at the workplace to be enacted. Any policy when enacted stated in regard to discrimination if does not encompass a specific gendered dimension on discrimination, but there is a divergence from specific domain of gender discrimination by focussing on other aspects of race and caste hence making the policy effect futile.

Keywords: Working women, Workplace, Sexual Harassment, gender discrimination, Indian Constitution, women empowerment.

Introduction

Women have been treated as second class citizens since time immemorial. Patriarchal norms in a male dominated society have dictated the dos and don'ts to women in every aspect of their lives, from

conducting themselves in public to choices of reproduction. The public sphere has always been seen as the male domain with limited number of women venturing out to test the treacherous waters of the

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workplace. This, however, is gradually changing as since the past few decades more and more women are joining the workforce and breaking the barriers that previously prevented them from getting employment in some if not all sectors.

The workplace has never been equal for men and women. In spite of possessing equal qualifications, women workers in most occupations are paid less than that of men. Sexual harassment of women abounds in every sector of work. In addition to these, women are deprived of their right to maternity leaves and are often shown the door once they conceive. Promotions are often denied to deserving women who have to work doubly hard to prove their mettle. The top positions in most organizations are usually occupied by men despite there being eligible women who are equally qualified and capable of shouldering the responsibilities.

As mentioned in the constitution of India about “equality of status and Opportunity” must be secured to all its citizens and that is mentioned under Article 14. Workplace has to provide a complete protection to the people working but now the Sexual harassment taking at workplace is just an extension of violence in everyday life and is also discriminatory in nature with exploitative as it affects women’s “right to life and livelihood”. It is even the violation of fundamental rights of a woman to equality as mentioned under Articles 14 and 15. It even affects

her right to live with dignity as enshrined in Article 21 of the Constitution of India.

What is Discrimination?

The term “discrimination” is defined as the effects of a law or established practice that confers privileges on a certain class or that denies privileges to a certain other class because of race, age, sex, nationality, religion or handicap or differential treatment, especially failure to treat all persons equally when no reasonable distinction can be found between those favoured and those not favoured⁷⁷.

What is Gender Discrimination?

In simple terms gender discrimination means where a person is been treated unfairly or unlawfully based on sex or gender. In workplace discrimination of gender shall prevail while issuing promotion, salary or bonus to the employees. If you look in deep the victim who are most affected by gender discrimination are women rather than man. For instance, in a enterprise men are been given higher salary then women which creates disparity between them. In some rare cases even men can be victim.

Causes of Gender Discrimination

Gender discrimination is a social issue caused by various historical, cultural, economic, and social factors. The major causes include educational backwardness, caste-based inequalities, religious beliefs, cultural practices, family traditions, customs and social beliefs, racial discrimination, low income, unemployment, family conditions, and prevailing attitudes towards gender roles.

In many societies, traditional norms and patriarchal values often give preference to males while limiting the opportunities and freedom of females.

Women play an equally important role as men, and in many cases, they contribute significantly to family welfare, economic progress, and national development. However, their contributions are often undervalued and unrecognized in male-dominated societies. Gender discrimination continues when women are denied equal opportunities in education, employment, decision-making, and social participation. Addressing these causes requires awareness, education, social reform, and equal respect for the rights and contributions of all genders.

Problems and challenges confronted by Indian women at the workplace:

For the working Indian woman, the workplace is replete with various issues and challenges that need to be confronted on a daily basis. While the range and intensity of these issues may vary, the ones that are most prevalent can be summarized as follows:

Gender Pay Gap

There is no country on earth where women get equal pay as men for equal work. Not even the Nordic countries with impressively high overall gender parity can boast of equality when it comes to the pay packet. India has the distinction of being the lowest ranked on gender parity, which includes pay parity, among the BRIC (Brazil, Russia, India, china) economies. This was revealed in the

Global Gender Gap Report of 2010. Gender parity in wages has been a global concern for about a century now. Yet progress has been slow after the initial victories. The latest Monster Salary Index report provides a wage analysis based on a dataset covering the years 2013, 2014 and the first three quarters of 2015. The report is based on data collected from the paycheck.in salary calculator and the Monster salary index across eight different sectors. On the whole, the report finds that the gender pay gap in India is 25.4 percent. This means the median hourly wage for a woman is 25.4 percent less than the median hourly wage for a man. According to the report, some of the reasons behind gender pay gap could be the preference for male employees over female employees, preference for promotion of male employees to supervisory positions and career breaks of women due to parenthood duties and other socio-cultural factors.

Sexual Harassment

For Indian women, sexual harassment is an abhorrent reality of their daily lives. Their biggest struggle, every single day, is to maintain their sanctity—at their homes, on road, in their educational institutions, as well as at their workplace.

According to one of the recent surveys conducted by Nimbuzz, a cross-platform mobile calling & messaging app, Indian women don't feel safe at their workplace. The survey, titled Nimbuzz - Pulse of the Nation, reveals that "47% of women feel their top issue at work is sexual

harassment vis-a-vis inequality in pay and unequal opportunities." Between 2014 and 2015, cases of sexual harassment within office premises more than doubled—from 57 to 119— according to National Crime Records Bureau data. There has also been a 51% rise in sexual harassment cases at other places related to work—from 469 in 2014 to 714 in 2015.

Despite the rise in numbers, women are finding that their complaints are not redressed effectively by employers. Employers are either unaware of the law's provisions or have implemented them partially and even those that do set up internal panels have poorly trained members. An internal complaints committee (ICC) is mandatory in every private or public organisation that has 10 or more employees, according to the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. However, 36% of Indian companies and 25% of multinational companies had not yet constituted their ICCs, the 2015 research study, *Fostering Safe Workplaces*, by the Federation of Indian Chamber of Commerce and Industry (FICCI) showed. About 50% of the more than 120 companies that participated in the study admitted that their ICC members were not legally trained.

Inadequate Sanitation Facilities

The lack of adequate sanitation facilities at workplaces has negative consequences for women. According to Indian Census data (2011), the female

population is 587 million and constitutes 48 percent of the population. Yet, women's participation in the workforce is only 29 percent of women aged over fifteen years. At least part of the reasons for this could be attributed to the inadequate safety of women which could in turn be related to inadequate access to toilets.

Unsafe Roads and Transportation

Women in India continue to feel unsafe while using public transport, even two years after the horrific gang rape and murder of a young physiotherapy student in the national capital that resulted in nation-wide protests. With the lack of safe public transport options post 10 p.m., most people are dependent either on their own vehicles or autos and taxi services. As darkness descends, the number of women on the streets reduces and women are hampered by a lack of gender diversity in public spaces. Factors that contribute to making women feel unsafe on the streets are lighting, the presence of security and visibility, or knowing that you are visible to others—vendors, shops, street-facing houses— on the streets.

Gender based Discrimination

Five out of ten employees in India Inc have experienced one or the other kind of discrimination, said a study by staffing firm Team Lease Services. There exists a gender segregation in the workplace in terms of benefits, hours, leave, wages, opportunities, promotions, etc. In its latest survey 'Bias @ workplace', the firm said that India Inc (mainly in the top 8 cities) is

yet to adopt the concept of equal opportunity in its true sense. The report indicated the strong prevalence of discriminatory practices while recruiting and at work. The Team Lease study further reflected that pregnant women or women with young children are at a relative disadvantage, both during the recruitment process as well as vying for opportunities at the workplace.

Poor Work-Life Balance

Work life balance is a term used to describe the balance between an individual's personal life and professional life. Work life balance is seen more as a women issue due to the traditional mindset, where the woman is considered primarily responsible for the smooth running of the day to day affairs of the family irrespective of her job profile and official responsibilities that is why managing work and family responsibilities can be very difficult for women. The dynamics of the work environment have exerted enormous pressure on working women as they need to cope with virtually two full time jobs – one at the office and the other at home. Such imbalance has a negative effect on personal life of working women which in turn have taken form of social hazards such as increasing number of divorces, infertility due to high stress levels.

The Indian state and its role in protecting women workers

The Indian constitution guarantees equality for women before the law, and institutional support for women appears

progressive, with many laws in place to protect a woman's right to work. But while there is a plethora of laws for the organized sector, these laws are often not enforced, and in fact are frequently circumvented by employers. There are many reasons for this, including legislation that is not clearly written or does not define coverage, assign responsibility, or outline enforcement. Moreover, India's labour laws can be region-specific, industry-specific, or centralized—and the centralized laws may include state-specific amendments, which further contribute to inconsistent labour legislation.

While progress has been made against gender inequality due to the work of the Indian feminist movement, as well as globalization and modernization, change has been slow. Understanding the legal framework of the organized sector of women in the workplace is a first step in creating gender equity in India.

Gender Discrimination

The Indian Constitution guarantees fundamental rights to women, but its jurisdiction is only to state or public institutions and does not extend to the private sector.

The Indian Constitution and Gender Equality

The Indian Constitution guarantees equality to all citizens as a Fundamental Right and provides several provisions to protect women and socially disadvantaged groups from discrimination. Article 15 prohibits discrimination on the grounds of

religion, race, caste, sex, or place of birth. It also allows special provisions for women, children, and socially and educationally backward classes to ensure their advancement; such provisions are not considered discriminatory but are aimed at achieving social justice and equality. Article 16 ensures equality of opportunity for all citizens in matters of public employment and prevents discrimination in government services. It promotes fair access to employment opportunities irrespective of gender or social background.

The 73rd Constitutional Amendment Act, 1992 provides for the reservation of not less than one-third of seats for women in Panchayath Raj Institutions, encouraging their participation in local self-government. Similarly, the 74th Constitutional Amendment Act, 1992 ensures one-third reservation for women in Urban Local Bodies such as Municipalities. These constitutional provisions have played an important role in empowering women and promoting their participation in social, political, and economic development.

Equal Remuneration Act, 1976

The Equal Remuneration Act, 1976 was introduced to eliminate gender discrimination in wages and employment opportunities. The Act aims to ensure that men and women workers receive equal pay for the same or similar work and prevents discrimination in recruitment, promotion, and service conditions. However, gender-based wage inequality

may still occur due to the classification of jobs into skilled and unskilled categories, where women are often placed in lower-paid positions despite performing similar tasks and responsibilities. The Act emphasizes the principle of equal pay for equal work and provides protection against unfair treatment in employment. It also prohibits discrimination in recruitment and workplace conditions, except in cases where restrictions on women's employment are legally imposed, such as certain night-time jobs or specific industry-related limitations. Through these provisions, the Act seeks to promote economic equality and empower women in the workforce.

National Commission for Women Act, 1990 (Act of Parliament)

Creates a National Commission for Women to review existing statutory protection of women; prepare periodic reports to the Central Government on matters relating to safeguards for women's rights; investigate complaints relating to the deprivation of these rights; and financially assist in the litigation of issues affecting women

Sexual Harassment at Workplace

Sexual harassment constitutes a gross violation of women's right to equality and dignity. It has its roots in patriarchy and its attendant perception that men are superior to women and that some forms of violence against women are acceptable. One of these is workplace sexual harassment, which views various forms of such harassment, as harmless and trivial.

Often, it is excused as ‘natural’ male behaviour or ‘harmless flirtation’ which women enjoy. Contrary to these perceptions, it causes serious harm and is also a strong manifestation of sex discrimination at the workplace.

Industrial Employment (Standing Orders) Act, 1946

Among other things, provides safeguards against the sexual harassment of women at work.

Supreme Court: Vishaka and Others Vs state of Rajasthan

After several cases of sexual harassment at the workplace, Vishaka and others filed a writ petition. The guidelines are a framework for workplace protocol, with an emphasis on the prevention of sexual harassment. Through the determined work of women’s groups, the Vishaka Judgment guidelines have become influential in the workplace. The Supreme Court stated that sexual harassment violates a working woman’s constitutional rights. Through the Vishaka Judgment, a series of guidelines were created, 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.

Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 is a legislative act in India that seeks to protect women from sexual harassment at their place of work. This statute superseded the Vishakha Guidelines for prevention of sexual harassment introduced by the Supreme Court of India. The Bill lays down the definition of sexual harassment and seeks to provide a mechanism for redressing complaints. It provides for the constitution of an ‘Internal Complaints Committee’ at the work place and a ‘Local Complaints Committee’ at the district and block levels. A District Officer (District Collector or Deputy Collector), shall be responsible for facilitating and monitoring the activities under the Act.

Parental Benefits/Policies

A section of corporate India is consciously choosing gender-sensitive policies such as flexible hours and crèche services for working mothers. But, there are also companies where women still have to face discrimination and harassment when they announce that they are pregnant. Being fired from a job on account of pregnancy is illegal under the Maternity Benefit Act. But it is more common than we realise and is symptomatic of a more pervasive discrimination against working mothers in Indian organisations.

Maternity Benefits Act, 1961

- Entitles a woman to 12 weeks of leave with full pay associated with the birth of a child (there is no adoption benefit).
- It is unlawful for an employer to discharge or dismiss a woman during or because of maternity leave.
- A woman worker must be permitted to take two nursing breaks, in addition to normal breaks, until her child is 15 months old.

The Maternity Benefit (Amendment) Bill, 2016

The Indian Parliament approved on 9th March 2017 a bill granting women working in the organised sector paid maternity leave of 26 weeks, up from 12 weeks now, a decision which will benefit around 1.8 million women. The law will apply to all establishments employing 10 or more people and the entitlement will be for the first two children. For the third child, the entitlement will be 12 weeks. With this, India becomes the country with the third highest maternity leave. Canada and Norway grant 50 weeks and 44 weeks respectively as paid maternity leave.

Factories Act, 1948

According to the act, the employer must provide childcare facilities for children below the age of six at workplaces where more than 30 women workers are employed. Prosecution against an employer for violating the Factories Act is uncommon, and inspectors rarely inspect the number of

women workers employed or the mandatory crèche or childcare centers. In fact, on record, there is not a single case known where an inspector went to a worksite to check on the number of women employees. Also, employers bypass the Factories Act by employing fewer than 30 women or using part-time and/or contract labor.

Beedi and Cigar Workers (Conditions of Employment) Act, 1966

Provides for the welfare of the workers in beedi and cigar factories by regulating the conditions of work, including maximum hours and the safety of the working environment. In addition, childcare facilities must be available for working mothers. This act requires the mandatory appointment of women to the Advisory and Central Advisory Committees.

The Plantation Labour Act, 1951

Every plantation with more than fifty women workers must provide childcare (including for those women workers employed by a contractor); the plantation must also provide childcare when women employees have in aggregate more than twenty children. Women workers get breaks to feed their children.

Employee's State Insurance (General) Regulation, 1950

Maternity benefits are made available on the date a medical certificate is issued for miscarriage, pregnancy-related sickness, bed rest, or preterm birth.

The Contract Labour (Regulation & Abolition) Act, 1970

Daycare must be provided where 20 or more women work on contract regularly.

Remedies for Discrimination:

1. Enhance your dealings and capabilities: Find the way to protect your trusted person. Also, the identity of women is confirmed in the work. Also, speak to people who are confident and confident about themselves.
2. Let others know that their words are spoken and how to express concern about you. There is a problem with the fight between our officers. There is a need to be aware of this. Salute the people with your young age.
3. The researchers have found that gender discrimination and drug abuse are associated with an increased risk. It is an important factor in the health of women. In a phobia, many people are at risk of depression, anxiety, or anxiety.
4. If you pay attention to legal knowledge, and legal knowledge, then it will help to prevent discrimination due to female education.
5. Awareness, self-esteem among women about different crimes...

Prevention of Discrimination:

In order to make this research, it is necessary for some social organizations to take initiative and create awareness about the laws made by the government and the

government. Major changes in the law and changes in the human nature of men, awareness of social values and social equality in terms of discrimination against women were created. Also, gender discrimination needs to be stopped by reducing gender inequality.

Conclusion

Women are being tortured in one way or the other since pre-independence. It is a matter of shame that in the contemporary context of increasing number of educated people, violence against women and children is also increasing. For example: Recently in Manipur state women were paraded naked and raped. It can be said that the mentality of the male dominated society has not changed and the reason is due to the inadequate implementation of the schemes formulated by the government, if women are being exploited without any hesitation and the cases of violence against women are increasing. So it is urgent to make women more educated first. Along with that, society's perspective on women has to change. Only then women's empowerment, women's equality will be possible.

A nation or society, without the participation of women cannot achieve development. If we eliminate gender discrimination, women will deliver all the potentials, skills, knowledge to develop the family, the nation and the whole world.

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