



Gender Discrimination At Workplace

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ABSTRACT

Gender Discrimination at workplace is a main concern in today's business community. It may occur in different manner and may be of different nature. Gender is a common term where as gender discrimination is meant only for women, because females are the only victims of gender discrimination. The increase in cultural and gender diversity in the workplace has obligated employees from different ethnicities and backgrounds to work together to meet the goals of the company. Unfortunately, differences between people have a tendency to lead to misunderstandings, and result in conflict and discrimination. It happens when an employee is treated differently because of his or her gender. Whenever gender discrimination at workplace affects the terms and conditions of employment, it is against the law. Employers have a responsibility to their workers to protect them from discrimination and unfair treatment in the workplace. This paper deals with gender discrimination at workplace, define and point out the laws and guidelines, its various forms and causes, to prevent the gender discrimination at workplace.

KEYWORDS : Employment, Decision Making and Self Confidence.

Introduction:

Gender discrimination at workplace is when individuals are treated differently because of their gender and that negatively affects their employment terms and conditions. This includes position, pay, title, firing and hiring, promotions, trainings or exclusion because of categorizing some jobs as "men only" or "women only." Discrimination against women in particular is usually on the basis of marital status, pregnancy or potential pregnancy, while against men it is usually based on sexual orientation.

We all know that discrimination is prevalent in our society even today and it continues with its harmful effects on each one of us through our daily lives. We have witnessed discrimination in different aspects of life like inequality in income distribution, religion and race discrimination, discrimination in educational system, in sports, etc. But the most serious issue is the gender discrimination which has constantly degraded the values of society to which we belong. Among all the different kinds of discrimination, the most serious is the gender discrimination which we as a society have failed to deal with since ages.

Gender Discrimination

Discrimination refers to inequality. Gender discrimination therefore refers to inequality between people of opposite sex. It occurs in various areas and the most famous example of gender discrimination is the desire to have a male child in the family. Modern people refer to it as narrow minded thinking or orthodox thinking, but many of the so called complicated people too are in the favor of having a male child. Apart from this, one serious area of discrimination is the gender discrimination at workplace. The systematic, unfavorable treatment of individuals on the basis of their gender, which denies them rights, opportunities or resources. Across the world, women are treated unequally and less value is placed on their lives because of their gender. Women's differential access to power and control of resources is central to this discrimination in all institutional spheres, i.e. the household, community, market, and state. Within the household, women and girls can face discrimination in the sharing out of household resources including food, sometimes leading to higher malnutrition and mortality indicators for women.

At its most extreme, gender discrimination can lead to son preference, expressed in sex selective abortion or female feticide. In the labor market, unequal pay, occupational exclusion or segregation into low skill and low paid work limit women's earnings in comparison to those of men of similar education levels. Women's lack of representation and voice in decision making bodies in the community and the state perpetuates discrimination, in terms of access to public services,

such as schooling and health care or discriminatory laws.

The law is assumed to be gender-neutral when in fact it may perpetuate gender discrimination, being a product of a culture with oppressive gender ideologies. Even where constitutional or national legal provisions uphold gender equality principles, religious or other customary laws that privilege men may take precedence in practice. However, the law, when reformed with women's input, can be a potent tool for challenging discrimination, if combined with other strategies, including capacity-building to overcome barriers to claiming rights. The Convention on the Elimination of all forms of Discrimination against Women (CEDAW) in 1979 brought into international focus the rights of women as human rights, including the right to be free from discrimination. Women activists regard this convention as a key tool to support their struggle against discrimination in all spheres, pushing governments towards attains these internationally recognized minimum standards.

Examples of gender discrimination, mainly against women, include unfair treatment in terms of firing, hiring, promotions, pay, job classification, benefits or sexual harassment. Some companies prefer to hire men over women despite their excellent qualifications because they feel more comfortable dealing with male employees.

Gender Discrimination at Workplace

There is an alarming rise in the rates of increasing gender discrimination at workplaces nowadays. Every now and then we come across reports related to gender discrimination at workplace Researchers have also ratified this. Gender discrimination can take place in various forms in respect to unusual or unequal and harsh treatment to a person of one sex as compared to the person of the other sex.

- Often, there is discrimination in terms of wage pay to the women employees as compared to male employees as the women are often tagged as the 'housewife material' and hence is offered lower wages/salaries and men are considered hard working and dedicated comparatively. This is a common discrimination that women laborers face.
- Many a times, women (housewives) generally step out of their houses during their difficult times to deal with the hardships to make to provide the basic requirements to their family and hence the employers take the advantage of the situation by providing lower salaries irrespective of the qualities or qualifications of the employee and the women are forced to accept the low salaries.
- The boss or employer at time demand sexual favors from the women/men employees if they are to save their position and their job. It also includes molestation, blackmailing them for the

job.

- Often, the male employees are ignored for meetings where the clients are needed to be entertained and the women employees are preferred for various reasons even though the male employees might possess much more knowledge than the female employees in that particular area of expertise.
- Sexual harassment is another case of gender discrimination at workplace.
- The men are often rewarded with higher incentives and salaries as compared to women, but it is to be noted that the women in several cases have proved to be more deserving and hardworking and deserve a better position in the area of workplace.
- Promotion are generally handed to the male employees as they are expected to be more responsible and capable of handling the job which might be a debatable question as nowadays women are better off as compared to the men at top level of organization.

The gender discrimination prevails in the society and will continue to detriment the society unless some strict laws are put into action. However, signs of decrease are recorded in gender discrimination at workplace as the working people are now opening up and speaking up for their rights which have put the government under immense pressure to strengthen the workplace laws and order.

Laws on Gender Discrimination at Workplace

• *Anti-Discrimination Provisions under the Constitution of India:*

The advocacy for anti-discrimination can be traced to the innate provisions in the Indian Constitution. Article 15 prohibits the state from discriminating on the grounds of religion, race, caste, sex and place of birth in various day-to-day activities, including when it comes to providing equal employment opportunities. The Constitution does not, however, prevent positive discrimination or affirmative action that is based on discrepancies in gender, social or financial background or traditional caste-based disadvantage. It is for this reason that Article 15 also provides that the state can make special reservation for women and socially and educationally backward classes of citizens including scheduled castes/tribes in educational institutions.¹ Further, Article 16 empowers the state to make reservations with respect to appointment for posts in favor of any backward classes of citizens if the state is of the opinion that such classes are under-privileged. The socio-economic rights under Article 39 in Part IV of the Constitution also urges the state to ensure that citizens, men and women equally, have the right to an adequate means of livelihood, right to shelter, food, education and work.

• *Protection under the Equal Remuneration Act:*

The Equal Remuneration Act, 1976 (ERA) addresses employee discrimination issues with respect to recruitment, wages, work transfers and promotion. It provides for payment of equal remuneration to men and women workers, for same work or work of similar nature and for the prevention of discrimination against women in the matters of employment. Taking up the recruitment process, section 5 of the ERA prohibits the employer from devising a hiring process that puts women at a disadvantage on account of their gender. This is specifically in reference to work that is the same or similar to that which is offered to men and even in respect of transfers and promotions. The ERA also discourages the reduction of wages on purpose in order to fulfill the condition of equal remuneration.

• *Protection for Persons with Disabilities:*

As a party to the United Nations Convention on the Rights of Persons with Disabilities (CRPD) India is bound to integrate the principles embedded in the CRPD into laws that safeguard the rights of the disabled. In furtherance of this commitment, the Indian legislature has brought forth three laws that exclusively deal with the protection of the disabled in India. In 1995, Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act the ('PWD Act') was passed to provide equal opportunities in education, employment, social security and an unbiased atmosphere for the disabled. Section 47, for example, provides that a government establishment is forbidden from reducing an employee's rank if he or she acquires a disability during the course of their appointment. However, the employer can, alternatively, employ him/her in a different capacity provided the pay-scale (along with benefits) is not reduced. More-

over, the provision also prohibits citing disability as a reason to deny promotion to an employee.

• *Industrial Disputes:*

One of the most relevant labor statutes in India is the Industrial Disputes Act, 1947 (IDA). An important facet of the IDA is that it prohibits commission of unfair labor practices. The list of such practices is appended under the fifth schedule (Part I) of IDA8 and includes prohibition of discrimination against any worker for filing charges or testifying against an employer in any inquiry or proceeding relating to any industrial dispute or discriminating against workers by reason of them being members of a trade union, etc.

• *Prohibition of Sexual Harassment against Female Employees:*

In 1997, the Supreme Court of India took it upon itself to lay down the Guidelines against Sexual Harassment at the Workplace (the 'Guidelines') in Vishaka and Others v State of Rajasthan and Others. The Guidelines categorically lay down what constituted 'sexual harassment' and vest an obligation upon the employer (or other responsible persons) to provide for measures and procedures that will prevent and deter acts of sexual harassment done not only by persons within the establishments but third parties as well. The employer is also obligated to set up dispute resolution mechanisms and means to prosecute offensive acts.

Types of Gender Discrimination

Disparate Treatment Gender Discrimination: Disparate treatment is direct discrimination. To put it simply, it is treating an employee in a different manner because of their gender.

Disparate Impact Gender Discrimination: Disparate Impact Gender Discrimination is complex. Disparate Impact happens when a company policy excludes certain people from jobs or promotions. Although the company policy may not have been designed to exclude, that becomes the unfair result. If a job policy is not sufficiently job-related and therefore excludes some genders there could be gender discrimination at workplace.

Victimization: occurs when people are treated unfairly because they complained about discrimination against them.

Harassment: refers to offensive behavior, coercion, intimidation or encouraging such behavior in other people.

The Causes of Gender Discrimination

- Educational backwardness
- Caste
- Religious beliefs
- Culture
- On the name of family history
- Customs and beliefs
- Races
- Low income
- Society
- Family situation
- Attitudes

Guidelines to Prevent Gender Discrimination at Workplace

- Discrimination is treating, or proposing to treat, someone unfavorably because of a personal characteristic by the law this includes bullying someone because of a protected characteristic.
- Having a strong and unambiguous equal opportunity policy a powerful tool for preventing gender discrimination at workplace.
- Education develops the skills, imparts knowledge, changes the attitude and improves the self confidence. It provides employment opportunity and increases income. Hence educating women is the prime factor to combat gender discriminate and for the upliftment of women. Not only the female, the society must be educated to give equal right for female.
- Employment gives the income and improves the economic position of the women. Employed women are given importance by the family members. Employment gives the economic independence for the women.
- Employers can be held legally responsible for acts of discrimination and sexual harassment that occur at work or are con-

nected to the workplace. Empowering women with the help of laws, education and employment will make the society to accept the women as an equal gender like male. Female also has all the potential and empowering women will help to use her full capability and mitigate the economic dependency of women.

- Women need self confidence to fight against all the atrocities against her and to live self esteemed life. Hence, boosting the morale and self confidence of the women, is the key to eliminate the inferior complex of her.
- Even in the family as well as in the society the decision making power of women is denied. Mostly males make the importance decision in the family and in the society. This makes women as voice less and destroys herself confidence and she feels less important in the family as well as in the society. So, to end gender discrimination women must empower with decision making power.

Conclusion:

The paper has broadly discussed the issue of gender inequality, employment. 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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