



The Indian Journal for Research in Law and Management

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Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

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GENDER DISCRIMINATION IN THE WORKPLACE

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ABSTRACT

Gender inequality in the hiring process remains common in most of the industries and the sectors in spite of considerable improvements in the policies to ensure gender equality. The existing gender inequality, and the effects of gender inequality during the hiring process, and importance on how gender discrimination affects the recruiters' decision making process are discussed further in the paper.

The study analyses explicit and implicit expression of gender inequality, measuring the influence of social stereotypes, and unconscious bias on hiring and career opportunities. The first segment of the research paper will present an inclusive review of the existing literature on gender inequality in the workplace, shedding light on the social and historical factors that have perpetuated gender-based discrimination.

It highlights how gender stereotypes can influence how applicants are evaluated for specific roles, such as the association between leadership styles and masculinity and thoughtful responsibilities with femininity. It also examines the concept of unconscious bias, which is the practice of employers unintentionally favouring one gender over the other because of personal preferences and deeply rooted cultural norms.

KEYWORDS: Gender inequality, stereotypes, unconscious bias

INTRODUCTION

The most significant problem that employees globally experience is gender inequality in the workplace that impacts both their personal as well as professional lives. Gender inequality is deep-rooted in historical and social arrangements in many societies. Gender inequality is about how unfairly and unequally people are treated due to their gender and sexual orientation.

In spite of the progress in gender equality made in the last few decades, gender-biased discrimination is still in existence in many forms, including sexual harassment, unequal pay, limited possibilities for career progression, and stereotypes. These issues shall be looked into for the growth of just and equitable society since they are spread and have impact on individual employees as well as workplace productivity, determination and organizational success.

Gender discrimination occurs when someone is treated less favourably than their co-worker or potential employers according to their sex or gender. From the initial job interview until the departure interview or retirement, gender inequality may be a problem at every stage of the employment process. Common instances of gender inequality includes being passed over for a

promotion, being treated unfairly, receiving less assistance from superiors, being paid less, and being assigned less challenging tasks because of their gender. In spite of having different meanings, the terms 'sex' and 'gender' are sometimes used interchangeably in discrimination laws. In any case, like any other form of discrimination based on race, nationality, ethnicity, religion, or age or gender discrimination is prohibited and undesirable.

One essential component of a just and equitable society is gender equality in the workplace. The promotion of gender equality and the defense of women's rights in the workplace are the goals of numerous legislation and regulations in India. But there are still a lot of obstacles in the way of real equality.

In India, female empowerment and work are inextricably linked. Over the years, there have been significant concerns about female empowerment and employment. Indian women's life have changed significantly as a result of the country's increased economic prosperity, which eventually has an impact on female employment.

Gender discrimination in the workplace has many different and intricate causes. How men and women are viewed in the workplace is still influenced by cultural and social variables, such as societal divisions of labour and long-standing gender stereotypes. For instance, women are frequently underrepresented in the workforce, especially in leadership positions, due to the notion that they should put their careers. This is made worse by hiring managers' unconscious biases, which may favour male applicants over female ones, particularly for high-profile or senior roles, due to deeply held cultural presumptions about gender roles and leadership skills.

Gender discrimination is made worse by economic variables such as the frequency of contract or informal work, particularly in developing nations, in addition to cultural standards. Due to their lack of jobs security, vulnerability to exploitation, and lack of legal protection under labour regulations, women are frequently overrepresented in the unorganized sector. Addressing gender-based discrimination is significantly more challenging in these situations. Due to exacerbated gender and class disparities, women from poorer socioeconomic origins or those living in rural areas in nations like India face even more obstacles at work.

Workplace policies that support gender equality, like equal pay for equal labour, family-friendly regulations, and anti-harassment training, are crucial at the organizational level. Businesses should have policies in place to guarantee that every worker has an equal chance at career development, promotion, and growth. Organizations can also cultivate a work culture that dispels gender stereotypes and supports inclusivity, and diversity.

RESEARCH QUESTION

1. Which major forms of gender discrimination are seen during the recruiting and recruitment processes?
2. How much do recruiting practices in different industries get influenced by gender stereotypes?
3. What function does unconscious bias play when applicants of different genders are interviewed and chosen?
4. Which legislative frameworks are in place to shield people from gender discrimination in the workplace?
5. What steps may industries use to lessen gender discrimination and advance gender equality during the recruiting procedure?

METHODOLOGY

This research paper's research methodology is doctrinal as the researcher considers that the present research depends on the existing laws. The researcher has also consolidated secondary empirical methods, including articles that would help in further analysis of the research subject. Hence, in the researcher's view, these approaches adopted for the current research are suitable for the subject presented. The study will examine gender inequalities in India's employment process using qualitative method.

LITERATURE REVIEW

The article titled "**How to handle gender discrimination in the Workplace in 2025**¹", written by the Embroker team and published on February 26, 2025 explains that the majority of research on the topic indicates that companies still have a long way to go in terms of workplace gender equality, despite advancements over the years. Gender discrimination occurs when someone is treated less favorably than their co-workers or potential employers according to their sex or gender. From the initial job interview until the departure interview or retirement, gender discrimination may be a problem at every stage of the employment process.

The article titled "**Gender Equality in Indian Employment: Legal Framework and Challenges**²", published on June 8, 2024 showers light on gender equality in the workplace

¹ Embroker Team, HOW TO HANDLE GENDER DISCRIMINATION IN THE WORKPLACE IN 2025: 12 WAYS TO PREVENT IT, 26 February, 2025. <https://www.embroker.com/blog/gender-discrimination-in-the-workplace/>

² GENDER EQUALITY IN INDIAN EMPLOYMENT: LEGAL FRAMEWORK AND CHALLENGES, 8 June 2024 <https://corridalegal.com/gender-equality-in-indian-employment-legal-framework-and-challenges/#:~:text=The%20Equal%20Remuneration%20Act%2C%201976,recruitment%2C%20promotions%2C%20and%20wages.>

being essential. To advance gender equality and safeguard women's rights in the workplace, India has a number of laws and regulations.

“**Female Labour Utilization in India**” by the Ministry of Labour and Employment shows the employment statistics in focus of April 2023.

GENDER DISCRIMINATION IN WORKSPACE

Gender discrimination in the workplace can take many different forms, but in general, it refers to when a worker or a job applicant receives fewer advantages because of their sexual orientation, gender identity, or sex. All genders are impacted by gender discrimination, however women report the majority of incidents. Even while a sizable portion of men do report experiencing gender discrimination at workplace, women still experience this problem the most.

The rate of female labour force participation is a complex combination of socioeconomic and structural factors. The trend of female labour force participation has been rising over time. Economic growth depends on accepting and promoting women's increased labour force participation. India's female labour force participation rate has grown according to Periodic Labour Force Survey Report 2021-2022³. Even though it is lower than the male labour force participation rate, female labour force participation has been rising over time, and currently, about one-third of women are employed.

The low rate of female labour force participation is a significant impediment to economic growth; India's GDP could raise by 27% if female participation rates were equal to those of men, and there is evidence that low participation rates are partly caused by discrimination and other hiring barriers, making gender inclusion in the hiring process crucial. India has one of the lowest female labour force participation rates among the 131 nations that track it, at 24% for the country as a whole and 16% for the urban population. Compared to 24.6% in 2017-18, the female labour force participation rate in rural regions climbed by 12% points to 36.6% in 2021-22. However, compared to rural areas, female participation was far lower in metropolitan areas. The female labour force participation rate in urban area increased by only 3.4% points from 20.4% in 2017-18 to 23.8% in 2021-22⁴.

³ Government of India, FEMALE LABOUR UTILIZATION IN INDIA, 1 May 2023 https://dge.gov.in/dge/sites/default/files/2023-05/Female_Labour_Utilization_in_India_April_2023_final_1_pages-1-2-merged_1.pdf

⁴ ibid

FORMS OF GENDER DISCRIMINATION

Some of the most prevalent forms of gender discrimination that still occur in the workplace today are listed below:

HARASSEMENT

Women are disproportionately more likely to experience sexual harassment in the workplace in industries with a male preponderance. The Equal Employment Opportunity Commission (EEOC) received 78.2% of all sexual harassment accusations from women between 2018 and 2021⁵.

It is pretty concerning that women reported almost 80% of sexual harassment occurrences, which is one of the reasons it is harder for women to work in male-dominated fields. Any form of harassment that takes place because of someone's gender identity, sex, sexual orientation, etc is considered gender-based harassment, and it need not be sexual in nature.

THE PAY GAP

Employers are required to give "equal pay for equal work" under the Equal Remuneration Act, which prohibits them from paying one gender less than the other for the same work, yet many workplaces are opaque about their pay policies and the factors that influence these decisions. Accordingly, it is illegal for companies to pay a woman less than a man for the same job. Nevertheless, the gender wage disparity persists in general, even if the government does require certain businesses to offer equal compensation. In more over 90% of occupations, women make about 84 cents on the dollar for every 1 dollar earned by males. Its interesting to note that the pay disparity is even more significant for women is higher-paying jobs.

PREGNANCY

One prevalent instance of gender discrimination is pregnancy discrimination. Women's prospective desire to start families make employers hesitant to hire them. This is mostly because these workers would take paid maternity leave after giving birth, thereby taking a temporary leave of absence from work. It's also the cause of women being passed over for promotion and senior roles, treated unfairly, or dismissed.

HIRING PROCESS

The hiring process is one of the most frequent settings where discrimination against women and gender minorities occurs.

⁵ GENDER INEQUALITY IN THE WORKPLACE: FACTORS, AND HOW TO COMBAT IT, May 2024. <https://www.imd.org/blog/leadership/gender-inequality-in-the-workplace/>

Male applicants are typically given preference by employers, whether on purpose or accidentally. Indeed, nine out of ten men and women globally harbor some form of prejudice towards women, according to a United Nations survey.

Women still only make up 35% of the workforce in the top 10 highest-paying positions, despite improvements in their representation in high-paying occupations. This clearly demonstrates gender-based employment discrimination.

Highly competent women are frequently passed over for jobs as a result of this hiring bias, which limits diversity in the workforce and perpetuates gender inequalities.

STANDARD OF APPEARANCE

Another prevalent instance of gender discrimination in the workplace is dress code discrimination. Employers are allowed to impose appearance and clothing rules on their staff. Employers are legally permitted to establish distinct dress rules for men and women. Nevertheless, they are not allowed to design dress regulations that discriminate against or single out one gender over another.

FACTORS RESPONSIBLE FOR GENDER INEQUALITY IN EMPLOYMENT

There are several factors that contribute to gender inequality, including mindset, ignorance, and socioeconomic background. In the largely patriarchal country of India, gender inequality is often noticeable from a young age. It is common for girls to have fewer choices regarding their education, marriage, and freedom of movement. These differences also have an impact on women's adult social and professional lives.

A broad belief about a person's trait that perpetuates sexism is called a gender stereotypes. Women of color frequently encounter micro aggressions at work, and racial preconceptions exacerbate gender stereotyping. These succinct statements convey an unfavorable image of a minority or underrepresented group and might be vocal, nonverbal, or environmental. The assignment of traits like intelligence and agency to men vs women is one instance of gender stereotypes in the workplace. These traits are frequently reframed by gender stereotypes to present women as "bossy," whereas in males they are viewed as positive leadership traits. Even seemingly harmless gender stereotypes can diminish women's contributions in the workplace, such as the belief that they are more nurturing.

Women's opinions are disadvantaged by gender preconceptions before they are even expressed. A female employee's suggestion may be disregarded in favour of one made by her male co-worker due to the widespread unconscious bias that believes women are less logical

and more emotional than males. Or, because he is viewed as a more capable leader, a male may share the same idea as a woman at work and wind up receiving recognition for it.

LEGAL FRAMEWORKS

All Indian people are entitled to “equality” as a fundamental right under the country’s Constitution. The state is required to give all residents equal chances and is forbidden from discriminating against anyone based on their race, sex, or caste. Additionally, the constitution permits the government to implement special policies that assist women. The constitution’s provisions, however, only apply to the state and do not apply to private businesses; therefore, special laws that apply to the general public must be passed.

The primary legislation on the topic is the Equal Remuneration Act of 1976⁶. Equal remuneration for men and women performing the same or comparable work is a requirement for employers. The Equal Remuneration Act forbids discrimination against women in hiring, promotions, training, and transfers. Some progressive employers have utilized the ER Act to provide priority to female candidates, however it currently only protects women and does not specifically forbid positive discrimination in favour of women over male employees (or employees of other genders). By eliminating the binary concept of men and women and rendering the current provisions gender neutral, the proposed Code on Wages 2019⁷, when it is put into effect, will enlarge and absorb the ER Act.

The Maternity Benefit Act of 1961⁸, which was in effect for a long time in India, provided women with a paid maternity benefit that was sponsored by their employers for a period of 12 weeks. A 2017 amendment to the Maternity Benefit Act made it one of the most liberal in the world, granting female employees access to childcare, surrogacy leave, and adoption, as well as 26 weeks of paid maternity leave for the first two children. Additionally, it is specifically forbidden by the Maternity Benefit Act for employers to fire female workers while they are on maternity leave. Moreover, it is illegal for employers to negatively affect female employees’ working conditions while they are on maternity leave.

More recently, businesses were required to guarantee a sexual harassment-free workplace for women under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and

⁶ Equal Remuneration Act, No. 25 of 1976, (India).

⁷ Code of Wages, No. 29 of 2019, (India).

⁸ Maternity Benefit Act, No. 53 of 1961, (India).

Redressal) Act 2013⁹. The obligations include setting up an internal committee to look into complaints, conducting frequent training, creating policies, and information on the annual number of sexual harassment complaints filed and resolved that are made public.

Additionally, the judiciary has made significant findings regarding several facets of childcare and maternity leave. In a recent ruling, the Supreme Court upheld women's employment rights by highlighting the necessity of striking a balance between the freedom to work and the right to maternity benefits. In order to bridge the gap between law and society, the Court emphasized that the nation's social laws must be construed with purpose rather than strictly.

Employers are supposed to set up a strong complaint redressal system to handle complaints in this regard. Additionally, India has passed particular laws that forbid transgender individuals and people with disabilities in any employment-related context.

CONCLUSION

Gender inequality is still a serious problem that hampers efforts to achieve full equality in the working place. Gender inequality in the workplace is a widespread issue that affects companies, individuals, and society at large. Although significant progress has been made recently, more work has to be done.

Understanding the types and causes of gender inequality, as well as the laws and policies designed to prevent it, will help us begin creating workplaces that are really equal and fair for all. Gender equality in the workplace not only benefits people but also promotes healthier, more productive companies and benefits society at large.

In patriarchal countries like India, social and economic disparities exacerbate gender inequality, which further impedes women's progress especially in underserved and rural areas. However, it's important to realize that multiple strategies are necessary to address gender inequality. The effectiveness of legislative reforms such as equal pay and anti-harassment regulations is limited when they are not adequately enforced, in spite of the fact that they are essential for protection. Similarly, implementing business policies that promote gender equality is essential to create an equitable and inclusive workplace.

⁹ The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, No. 14 of 2013, (India).

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