

Gender Inequality and Harassment at Workplace

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ABSTRACT:

The myth of workplace harassment and gender inequality is widely accepted. Since ancient times, it has also been common practice for people, particularly women, to be treated differently from males even when they both perform the same task. Women have experienced prejudice in a variety of contexts, and the workplace is only one of them. The inequality may manifest as a lower-paying position due to sex, frequent unfair treatment, being passed over for promotion, and physical and mental harassment of employees, particularly women. Insulting them, calling them names or using insults that are offensive, sexually harassing them, etc. Even if the world has changed, there are still many little traditions and customs that remain unchanged. This essay discusses discrimination and harassment in both rural and urban populations in general. Through a questionnaire, this publication also includes reader opinions and viewpoints. Understanding the history and present of gender discrimination and harassment in the workplace is the key goal. The world has struggled with these problems over time and is currently working to find solutions. In this nation, it is forbidden to discriminate against women. It is forbidden to discriminate against someone on the grounds of their race, colour, religion, national origin, or sex, according to Title VII of the Civil Rights Act of 1964. Employees who file a claim of workplace discrimination are likewise protected by this law. Laws like the Equal Pay Act of 1963 forbid paying women less than their male peers in the workplace. This law also safeguards against sexual harassment, encourages gender equality at work, and guarantees a healthy working environment. Urban areas are more developed than rural ones. Therefore, an effort is made to explain the prevalence of gender discrimination and harassment at work as well as the laws and legal requirements that apply to such behavior. This essay contains an introduction to the idea, justifications, and instances of workplace discrimination and harassment. Although it is unknown where these customs came from, estimates are still made to provide a general understanding of their history. This essay also includes the author's own investigation into the topic of gender discrimination among workers, which was conducted using questionnaires in the rural Karnataka communities of Belthangady, Laila, and Mangaluru. The author's opinions, recommendations, and conclusion are included in this document.

KEYWORDS: Gender Inequality, sexual harassment, Gender Equality Law, workplace, Civil Rights Act

INTRODUCTION:

The 21st century's unfinished business/task is gender equality and a workplace free from harassment. As long as there is a planet, these practices will continue to be used. Harassment and discrimination against women in the workplace whether it involves the same gender or a different one, discrimination is prohibited. Age, ethnicity, or disability discrimination, in addition to other illegal kinds of discrimination, may accompany gender discrimination or harassment. Despite being a problem for women generally, gender discrimination and injustice can also be directed towards men. Any law that deprives an employee of their rights and prospects because of their gender is prohibited by the law of the land. The legislation forbids any proposals to exchange a job benefit for any form of sexual favor, which is another form of sexual harassment that is considered discrimination. Lack of a comfortable workplace contributes to long work hours and even additional issues with employees, none of which is promoted in any way. Inequality and harassment based on gender may be directed at one specific gender or another. In India, a number of labor rules have been put into place that not only protect the workers but also ensure a secure working environment.

GENDER INEQUALITY AND HARASSMENT AT WORKPLACE:

Inequality between the sexes is what gender inequality is all about. Although gender discrepancies still exist in the world, the constitution guarantees equal rights for men and women. The fundamental cause of gender disparity is the traditional division of labor into "men's work" and "women's work." Only one gender or sex need be recruited for and trained in order for it to be referred to as gender inequality. India has the second-largest population in the world. India is still developing, hence the country is experiencing poverty, unemployment, and an economic crisis. It is impossible to find employment for every person. Even women in such a situation may work very hard to get employment, yet it has been noticed that they are denied the right to an education once they have found employment. As a result, women were forced to stay at home and care for their families rather than pursue an education. This custom was established and later adopted.

Denying any worker the right to work and perform better because of their gender is against the law. A form of gender discrimination that is also illegal is sexual harassment. Sexual harassment is defined by the Supreme Court in *Vishaka V. State of Rajasthan* (1997) 6 SCC 241 as unwanted sexual behaviour, whether it occurs directly or indirectly. This includes physical contact, requests for sexual favours, sexual remarks, showing pornography, and any other unwanted physical, verbal, nonverbal, or other types of sexual behaviour.

The following circumstances support sexual harassment:

- Promise of better job opportunity if the employee agrees to meet the sexual desires.
- Threat of sexual harm to the employee if he/ she disobeys.
- Inappropriate touching and Gesture.
- Humiliating treatment towards the workers. For example, ill treating pregnant women and making her overwork.

Additionally, there is a practice known as quid pro quo harassment. Quid pro quo harassment refers to when a job benefit or opportunity is offered to a worker only if she consents to sexual approaches. For

instance, a manager might ask his employee to go out with him. If she agrees to the requirements, he will merely promise her a greater income and better jobs. If the employee protests, the boss will dismiss them.

Harassment at workplace is of 3 types:

- **Physical harassment:**
Physical harassment is the unwelcome touching by a person. This includes rubbing against the person, preventing the other from working, pull-push, beating and so on.
- **Verbal Harassment:**
Comments insulting a person, addressing him with a wrong name or spreading false news about the person also contribute to verbal harassment or mocking at the person's disability.
- **Visual Harassment:**
Visual harassment means that if a person looks at the other in an inappropriate way and if the person feels uncomfortable then it can be considered as visual harassment and the employee can consult the lawyers. Inappropriate gestures, showing pornographic images, displaying offensive slogans or violent videos or letters also contributes to visual harassment.

The law makes it illegal and punitive to harass and treat workers and employees unfairly because of their gender. Not only do women observe or experience inequality, but men also deal with these problems. For instance, we observe discrimination against men based on their skin colour in nations like the United States. White men had better job opportunities than dark-skinned men and black people, who were treated as slaves. Despite the fact that the workplace is a place for professionals and potential employees, because of the challenges they frequently feel uneasy and worried. When it comes to discrimination or harassment at work, most people frequently consider the viewpoints of the employer and the employee. It should be mentioned that an employee may experience harassment from their coworkers in addition to their employer. According to the law, the employer is responsible for anything the employee does while on the clock, but in this case, even though the incident happened outside of working hours, they were not made aware of it. Therefore, the employer is not responsible for the employee's job. Laws are governed differently in various nations. Employers in California are subject to liability under the Fair Employment and Housing Act (FEHA) if they fail to take specified precautions to stop harassment from occurring. The responsible employer must take reasonable measures to stop harassment from occurring. In order to provide a workplace free from harassment, it is the employer's job to educate and teach the staff.

In the survey taken from women of rural areas of Belthangady, a place in Karnataka through questionnaire, it was observed that most of the women were paid less than that of men. Both men and women work for about 8 hours a day. They are usually paid on daily basis. If they work for 8 hours women are paid Rs.350 and men Rs. 400. The difference is about Rs. 50. When the landlords were asked to give clarification for such a difference, they said that unlike men women cannot do the heavy chores. While men carry heavy things women are not given overburdened work hence it is not possible to pay both the gender equally. This is justified. But there are cases where a women works in a textile shop and there are also few men working there. They do the same kind of job, work for 7 hours but are paid differently. The reason is that men work much quickly when compared to women. When it comes to the urban population, the story changes slightly. No matter the man is wealthy or the women are poor. If they work in an organization and do the same kind of job, no matter men or women they are judged and paid fairly and freely.

BACKGROUND SUPPORTING THE REASON FOR GENDER INEQUALITY AND HARASSMENT AT WORKPLACE:

The cultural practices also contribute to gender inequality. There are certain practices followed by people which pave the way for gender inequality. For example, Japan is a country where people bow to each other as a form of greeting the other person. But each time when they do them it is required that they need to follow certain rules and the stranger would end up causing offence. In Japan each person bows to the other indifferently. A man with higher dignity and status bows less to the other. In the family there is a practice that a woman bows to her husband, children to father, sister to her brother irrespective of whatever age. This culture in some or the other way depicts that women are considered inferior to men. These practices show how women are treated. Indians believe in the moral practices and they value their traditions a lot much than anything. Earlier it was believed and moreover accepted that women can never compete with men. Women were treated inferior to men. The conclusion was drawn after interviewing senior citizens of rural population of Laila, Karnataka of about 65-70 years. Most of the women said that they all agreed to be called inferior because this was taught to them by their ancestors. Women those days worked in fields under the landlords. No matter what they do or how better they perform landlords exploited them. In the fields men and women used to perform same kind of work but women were paid less than men even though both worked equally. The answer for this practice was that ancient people considered men more powerful and greater than women. No matter the man is younger than woman in age but still he is greater than her and hence are to be paid more. It was not only discrimination towards gender but there was discrimination between the same gender on the basis of religion or caste. For example: SC/ST was paid less than other men/ women because they were considered to be untouchables and inferiors in the society. But now the practice does not exist.

EXAMPLES AND CAUSES OF GENDER INEQUALITY AND HARASSMENT:

- **Lack of Knowledge:** India is a country with more than 72% of the rural area and about 27% of the urban population. The major part of the people there lives below the poverty line. Due to poverty parents do not allow their children to pursue education. Hence we see many of them uneducated. Hence the government has come up with a new educational policy- Compulsory education for children up to the age of 18 as per Article 21A of Indian Constitution. Even after all the certain measures taken we still see lack of knowledge and education in people. It has been believed since ages that women are inferior to men and have to be loyal to men. Though the country has been advanced. Such practices still exist. This lack of knowledge of treating one gender below than the other is termed as Gender Inequality.
- **Low pay:** There are places/ areas in the country where women are still paid less when compared to men though they put in equal amount of ability and time in it.
- **Cultural belief:** It is usually believed by most of the section of the society that women are physically weak and hence they have to be treated lower than men.
- **Job segregation:** One of the causes of Gender inequality is division of jobs within the employees. Men are considered to be well educated and hence are believed to perform the duties in the best possible ways. This leads to inequality and most of the time women are not paid fairly.
- **Racism:** Racism plays a major role in how a particular gender is treated and compensated in the workplace.

- **Women are promoted less than the men:** This is because they assume that it would be hard for women to take on the challenges and they would not make it.
- **Fear:** Women often fear to raise their voice against any sort of harassment or discrimination. When it comes to asking for their worth/ salary in the workplace they often hesitate.
- **Lack of support:** The percentage of women in higher positions is comparatively less than that of men. It is mainly because of the lack of support or encouragement given to them.
- **No legal protection:** According to the research done by the World Bank, more than one billion of the women employees do not have any legal protection against the domestic violence -sexual violence or economic.
- **Poor medical care:** Women need more medical attention than men. During the time of pregnancy or any other emergency need, most of the places lack medical care for women. It is also observed that many women experience discrimination from the doctors who broaden the gender gap in health quality too.
- **Lack of freedom of Speech:** Women are seen less than men. Hence most of the time women lack their constitutional right – right to freedom of speech. They are not given rights to share their views or opinions at the workplace about the project/ task because no one bothers to listen to them. This is because of the ancestral traditions and practices that made women to be treated less than men.
- **Lack of freedom of religion:** Article 25 of the Indian Constitution grants everyone the right to follow, practice and profess his religion. In a study performed by Georgetown University and Brigham Young University, researchers found that there was a connection between religious intolerance and women inequality. How is the freedom of religion connected at workplace? People work in the organizations and have to follow the rules and regulations of the company. Youth of Mangaluru area, a place in Karnataka, under the age gap of 25-30 was asked to speak on the freedom of religion at workplaces. Most of them, approximately around 75% were of the opinion that though they worked under people of different religion or community, their religious freedom are respected. Whereas rest 25% of them claim that they have experienced discrimination in a way because men are given holidays during their religious festivals and women most of the time are not granted leave. When there is more access to religious freedom and rights, the economy becomes stable.
- **Lack of maternity leave:** According to the Maternity Benefit Act 2020, female workers must be given a maximum of 84 days (12 weeks). Out of which 6 days is the post-natal leave for a medical emergency if any? Canada and Norway offer longer maternity leave than India. Manavi Kapur, the culture and lifestyle reporter in his article published on September 25, 2019 mentioned that only 1% of the women generously receive the maternity law benefits at workplaces (this is as per the maternity law of 2017).
- **Lack of representation:** Women get fewer opportunities than men. Hence the opportunity of representing the particular company is limited.

The view of the world about women has been changed recently. Gender Inequality and harassment is seen more in the rural areas. Urban population witnesses less gender inequality and harassment. But still the famous sectors like the film industries have stated gender inequality and harassment from the actors, directors or producers. But the studies shows that currently about 90% of women ‘do not face’ any kind of mental or physical harassment at workplace whereas 10% of the women claim that they ‘have undergone’ either physical or mental harassment at their workplace.

CURRENT UPDATES:

The main reason for gender inequality and harassment at workplace was the lack of knowledge and education of the employees. But now statistics show that in India the male literacy rate is higher at 84.7 per cent compared to 70.3 per cent among women. The survey showed that male literacy rate is higher than female literacy rates. The main cause of gender inequality was lack of education. The progress in the educational sector has changed the mindset of the society. Hence education plays a major role in bringing Gender equality and eliminating harassment in the country. In United States the literacy rate of women is higher when compared to men. The percentage of women graduating is higher to men. Different studies have come up with various conclusions. In the country about 93 per cent of the men own the companies and work there and only 7 per cent of the women work on their own industries. Another study by Colin Williams and Anjula Gurtoo published on 2011 at 'International Journal of Gender and Entrepreneurship' indicates that women encounter different barriers in the development of their work. Some of the barriers include ill treating their work or achievements, commenting oddly, lack of privacy, gender violence, and limited access and so on. Women have occupied all the fields either business, teaching, scientist, military services, medical field, lawyers or any other fields they have all the rights to choose what they want and to work on any fields. Earlier only the men military officers were allowed to represent the higher and difficult positions. Women officers were not allowed to have combat roles in the armed forces. They were neither trained for command nor could the permanent commission be granted to them. Later certain changes were made to this rule and women were appointed for important roles in the army. Best Example could be the previous Defense minister, Respected Nirmala Sitharaman, was a woman. On 17 February 2020, the Supreme Court of India in Secretary, Ministry of Defence V. Babita Puniya and others (2020) Latest Case law 173 SC held that Indian women officers of the Indian Army can get command positions at par with male officers. Justice DY Chandrachud and Ajay Rastogi in their ruling said that "Physical features of Women cannot harm their rights". The court also said that permanent commission should be available to women, regardless of their years of service and the judgment has to be implemented in three months.

The study by the Statistic Research Department on October 16, 2020 announced the female labor force participation in the country. In 2019 about 20.7 percent of women were in the labor force across India. It is to be noted that the labor force of 1990 was higher with 20 per cent of labor force when compared to 2019. The labour force indicator is important to calculate the economic progress of the society. The World Bank, international Labour Organization, on September 2020 published that the Labour force participation of female is up to 20 per cent of the total population. The gradual increase in the number of women to men is mainly due to the COVID-19 pandemic in the country. Due to the locking up of the country all the sectors had to shut down and this lead to a great lose. People working in small sectors had to lose their job and not only women even men were unemployed. While large corporations switched to virtual mode and carried on with their work, people working in small sectors had to lose their job and lock themselves confined to four walls of the house. This is also one of the reasons for the drop of labor force participation rate in the country. Not only India but all the countries had to overcome such a situation. In the United States, women population hold majority jobs than men as per January 16 2020 report. For the first time women held 50.04 per cent of the jobs in America, excluding the farm workers and self employed as per December 2020.

Gender inequality gap is reducing now days. The Global Gender Gap Index(GGGI) published by the World Economic Forum in 2018 ranks 149 countries on the basis of their gender equality rate and on the

index India ranked 108th on the overall gender equality rate. In the Global Gender Gap Index 2020, the numbers of countries were increased to 153 and out of 153 countries, India ranked 112th place and India's score has moved from 0.665 in 2018 to 0.668 in 2020. This was mainly possible for the country because the Indian Government had given major preference to put a break to the practice of gender based inequalities, men and women discrimination, harassment in all the sectors and so on.

LEGAL ASPECTS:

The government of India in order to prevent the gender discrimination and harassment has come up with various laws and restrictions.

- **Constitutional Provisions:**

Article 14, Article 15(3), Article 39 A and Article 42 of the Constitution makes special provisions for rights of women and to ensure gender equality.

- Article 14:- Article 14 provides equality before law. It states that there will be equal protection of law to the citizens, within the Indian Territory.
- Article 15(3):- Talks about the special provisions for women and children. Even the state cannot deny from making any special provisions for women and children.
- Article 39 A:-Special provisions for poor and weaker sections. They have the right to adequate means of livelihood.
- Article 42:-Provides just and fair working condition and secures from inhumane conditions and also provides maternity relief.

- **Legislative Provisions:**

Legislative provisions like the Pre-Conception and Pre-Natal Diagnostics Act (PCPNDT), 1994; Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013; Equal Remuneration Act, 1976; Minimum Wages Act, 1948; Maternity Benefit Act, 1961(Amended in 2017) protects women's Rights.

- Indian Government has passed three labour codes in the country.
 - a) Indian Relations Code, 2020:
 - b) Code of Social Security, 2020:
 - c) Occupational Safety, Health and Working Conditions Code, 2020
- These were introduced in November 2019. These laws have introduced new term 'fixed term employment' which means engagement of a worker for a fixed period based on a written contract. In case if the employer is found to be violating the labour Act then he is bound to pay penalty.
- **Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013:**

Sexual Harassment at workplace is considered to be violation of the rights of particular sex. This leads to insecure and hostile working environment discouraging women's participation in the labour force. In order to put an end to these violence against workers especially women, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act was introduced in 2013. The Supreme Court observed that such a law was to be needed after the Vishaka V. State of Rajasthan case (1997) 6 SCC 241. Article 32 of the constitution along with Article 15, Article 15, Article 19(1) (g) and Article 21 of the Indian Constitution. These laws promoted women safety in the country. The Supreme Court of

India also laid down certain rules and guidelines as per the new laws and declared that the laws were to be treated under Article 141 of the Constitution.

- **Equal Remuneration Act, 1976:**

Equal remuneration Act of 1976 provides equal remuneration for both men and women. In the case: People's Union of Democratic Republic V. Union of India AIR 1982 SC 1473, women were only paid 7 per day whereas men were paid 9.5 per day. The case came before the court and the court held that the duty of the employer is to pay equal remuneration to men and women workers for the same work or work of similar nature. The Remuneration Act also suggests that no discrimination to be made. According to this Act government had the power to appoint authorities to appoint for hearing and deciding claims and complaints.

- Penalties are also charged to the employer in case he fails to follow the Act of 1976 and also if he fails to produce the registered document, makes any discrimination on the basis of sex, gender or caste.
- Equal payment must be given to the workers if refuses to give any information to the inspector then penalty can be charged.

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- **Minimum wages Act 2020:**

Minimum wages act suggest that minimum allowance must be paid to skilled and unskilled workers. The main benefit of Minimum wages act is to boost the economic growth. This means that the government sets a particular amount to the workers which serve as the minimum wage for a living and they have to be paid a certain amount of that.

- **Maternity Benefit Act 2020:**

This specifies that female workers must be given a maximum of 84 days (12 weeks). Out of which 6 days is the post-natal leave for a medical emergency if any?

CONCLUSION AND SUGGESTIONS:

Gender Inequality and harassment at workplace is an important issue because it not only affects the lives of individual men and women but also it affects the economy as a whole. It directly affects the economic development. At workplace employees work for the company or organization under one head. As the employers expect better quality works from the employees, in the same way the employees also expect safe working environment and fair treatment in the place where they work. It is the responsibility of the employer to provide safe and suitable working environment for both men and women. Incase if an employer witnesses any injustice, he/ she has to raise voices against the injustice.

The best way to stop workplace Inequality and harassment is to educate the employees on how to tackle such issues and what actions could be taken in case if they are being harassed or ill-treated. The employees must be trained to take it in a positive way and set a good example to others this could also be done through training the employees and motivating them to overcome such issues. Employees must also be encouraged to raise their voice if they find something wrong.

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