

# A CRITICAL STUDY OF DISCRIMINATION AGAINST WOMEN AND TRANSGENDERS IN THE WORKPLACE

Kumari Kamini Mishra\*

## ABSTRACT

*This article focuses on many issues of gender discrimination that happens almost in our day to day life. Living in our society full of different views and opinions and finding equality is a bit difficult. Gender has been one of the most prominently studied variables within the ethics literature. The gender gap we find in many previous research and studies is that women consistently respond to moral responses more often than men. This article not only focuses on the discrimination between male and female, but also on the discrimination faced by the transgender community of our society, which claims to have developed in the last few decades, but in fact still not considering them a part of our society is an old mentality. The main objective of this article is to actually focus everyone's attention on the growth rate of this important issue and find a solution. Our study suggests that the influence of gender on moral decision-making essentially decreases significantly after social desirability is included in the analysis of the obtained data. This article also focuses on how such discrimination can be removed from every sphere of our society. As far as the workplace is concerned, every gender in our society has to face some kind of bias; Hence this article makes a significant effort to cover this important issue with the best of its research.*

**Keywords:** Gender discrimination, Transgender Community, Workplace, Act.

## Introduction

The first question that arises is that What is gender bias? The answer is that Gender bias is a behavior that refers to the favorability of one gender towards another. Gender bias refers to work in which men are favored more than women. So in order to fully define gender bias, we must first know the difference between gender and sex. Once we use the word "gender", we mean socially constructed expectations and roles for women, men and transgenders as well. Talking about the rights of transgenders brings this issue to the point where difficulties surround themselves more and more. By "sex" we mean the biological differences assigned to women, men and transgender. Globally,

the representation of women in the corporate sector is very low, and therefore the allocation of women decreases significantly as the corporate hierarchy progresses as well as at the societal scale.

As it is well known that women face and experience many hurdles to advance to corporate authority positions, and these barriers necessarily include gender based discrimination such as unintentional gender bias it happens. Many organizations have successfully performed their duty for gender equality by creating family friendly schemes and policies and encouraging women as well as businesses and professional networks but still, unconscious gender bias always affects women in the work environment. Much progress is needed to empower deeply skilled

\* Assistant Professor, Grizzly College of Education, Jhumri telaiya, Dist. Koderma (Jharkhand)

women especially to progress to administrative positions.

### **Types of Gender Discrimination at Workplace**

**Female Aspect:** There are many ways women face gender discrimination in the working environment. Along with the constant ups and downs in social norms that revolve around the treatment of women, both in the work environment and in other contexts, it is essential to understand both open and verifiable ways in which women are treated may face employment discrimination. Essential types of gender discrimination in the work environment include:

1. **Sexism:** Sexism is a type of work environment gender bias that for the most part refers to the extravagant or inappropriate behavior of a representative on the basis of gender. Women may face this through unfair recruitment or termination of rehearsal, pay differentials and many other ways, which are discussed later in this article.

2. **Implicit Bias:** Implicit bias is a less obvious form of gender discrimination that occurs in the form of generalizations about male and female jobs, diminishing women's abilities, or other articulation of gender discrimination.

3. **Sexual Harassment and Ambush:** Sexual harassment and ambush is a guilty type of gender discrimination which mainly includes any spontaneous conduct of a sexual type that always hinders execution. It also greatly affects a women's occupation and creates an unfriendly workplace that can have examples of lewd behavior, from inappropriate sexual jokes to the use of sexual slurs and even non-consensual contact.

4. **Transgender Aspect:** Often transgender employees are often found facing severe discrimination within the workplace that

only supports their identity or gender expression. Such discrimination can include a good spectrum of offensive conduct such as intra-office speculation, false rumors about the identity of a transgender employee. It can even reach to serious sexual or physical assault. The first ever study on transgender rights by the National Human Rights Commission gives a transgender picture of the scenario of transgender within the country.

According to 2011 census data, India's transgender population is 4,90,000 people, of whom only a few make it to gainful employment. However, many efforts are being made to change this. For example, a Chennai-based start-up is working towards social inclusion of the transgender community, but it is geared to accommodate only 42 transgender people in its 14 months of existence. Therefore, it is the need of the hour to specialize in transgender employment at the workplace.

Non-recognition of third gender within the Indian legal framework has resulted in systematic denial of equal protection of law and widespread socio-economic discrimination in society at large, especially at workplaces. Improving the Indian workplace for an inclusive approach towards transgender persons is a difficult task, as it has always been a slow process in India to accommodate social change of this magnitude.

### **Examples of gender discrimination in the workplace**

There are many examples cited below where women face gender discrimination conceivably and illegally, such as:

- **Recruitment/Firing/Promotion:** When a woman tries for a position for which she has a lot of experience, understanding and excellent abilities but still she is not employed in light of the fact This is because a segment

of long-standing clients is progressively happier with men managing.

- **Salary Package:** When a woman moves from the position of Cook Assistant to the position of Gourmet Expert, to a male Culinary Specialist with comparable preparation and work experience, recently hired and then the woman comes to know that the man is paid more than a woman.
- **Occupation classification:** A woman works in an organization for long hours and also for many long periods of overtime. When a woman comes back from her maternity leave, she tells her employer that she will not have the option to put in the extra effort over a longer period of time. Then a woman's status is changed to a lower level and a woman gets less compensation.
- **Benefits:** A woman's medical health policy does not cover her husband's health policy at the workplace where the woman works because it is assumed that she will have her own benefits, while male colleagues are given this protection for their wife.

### **Legal Provisions Related to Gender Discrimination**

Our Indian Constitution ensures equality to all the people inside the country. It additionally prohibits any partisan discrimination by the state on the basis of gender. Equality, which has been ensured, is accessible to all people (not just residents) inside India. However, non-discrimination guarantees are, generally, accessible only when an incident of abuse by the state develops. Remedies are accessible under labor laws. For example, protection against gender-based discrimination in hiring and advancement is ensured by the **Equal Remuneration Act, 1976 (ERA)**.

Women in the informal, unorganized sector are not regularly protected under employment laws as these laws are limited to enterprises employing minimum workers. It is a form of harassment towards disorderly or informal workers. The Unorganized Workers **Social Security Act, 2008**, which has been recently enacted, provides protection to this type of informal workers.

The barriers to a fair equality approach in the management of gender discrimination and indirect victimization of women in the form of word-related isolation are overcome by genuine equality provisions that deal with explicit sexual (insignificant fair) On the contrary, laws and actions allow strategies for women in advertising to have an instructional profile, capacity building, and improve employment prospects. Quota-based reservation for women in government jobs is seen as a strategy for real equality and a way to achieve real equality in employment. In some states, for example, in Andhra Pradesh, 30% of the posts in the legislature (legislature) are set aside for women. The courts have held that certain provisions were introduced for women in the Constitution to prevent or reduce financial backwardness of women and to achieve viable equality.

The proposed Equal Employment Opportunity Commission will be instrumental in managing discrimination in both the public and private sectors. It is an expansive based commission that manages discrimination not only in the workplace but for the most part in the private and public sector as well. Its participation includes elected representatives and judges, with the specification that some of them must be women.

According to the **Transgender Persons Bill 2016**, it prohibits discrimination against a transgender person, including unfair and

unjust treatment or denial of service in terms of employment, education, healthcare, access to public goods and facilities, etc. Also, in 2018, the Supreme Court of India criminalized homosexuality by striking down **Section 377** of the Indian Penal Code with regard to consensual homosexual sex between adults, deeming it unconstitutional. excluded from the category. There are 3 different sections regarding transgender rights in the workplace, which are as follows:

1. Section 3 (b) forbids unfair and unjust treatment of a transgender person in respect of employment or occupation.
2. Section 3 (c) prohibits denial of employment and discriminatory termination from the equivalent.
3. Section 11 makes it an obligation on establishments to comply with the provisions of the law and to supply essential facilities to transgender people.
4. Section 12 creates an obligation on every establishment consisting of 100 persons to appoint a Compliance Officer who will effect complaints in respect of violations of the Act.
5. Section 15 creates a requirement on acceptable government to formulate welfare schemes and programs for transgender persons to facilitate and support their livelihood including vocational education and self-employment.
6. Section 17 provides for the constitution of a National Council (National Council) by the Central Government with a representative from the Department of Labor and Employment and the Department of Legal Affairs, among many others.
7. Section 19 (d) applies to punishment and punishment in respect of an incident when a person causes, injures or endangers the life,

safety, health or welfare of a transgender person or attempts to do any such act which causes abuse of any nature whether physical, sexual, verbal, emotional and/or economic abuse.

By the way, India has supported this point in various conventions which are affecting gender equality such as Convention No. 4, Night Work (Women) Convention, 1919; Convention No. 45, Underground Work (Women), 1935; Convention No. 89, Night Work (Women) Revised, 1948; Convention No. 41, Night Work (Women), 1934; No. 100, Equal Remuneration, 1951 (confirmed: 1958) and Convention No. 111, Discrimination (Employment and Occupation), 1958 (sanction: 1960) have been ratified by India.

### Conclusion

Since the purpose of this article was to draw attention to the present situation of our country regarding gender discrimination, yet we also have to understand that not only the government needs development, we also need development. Looking at the positive side, voices are being raised and heard for equal rights of every gender in our society but the irony is that they are not being heard properly. Each gender is a human after all, and every human being has the right to live a fair life, given the right opportunities. To start a replacement era of equality within the world should help promote clarification for all women, regardless of gender, age or ethnicity. From all the above discussions, gender inequality is clearly an urgent problem in the world. Despite the fact that its quantity is greatly reduced, it is still present and a day many people have to face its consequences and there are many important reasons which result in gender discrimination which cannot be easily resolved. Is. However,

with education and progressive thought of individuals, there are reasons to rely on the way forward to prevent gender inequality. Then, hopefully people can sleep soundly, no matter what gender they are.

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