



WORKPLACE DISCRIMINATION AGAINST MEN

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ABSTRACT

धर्मण नारी पुरुष सदा, समानं कर्म कर्तव्यं।
धन अर्जन में कोई भेद न हो, समाज में सबका समुचित
स्थान हो॥ (Shlok from Mahabharata)

“Both men and women, united in righteousness, must perform their duties. There should be no difference in earning wealth; all should have their rightful place in society.”

This shloka from Mahabharata appropriately breaks the stereotype of men as the “default breadwinners”. For decades, society has been shaped by the long-standing stereotype of males as the main providers, which has influenced expectations in both the personal and professional domains. The key target of this study to explore the workplace discrimination against men and putting the emphasis on gender equity in traditionally female-dominated professions.

It is our social norm that it doesn't matter whether women are earning or not but there is always a burden on men's shoulders to earn, he should be the one who should have responsibility of his family members even if women has the highest degree or more educated than men, still the expectation of being a breadwinner is from the MEN.

But society is changing since last two decades there were many professions which were especially dedicated to women like COOKING or NURSING. The dynamics of gender equity in various sectors are examined in this paper, with particular attention to the obstacles and difficulties men encounter, including gendered expectations, limited leadership prospects, and wage inequities.

To sum up, combating workplace discrimination against males necessitates a multipronged strategy that includes fostering inclusive workplace rules, establishing supportive legislative frameworks, and altering cultural perceptions. This will guarantee that both sexes can prosper in workplaces devoid of discrimination and unfair treatment. With an emphasis on the social, economic, and cultural elements that support the notion that males are the primary breadwinners, this paper examines the ramifications of dispelling this myth.

Keywords: WORKPLACE, HARASSMENT, DISCRIMINATION, STEREOTYPE, BREADWINNERS

INTRODUCTION

- The status of women in India has been subject to many great changes over the past few millennia.
- From equal status with men in ancient times, through the low points of the medieval period.
- In modern India, women have held high offices in India including that of the President, Prime Minister, Speaker of Lok Sabha and Vice Chancellor of reputed university.
- Men and Women are created to complete each other, not to compete with each other.
- Traditionally, men went to work while women were homemakers. Although this is no longer the case in contemporary society.

GENDER DISCRIMINATION

- Gender based discrimination represents the ugly face of the society. As human development moves center-stage in the global development debate, gender equality is emerging as major challenges. Gender Discrimination, though amongst the most subtle, is



one of the most all- pervading forms of the institutionalized deprivation.¹

- Stereotypes that men are harmful to women and children have led to gender-based discrimination against men in the health and education sectors. For comparable offenses, men are typically sentenced to lengthier terms and higher rates of incarceration in the legal system than women.
- When we think of gender discrimination, many of us immediately think of how women are affected by this practice. While it is the case that many women experience gender discrimination in the workplace and deal with complex issues such as pay inequality and maternity discrimination, this doesn't mean it only affects women.²
- Gender is a protected feature under **the Equality Act of 2010**. This implies that a person's gender cannot be the basis for any form of discrimination. This discrimination may manifest as victimization, harassment, direct discrimination, or indirect discrimination.

DIFFERENCE BETWEEN “SEX” AND “GENDER”

- The term ‘Sex’ and ‘Gender’ are often used in the same context but nevertheless they are totally different if we seek its deeper meaning.
- The term ‘Sex’ is applied to those distinctions between men and women which are based on biological differences, such as anatomy, physiology, hormones and chromosomes and in this respect people are male and female.
- The term ‘Gender’ is applied to the cultural aspects of male and female roles, in other words, the behavior, personality and other social attributes that are expected of males and females.
- So, we can say that Sex difference is natural, but gender differences are created by the people according to their own convenience.

¹ Bhatt JN Justice, in “Gender Equality: Turmoil or Triumph”

² <https://www.aspiringtoinclude.com/can-men-be-the-target-of-gender-discrimination-in-the-workplace/>

THE INDIAN CONSTITUTION

The Preamble of Our Constitution promotes EQUALITY³.

EQUALITY BEFORE LAW⁴

The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

PROHIBITION OF DISCRIMINATION ON GROUNDS OF RELIGION, RACE, CASTE, SEX OR PLACE OF BIRTH⁵

(1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

(2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to— (a) access to shops, public restaurants, hotels and places of public entertainment; or (b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.

(3) Nothing in this article shall prevent the State from making any special provision for women and children.

(4) Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.

(5) Nothing in this article or in sub-clause (g) of clause (1) of article 19 shall prevent the State from making any special provision, by law, for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or the Scheduled Tribes in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or

³ Equality Of Status And Of Opportunity

⁴ Article 14 of Indian Constitution

⁵ Article 15 of Indian Constitution



unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30.

EQUALITY OF OPPORTUNITY IN MATTERS OF PUBLIC EMPLOYMENT⁶

(1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.

(3) Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory prior to such employment or appointment.

(4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favor of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.

(4A) Nothing in this article shall prevent the State from making any provision for reservation in matters of promotion, with consequential seniority, to any class or classes of posts in the services under the State in favor of the Scheduled Castes and the Scheduled Tribes which, in the opinion of the State, are not adequately represented in the services under the State.

(4B) Nothing in this article shall prevent the State from considering any unfilled vacancies of a year which are reserved for being filled up in that year in accordance with any provision for reservation made under clause (4) or clause (4A) as a separate class of vacancies to be filled up in any succeeding year or years and such class of vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the

ceiling of fifty per cent reservation on total number of vacancies of that year.

BREAKING THE STEREOTYPE OF MEN AS THE DEFAULT BREADWINNERS

- Men are expected to be the main breadwinners and women are expected to take care of the home for generations due to patriarchal conventions. This misconception has been strengthened in India by social, religious, and cultural norms. But these dynamics have undergone a slow but notable change in the 21st century. Women are breaking down barriers in sectors that have historically been dominated by males, going to college, and joining the workforce in greater numbers. Men are starting to share household duties and, in certain situations, resign from their position as the only provider at the same time.
- Economic, social, and cultural shifts in India are challenging the archetype of men as the primary breadwinners. Men are adopting caregiving and supportive tasks, while women are increasingly taking on breadwinning roles, as seen by real-life situations from around the nation. This change could lead to better family dynamics, gender equality, and a redefining of traditional roles. But maintaining this change requires tackling structural obstacles and societal reluctance. Breaking the notion of the breadwinner would be crucial to creating a more inclusive and equal society as India develops.
- The Supreme Court of India came out with a 'Handbook on Combating Gender Stereotypes' in August 2023 in which it has mandated that the word 'housewife' be replaced by 'homemaker' while writing judgments or filing cases before courts.

ELEMENTS THAT CAUSE CHANGE

The conventional breadwinner stereotype in India has been weakened by a number of causes, including: **Economic Necessity:** Women are increasingly entering the workforce as a result of rising living expenses and inflation, which have made single-

⁶ Article 16 of Indian Constitution



income homes increasingly unsustainable.

Empowerment and Education: Women now have more access to education, which has allowed them to seek occupations and become financially independent.

Globalization and Urbanization: Traditional gender roles have been questioned as a result of exposure to international concepts and urban lifestyles.

Legal and Policy Reforms: Government programs that favor gender equality, like equal pay laws and maternity leave policies, have encouraged women to enter the workforce.

Changing Attitudes: Men are increasingly sharing domestic duties, and younger generations are more receptive to altering gender norms.

CONTRIBUTION OF BOLLYWOOD MOVIES IN THIS ASPECT

KI & KA

Ki & Ka is a romantic comedy that challenges traditional gender roles. In this movie Kia & Kabir establish a relationship where Kabir handles the daily household affairs, while Kia is the main breadwinner.

RIGHTS OF MEN IN WORKPLACE HARASSMENT AND ABUSE CASES

- Abuse and harassment in the workplace are serious problems that have attracted a lot of attention worldwide, especially in light of gender-based violence. Although a lot of the discussion centers on women as victims, men can also experience harassment and abuse at work. In India, the legal system and public attitudes around workplace harassment have largely focused on safeguarding women, frequently ignoring the experiences of men.

- Employees in a variety of professions and businesses are impacted by the widespread problem of workplace harassment. The main piece of law addressing workplace harassment in India is the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act). However, this Act only targets women as victims, making it gender-specific. Although the historical and social background of gender-based violence justifies this focus, it unintentionally ignores the experiences of males who might also be subjected to harassment and abuse at work.
- According to Roberta Chinsky Matuson, “Many people believe that sexual harassment is limited to females”.

DEFINING WORKPLACE⁷

- Any department, organization, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the appropriate Government or the local authority or a government company or a co-operative society;
- Any private sector organization or a private venture, undertaking, enterprise, institution, establishment, society, trust, non-governmental organization, unit or service provider carrying on commercial, professional, vocational, educational, entertainment, industrial, health services or financial activities including production, supply, sale, distribution or service; Hospitals or nursing homes;
- Any sports institute, stadium, sports complex or competition or games venue, whether residential or not used for training, sports or other activities relating thereto;
- Any place visited by the employee arising out of or during the course of employment including transportation by the employer for undertaking such journey;

⁷ Section 2(O) of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013



(vi) A dwelling place or a house;

DEFINING SEXUAL HARASSMENT

- Sexual Harassment is uncivilized, unethical, immoral(i) and a fundamental legal wrong, has been in our society (Globally) since long. The concept of sexual(ii) harassment in India and other countries has been(iii) influenced by the development in US sexual(iv) harassment law.⁸
- Sexual Harassment includes any one or more of the following unwelcome acts or behavior (whether directly or by implication) namely:-⁹
 - (i) physical contact and advances; or
 - (ii) a demand or request for sexual favours; or
 - (iii) making sexually coloured remarks; or
 - (iv) showing pornography; or
 - (v) any other unwelcome physical, verbal or non-verbal conduct of sexual nature;
- Sexual Harassment has been provided under section 354A which was inserted by Criminal Law (Amendment) Act, 2013.¹⁰
- A man committing any of the following acts- ¹¹
 - (i) physical contact and advances involving unwelcome and explicit sexual overtures; or
 - (ii) a demand or request for sexual favours; or
 - (iii) showing pornography against the will of a woman; or
 - (iv) making sexually coloured remarks,

section (1) shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

- A man committing any of the following acts- ¹²
 - physical contact and advances involving unwelcome and explicit sexual overtures; or
 - a demand or request for sexual favours; or
 - showing pornography against the will of a woman; or
 - making sexually coloured remarks,
- shall be guilty of the offence of sexual harassment.

Punishment for sexual harassment - Punishment for sexual harassment may be divided into two parts –

(1) Punishment for (i),(ii) and (iii) (Three Years) -Any man who commits the offence specified in clause (i) or clause (ii) or clause (iii) of sub-section (1) shall be punished with rigorous imprisonment for a term which may extend to three years, or with fine, or with both.

(2) Punishment for (iv) (One Year) -Any man who commits the offence specified in clause (iv) of sub-section (1) shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

- Prevention of Sexual Harassment¹³
 - 1) No woman shall be subjected to sexual harassment at any workplace.
 - 2) The following circumstances, among other circumstances, if it occurs, or is present in relation to or connected with any act or behavior of sexual harassment may amount to sexual harassment :-
 - (i) Implied or explicit promise of preferential treatment in her employment; or
 - (ii) Implied or explicit threat of detrimental treatment in her employment; or
 - (iii) Implied or explicit threat about her present or future employment status; or
 - (iv) Interference with her work or creating an intimidating or offensive or hostile work environment for her; or

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⁸ Article on ‘Historical Background of Sexual Harassment at Workplace’ by Dr. K. Rajani Kumari on Indian Bar Review Vol. XLIV (1) 2017

⁹ Section 2(n) of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

¹⁰ IPC by Krishna Murari Yadav, Assistant Professor, Faculty of Law, University of Delhi, Delhi.

¹¹ Section 354A of Indian Penal Code,1860

¹² Section 75 of Bhartiya Nyaya Sanhita, 2023

¹³ Section 3 of Sexual Harassment of Women at Workplace Act,2013



- (v) Humiliating treatment likely to affect her health or safety.
- All the laws that we have in India which specifically talks about Sexual Harassment are related to women which considers only men as perpetrators.

LAWS WHICH ARE NOT GENDER SPECIFIC¹⁴

1. The Protection of Children from Sexual Offences Act of 2012 that criminalizes sexual harassment of anyone under the age of 18 is gender neutral in terms of perpetrator and the victim.
A person is said to commit sexual harassment upon a child when such person with sexual intent,¹⁵
 - (i) utters any word or makes any sound, or makes any gestures or exhibits any object or part of body with the intention that such word or sound shall be heard, or such gesture or object or part of body shall be seen by the child; or
 - (ii) makes any child exhibit his body or any part of his body so as it is seen by such person or any other person; or
 - (iii) shows any object to a child in any form or media for pornographic purposes; or
 - (iv) repeatedly or constantly follows or watches or contacts a child either directly or through electronic, digital or any other means; or
 - (v) threatens to use, in any form of media, a real or fabricated depiction through electronic, film or digital or any other mode, of any part of the body of the child or the involvement of the child in a sexual act; or
 - (vi) entices a child for pornographic purposes or gives gratification therefor.
2. University Grants Commission (Prevention, Prohibition and Redressal of Sexual Harassment of Women Employees and Students in Higher Educational Institutions) Regulations, 2015 – a sexual harassment prevention law which applies to all colleges, universities and deemed to be universities- is also gender-neutral.
3. Indian labour laws, such as the Industrial Employment (Standing Orders) Act, 1946, and the Industrial

Disputes Act, 1947, provide general protections against workplace harassment and abuse. These laws apply to all employees, regardless of gender, and can be used to address issues such as bullying, verbal abuse, and physical assault. However, these laws are often underutilized in cases of harassment, particularly when the victim is male.

SUGGESTIONS TO PROMOTE GENDER EQUALITY IN WORKPLACE

Gender-Neutral Legislation

There is a need for gender-neutral legislation that addresses workplace harassment and abuse, ensuring that the rights of all individuals are protected. Such legislation should provide clear guidelines for the prevention, prohibition, and redressal of harassment, regardless of the gender of the victim or perpetrator.

Awareness Campaigns

Awareness campaigns should be conducted to educate men about their rights and the legal remedies available to them in cases of workplace harassment. These campaigns should also aim to challenge gender stereotypes and encourage men to report harassment without fear of stigma.

Institutional Reforms

Organizations should implement gender-neutral policies and procedures to address workplace harassment. This includes the establishment of dedicated mechanisms to handle complaints from men and the training of HR personnel to handle such cases sensitively and effectively.

Encouraging Open Dialogue

By fostering transparent communication, organization allows employees to raise their concerns about gender

¹⁴ <https://elearnposh.com/major-laws-against-harassment-of-men-in-india/amp/>

¹⁵ Section 11 of Protection of Children from Sexual Offences Act, 2012



inequality and potentially prevent it altogether. Some effective methods of collecting employee feedback include one-on-one meetings, interviews and anonymous surveys.

Reporting Mechanisms and Support Systems

Organizations with clear and formal reporting mechanisms for gender discrimination are better equipped to detect and address it. Providing an easy and confidential way for employees to notify or receive support ensures that incidents do not go unreported.

Recognizing Subtle forms of Discrimination

Not every instance of gender discrimination in the workplace is overt. Sometimes, an employee's unconscious bias can cause them to commit subtle discriminatory acts. Organization can improve awareness of gender prejudice and help employees understand their biases through workshops and training programs.

CONCLUSION

- The Country is still at a cross-road.
- There is an annual report of Supreme Court of India which is known as 'Gender Sensitisation and Internal Complaints Committee (GSICC)' in which Committee tries to sensitise the staff regarding gender issues and address instances of Sexual Harassment within the precincts of the Supreme Court. It have been formulated to address issues related to gender discrimination, harassment, and inequality.
- International health expert from India, Dr Edmond Fernandes stated that India needs to urgently create

gender neutral laws and deliver speedy justice to save Indian families from being decimated.¹⁶

- In 2024, the Statue of Our Honorable Supreme Court named 'LADY JUSTICE' had been changed, now it no longer has blindfold in her eyes and symbolizes a justice system that is open-minded and sees everyone equally.
- Lord Woolf (Chief Justice of England) said that "Like old clocks, our judicial institutions need to be oiled, wound up and set to true time".¹⁷
- 74% of the SDG targets won't be achieved without gender equality.¹⁸
- To be an effective instrument of Social Change, it is necessary to update all laws, as per the societal requirements. We are strongly of the view that reform which is imposed upon people through a law can not be effective. Only education, knowledge and human values can bring about the desired change.¹⁹

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¹⁷ Chapter-1 Law as an Instrument of Social Change Book by Malik & Raval 'Law & Social Transformation in India'

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