
EMPLOYMENT AND WORKPLACE EQUALITY FOR THE SILENCED AND UNHEARD WITH SPECIAL REFERENCE TO TRANSGENDERS

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ABSTRACT

In today's world, where conversations about equality and human rights are increasingly at the forefront, social inequality remains deeply rooted. Discrimination continues to occur based on factors such as caste, race, religion, gender, and more. Historically, marginalized groups—including women, individuals from lower castes, and transgender persons—have endured extensive injustice and exclusion. Job opportunities and fairness in the workplace are vital measures of an inclusive society and the upholding of human rights. Transgender individuals, among the most overlooked and voiceless groups in this context, continue to face widespread systemic neglect, discrimination, and socio-economic marginalization. Although there has been global progress in acknowledging transgender rights, the employment sector and workplace settings still reflect deep-rooted bias, restricted access, and insufficient legal safeguards. While progress has been made and these once-silenced voices are gradually gaining recognition, rights, and access to opportunities, the journey toward true equality is far from complete.

Keywords: Women, lower castes or SCs/STs, Transgenders, workplace, discrimination

Introduction:

In the present era, where the discussions around equality and human rights are more prominent than ever, inequality in human societies continues to prevail. The discrimination may be due to caste, race, religion, gender etc. of an individual. During past times, the World has witnessed a significant amount of discrimination inflicted on the marginalized people which includes women, lower caste individuals, transgenders. However, these silenced and unheard people are now slowly getting their rights and equal opportunities, but still there is a long way to go.

To achieve workplace equality, it must be ensured that people are given equal opportunities, equal pay, and equal treatment at workplace. Inequalities at workplaces can inflict a significant hindrance in the development of country. This article addresses the prevalent inequalities, social injustices against the silenced and unheard people of our society. Further, this article aims to provide solutions/suggestions to tackle them.

Discrimination and inequalities faced by Transgenders:

Transgenders face a significant challenge to find adequate employment opportunities. Despite a gradual change in societal approach towards transgenders, they usually find themselves isolated in the battle of prejudices, discrimination faced by them.

A Transgender is an individual whose gender is not identical with the gender assigned to that individual at birth and also includes trans-man or trans-woman (whether or not such individual has undergone any sex reassignment surgery or laser therapy or hormone therapy or such other therapy), individual with intersex disparities, genderqueer and individual having such socio-cultural identities as jogta, hijra, kinner, and aravani.¹

Gender stereotypes play a huge role in creating hindrances in employment opportunities for transgenders. Workplaces often refuse to hire them; they are more prone to physical and sexual harassment at workplaces. Most of the workplaces have inherent biased approach towards transgenders when it comes to employment of transgender people.

According to the 2011 population census, the total population of transgenders was 4.88 lakh. But only a small fraction of them receives employment. As per the 2018 study of National

¹ The Transgender Persons (Protection of Rights) Act, 2019, Section 2(k), Act No. 40, Acts of Parliament, 2019

Human Rights Commission (NHRC), 96 % of the transgenders are denied employment and are left with no choice but to take up less paying work or undignified jobs for their survival and livelihood such as sex work, begging, badhais. According to the first-ever study on transgender rights, around 92 % of them are deprived of their right to indulge in any kind of economic activity in the nation, with even the eligible ones denied jobs.²

Prejudice and discrimination faced by women at workplaces:

Indian society was largely patriarchal in the past. Even in present times, not much has changed. The Indian society still carries gender bias, patriarchal mindset when it comes to employment of women at workplaces. By and large, women have to face multiple obstacles in getting adequate employment opportunities which includes equal pay and fair treatment at workplaces.

The Indian Constitution has enshrined the concept of equality under Articles 14 and Article 15. These articles prohibit discrimination on the basis of race, religion, sex, caste or place of birth or any of them. The citizens of India also have the fundamental right to practice any profession, or to do any business, trade, occupation.³ This right pre-supposes the existence of an enabling atmosphere for women, which is safe, equitable, and secure in every condition. Article 21 of the Constitution of India provides for the right to life and personal liberty. This right also includes the right to live with dignity. In case of women, it means workplaces must treat women with due respect, dignity and decency at workplaces.⁴

As per the Oxfam India's 'India Discrimination Report 2022'⁵ gender discrimination is the cause of 98% of employment gap between men and women in India. The report highlighted that Indian women despite their same work experience and educational qualifications as men will be discriminated due to employers' and societal prejudices.⁶

² Outlook, <https://www.outlookindia.com/national/transgender-and-unemployment-in-india-news-182617#:~:text=The%20first%20Dever%20study%20on,even%20qualified%20ones%20refused%20jobs>. (last visited Apr. 14, 2025)

³ The Constitution of India, 1950, Article 19(1)(g)

⁴ The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Statement of Objects and Reasons Pt. 2, Act No. 14, Acts of Parliament, 2013

⁵ OXFAM India, <https://www.oxfamindia.org/press-release/india-discrimination-report-women-india-earn-less-and-get-fewer-jobs#:~:text=The%20academically%20recognised%20statistical%20model,of%20education%20and%20work%20experience>. , (last visited Apr. 15, 2025)

⁶ THE TIMES OF INDIA, <https://timesofindia.indiatimes.com/business/india-business/gender-discrimination-reason-for-98-pc-of-employment-gap-between-men-and-women-oxfam-report/articleshow/94219836.cms> , (last visited Apr. 15, 2025)

Prejudice and discrimination faced by individuals belonging to lower castes:

Caste system has been in existence in India since thousands of years. The Dalits who were regarded as ‘untouchables’ by upper caste societies, faced countless atrocities, inequalities, discrimination, and prejudices. Even in present times, the situation has not changed much. As per the 2011 Census, there are around 20 crore Dalits living in India.⁷

As per the Oxfam India Report, the Adivasis (Tribal People) and Dalits are still facing discrimination and prejudices in having access to employment opportunities, agricultural credit, and livelihoods. The earnings for persons belonging to Scheduled Tribes (STs) or Scheduled Castes (SCs) in urban areas who are employed on a regular basis stood INR 15,312 as compared to INR 20,346 for individuals who belongs to Unreserved Category. hence, this makes it clear that the unreserved category is earning 33% more than the marginalized communities i.e., the Scheduled Tribes (STs) or Scheduled Castes (SCs).

Positive trend:

A lot of positive steps have been taken by the Government of India from time to time. The Parliament of India has passed various legislations for the upliftment of the marginalized people and to ensure workplace equality for them.

TRANSGENDERS:

The Supreme Court of India, on dated 15th April 2014, recognized that transgender individuals are different from binary individuals and declared them as the third gender under the Constitution of India.⁸

For Transgenders, the Parliament of India enacted The Transgender Persons (Protection of Rights) Act, 2019. It seeks to remove the abuse, discrimination, or prejudices faced by the transgender community. Section 3 of the Act provides that no individual or establishment shall discriminate against a transgender by giving him any unfair treatment in occupation or employment. Further, no individual or establishment shall deny the occupation or employment

⁷ Drishti IAS, <https://www.drishtiias.com/daily-updates/daily-news-analysis/caste-based-discrimination> , (last visited Apr. 16, 2025)

⁸ National Legal Services Authority v. Union of India and others, (2014) SCC 438

opportunity to the transgender person.

The Act also provides for the obligations of persons or establishments related to non-discrimination in occupation or employment.⁹ Further, the Act also obligates the establishments to comply with the provisions stipulated in the Act and to provide all such facilities prescribed in the Act.¹⁰

WOMEN:

Over the years, several measures have been taken by the Government to promote gender equality and protect the interests of women. After the Apex Court of India issued guidelines¹¹ and held that sexual harassment at workplace is a kind of discrimination or prejudice against women and acknowledged that it violated the fundamental right to equality, the Parliament of India in the year 2013, enacted POSH Act, 2013 (The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013). The Act prohibits the sexual harassment of women at workplaces and mentions the circumstances which would amount to sexual harassment.¹² The Act also provides for the duties of the employer which includes providing a safe and secure working atmosphere at the workplace for women.¹³

Moreover, The Equal Remuneration Act, 1976 provides for the equal pay for the same work done by men and women. As per this Act, it is the obligation of the employer to pay same remuneration to men and women workers for same kind of work or work of similar nature.¹⁴ Also, the Act also provides that no discrimination shall be done while recruiting male and female workers.¹⁵

LOWER CASTE or SCs/STs:

The Government of India has taken significant steps to ensure adequate representation of these marginalized communities by providing them reservation of seats in educational and

⁹ The Transgender Persons (Protection of Rights) Act, 2019, Section 9, Act No. 40, Acts of Parliament, 2019

¹⁰ The Transgender Persons (Protection of Rights) Act, 2019, Section 10, Act No. 40, Acts of Parliament, 2019

¹¹ Vishaka v. State of Rajasthan, (1997) 7 SCC 323

¹² The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Section 3, Act No. 14, Acts of Parliament, 2013

¹³ The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Section 19, Act No. 14, Acts of Parliament, 2013

¹⁴ The Equal Remuneration Act, 1976, Section 4, Act No. 25, Acts of Parliament, 1976

¹⁵ The Equal Remuneration Act, 1976, Section 5, Act No. 25, Acts of Parliament, 1976

government sectors, launching various welfare schemes, scholarships etc. The Parliament has passed The Scheduled Castes and The Scheduled Tribes (Prevention of Atrocities) Act, 1989 to stop the atrocities against the persons belonging to the SCs and the STs community.

Conclusion:

As the Indian economy is growing in a positive way, there is a need of collaborative efforts from the establishments, the government, society, and Non-Governmental Organizations (NGOs) for promoting workplace equality. The Indian Government has enacted several legislations for the benefit of the marginalized communities. These legislations include:

- (a) The Equal Remuneration Act, 1976.
- (b) The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.
- (c) The Transgender Persons (Protection of Rights) Act, 2019.

It is now the duty of private establishments to do their duty sincerely by removing all the gender biases, stereotypes or prejudices which causes hindrances in creating workplace equality. Discrimination is the worst phenomenon which can significantly affect the growth of our nation by restricting confidence, and creative ideas. It also leads to depression and wasting of potential talent and skill set of individuals.

Suggestions:

The pursuit of an inclusive and equitable workplace must be underpinned by more than intentions alone; it calls for a methodical, long-term, and diversified approach. To create an inclusive workplace, a multifaceted approach needs to be adopted. To promote workplace equality, following steps can be taken:

- (1) formation of inclusive policies: A truly inclusive workplace begins with the establishment of clear, strong, and transparent policies. It is essential for organizations to design and enforce comprehensive guidelines that explicitly reject discrimination in all its forms—whether related to gender identity, caste, religion, sexual orientation, or disability. These policies must clearly outline unacceptable conduct, establish effective

grievance redressal procedures, and specify the consequences of any violations. Moreover, to ensure their effectiveness, such policies should be actively communicated to all employees and integrated into the organization's overall code of conduct. A solid policy framework not only provides direction but also reinforces the organization's unwavering commitment to equality and non-discrimination.

- (2) Regular awareness and sensitization programs: Ongoing education is among the most powerful tools for cultivating an inclusive workplace culture. Organizations should regularly conduct compulsory training and sensitization programs aimed at increasing awareness around gender diversity, unconscious bias, and the significance of using inclusive language and respectful behavior. The establishments should organize training sessions on regular intervals for their employees to make them aware about gender diversity and to motivate them to treat everyone with respect, dignity by giving adequate regard to the people. To ensure relevance and effectiveness, these sessions should be developed in partnership with individuals from marginalized communities. Such initiatives play a key role in building empathy, challenging stereotypes, and fostering an environment where every employee feels respected, valued, and seen.
- (3) Encouraging leadership and volunteering opportunities: Representation plays a crucial role in building an inclusive workplace. Organizations should make a conscious effort to support individuals from marginalized groups, including transgender persons, in stepping into leadership roles and engaging in mentoring or volunteer initiatives. Offering such opportunities fosters personal growth, builds confidence, and actively challenges existing stereotypes. Moreover, programs like targeted leadership development and employee resource groups can empower underrepresented staff, enhance their visibility, and ensure their involvement in important organizational decisions.
- (4) Implementation of a feedback and evaluation mechanism: To ensure the success of any inclusion initiative, it is essential to regularly evaluate its effectiveness. Organizations should establish a well-structured and confidential feedback system that enables employees to express their views, raise concerns, and offer suggestions on diversity and inclusion efforts. Tools such as anonymous surveys, focus group discussions, and suggestion boxes can facilitate open communication. The insights gathered should be

carefully reviewed to improve existing strategies and inform the development of new initiatives. Openly sharing how feedback has been acted upon fosters transparency, strengthens employee trust, and reaffirms the organization's dedication to equity and inclusion.

- (5) Provision of inclusive infrastructure and facilities: The physical setup of a workplace is equally important in fostering an inclusive environment. Organizations should ensure that their facilities accommodate the diverse needs of all employees. This involves offering separate restrooms for men and women, along with gender-neutral options for transgender and non-binary individuals. Inclusive infrastructure serves as a tangible reflection of an organization's dedication to equality, dignity, and respect for every individual.

Through sincere and sustained efforts, and by adopting a collaborative will, the workplaces can create a space where every person, regardless of their gender, caste, religion etc., is valued and provided equal opportunity to grow.