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# Employment Discrimination Laws in India

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## ABSTRACT

*This article reviews the research on employment discrimination in organizations. It focuses on discrimination based on various factors like gender, caste, religion, disability, age, marital status, sexual orientation, national origin, language, and pregnancy. The article examines the key features and scope of these laws, which address the importance of these laws in establishing a more inclusive work environment and emphasizes the need for awareness, enforcement, and collaborative efforts to combat employment discrimination effectively. To establish a harassment- and discrimination-free workplace, collaboration among companies, workers, and the government is crucial, as implementation of legal protections may face challenges such as employee unawareness, fear of retaliation, and inconsistent enforcement. This article provides an overview of employment discrimination laws in India, highlighting their significance and key provisions.*

**Keywords:** *Discrimination, Harassment, Employment, Constitution, Workplace.*

## I. INTRODUCTION

Discrimination may be a term you are already familiar with. But are you aware of its true significance? And are you aware of how it relates to your employment?

To discriminate against someone is to treat them differently or unfavourably based on certain factors. You might be subjected to discrimination while you are at school, at college, at work, or in a public location like a mall or subway station. You can be victimized by school companions, instructors, mentors, associates, chiefs, or entrepreneurs.

Unfair or unequal treatment of a person or group at the workplace for specific reasons is known as workplace discrimination. Sex, gender, identity, age, disability, religious beliefs, ethnicity, race, and other characteristics are among these grounds or characteristics.

Discrimination in the workplace can occur between co-workers, between employers and employees, or even during the hiring process. Discrimination in the workplace is rarely motivated by intent. Discrimination, whether unconscious or conscious, is unequal and against

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the law everywhere.<sup>3</sup>

Discrimination on the basis of gender is a prevalent practice that has been followed in our country, India, for the past decades, as we have seen very commonly. It has been a part in every woman's life an older phenomenon of showing the dominance of men in society. The discrimination is generally related to the wages given. Men are always paid higher wages as compared to women. They both work for the same hours, but due to gender discrimination, men are paid higher than women.

## II. HISTORY

In India, employment discrimination laws have had a long and complicated history. In the early 20th century, the first laws to address employment discrimination were enacted, but their scope and enforcement were limited. Employment discrimination laws did not become truly comprehensive until the 1950 Indian Constitution.

Discrimination based on religion, race, caste, sex, or place of birth is against the Constitution of India. Equal pay for equal work is another guarantee. The courts have interpreted these provisions to say that discrimination in employment is illegal.

The following are some significant occurrences in India's history of employment discrimination laws:

- 1950: Discrimination on the basis of religion, race, caste, sex, or place of birth is outlawed by the Indian Constitution.
- 1976: The Equal Remuneration Act, of 1976 is passed, outlawing pay discrimination based on sex.
- 1989: The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 prohibits discrimination against people belonging to Scheduled Castes and Scheduled Tribes.
- The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 is enacted to prohibit and prevent sexual harassment of women in the workplace.
- 2016: The Rights of Persons with Disabilities Act, 2016 is passed, prohibiting discrimination against people with disabilities.

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<sup>3</sup> *Workplace discrimination: What is it? how can it be prevented?* (no date) *Workplace Discrimination – What is it? How can it be prevented?* Available at: <https://www.indialawoffices.com/legal-articles/workplace-discrimination-how-to-prevent-it> (Accessed: 30 July 2023).

These regulations have assisted with making the working environment all the more fair and even-handed for all representatives in India. However, there is still employment discrimination, and it is essential for employees to be aware of their rights and ready to take action in the event of discrimination.

### III. TYPES OF EMPLOYMENT IN INDIA

- **Gender Discrimination:** Treating individuals differently or unfairly based on their gender, such as in hiring, promotions, pay, or job assignments.
- **Racial Discrimination:** Discrimination based on a person's race or ethnicity, leading to differential treatment in various aspects of employment, including recruitment, hiring, promotions, and work conditions.
- **Age Discrimination:** Treating individuals unfavourably or unfairly due to their age, typically targeting older workers or younger individuals.
- **Disability Discrimination:** Discrimination against individuals with disabilities, including failure to provide reasonable accommodations, unequal opportunities, or wrongful termination based on disability.

#### **Some of the most important employment discrimination laws include:**

- **The Constitution of India:** The Indian Constitution prohibits discrimination on various grounds, including race, sex, religion, caste, and gender. It guarantees the right to equality and non-discrimination under Article 14 and provides affirmative action measures to promote equality under Articles 15 and 16. Article 16 mandates equal opportunity in matters of public employment.<sup>4</sup>
- **The Equal Remuneration Act (1976):** This act aims to ensure equal pay for equal work for men and women. It prohibits discrimination in wages based on gender and promotes gender equality in the workplace.
- **In the *State of Punjab & Ors. vs. Jagjit Singh & Ors*** -The Supreme Court said that coworkers who do the same work as them cannot be paid less than other coworkers who do the same or similar work. It was deemed to be “oppressive, suppressive, and coercive” this act of pay disparity. Therefore, every employee has the right to equal pay for equal work, regardless of whether they are employed on a permanent or temporary

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<sup>4</sup> *MP Jain - Indian Constitutional Law* (no date) *Scribd*. Available at: <https://www.scribd.com/document/487582321/Mp-Jain-Indian-Constitutional-Law#> (Accessed: 30 July 2023).

basis.<sup>5</sup>

- The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act (2013): This act provides protection against sexual harassment of women at workplaces. It mandates the establishment of Internal Complaints Committees and provides a framework for addressing complaints of sexual harassment.
- The Vishaka and others vs. State of Rajasthan case introduced guidelines to prevent and address complaints of workplace sexual harassment against women. These guidelines placed the responsibility on the employer to ensure a safe and supportive environment for women.<sup>6</sup>
- The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (1989) protects against discrimination and atrocities faced by individuals from Scheduled Castes and Scheduled Tribes. It ensures equal opportunities and safeguards their rights in employment.
- The Maternity Benefit Act (1961): This act provides maternity benefits to women employees, including paid leave for a specified period before and after childbirth. It aims to protect the health and well-being of women workers during pregnancy and motherhood.
- The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act (1995): This act aims to promote equal opportunities, protect rights, and ensure full participation of persons with disabilities in employment. It prohibits discrimination against persons with disabilities and mandates affirmative action measures.

#### IV. ROLE OF EEOC

The Equal Employment Opportunity Commission (EEOC) upholds these regulations and has the authority to file lawsuits against organizations that fail to address workplace issues faced by diverse employees. The laws enforced by the EEOC protect individuals from employment discrimination based on race, colour, religion, sex (including pregnancy, gender identity, and sexual orientation), national origin, disability, age (40 or older), or genetic information. The Equal Employment Opportunity Commission (EEOC) concluded that harassment, a form

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<sup>5</sup> Supra Note 3.

<sup>6</sup> Nikunj Keyal (no date) *Sexual Harassment of Women at Workplace*, *Legalservicesindia*. Available at: <https://www.legalservicesindia.com/article/2114/Sexual-Harassment-of-Women-at-Workplace.html> (Accessed: 30 July 2023).

of discrimination, is more likely to happen in the workplace with a lack of diversity.

## **V. ROLE OF DIVERSITY IN THE WORKPLACE**

There is a strong correlation between employment discrimination and diversity. Discrimination based on racial, gender, or age factors, as well as disability or national origin, harms diversity and inclusion by creating an environment where certain people are excluded or unfairly treated because of their characteristics. On the other hand, diversity actively fights discrimination and promotes inclusivity by embracing diversity. By embracing diversity, you are embracing different perspectives, different backgrounds, and different talents. When you embrace diversity, you are creating a culture in which everyone is respected, equal opportunities exist, and everyone is accepted. When you address discrimination and embrace diversity, you unlock the potential of your workforce. This leads to increased creativity, innovation and problem-solving. It also increases employee engagement and morale, as well as overall organizational success.

## **VI. CONCLUSION**

Employment discrimination continues to be a major issue in India, affecting people on the basis of caste, sex, religion, disability, etc. Fortunately, India has put in place various legal safeguards and measures to provide protection and redress. While legal protections exist to address workplace discrimination, ensuring their effective implementation can be challenging. To establish a workplace environment free from harassment and discrimination it is important for companies, workers, and the government to work together because implementing legal protections against harassment and discrimination can be difficult. Some challenges include employees not knowing their rights, being afraid of retaliation, and the laws not being enforced consistently. By collaborating, we can overcome these challenges and create a safer and fairer workplace for everyone. By strengthening these measures and raising awareness, inclusiveness, and equality we can create an equitable and diverse workforce for the benefit of individuals and society at large. Dealing effectively with employment discrimination is essential for promoting workplace diversity and building a more equal and prosperous society.

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## VII. REFERENCES

- *Workplace discrimination: What is it? how can it be prevented?* (no date) *Workplace Discrimination – What is it? How can it be prevented?* Available at: <https://www.indialawoffices.com/legal-articles/workplace-discrimination-how-to-prevent-it> (Accessed: 30 July 2023).
- Ritchie, J.N.& A. and Staff in the Bureau of Competition & Office of Technology (2021) *Protections against discrimination and other prohibited practices, Federal Trade Commission*. Available at: <https://www.ftc.gov/policy-notices/no-fear-act/protections-against-discrimination> (Accessed: 30 July 2023).
- IndiaFilings (2019) *Employee discrimination laws in India, IndiaFilings*. Available at: <https://www.indiafilings.com/learn/employee-discrimination-laws-india/> (Accessed: 30 July 2023).
- *India's Caste System: Brahmins, Kshatriyas, Vaishyas and Sudras* (no date) *Asia Highlights*. Available at: <https://www.asiahighlights.com/india/caste-system> (Accessed: 30 July 2023).
- Nikunj Keyal (no date) *Sexual Harassment of Women at Workplace, Legalservicesindia*. Available at: <https://www.legalservicesindia.com/article/2114/Sexual-Harassment-of-Women-at-Workplace.html> (Accessed: 30 July 2023).
- Dogra, H. (2023) *Legal protections against workplace discrimination and harassment in India, TaxGuru*. Available at: <https://taxguru.in/corporate-law/legal-protections-workplace-discrimination-harassment-india.html> (Accessed: 30 July 2023).
- IndiaFilings (2019a) *Employee discrimination laws in India, IndiaFilings*. Available at: <https://www.indiafilings.com/learn/employee-discrimination-laws-india/> (Accessed: 30 July 2023).
- Bag, A. (2019) *Types of discrimination in workplace and their legal protection in India, iPleaders*. Available at: <https://blog.iplayers.in/types-of-discrimination-in-workplace-and-their-legal-protection-in-india/> (Accessed: 30 July 2023).
- *Discrimination in the workplace: A complete overview* (no date) *BetterUp*. Available at: <https://www.betterup.com/blog/discrimination-in-workplace> (Accessed: 30 July 2023).

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