

GENDER INEQUALITY AT THE WORKPLACE IN INDIA: A HUMAN RIGHTS PERSPECTIVE AND CRITICAL ANALYSIS

*Prof. (Dr.) Sanjeet Singh Head, Department of Economics
Central University of Himachal Pradesh, India*

*Dr. Sanjeev Kumar, Post-Doctoral Fellow (ICSSR 2024-25) Central University
of Himachal Pradesh, India (Corresponding Author)*

Abstract

Gender inequality at the workplace continues to remain a bane for the Indian society despite multiple concrete legal and policy tier leap in India. They include issues such as the wage gap, underrepresentation of women in many professions and industries, the glass ceiling, sexual harassment, and exclusion from leadership roles. This research paper analyzes gender inequality in workforce in India in light of human rights violation, with emphasis on gender-based discrimination from legal, constitutional and policy perspectives. It examines the important international human rights documents including the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Universal Declaration of Human Rights (UDHR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR), and how these have informed India's commitment on gender equality. There are progressive laws on the books such as the POSH Act, 2013, the Maternity Benefit Act, 2017 and the Code on Wages 2019; however the challenges lie in enforcement, compliance and implementation. Imperfect societal standards, culturally biased approaches, and insufficient grievance redressal agreements strengthen workplace bias against women. It identifies the gaps in laws that already exist, the corporate sector pushback against implementing gender-specific policy, and the social and cultural barriers that women face in entering the workforce. This study proposes such recommendations and policy suggestions, namely, strengthening enforcement mechanisms, promotion of corporate diversity policies, gender sensitization programs, wage gap bridging and female leadership representation. Through an integrated and participatory approach, India can forge a more just and equal work force, one that maps with its Constitution and international obligations. Promoting gender equality is not only a promise of human rights, but also the key to sustainable development and economic growth.

Keywords: *Human Rights, gender justice, inequality, gender disparities, Legal rights*

1. INTRODUCTION

1.1 Background and Significance of Gender Inequality in India's Workplace:

Gender inequality in the workplace continues to be a pressing issue in India despite arrangements of minimal legal frameworks and policy measures seeking to foster equality. There is a huge gender gap,

especially in terms of employment, salary, and representation in leadership positions among the Indian workforce. Traditionally, patriarchal social structures, cultural norms, and gender stereotypes have positioned women as subordinates, preventing them from participating in the formal labor market (Sharma & Gupta, 2021). Although there has been economic development in India and a push for women's empowerment, women continue to face gender stereotypes that restrict them from advancing in the workplace.

The labor force participation rate (LFPR) of women in India remains one of the lowest globally. According to the International Labour Organization (ILO), India's female LFPR declined from 30.3% in 1990 to approximately 19% in 2021, reflecting deep-rooted socio-economic barriers (ILO, 2021). Workplace discrimination manifests in multiple ways, including unequal pay, lack of promotional opportunities, occupational segregation, and sexual harassment. Women are often underrepresented in senior management positions, facing the proverbial "glass ceiling," which restricts their career advancement.

Legal measures such as the Equal Remuneration Act, 1976, and the Maternity Benefit (Amendment) Act, 2017, have sought to address workplace inequality. However, enforcement remains a challenge due to structural barriers, corporate resistance, and socio-cultural attitudes (Mukherjee, 2022). The issue of gender discrimination is not merely an economic concern but a fundamental human rights issue that requires a rights-based approach for effective resolution.

1.2 Definition of Gender Inequality from a Human Rights Perspective:

From a human rights perspective, gender inequality at the workplace constitutes a violation of fundamental rights enshrined in both national and international legal frameworks (Simon, 2025). The Universal Declaration of Human Rights (UDHR) recognizes the right to equal pay for equal work and non-discrimination based on gender (United Nations, 1948). Similarly, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), to which India is a signatory, mandates equal opportunities for women in employment, access to resources, and workplace protections (United Nations, 1979).

Article 14 of the Indian Constitution ensures equality before the law and prohibits discrimination on the ground of gender (Article 15). Furthermore, public employment is provided under Article 16 and Article 39(d), which directs Equal Pay for Equal Work. Although every provision of the constitution stands for equal rights, but still discrimination between genders is very high, as the enforcement mechanism is weak and cultural beliefs regarding gender roles are stronger.

When it comes to a human rights-based approach to workplace equality, understanding compliance is only part of the picture. Gender inequity stems from broader social and economic factors, and a human rights-based approach requires looking outside the law at the factors that perpetuate inequity. It calls

for affirmative state action, not just on paper but also at the level of the economy and society, to usher in real equality indeed, far more than a mere equality on paper. That makes workplace gender inequality not only an economic, but also a justice and human dignity problem.

1.3 Research Objectives and Scope:

This research aims to critically analyze gender inequality in Indian workplaces from a human rights perspective, identifying systemic barriers and legal shortcomings that perpetuate discrimination. The primary objectives of this study include:

1. Examining the extent and nature of gender inequality in Indian workplaces, focusing on wage gaps, occupational segregation, leadership representation, and workplace harassment.
2. Evaluating the effectiveness of existing legal frameworks, such as the Equal Remuneration Act, the Maternity Benefit Act, and the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 (POSH Act).
3. Exploring the role of human rights frameworks, including international conventions like CEDAW and their impact on India's gender equality policies.
4. Identifying socio-cultural and organizational barriers that hinder women's professional advancement and economic participation.
5. Providing policy recommendations to strengthen gender-inclusive workplace policies and enhance enforcement mechanisms for gender equality laws.

1.4 Methodology:

The nature of this research is qualitative and doctrinal, focusing on gender inequality in the workplace through the lens of law and human rights. The study adopts a secondary data-based approach, relying on a wide range of sources including academic journals, governmental and administrative reports, international conventions, and judicial decisions (case law). The research critically evaluates the strengths and weaknesses of existing legal frameworks and policy measures aimed at promoting gender equality in the workplace.

Given the doctrinal nature of the research, no primary data collection or fieldwork was conducted. Instead, legal analysis tools such as comparative and analytical methods were applied to interpret statutes, case law, and human rights instruments. This paper aims to contribute to academic discourse on workplace gender inequality in India and advocates for necessary legal and policy reforms from a human rights perspective.

2. CONCEPTUAL FRAMEWORK OF GENDER INEQUALITY

2.1 Understanding Gender Inequality: Theoretical Perspectives:

Gender inequality is a complex social phenomenon that has been viewed through numerous theoretical frames. Theoretical lenses enable us to visualize the systemic and cultural

origins of discrimination, especially at a workplace level. There are a few major theories around why gender gaps in total labor force participation, leadership in the workforce, and overall socio-economic participation of women are still prevalent to this day.

2.2 Liberal Feminism and Workplace Equality:

Liberal feminism believes that the root cause behind gender inequality is discriminatory laws and policies, along with institutional biases, that prevent women from having equal satisfaction in education, employment, and politics (Tong, 2019). Such thinking calls for legal and policy changes that short-circuit equal opportunity and equal pay within the workplace. Indian liberal feminists demand legislation in the form of the Equal Remuneration Act (1976) and the Maternity Benefit (Amendment) Act (2017), both of which are geared towards closing gender gaps in the areas of employment and wages. Nevertheless, there exist legal constitutional provisions to this effect, but gendered occupational segregation and wage disparity endures, and there is a need to strengthen the mechanism of implementation (Srivastava, 2021).

2.3 Marxist and Socialist Feminism: Economic Structures and Class Dynamics:

For Marxist feminist theory, gender oppression is rooted in capitalist social relations that exploit women through low-wage and unpaid labor (Engels 1884). A vast majority of employed women in India are still working in the informal sector with lower wages, no security, and fewer benefits (Deshpande, 2020). Socialist feminists believe that gender-based economic relations are shaped not only by repression by men but also by discrimination faced by the middle and lower classes in general, hence they call for radical economic restructuring such as wage equality and social security measures for women employees.

2.4 Intersectionality and Multiple Layers of Discrimination:

The intersectionality framework, introduced by Kimberlé Crenshaw (1989), highlights how gender inequality intersects with other forms of oppression, such as caste, religion, and socio-economic status. In India, Dalit and Adivasi women face compounded discrimination in workplaces, experiencing both gender- and caste-based exclusion (Rege, 2018). Policies addressing gender inequality must consider these intersecting factors to create inclusive and equitable work environments.

2.5 Poststructuralist and Cultural Feminism: Gender as a Social Construct:

Poststructuralist feminists argue that gender is a socially constructed identity, maintained through language, cultural norms, and institutional practices (Butler, 1990). In Indian workplaces, deep-seated patriarchal norms shape hiring practices, workplace culture, and leadership opportunities. Cultural feminism emphasizes valuing traditionally feminine traits such as caregiving and emotional intelligence, advocating for workplaces to recognize and reward diverse skills beyond conventional

masculine leadership models (Nussbaum, 2000).

2.6 Capability Approach and Human Development:

Amartya Sen and Martha Nussbaum's capability approach emphasizes that gender equality should not be measured solely by economic indicators but also by women's ability to lead fulfilling lives (Sen, 1999). In the Indian workplace, structural constraints such as lack of childcare support, unsafe work environments, and limited educational access reduce women's capabilities and career choices. Addressing gender inequality requires policies that enhance women's substantive freedoms, including flexible work arrangements and stronger labor protections.

2.7 Indicators of Workplace Gender Discrimination:

Gender discrimination in Indian workplaces manifests in various forms, ranging from unequal pay and hiring biases to workplace harassment and limited career progression. Understanding these indicators is crucial to formulating effective interventions.

2.8 Gender Wage Gap and Unequal Pay:

The gender wage gap remains a significant concern in India, with women earning approximately 20-30% less than men for the same work (ILO, 2021). The Equal Remuneration Act (1976) mandates equal pay for equal work, yet systemic biases, occupational segregation, and informal labor conditions perpetuate wage disparities. Women are often employed in lower-paying sectors such as domestic work, teaching, and healthcare, while men dominate high-paying fields like technology and finance (Patel, 2022).

2.9 Glass Ceiling and Leadership Bias:

The "glass ceiling" effect prevents women from advancing to leadership positions despite having equivalent or superior qualifications and experience. Women constitute only about 5% of CEOs in India's top companies (Economic Times, 2022). Bias in promotion practices, workplace stereotypes, and a lack of mentorship opportunities contribute to this disparity. Studies indicate that women leaders are often subjected to stricter scrutiny and expected to conform to traditional leadership styles associated with masculinity (Rao, 2021).

2.10 Sexual Harassment and Workplace Safety:

Sexual harassment is a major barrier to gender equality in Indian workplaces. The *Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013* (POSH Act) was enacted to provide a legal framework for addressing harassment. However, underreporting due to fear of retaliation, lack of awareness, and inadequate redressal mechanisms continue to undermine its effectiveness (Kumar, 2020). A safer workplace environment requires stronger implementation of anti-harassment policies and corporate accountability.

2.11 Occupational Segregation and Gendered Roles:

The majority of women in India remain in care, administrative and service jobs whereas men mainly occupy technical and managerial roles. Gendered expectations and norms lead to occupational segregation by discouraging women from pursuing careers in STEM (Science, Technology, Engineering, and Mathematics) and executive roles (Desai, 2021). This gap can be narrowed by affirmative action and STEM education programs to promote more women in these areas.

2.12 Maternity Discrimination and Work-Life Balance Challenges:

In 2017, the Maternity Benefit (Amendment) Act extended maternity leave to 26 weeks, seeking to ensure women stick to their jobs. And, yet, for many private-sector employers, longer maternity leave is a burden that results in hiring biases against women of reproductive age (Bhandari, 2021). It does not help either that India has very limited paternity leave policies, or that it is still widely accepted that care work is a woman's job. To fix all this comprehensive parental leave policies and flexible work arrangements would be tools needed. India's constitutional and legal systems are rooted in gender equality. The Constitution of India enshrines the fundamental right against gender-based discrimination, while also mandating the State to take measures to promote equality and on that basis; the Constitutional framework empowers the State to take affirmative action to overcome systemic disadvantages faced by women.

2.13 Constitutional Provisions:

Fundamental rights guaranteed by the Constitution of India assure us legal equality of citizens regardless of gender. Importantly, Article 14 guarantees the right to equality before the law and equals protection of the law. This is a complete article defining right against discrimination lays down in Article 15 paragraph 1 and, in Article 15 clause 3, clearly permits the State to adopt special measures in favour of women and children.

Article 16, which prohibits discrimination in public employment, reiterates gender equality and reinforces equality in employment. Similarly, Article 39(a) spells that the State shall, in particular, direct its policy towards securing for men and women equally the right to an adequate means of livelihood and Article 39(d) directs equal pay for equal work. Article 42 guarantees maternity relief and humane working conditions, thus providing safeguards for working women.

Apart from these, there are provisions to enhance women representation at the governance level in the Constitution itself. Under Article 243D one-third reservation of seats is provided for women in the Panchayats while Article 243T provides for one-third reservation of seats for women in the Municipalities thereby enabling better representation to women in the institutions of local self-government.

1. Special Laws – Several gender-specific laws strengthen protections for women. These include:

- a) The Dowry Prohibition Act, 1961
- b) The Protection of Women from Domestic Violence Act, 2005
- c) The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013
- d) The Prohibition of Child Marriage Act, 2006.

2. Legislation Advancing Socio-Economic Rights – Women's economic rights are upheld through acts such as.

- a) The Maternity Benefit Act, 1961 (amended in 2017)
- b) The Equal Remuneration Act, 1976
- c) The Hindu Succession (Amendment) Act, 2005, which grants daughters equal inheritance rights.

3. Institutional Mechanism: The National Commission for Women (NCW) was set up in 1992 to monitor gender related laws and their implementation. 73rd and 74th Constitutional Amendments (1992), Decentralisation and local governance political empowerment of women at local governance. National Policy for the Empowerment of Women- 2001 it strives towards the empowerment of women socially, economically and politically.

2.14 International Commitments and Policy Measures:

India has ratified several international conventions promoting gender equality, notably the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1993. The National Policy for the Empowerment of Women (2001) further reinforces these commitments by outlining strategies for social, economic, and political empowerment.

2.15 Legal Provisions for Gender Equality in New Criminal Laws:

India's criminal justice system has undergone significant reforms with the enactment of the Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (NBS), and Bharatiya Sakshya Adhiniyam (BSA). These laws have introduced enhanced provisions to address crimes against women, ensuring stronger legal protection and efficient procedural mechanisms. The following sections highlight key legal provisions concerning gender equality under these new laws.

2.16 Bharatiya Nyaya Sanhita (BNS) – Crimes against Women:

The BNS takes place of the Indian penal code (IPC) sections and involves all the recent provisions to protect spiritual rights of women. The law expanded definitions of sexual offences, increased punishment, and added forms of violence against women. Section 63–Sexual harassment–the law makes it clear that unwelcome physical contact, sexually explicit approaches and demands for sexual favors are clearly criminal. This piece makes sure that harassment at work and in the public is

covered. There are two types of crime against women under Sec 64; assault or use of criminal force intending or Knowledge of the person to to outrage woman modesty. It expands on the current law by including other types of unwanted physical contact. Section 65 provides for voyeurism and stalking, two of the offences that have gained notoriety with the advent of technological advancements. We also ensure heavier penalties for repeat offenders, so that such crimes will not go unpunished.

Section 66 also widens the scope of what constitutes rape to include digital sexual violence and provides greater legal protection for victims. This provision acknowledges that sexual violence can occur in a number of ways and that technology can easily be misused in this way. Section 67 covers instances of gang rape, thus adding stiffer penalties against sexual attackers associated with group rapes. It also provides for enhanced punishment for habitual offenders.

2.17 Protection of Women from Cybercrimes:

With the rise of technology, cybercrimes against women have increased significantly. Section 115 criminalizes online harassment, including cyberstalking, defamation, and the circulation of intimate images without consent. This provision provides women with stronger legal recourse against digital abuse.

2.18 Bharatiya Nagarik Suraksha Sanhita (NBS) – Procedural Safeguards for Women:

The NBS is a different piece of legislation, and it has numerous procedural safeguards for ensuring the rights of women during the investigation and trial process, in derogation to those provided in the Code of Criminal Procedure (CrPC) which it replaces. Section 173–A post-mortem of a rape survivor is to be examined only by a female medical practitioner, for reasons of dignity and sensitivity.

Allaying the potential trauma, Section 175 lays down that the statement of a woman must be recorded before a female officer. This clause creates a conducive environment for the survivor during testimony documentation. Fast Track Investigation and trials for crimes against women (Section 180) This will be very important for making sure that justice to victims take a reasonable time frame without long drawn out legal disputes.

Section 190 of the same law goes on to state that in no proceedings involving a complaint of rape shall the identity of the complainant be disclosed. This clause is in accordance with the international human rights approach of avoiding revictimization and social stigmatization. Barring the possibility of intimidation and threats against survivors, Section 193 outlines restrictive bail conditions for accused persons in gender-based crimes. It protects against the potential for an offender to use the process to evade justice.

2.19 Bharatiya Sakshya Adhiniyam (BSA) – Evidentiary Protections for Women:

The BSA comes to replace the Indian Evidence Act and presents a few of the essential reforms that pertain to the instances regarding gender. These reforms enhance the admissibility of evidence and

strengthen the protective litigation around women. One such law is Section 58, which states that no court can ask questions related to a rape survivor's character during the trial. This provision renders victim-blaming tactics used by defense attorneys moot.

Section 75 of the Act takes into account that even though technology facilitates various crimes against women, electronic messages, and social media posts can be tendered in evidence in a gender-related offence. This strengthens the laws criminalising cybercrimes. Subsection 102 allows the court to take into consideration the past conduct of the accused in cases of repeated offences against women. This is a provision that incriminates habitual offenders resulting in a more ruined punishment going to habitual offenders.

3. HUMAN RIGHTS PERSPECTIVE ON GENDER INEQUALITY

3.1 International Human Rights Instruments and Gender Equality:

Gender equality is a right enshrined in international human rights law. Multiple global conventions and treaties make references to the need to eliminate discrimination against women in every area of life, including in employment. The human rights treaties including, the Universal Declaration of Human Rights (UDHR), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and the International Covenant on Economic, Social and Cultural Rights (ICESCR) are important tools that provide the groundwork for realizing gender equality.

In 1948, the United Nations General Assembly adopted the Universal Declaration of Human Rights (UDHR) the basis for equality and non-discrimination. Article 1 asserts that: "All human beings are free and equal in dignity and rights," whilst Article 23 affirms the right to equal pay for equal work (United Nations, 1948) The UDHR is not legally binding, and is an ideal, it has played an instrumental role in formulating our national constitutions, including India and developing international legal standards on gender equality.

Another important tool is the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) adopted in 1979. CEDAW is sometimes described as the "international bill of rights for women"; it defines what constitutes discrimination against women and requires State parties to take measures towards the elimination of means by which women are disadvantaged and discriminate against (United Nations, 1979). Specifically, Article 11 deals with rights in the workplace, as well as equal pay for equal work, equal employment opportunities, and non-discrimination based on marital or maternity status. India signed CEDAW in 1993, which shows its commitment to employment rights as well as other aspects of gender equity.

With ICESCR adopted in 1966, workplace gender equality is even further enhanced. The 1966 International Covenant on Economic, Social and Cultural Rights recognizes the right to just and favourable conditions of work, including sealed wages, safe and healthy working conditions, as well

as equal pay for equal work without discrimination (United Nations, 1966). The ICESCR binds State parties to respect and progressively implement all of these rights, thus providing a basis for policy reforms targeting workplace gender inequalities.

Together they highlight the fact that gender equality is not just a question of social justice but a human right. They force countries, including India, to bring domestic legislation and policy, in harmony, with global human rights standards.

3.2 India's Commitment to Gender Equality through National and International Obligations:

India has proven its dedication to gender equality through its constitution, legislations and its process of following international conventions. As per Articles 14, 15, 16 and 39 of Indian Constitution, the rights and provisions guarantee equality of rights and prohibition of discrimination on grounds of gender. Actually, India's commitment is not only constitutional but also covers its ratification of a lot of international human rights treaties.

India, as one of the State parties which ratified CEDAW, is under obligation to adopt appropriate legislative, judicial, administrative, and other measures to ensure the full development and advancement of women. Period Reviews of CEDAW Committee have pointed out to better implementation in India in context to workplace harassment equal pay and maternity benefits. To that end, India has recently legislated the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act) to align domestic laws with international human rights commitments (Ministry of Law and Justice, 2013).

India is also one of the ratifying states member to many ILO Conventions which promote gender equality in employment. UN's sustainable development goal 8 on work and economic growth highlights the need for equal pay and the International Labour Organization (ILO) Equal Remuneration Convention, 1951 (No. 100) and Discrimination (Employment and Occupation) Convention, 1958 (No. 111) stresses on gender-based employment discrimination. Even though India has ratified Convention No. 100, it has not ratified Convention No. 111 that shows the inadequacy of the commitment for eradicating gender bias at workplace (International Labour Organization, 1951, 1958).

Consequently, national policies and legal frameworks have been established to strengthen gender justice, though not without international obligations. The Equal Remuneration Act, 1976 which has now been integrated in Code on Wages, 2019, thus mandating men and women performing the same work to get equal remuneration (Ministry of Labour and Employment, 2019). In the same spirit, the Maternity Benefit (Amendment) Act, 2017, which raised paid maternity leave in India to 26 weeks, is in consonance with India's obligations under CEDAW and ICESCR.

However, despite all of these progressive steps, challenges continue to arise. Employment figures

suggest that India's women's participation rate is far below men's, with social prejudices, workplace discrimination, and an unimplemented legal framework for gender equality taking a toll (Deshpande, 2020). In addition, 20% of the wages gap between men and women just to do the same work (International Labour Organization, 2021). These differences emphasize a necessity for an increased level of logging and enforcement of both international and national objectives.

3.3 Role of the Judiciary in Upholding Gender Rights at Workplaces:

Gender rights are not just upheld by laws, but also by the interpretation by judicial systems such as the wide-ranging interpretation of workplace laws in India. Courts by rewriting the gender justice jurisprudence through landmark judgments have thus reaffirmed the constitutional and international project of gender justice and the project of gender equality in matters of employment for women.

A landmark case in this regard is that of *Vishaka v. State of Rajasthan* (1997) in which the Supreme Court issued guidelines to combat sexual harassment in the workplace (dubbed the "Vishaka Guidelines") which were subsequently the basis for the passage of the POSH Act, 2013 (Supreme Court of India, 1997). India's obligations under CEDAW formed the basis of the judgment and pointed the way to treating international treaties as guides to domestic law.

Air India v. Nergesh Meerza (1981): The Supreme Court held unconstitutional conditions of service discriminating against female air hostesses by holding that conditions of service prescribed on the basis of sex offended articles 14 and 16 of the Constitution, Supreme Court of India (1981). On similar lines in *Secretary, Ministry of Defence v. Babita Puniya* (2020), the Court granted permanent commission to women officers in the Indian Army, thus having a test of gender-based exclusion from the armed forces (Supreme Court of India, 2020).

Judicial branch has also weighed in Equal pay cases. In *Mackinnon Mackenzie & Co. Ltd. v. Audrey D'Costa* (1987), the Supreme Court of India ruled that women stenographers should be afforded the same pay as men (Supreme Court of India, 1987), indirectly endorsing the Equal Remuneration Act, 1976. That ruling established a precedent for other gender wage discrimination cases.

Additionally, the Maternity Benefits were highlighted by the judiciary. Thus, the ratio of the case of *Municipal Corporation of Delhi v. Female Workers* (2000) was that, the period of maternity would also be covered under the Maternity Benefit Act, 1961 and will work with the CEDAW obligations of India, ruled the Court while extending all benefits post to contract and temporary workers (Supreme Court of India passed, 2000).

Even with these judicial interventions, enforcement poses a problem. Due to fear of vengeance and social disgrace, a large number of the cases remain unnoticed (Shukla, 2022). Although courts are re-establishing gender rights, corporate compliance with judicial directives remains erratic, requiring stricter oversight and regulatory mechanisms.

4. CRITICAL ANALYSIS OF WORKPLACE GENDER INEQUALITY IN INDIA

Despite constitutional provisions, international commitments and legislative arrangements, gender justice at the workplace in India faces a persistent battle. The barriers to employment that women face in India are systemic and can take the form of wage gaps and economic disparity, as well as leadership biases, sexual harassment and struggles with maternity benefits and work-life balance. This part discusses these problems critically, describing the legal, structural, and socio-cultural reasons for gendered work place inequity.

4.1 Wage Gap and Economic Disparities:

The wage gap, which is the difference in wages earned by men compared with women performing similar work, is one of the longest-lasting manifestations of workplace gender inequality in India. The wage gap still persists despite the Equal Remuneration Act, 1976, which is now part of the Code on Wages, 2019, across different sectors. Research suggests that in India, women get paid roughly 20% less than their male equivalents, controlling for education and experience (International Labour Organization, 2021).

There is a list of reasons why the wage gap exists. Before I do that, however, we would like to highlight that occupational segregation is still widespread: a lot of women tend to find themselves in teacher, nurse, administrative jobs that pay lower wages, while men fill many high paid posts also in education but in engineering, finance, and technology (Deshpande, 2020). Second, the economic inequity is compounded by unpaid care work that rests on the shoulders of women who are then pushed out of the workplace, into lower paid, flexible work as a means to managing household chores.

Wage negotiations in the private sector tend to work in favour of men, and the entire system is shrouded by a veil of secrecy, making it difficult for women to know if they are being underpaid. As one of the conclusions reached from a survey conducted by Oxfam India (2022), these wage-setting mechanisms and biases in performance appraisals affect the effective participation of women into the workforce, thereby undermining their social and economic empowerment. Closing this gap will require stronger enforcement of equal pay laws, greater transparency in salary disclosures, and policies that lure women into higher-paying industries.

4.2 Glass Ceiling and Leadership Bias:

The glass ceiling remains a formidable barrier preventing women from rising to leadership positions in India. Despite increased female enrollment in higher education and professional fields, women are significantly underrepresented in senior management and executive roles. According to the World Economic Forum's Global Gender Gap Report (2022), only 17% of senior leadership positions in

India are occupied by women, highlighting systemic biases in career progression.

Several factors contribute to the leadership bias against women. Gender stereotypes play a crucial role, as leadership qualities such as assertiveness and decisiveness are often associated with men, whereas women are expected to display nurturing and accommodating behaviors (Eagly & Carli, 2007). These biases lead to differential evaluations in promotions and leadership selections, where men are perceived as natural leaders, while women must constantly prove their competence.

Additionally, women face networking disadvantages in male-dominated industries, where informal networks and mentorship opportunities often exclude them. The “double burden” of professional and domestic responsibilities further restricts women's ability to dedicate time to leadership development programs (Bansal, 2021).

To dismantle the glass ceiling, companies must implement gender-neutral promotion policies, provide leadership training for women, and establish mentorship programs that facilitate career progression. Legal frameworks should also mandate gender diversity in corporate leadership, similar to Norway's gender quota model, which requires companies to have at least 40% female representation on corporate boards (Krook, 2016).

4.3 Sexual Harassment at the Workplace and the POSH Act, 2013:

Sexual harassment remains a major impediment to women's safety and participation in the workforce. In India, workplace harassment was first legally addressed in *Vishaka v. State of Rajasthan* (1997), leading to the formulation of the Vishaka Guidelines. These guidelines later became the foundation for the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act) (Supreme Court of India, 1997).

The POSH Act, 2013, mandates the establishment of Internal Complaints Committees (ICCs) in workplaces with ten or more employees, outlines procedures for filing complaints, and defines sexual harassment to include unwelcome physical contact, sexually colored remarks, and hostile work environments (Ministry of Law and Justice, 2013). However, implementation gaps remain a major challenge. Studies indicate that many companies either fail to establish ICCs or do not provide adequate training to employees on recognizing and reporting harassment (Shukla, 2022).

In addition to this, women refrain from filing harassment cases due to social stigma tag and fear of backlash / retaliation. A report by the National Commission for Women (NCW) reveals that a very small percentage of cases regarding workplace harassment are formally reported since many victims are afraid of losing their jobs or believe that the institutions such as the Human Resource Departments will not listen to them (NCW, 2020). However, there is an immediate need for mandatory reporting, harsher punishments for non-compliance, and awareness campaigns to bolster strict implementation of every clause of the POSH Act. Additionally, companies need to encourage a zero-tolerance

approach to harassment and implement anonymous reporting systems to ensure more victims feel comfortable coming forward.

4.4 Maternity Benefits and Work-Life Balance Issues:

Women need to be retained in the system so maternity benefits and good work-life balance policies, are important. However, India joined the ranks of a handful of countries with relatively generous paid leave when it passed the 2017 amendment to the Maternity Benefit Act 1961, which first provided women with 26 weeks of paid leave (Ministry of Labour and Employment, 2017). However, this has resulted in a rather unintended side effect to the policy being implemented.

Evidence shows that maternity leave presents a financial burden and asset to pull in women of child bearing age from joining micro small and medium enterprises (SMEs)(Patel & Sharma, 2020). Now, add the fact that in India the cost of hiring women is directly borne by the companies themselves since maternity benefit is not funded through state, you will understand the unconscious bias against hiring women.

In addition, there is a lack of hard paternity leave policies yet more indication that child care is largely a female job. Paternity benefits though the Central Government provides 15 days paternity leave, majority of the private sector organizations do not have effective paternity benefits (NITI Aayog, 2021). Without a blanket parental leave policy that helps alleviate this second shift, women will simply leave the workforce altogether or regress to a low-paying, part-time job to be a parent.

The essentials of governance: state-supported maternity, compulsory paternal leave policy, and remote, part-time work. Such as policies in Sweden or Canada which are so aimed at achieving an equal division of care between households but in turn help women in the labor force (OECD, 2020).

4. CHALLENGES IN IMPLEMENTATION OF GENDER EQUALITY LAWS

In India, constitutional provisions and legal frameworks promote gender equality, yet achieving implementation remains a significant challenge. Legal loopholes, ingrained socio-cultural prejudices, and corporate resistance continue to hinder the progress of gender equality in workplaces. Although laws like the Equal Remuneration Act, 1976 (now subsumed under the Code on Wages, 2019), the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act) and the Maternity Benefit (Amendment) Act, 2017 have been enacted for workplace equity since 1976, enforcement of these provisions is in a dismal state.

4.1 Existing laws and policies that have loopholes:

One of the biggest challenges to gender equality at the workplace is the inability of the existing laws to effectively drive the desired change because of legal loopholes and weak enforcement mechanisms. There are several legislations in India designed to provide protection to women at workplace but loopholes in legal definitions, non-uniformity in application across all sectors, and absence of

effective enforcement mechanisms has often reduced their effectiveness.

A classic example of such legislation is the now repealed Equal Remuneration Act, 1976 which has now been subsumed within the Code on Wages, 2019 which provides for equal remuneration for men and women for the same work. The law fails to tackle gender-based occupational segregation that women are less likely to engage in lower-paying, informal or part-time work (International Labour Organization, 2021). The lack of such hiring practices reinforces employers to maintain the gender pay gap by using performance or experience-based reasons as an excuse (Deshpande, 2020).

Likewise, the POSH Act, 2013, despite being a progressive legislation aimed at preventing sexual harassment at workplaces, has similar implementation flaws. As a result, several small and medium enterprises do not have an Internal Complaints Committees or investigation in cases of sexual harassment is not done properly due to a lack of knowledge and training (Shukla, 2022). Moreover, the threat of retaliation and the stigma of reporting harassment prevent many women from making a complaint, so the law is difficult to enforce (National Commission for Women, 2021).

In addition, the Maternity Benefit (Amendment) Act, 2017, which raised the compulsory length of paid maternity leave from 12 weeks to 26 weeks, has backfired on its intended beneficiaries by ensuring such discriminatory hiring practices have gained acceptance. This has deep-seated consequences for the labour market as concerns of financial burden from maternity benefits discourage most private-sector employers from hiring women of childbearing age, given the lack of state-sponsored support to offset employer expenditures (Patel & Sharma, 2020).

Greater transparency on wages, stricter penalties for the violation of POSH appellate guidelines, and sharing the financial burden of maternity benefits between the state and employers, as in Sweden and Canada, are needed to bolster these laws (OECD, 2020).

4.2 Societal and Cultural Barriers to Women's Workforce Participation:

However, legislative loopholes are only one obstacle; more entrenched societal and cultural norms persist as barriers to fulfilling the promises of gender equality in practice. India has been steeped in patriarchal attitudes wherein the primary urge that women have is to look after the home as opposed to pursuing a career-related interest. These expectations shape the workplace to create a ceiling for women, forcing them out of systems and perpetuating workplace inequality.

Part of this problem lays in the perception of women as second earners and that affects women when it comes to either getting a job or negotiating the salary. Despite women joining the work force, they are still expected to fulfil family roles, which renders them to leave the work force early on marriage or after child birth in large numbers (Bansal, 2021). On top of this, high expectations for women to do both work and caregiving in the family without affordable childcare facilities increase the problem.

In addition, gender stereotypes continue to affect the job roles and career choice that men and women

choose. ILO, 2021) Men are encouraged to pursue engineering, finance and executive positions whereas women are pushed to take teaching, nursing and administrative work. It is this occupational segregation that fuels the wage gap as well as women's inability to work their way up into leadership positions.

The societal resistance to women seeking jobs is even greater in rural and semi urban areas. In some circumstances, cultural barriers on both mobility among women, and on the safety of leaving their homes, inhibiting their ability to search for jobs especially in industries where men are in the majority. Persistent barriers are also reflected in the very low female labor force participation rates (LFPR), under 25%, in India (World Bank, 2022).

Addressing these social issues will need a multifaceted strategy. For this purpose, awareness campaigns for gender equality, community-based childcare solutions, and incentives for women to take part in male-dominated sectors can relieve cultural restraints. Additionally, gender-neutral parental leave can incentivize men to take parental leave and rethink their role at home, thus improving working conditions for women.

4.3 Corporate and Organizational Resistance to Gender-Inclusive Policies:

While there are strides taken towards awareness of workplace gender equality across the globe, corporate inertia against progressive policies poses challenge in India. Gender equality measures are seen as compliance burdens not strategic imperatives by many businesses, especially in the private and informal sectors.

The expense associated with gender-inclusive policies is one of the top concerns corporate employers have about this concept. While the Maternity Benefit (Amendment) Act, 2017 provides paid maternity leave, employers, especially SMEs, often argue that these policies are an additional financial burden as well as an impediment to smooth workforce management (NITI Aayog, 2017). These worries are worsened by the lack of maternity benefits funded by the state, which does exist in European nations. Another critical issue is the lack of gender-sensitive leadership. Many decision-making bodies in Indian corporations remain male-dominated, which leads to resistance against affirmative action policies, such as gender quotas for board representation (World Economic Forum [WEF], 2022). Without strong leadership commitment, gender-inclusive policies are often treated as superficial compliance measures rather than genuine efforts to create a balanced workplace.

Additionally, workplace cultures that discourage flexible work arrangements contribute to corporate resistance. In many organizations, long work hours and "presenteeism" are valued over performance outcomes, making it difficult for women, especially mothers, to remain in the workforce (McKinsey & Company, 2021). The stigma associated with remote work, part-time roles, and flexible schedules often forces women to leave their careers prematurely.

To overcome corporate resistance, government incentives for gender-inclusive businesses, tax benefits for companies promoting women's leadership, and mandatory gender audits can be effective policy measures. Furthermore, organizations must invest in leadership diversity programs, unconscious bias training, and flexible work arrangements to create truly inclusive workplaces.

5. RECOMMENDATIONS AND POLICY SUGGESTIONS

Despite significant legislative progress and growing awareness of gender inequality in Indian workplaces, challenges persist in enforcement, corporate compliance, and societal attitudes. To achieve genuine gender equality, a multi-faceted approach is required, encompassing legal reforms, corporate responsibility, gender sensitization, and leadership development. This section outlines key recommendations and policy suggestions aimed at bridging gender disparities in the workplace.

5.1 Strengthening Legal Frameworks and Enforcement Mechanisms:

While India has comprehensive legal provisions to promote workplace equality, gaps in enforcement remain a major concern. Many laws, including the POSH Act, 2013, the Maternity Benefit Act, 2017, and the Code on Wages, 2019, suffer from poor implementation, lack of awareness, and inadequate monitoring mechanisms (Shukla, 2022).

To enhance legal effectiveness, the government must:

- a) Strengthen enforcement agencies by allocating more resources to labour inspectors and grievance redressal mechanisms.
- b) Mandate regular compliance audits for companies, ensuring they adhere to equal pay, anti-harassment, and maternity benefit policies.
- c) Introduce stricter penalties for non-compliance, particularly for companies failing to implement gender policies.
- d) Improve accessibility to legal recourse by simplifying complaint mechanisms and providing legal aid to victims of workplace discrimination (ILO, 2021).

Furthermore, the introduction of state-funded maternity leave programs, as seen in Nordic countries, could reduce the financial burden on private employers, encouraging more inclusive hiring practices (OECD, 2020).

5.2 Role of Corporate Policies in Promoting Workplace Equality

While legislative efforts are critical, corporate commitment to gender inclusion plays an equally important role in reducing workplace discrimination. Many companies still lack structured policies that promote gender balance, flexible work arrangements, and transparent hiring and promotion practices (McKinsey & Company, 2021).

Organizations must adopt proactive measures to:

- a) Implement robust anti-discrimination policies, including anonymous reporting mechanisms for workplace harassment.
- b) Encourage gender diversity in leadership by setting minimum representation targets for women in senior management and board positions.
- c) Offer flexible work arrangements, such as remote work, hybrid models, and shared parental leave, to support work-life balance.
- d) Ensure pay transparency by conducting internal wage audits and addressing unexplained pay gaps between male and female employees (World Economic Forum, 2022).

Companies that prioritize gender equality not only comply with regulations but also enhance productivity, innovation, and employee retention, contributing to long-term economic growth (Deshpande, 2020).

5.3 Gender Sensitization and Awareness Programs:

Addressing gender biases and stereotypes is essential to fostering an inclusive workplace culture. Many deep-rooted societal norms continue to shape employer attitudes and limit women's opportunities for career advancement (Bansal, 2021).

To combat this, stakeholders should:

- a) Integrate gender sensitivity training into corporate and educational curricula to challenge unconscious biases.
- b) Conduct awareness campaigns that highlight the economic benefits of gender diversity and the rights of working women.
- c) Promote mentorship programs that connect experienced women professionals with young female employees, fostering career growth and confidence (National Commission for Women, 2021).
- d) Encourage male allyship by involving men in gender discussions and promoting shared household responsibilities.

Government agencies and non-governmental organizations (NGOs) should collaborate with businesses and educational institutions to implement these programs nationwide.

5.4 Strategies for Bridging the Wage Gap and Increasing Female Leadership:

The gender wage gap and underrepresentation of women in leadership roles remain significant barriers to workplace equality in India. Structural biases and a lack of career advancement opportunities disproportionately affect women's earnings and growth potential (ILO, 2021).

To address these disparities, key policy measures should include:

- a) Mandating salary transparency by requiring companies to publish annual gender pay gap reports.
- b) Encouraging women's leadership development through targeted executive training programs and scholarships for women in STEM and business fields

c) Providing financial incentives (such as tax benefits) to companies that achieve gender parity in leadership positions.

d) Implementing sponsorship programs, where senior executives actively advocate for and mentor high-potential women employees.

Countries like Iceland and Germany have successfully implemented gender quota laws for corporate boards, significantly improving female leadership representation. A similar structured approach in India could help break the glass ceiling and create a more balanced corporate environment (WEF, 2022).

6. CONCLUSION

Gender inequality in Indian workplaces continues to pose a significant challenge to achieving genuine economic and social equity. Although India has enacted progressive legal frameworks such as the POSH Act, 2013, the Maternity Benefit (Amendment) Act, 2017, and constitutional guarantees of equality, a persistent implementation gap undermines their effectiveness. Women still face wage disparities, glass ceiling barriers, workplace harassment, and underrepresentation in leadership roles. These issues are reinforced by entrenched societal norms, cultural biases, and inadequate institutional support.

Strengthening enforcement mechanisms is essential. While robust laws exist, their impact is diminished by poor implementation, lack of awareness, and ineffective grievance redressal systems. The government must ensure stringent monitoring, conduct regular compliance audits, and impose meaningful penalties for violations. Simultaneously, the corporate sector must work to eliminate implicit bias, promote pay transparency, and support flexible work arrangements. Inclusive policymaking and responsible leadership can significantly reduce workplace gender gaps.

However, legal and corporate reforms alone are insufficient. Transforming societal perceptions of gender roles is equally vital. Initiatives such as gender sensitization programs, diversity training, and mentorship opportunities can empower women and foster inclusive work cultures. Policies like gender-neutral parental leave, accessible childcare, and incentives for companies that advance gender equity can further enable women's participation in the workforce.

Ultimately, achieving workplace gender equality in India requires a coordinated effort across law, policy, business, and society. Only through the intersection of legal reform, corporate accountability, and social transformation can the systemic barriers be dismantled. Collective commitment at all levels will pave the way for a more equitable, inclusive, and progressive future for both women and men.

7. REFERENCES

Bansal, R. (2021). The double burden: Gender inequality in Indian workplaces. *Economic & Political Weekly*, 56(4), 42-51.

- Bharatiya Nagarik Suraksha Sanhita, No. 46, Acts of Parliament, 2023 (India).
- Bharatiya Nyaya Sanhita, No. 45, Acts of Parliament, 2023 (India).
- Bharatiya Sakshya Adhiniyam, No. 47, Acts of Parliament, 2023 (India).
- Bhandari, L. (2021). Maternity benefits and hiring biases: A critical evaluation of workplace policies in India. *Journal of Labour Economics*, 15(2), 112-130.
- Butler, J. (1990). *Gender trouble: Feminism and the subversion of identity*. Routledge.
- Constitution of India, 1950.
- Crenshaw, K. (1989). Demarginalizing the intersection of race and sex: A Black feminist critique of antidiscrimination doctrine. *University of Chicago Legal Forum*, 1989(1), 139-167
- Desai, S. (2021). STEM education and gender disparity in India: Breaking barriers to inclusion. *Economic & Political Weekly*, 56(7), 48-56.
- Deshpande, A. (2020). The informal economy and gender wage gap in India: Structural challenges and policy responses. *Indian Journal of Labour Economics*, 63(4), 715-732.
- Engels, F. (1884). *The origin of the family, private property and the state*. Penguin Classics.
- International Labour Organization (ILO). (1951, 1958, 2021). *ILO conventions on gender equality and global wage report*. Geneva: ILO Publications.
- International Labour Organization (ILO). (2021). *Global wage report: Wage inequalities in the workforce*. Geneva: ILO Publications.
- International Labour Organization (ILO). (2021). *World Employment and Social Outlook: Trends 2021*. Geneva: ILO.
- Kumar, V. (2020). Sexual harassment at workplaces in India: A review of the POSH Act and its effectiveness. *Journal of Gender Studies*, 9(1), 35-52.
- McKinsey & Company. (2021). *Women in the Workplace 2021*.
- Ministry of Labour and Employment. (2019). *The Code on Wages Act*. Government of India.
- Ministry of Law and Justice. (2013). *The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act*. Government of India.
- Mukherjee, S. (2022). Gender inequality in the Indian workforce: Legal perspectives and challenges. *Journal of Employment Studies*, 15(2), 112-130.
- National Commission for Women. (2021). *Annual Report on Workplace Harassment Cases in India*.
- National Commission for Women. (2023). *Annual Report on Women's Rights in India*. Government of India.
- National Crime Records Bureau. (2023). *Crime in India Report*. Ministry of Home Affairs, Government of India. Retrieved from <https://ncrb.gov.in>
- Nussbaum, M. C. (2000). *Women and human development: The capabilities approach*.

Cambridge University Press.

Organisation for Economic Co-operation and Development (OECD). (2020). Parental leave policies and workforce participation. Paris: OECD.

Patel, R. (2022). Occupational segregation and gender-based pay disparity in Indian labor markets. *Journal of Economic Policy Research*, 18(3), 221-245.

Rao, M. (2021). Breaking the glass ceiling: Leadership biases and women's corporate representation in India. *Management Studies Review*, 27(2), 65-89.

Rege, S. (2018). Dalit women and workplace discrimination: An intersectional perspective. *Indian Journal of Social Sciences*, 14(3), 87-104.

Sen, A. (1999). Development as freedom. Oxford University Press.

Sharma, R., & Gupta, P. (2021). Women in India's workforce: Trends, challenges, and policy implications. *Economic and Political Weekly*, 56(3), 45-57.

Shukla, P. (2022). Challenges in implementing gender equality laws in Indian workplaces: A policy analysis. *Legal Studies Review*, 33(5), 99-125.

Srivastava, R. (2021). Legislative interventions for gender equality in India: A critical assessment of policy effectiveness. *Journal of Social Justice and Law*, 12(4), 176-195.

Supreme Court of India. (1981, 1987, 1997, 2000, 2020). Landmark gender equality judgments.

Simon, R., & Hasan, S. (2025). Patriarchy and Gender Inequality: A Comprehensive Analysis of Women's Empowerment in Contemporary India. *Gender Issues*, 42(1), 7.

Supreme Court of India. (1997). Vishaka v. State of Rajasthan.

The Criminal Law (Amendment) Act, No. 13, Acts of Parliament, 2013 (India).

The Dowry Prohibition Act, No. 28, Acts of Parliament, 1961 (India).

The Hindu Succession (Amendment) Act, No. 39, Acts of Parliament, 2005 (India).

The Maternity Benefit (Amendment) Act, No. 6, Acts of Parliament, 2017 (India).

The Protection of Women from Domestic Violence Act, No. 43, Acts of Parliament, 2005 (India).

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

Tong, R. (2019). Feminist thought: A more comprehensive introduction (5th ed.). Routledge.

United Nations. (1948). Universal Declaration of Human Rights. New York: United Nations.

United Nations. (1979). Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). New York: United Nations. Retrieved from <https://www.un.org>

Women (CEDAW). New York: United Nations. Retrieved from <https://www.un.org>