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GENDER DISCRIMINATION IN THE WORKPLACE: LEGAL PROTECTIONS AND ENFORCEMENT

Introduction:

According to Stanford University, "*Gender discrimination is when someone is treated unequally or disadvantageously based on their gender but not necessarily in a sexual nature. This includes harassment/discrimination based on sex, gender identity, or gender expression.*" The World Economic Forum's Global Gender Gap Report for 2022 painted a dire picture for India, ranking it 135th out of 146 countries regarding gender equality. The report cried aloud about the concerning trend of gender parity. It stated about the worsening condition of Gender Equality, with an estimated 132 years needed to close the global gender gap. This sobering data underscores the urgent need for concerted efforts to address gender disparities and promote equality in all aspects of society, from education and employment to leadership and decision-making roles. Gender discrimination in the workplace has wide-ranging effects, from stifling talent and perpetuating economic disparities to hindering career advancement for marginalized genders.

Gender parity produces toxic conditions that are detrimental to both mental health and innovation, in addition to the legal dangers associated with it. These actions harm both people and organizations by feeding harmful stereotypes. While gender discrimination in the workplace can take many different forms, it usually entails treating a worker or applicant unfairly because of their sexual orientation, gender identity, or sex. We need to take proactive measures, such as promoting inclusive cultures and anti-discrimination policies, to create equitable workplaces where everyone may thrive. Even though the terms "sex" and "gender" have different meanings, anti-discrimination legislation sometimes use them synonymously when discussing inequity in the workplace.

Legal Protections Against Gender Discrimination:

The Constitution of India stands as a beacon for gender equality, embedding provisions across various sections to prevent discrimination. From the Preamble to Fundamental Rights, Fundamental Duties, and Directive Principles of State Policy, gender equality is emphasized throughout. The Constitution assures women's empowerment and urges the State to adopt measures favouring equality and empowerment. These constitutional safeguards bolster India's commitment to nurture a society where everyone, regardless of gender, enjoys equal rights, opportunities, and dignity.

- Article 14: Equality before law— Article 14 of the Indian Constitution ensures equality before the law, asserting that every individual holds the same status, and the State is prohibited from denying this principle.
- Article 15: Prohibition of Discrimination on grounds of Religion, Race, Sex, Caste, or Place of Birth - Article 15 of the Indian Constitution bars discrimination based on religion, race, caste, sex, or place of birth. However, despite this prohibition, the State can implement special provisions for the benefit of women and children.
- Article 16: Equality of opportunity in public employment— Article 16 of the Indian Constitution guarantees equal opportunity for all citizens of India in matters of employment or appointment to any office.
- Article 39: Principles of policy— As per Article 39 of the Constitution, the State is mandated to ensure that both men and women have equal rights to a satisfactory livelihood, there is parity in wages between men and women, the economic system doesn't lead to wealth concentration, and material resources are distributed to serve the common good.
- Article 42: Article 42 of the Constitution mandates that the State ensure humane working conditions and provide maternity relief.

Several acts have emerged from the constitutional provisions to further strengthen gender equality and prevent discrimination in India. Some notable ones include:

1. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013: This legislation addresses the issue of sexual harassment at workplaces and

mandates the establishment of Internal Complaints Committees (ICCs) in organizations to receive and address complaints.

2. The Maternity Benefit (Amendment) Act, 2017: This act increases the maternity leave entitlement for women working in the organized sector from 12 weeks to 26 weeks, facilitating better maternal health and enabling women to balance work and family responsibilities.

3. The Equal Remuneration Act, 1976: This legislation prohibits discrimination in remuneration based on gender and ensures equal pay for equal work, thereby promoting gender equality in the workplace.

4. The Medical Termination of Pregnancy Act, 1971: This act provides for the termination of pregnancy under specified conditions, safeguarding women's reproductive rights and health.

These acts and others operationalize the constitutional provisions related to gender equality and empower women by addressing various aspects of discrimination and inequality in Indian society.

In case of violation of these provisions and acts under any circumstances, our Constitution has mandated to be booked under specific crimes under the Indian Penal Code (IPC), which are as follows:

- 1) Section 354 - Molestation
- 2) Section 375 - Rape
- 3) Section 498A – Torture
- 4) Section 509 - Harassment

These provisions under the IPC serve to criminalize various forms of violence, harassment, and discrimination against women, providing legal recourse and protection for victims of gender-based crimes. They play a crucial role in upholding women's rights and promoting societal gender equality.

Enforcement Mechanisms:

The Indian government has made great efforts to close the gender gap in many areas of society, including the political, social, and economic ones. In order to empower women and increase their participation in the workforce, healthcare, and education, important programs and schemes have been created. Campaigns such as Beti Bachao Beti Padhao, Mahila Shakti Kendra, and the Working Women Hostel guarantee the safety, education, and protection of women and girls. In addition, programs like the Pradhan Mantri Matru Vandana Yojna and the National Crèche Scheme promote maternal and child health and increase the career prospects for women. Additionally, initiatives such as the National Urban Livelihoods Mission, the Pradhan Mantri Awaas Yojana, and the Pradhan Mantri Kaushal Vikas Yojana concentrate on giving women in urban and rural areas.

Furthermore, the government has emphasized female entrepreneurship through initiatives like Mahila e-Haat and Stand-Up India, while also encouraging educational achievement through the Kasturba Gandhi Balika Vidyalayas and Samagra Shiksha programs. The goal of Panchayati Raj Institutions' 33% seat reservation policy for women is to increase the representation and involvement of women in politics and governance. Furthermore, by providing sizeable funding for initiatives that close the gender gap in all spheres of social, economic, and political life, the Union Budget's inclusion of gender budgeting highlights the government's commitment to gender equality. The government's commitment to promoting gender equity and strengthening women throughout India is shown in this coordinated effort.

Conclusion:

In conclusion, gender discrimination continues to be a pressing issue in workplaces, not just within India but worldwide. Despite the legal protections in place, much work must be done to enforce these laws effectively.

While government efforts are commendable in empowering women and reducing the gender gap, the journey towards genuine equality requires more than legislative measures. It necessitates an organizational cultural shift where diversity and inclusion are actively embraced and promoted.

Employers must go beyond mere compliance with laws and actively create environments where everyone feels valued and respected, regardless of gender identity. This requires

collaborative efforts from various stakeholders, including government bodies, employers, civil society organizations, and individuals.

Ultimately, achieving true gender equality in the workplace requires a collective commitment to challenging stereotypes, eliminating biases, and fostering inclusive workplaces where everyone can thrive. Only through such concerted efforts can we move towards a future where gender equality is not just a legal obligation but a lived reality for all.