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## Offences Outraging the Modesty of women in India

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*The following paper tries to discuss the offences outraging the modesty of women in India. The paper focuses on how the modesty of women is outraged in the workplace, several discriminations at the workplace occur which outrages the modesty of women. The paper mentions different types of workplace discrimination and which acts are passed to protect women from this offence. The paper also discusses several legal precedents and judgments of discrimination against women at the workplace which outrages their modesty. It also includes a literature review on this topic. The paper gives an analysis of women's discrimination at the workplace with adequate solutions including a legislative framework. The paper claims that some of these barriers must be removed in order for women to effectively participate in higher education management, and it recommends measures to improve women's participation. This paper at the end gives a conclusion to stop this discrimination for such harsh offence which outrages the modesty of women in India.*

**Keywords:** *offences, modesty, workplace, discrimination.*

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### INTRODUCTION

Outraging the modesty of women is a cruel act that tends to cause indignation to women. These offences are generally considered to be in gestures, words, etc. which violates the

privacy of women. <sup>1</sup>Discrimination against women at the workplace is the most immoral offence which outrages the modesty of women at the workplace. This discrimination also consists of several types which are discrimination based on gender, role, status, salary, sexual harassment, age, and many more. This discrimination makes it difficult for women to work in such an environment. Discrimination at the workplace based on gender is when an employer treats a female employee less favorably than a male employee only because of the employee's gender. This discrimination still continues even though there are certain laws pertaining to it. This can outrage the modesty of the women because it can cause intersectional effects which mean their social and economic identities to the women are multiply marginalized. A job applicant is offered a low-paying position in a company because of their gender identity which brings to the next discrimination at the workplace i.e., discrimination based on role, status, and salary which is an upcoming reason these days for outraging the modesty of women. It can be upsetting for several women to be unable to control how they feel when they are treated or viewed by others on account of their gender which can affect all aspects of employment. Discrimination at the workplace of women based on role, status, and salary are mostly interconnected with each other. Lately, women's participation in all aspects of life has grown exponentially. In today's world women have obtained several undergraduate and professional degrees. Despite this progress, there has been a significant gap between the pay, role, and status of women as compared to the male which demotivates women. Even after being at the same level as men, they are not treated equally. The doctrine of equal pay for equal work states that every employer should equally pay his employee for the allotted work and there should be no discrimination at all.

Under the Equality Act, 2010, the employee both men and women should get the right to equal pay for equal work.<sup>2</sup> The sad reality of today is that females even after working harder than male employees get less pay, lower roles, and status which lowers their modesty. Nowadays, you will see men's age as it increases is considered like a fine wine that increases in value

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<sup>1</sup> 'Outraging the modesty of women (*B&B Associates LLP*, 7 November 2017)

<<https://bnblegal.com/article/outraging-the-modesty-of-a-woman/>> accessed 04 February 2022

<sup>2</sup> 'Equal pay for equal work in India' (*Law Corner*, 17 June 2021) < <https://lawcorner.in/equal-pay-for-equal-work-in-india> > accessed 05 January 2022

whereas women fight a battle to stay relevant in the competition. This brings us to the next topic which outrages the modesty of women in the workplace. Women are the most common victims of age discrimination in hiring, which implies that they are forced out of the workforce earlier than men and have a considerably harder time returning. Despite the growing offense, women aren't speaking up about it because they're afraid of the repercussions. They may believe they will not be respected or that there may be the prevalence of women in the workforce, age discrimination on the rise, or other consequences. Many people are forced to abandon their jobs as a result of this. Finding a new role, on the other hand, is frequently useless. Age discrimination is a barrier for 76 percent of older people in getting new jobs, and 90 percent earn less than they did previously. Last but not least offence that outrage the modesty of women at the workplace is sexual harassment. Sexual harassment can be classified into two types: quid pro quo and hostile work environment. When a supervisor or other person with the apparent ability to confer or withhold an employment advantage demands sexual favors from an employee in exchange for ongoing employment or some other employment benefit, this is known as quid pro quo harassment.

A workplace that is hostile Sexual harassment is a wide term that encompasses both frequent and intentional acts of harassment that result in an unpleasant and ineffective working environment for the victim and/or bystanders.<sup>3</sup> Sexual harassment at the workplace can be defined as unwelcome behavior of sexual nature. Women have to bear with this treatment because of the fear of losing their job and many more reasons which outrage their modesty. Unwelcome behavior is the critical word here, in other words, it is known as unwelcome sexual favor and other verbal or sexually explicit physical behavior that contributes to a hostile or offensive work environment.

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<sup>3</sup> 'Understanding Hostile Environment Sexual Harassment in the Workplace' (*Inspired elearning*, 5 July 2021) <<https://inspiredelearning.com/blog/hostile-environment-sexual-harassment/#:~:text=Hostile%20work%20environment%20sexual%20harassment%20is%20a%20broad,unproductive%20working%20environment%20for%20the%20victim%20and%2For%20witnesses>> accessed 05 January 2022

## **WOMEN'S MODESTY**

The term 'modesty' is not defined anywhere in the Indian Penal Code, but it refers to a woman's sexual dignity, which she acquires from the moment she is born. Every woman's sense of modesty is subjective, which means that her sexual boundaries are unique to her; there can't be a formula for determining a woman's sexual honour boundaries. A simple touch on the shoulder, for example, may be unpleasant to a woman living in a rural location, but it may be a common greeting gesture for a woman living in a metropolis. Sometimes the discrimination of women in the workplace can be acceptable by some women, whereas some cannot tolerate it all. Discrimination of women is defined as the uneven treatment of women in society, or the denial of social inclusion based on their gender, sexual orientation, race, or religion. Discrimination has a detrimental influence on society and has a long-term negative impact on its wellbeing. Discrimination of women in the workplace refers to unequal or unfair treatment of individuals in the workplace due to their sex, age, disability, and race. The management or co-workers may harass, bully, victimize, exclude, and confine individuals based on their appearance, race, gender, and sexuality in professional working environments. In the case of *Vishaka v State of Rajasthan and Others*, the Supreme Court of India established the Guidelines against Sexual Harassment at Workplace (the Guidelines) in 1997. The Guidelines clearly define what constitutes "sexual harassment" and impose a duty on the employer (or other responsible individuals) to implement measures and processes to prevent and discourage acts of sexual harassment committed not only by employees but also by third parties. In addition, the employer must establish procedures and measures to punish objectionable activities. Another factor to consider when it comes to employment discrimination against women is how her ability is perceived.

This is a problem that many women nowadays are dealing with. This phenomenon may be explained by the fact that when a woman is manifestly skilled, both male and female peers will most likely perceive her to be unlikable. According to studies, the more effective a woman gets, the more likely she is to face discrimination at work. Competent men are traditionally thought to be assertive, deserving of advancement, and likely to succeed. Men are also adored

and treated with respect, which further adds to their dominance. Women who demonstrate skill at work, on the other hand, are frequently met with hostility. Such women are viewed as unfeminine, forceful, scheming, and conniving. The catch is that women not showing sufficient capability are likewise considered to be unlikeable for their position. Therefore, a demeanor towards women's ability ought to be rethought on the grounds that both females and males ought to have equivalent chances to uncover their true capacity in the work environment. Discrimination against women is something that no women enjoy. The majority of women have experienced discrimination at some time in their lives. Females were seen as child-bearers and were not accorded the respect they deserved. This kind of civilization may still be seen now. It's difficult to spot job discrimination against women. It's the kind of thing that women may feel before they can pinpoint it, and it may take even longer for them to document and prove it. Hostile behaviour in the workplace is sometimes misinterpreted as light-hearted, joking, or unintentional, as it is in certain circumstances. However, it may be argued that repeated innocuous, unintended conduct becomes intentional at some time. He or she may not be deliberately antagonistic to women or even aware that he or she is operating in a discriminating manner toward women. Recent psychological and social studies, however, show that practically everyone operates with latent gender prejudices to some degree. When people hear words like business, profession, and job, they think of men, but when they hear phrases like family, household, and caregiving, they think of women. Indeed, the vast majority of people connect men with leadership roles like a boss, CEO, and director, whereas women are associated with aide roles like an assistant, attendant, and secretary.

People's mindsets should be modified. However, as time passes, try to recognize that both men and women are capable of achieving the same objectives. The whole global society is growing more tolerant of such shifts. Companies must concentrate on adopting policies that guarantee that each gender is given an equal chance. Everyone being a human, regardless of their gender, deserve an equal chance.

## ANALYSIS

### **Why does discrimination against women at the workplace take place?**

Discrimination of women in the workplace takes place because women are considered as a weaker section of society who cannot handle the work. This mindset is created by the men who think they are superior which also creates a wage gap if the head is a male.

### **How does discrimination of women at the workplace outrage the modesty of women in India?**

The modesty of women is outraged at the workplace for several reasons like job position, wage gap, sexual harassment, age gap, race, gender, and many more.

### **Can discrimination against women at the workplace stop by all means?**

Yes, the legislative framework for discrimination of women can be stopped at all means by several laws prohibiting workplace discrimination which are: 1. Title VII of the Civil Rights Act of 1964. 2. Rehabilitation Act of 1973. 3. Equal Pay Act (EPA).<sup>4</sup> Sexual Harassment of Women at Workplace Act, 2013. 5. Indecent Representation of Women (Prevention) Act, 1986. 6. National Commission for Women Act, 1990. 7. Equal Remuneration Act, 1976<sup>5</sup>. These all laws try to protect the modesty of women from discrimination at the workplace

### **How do women feel when she is discriminated against at the workplace? And will there be any change in their work if this discrimination is stopped?**

When a woman is discriminated against at the workplace, she feels inferior and starts to have self-doubt which lose concentration at work. This also makes her afraid of giving any opinions.

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<sup>4</sup> 'Discrimination Against Women in the Workplace: Everything You Need to Know' (*Upcounsel*) <<https://www.upcounsel.com/discrimination-against-women-in-the-workplace#:~:text=Discrimination%20against%20women%20in%20the%20workplace%20is%20when,male%20employee%20specifically%20because%20of%20the%20employee%27s%20gender>> 08 January 2022

<sup>5</sup> '10 Women Protection Act and Laws in India' (*Timesnext*) <<https://timesnext.com/women-protection-act-laws-india/#:~:text=Equal%20Remuneration%20Act%2C%201976%20This%20women%20protection%20act,women%20protection%20act%20and%20law%2C%20as%20mentioned%20above>> accessed 08 January 2022

This makes her feel that she has lost all her modesty. If discrimination at the workplace stops women will feel more motivated towards work and their power will increase. More women will feel the urge to work by watching other women reach high standards at the workplace.

## JUDICIAL PRECEDENTS

Some of the case laws and judgments explain the offence of outraging the modesty of women in India based on discrimination of women at the workplace. The case laws are as follows:

**Vishakha v State of Rajasthan<sup>6</sup>:** The way a society treats its most vulnerable members frequently determines its progress; women and children are among the most vulnerable in a culture like ours, and protecting their rights is critical. Sexual harassment of women in general, as well as workplace harassment, is a problem that puts women in greater danger. A strong system to combat it will go a long way toward protecting their interests. The Supreme Court's ruling in *Vishakha v State of Rajasthan* was significant because it established detailed standards for dealing with the threat of sexual harassment at work. Chief Justice Verma, Justice Sujata V. Gupta, and Manohar and Justice B.N. Kripal. delivered the decision. The benefits and drawbacks of judicial activism are frequently disputed in legal circles; there are benefits and drawbacks, but the *Vishakha* decision reinforces the positive aspects of judicial activism. Even after five decades of independence and innumerable cases of gender discrimination and sexual violence against women, India lacked legislation against sexual harassment prior to the announcement of *Vishakha*. Even though sexual harassment had been swept under the rug for a long time prior to the ruling, it was brought to light. Sexual harassment of women deprives them of their dignity, which is a fundamental human right, and a single act of harassment can lead to a lifetime of misery.

**Leela v State of Kerala<sup>7</sup>:** In this decision, the court decided that any act that creates provisions for women to encourage social welfare cannot be considered a violation of Part III's rights. The court recognized a woman's dedication to her family by prohibiting lady constables and

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<sup>6</sup> *Vishakha v State of Rajasthan* (1997) 6 SCC 241

<sup>7</sup> Shreya Shree Singh, 'Landmark Judgements On Gender Equality: The Practical Reality' (*Legal Bites*, 7 October 2020) <https://www.legalbites.in/landmark-judgements-on-gender-equality/> accessed 13 January 2022

servers from working the night shift. The government should endeavor to build a strong public opinion through advocacy, education, and seminars to provide women with the position they desire.

**Chandra Rajakumari And Anr. v Commissioner of Police**<sup>8</sup>: In this instance, the question was whether or not the obscene presentation of women in beauty pageants was a violation of fundamental rights. Depriving a woman of her right to dignity and portraying her in a degrading way, according to the AP High Court, is against public morals. Articles 14, 21, and 51A<sup>9</sup> are all violated by such portrayal.

**Leela v State of Kerala**<sup>10</sup>: In this decision, the court decided that any act that creates particular provisions for women to encourage social welfare cannot be considered a violation of Part III's rights. The court recognized a woman's dedication to her family by prohibiting lady constables and servers from working the night shift. To give women the place they deserve, the government should seek to build a strong public opinion through advocacy, awareness, and seminars. These Judicial precedents explain the offence of outraging the modesty of women in brief and give us the idea of how it outrages modesty.

## CONCLUSION

According to the study and figures presented above, women have numerous disadvantages in the job when compared to men. They are paid less for doing the same job and have fewer opportunities for advancement. While we can see that most women are uninterested in furthering their careers and are more concerned with caring for their children, this is not the reality. Women are working in greater numbers than ever before, and those with family responsibilities are still interested in leadership training. Women face significant disadvantages in the workplace when compared to men, according to the study and numbers are shown above. They get paid less for doing the same job and have fewer promotion possibilities. While some authors argue that most women are uninterested in advancing their

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<sup>8</sup> *Chandra Rajakumari And Anr. v Commissioner of Police* (1998) 1 ALD 810

<sup>9</sup> Constitution of India, 1950, art 14, 21, 51A

<sup>10</sup> *Leela v State of Kerala* 2004 (102) FLR 207

careers because they are preoccupied with caring for their children, this is not the case. Women are working in greater numbers than ever before, and even those with family responsibilities want to learn how to lead. Companies appear to need to address the issue of women's underrepresentation in executive and managerial positions by assuring equal pay and advancement opportunities. Sadly, we do not live in an ideal society, and not everyone has equal access to opportunities and rights. This applies not just to our personal lives, but also to our professional lives; employees might be discriminated against and abused based on their skin color, race or gender, age, marital status, disability, and other characteristics. Individual and collective preventive steps should be taken to eliminate workplace discrimination.

To summarize, incidences of discrimination are widespread in various workplaces, but they can be avoided by implementing the offered solutions and ensuring that all female employees are satisfied. The organization should make sure that employees are trained on the policy in the workplace, and that this training is included in the onboarding process for new employees. Staff should be educated on their rights and obligations, as well as information on how to recognize and respond to workplace discrimination. It should also include training managers and supervisors on workplace prejudice and how to prevent and manage it. Companies appear to need to address the issue of women's underrepresentation in executive and managerial posts by ensuring that they receive equal compensation and opportunity for advancement, proper protection from sexual harassment and new laws should be made to stop the discrimination at the workplace so that women can freely go to work and can be treated equally as men in the society of India.