

ARE THE CRITERIA IN THE EMPLOYMENT FAIR AND INCLUSIVE?

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INTRODUCTION

Employment has seen class differences, caste differences, regional differences and many more kinds of differences right from the times immemorial. It is not something the problem of modern ages but at the same time, problems like these hamper the growth of the whole community and class. This mindset regarding the employment can be seen in the various contexts such as if one goes to village, they generally expects everyone to be involved in the practice of Agriculture or poultry farming, and when one visits the metropolitan cities, the people there are generally expected to be involved in the activities related to the tertiary sector. Thus, there is certain diversity when it comes to employment but one needs to be provided with a sense of equity in order to overcome these challenges. The biggest kind of difference which is majorly seen in hiring and firing is the gender differences. It is unfortunately the practice we are following from the longest time where women are less preferred for the roles, and even if they will be assigned any jobs regardless of any sectors, there must be a man who will be supervising her or accompanying her, this is because one can't expect the woman to be 'smart' as per the societal norms. Thus, even if women surpass all the hurdles of the society to get out and get employed in any place, they will always be facing the patriarchal society where her skills will be forever questioned.

But there are not just the problems in having the diversities, there are certain advantages too like, diverse opinions on certain ideas, diverse portfolios of employees help in letting the business understand the needs and wants of different societies, which in turn help the businesses grow in future. It is inevitable that the employees while getting hired are also assessed on the places like where they come from, what they believe in, and many more of such personal traits of them which lead to the biases in the whole process of hiring. Thus, there should be the practice of blind hiring in order to overcome such challenges as the hiring board also consists of humans and when humans assess the other human, the biases will be coming naturally. Inclusion is very important for any kind of employment as it gives out the message of belongingness to the whole idea of 'social welfare and economic development'. By giving equal opportunities to everyone, we assure that the people are not left out in this

competitive world. The government belongs to all and thus, the idea of economic upliftment should not be for just certain groups of people, excluding the others. The country like India, where artisans from the certain place only think of doing or making that craft, is not what we are discussing here, but the people in villages who are forced to work in farm, irrespective of their interests in doing something else or getting employed in high paying jobs should not be just a dream for them. ¹

MAJOR ISSUES CONCERNING EMPLOYMENT IN INDIA

The main problem emerges in employment regarding the disparity between various sectors of life, whether it is caste, creed, gender, etc. The idea of employment to be fair is also enshrined in Article 15 and 16 of the Constitution. The main objective of employment is to strengthen the people and the economy of the country. This can be done by giving the jobs to every person, and especially the one who is standing at the last line of the country. Having fair and uniform labour laws in the formal sector is one problem, and then having the informal or unorganized sector to get the place in the labor laws arena is another objective but a very challenging one. The wages have been the problem or concern amidst all the other issues of the laborers. The fair wage and then the living wage must be given to the employees in all the sectors, and this has been also listed in the Directive Principle of State Policy. Now, the generation of jobs for the youths has become the lucrative thing for the political parties to attract the people, which is sad. ²

The disparity in giving employment encourages the gap between poor and rich, which in turn damages the backbone of the economy. Most importantly, the challenge gets more prominent in front of the government, when the major labour force becomes unemployed. Then the government feels that the finest solution for all of these problems will be 'freebies' which is yet again another problem. Hence, the main idea of employment is to strengthen the youths and the working force of the country. So, typically the thing which should be the solution to major problems, has itself become the new problem.

The employment thus, should not have any disparity and should be given to everyone regardless of anything. The reason for this disparity must be found out, in order to solve it. So, overall the root of such problems is gender, unequal distribution of resources like internet

¹ <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

² <https://www.ohchr.org/en/what-are-human-rights>

facilities are not accessible in the rural areas, race, and educational qualification. Most of the people don't get the qualification for the work they want to do, which unfortunately forces them to stay or gets restricted in the lower strata of the economy. When a person doesn't learn to operate a computer in his school then how can he get work in any MNCs when he grows up.

In any democratic society, employment is not only a means to earn a livelihood but also a vital instrument for social empowerment and personal dignity. The right to work under just and favorable conditions is recognized internationally as a fundamental human right. In the Indian context, employment plays an even more critical role due to the country's deeply rooted socio-economic disparities, historical caste-based discrimination, and unequal access to resources and opportunities.

Employment in a democratic society is not only a source of livelihood but also a reflection of dignity, equality, and inclusion. In India, where social stratification and economic disparities are deeply entrenched, the role of labour laws becomes pivotal in ensuring that employment criteria do not reinforce existing inequalities.

This paper explores the extent to which Indian labour laws uphold fairness and inclusivity in employment practices. It seeks to understand whether legal frameworks effectively prevent discrimination and promote equal opportunity for all, particularly for vulnerable and marginalized groups such as women, Scheduled Castes (SCs), Scheduled Tribes (STs), Other Backward Classes (OBCs), persons with disabilities (PwDs), and economically weaker sections (EWS).

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LAWS CONCERNING FACETS OF EMPLOYMENT EQUITY

The Indian Constitution stands as the cornerstone of justice and equality. It embeds within its text several provisions aimed at securing inclusive and equitable employment for all citizens

The Constitution of India lays the foundation for fair and inclusive employment. Article 14 ensures equality before the law, while Article 15 prohibits discrimination on grounds of religion, race, caste, sex, or place of birth. Article 16 guarantees equal opportunity in matters of public employment and allows the state to make provisions for the reservation of posts in

favour of socially and educationally backward classes. These provisions have served as a foundation for various reservation policies, laws, and judicial interpretations intended to level the playing field for historically marginalized groups.³

In alignment with the constitutional ethos, several key labour laws have been enacted to address different facets of employment equity:

Equal Remuneration Act, 1976: Aimed at preventing gender-based discrimination in wages, this Act mandates equal pay for equal work for men and women.

Rights of Persons with Disabilities (RPwD) Act, 2016: Replacing the 1995 legislation, this Act provides for a 4% reservation in government jobs for persons with benchmark disabilities and mandates reasonable accommodations in the workplace.

Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989: Though not a labour law per se, this Act indirectly impacts employment by protecting SC/ST individuals from workplace discrimination and harassment.

Code on Wages, 2019: This consolidates four previous wage laws and aims to ensure minimum and timely payment of wages, regardless of employment status, thus promoting economic inclusion.

The Industrial Disputes Act, 1947: It provides mechanisms for resolving industrial conflicts and aims to protect workers from arbitrary dismissal and exploitation. The public sector in India is subject to reservation policies that mandate a certain percentage of jobs for SCs, STs, OBCs, and more recently, for the EWS category. These reservations are backed by constitutional provisions and have contributed to improved representation of these groups in government jobs. Additionally, reservations for PwDs are legally binding and monitored by various state and central agencies. Unlike the public sector, the private sector does not follow mandatory reservation policies. Inclusivity in private employment is largely driven by corporate social responsibility (CSR) initiatives and voluntary diversity policies. This results

³ https://en.wikipedia.org/wiki/Human_rights

in inconsistent practices across industries. Despite some progress, particularly in gender diversity, private companies often lack robust inclusion frameworks for caste and disability.

Most private employers do not collect disaggregated data on caste or disability, making it difficult to assess the actual level of representation or discrimination. Additionally, the absence of binding legal provisions allows systemic biases to persist unchecked in recruitment, promotion, and compensation practices.⁴

Though caste-based discrimination is constitutionally outlawed, it continues to persist subtly in hiring practices. Empirical studies have demonstrated that applicants from SC and ST communities are often subject to bias during recruitment. Discriminatory practices such as name-based shortlisting and informal segregation within workplaces still exist.

Despite constitutional prohibitions and social awareness campaigns, caste-based bias remains deeply embedded in Indian employment practices. Studies have shown that applicants with Dalit or tribal-sounding names are significantly less likely to be shortlisted for interviews, even when qualifications are identical. In some organizations, subtle forms of segregation, such as exclusion from informal networks or social interactions, further marginalize employees from lower castes.

Women face multiple barriers in employment, ranging from wage disparity to limited access to leadership roles. The Maternity Benefit (Amendment) Act, 2017, increased maternity leave to 26 weeks, but it has also led some employers to prefer hiring male candidates due to perceived cost implications. Sexual harassment and lack of workplace safety further hinder women's participation in the workforce.

While the RPwD Act mandates inclusive practices, many workplaces are not accessible. Physical infrastructure, communication barriers, and lack of sensitization among employers create a hostile environment for employees with disabilities. Employment data shows that the participation of PwDs remains disproportionately low.

This includes not just physical infrastructure like ramps and accessible restrooms but also digital accessibility tools like screen readers and voice-to-text software. The result is a

⁴ <https://www.un.org/en/global-issues/human-rights>

significant underrepresentation of PwDs in both formal and informal employment. A significant portion of India's workforce is employed in the informal sector, which often lies beyond the purview of formal labour laws. These workers face precarious working conditions, low wages, and lack social security benefits. Inclusivity and fairness are almost non-existent in this segment, despite its substantial contribution to the economy. Indian courts have consistently interpreted constitutional and legal provisions in favor of inclusive employment:

Approximately 90% of India's workforce is employed in the informal sector, including agricultural laborers, domestic workers, street vendors, and daily wage earners. These workers often operate outside the purview of existing labour laws and do not receive minimum wages, job security, or social security benefits. Marginalized communities are overrepresented in this sector, making the lack of regulation a significant barrier to inclusive employment.

JUDICIAL INTERVENTION AND RELEVANCE

Indian courts have played a proactive role in interpreting labour laws to uphold inclusivity. For instance, in *Janhit Abhiyan v. Union of India (2022)*, the Supreme Court upheld the 10% reservation for EWS in public employment, reinforcing the idea that economic disadvantage also warrants affirmative action.

In another case, *Vikash Kumar v. UPSC (2021)*, the Court held that denying a scribe to a person with a disability amounted to discrimination under the RPwD Act, affirming the need for reasonable accommodation. Programs like the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) offer minimum wage employment to rural households and have helped in improving participation among women and marginalized communities.⁵

However, similar employment guarantees are absent in urban areas, where informal work is equally prevalent. Other initiatives like Skill India, Stand-Up India, and Startup India aim to enhance the employability of disadvantaged groups but often suffer from low outreach and limited effectiveness due to implementation challenges.

⁵ <https://nhrc.nic.in/>

However, there is a need to extend similar guarantees to urban informal workers.

SUGGESTIONS

Employers play a crucial role in translating legal mandates into practice. Progressive companies are adopting inclusive hiring practices, conducting unconscious bias training, and establishing diversity councils. Civil society organizations have also been instrumental in advocating for fair labour practices and supporting litigation and policy reform.

Employers hold the power to institutionalize inclusive practices at the workplace. Leading companies have begun investing in unconscious bias training, establishing internal diversity councils, and setting diversity hiring targets. Some have gone further to offer flexible work arrangements, gender-neutral parental leave, and disability-friendly infrastructure.

Civil society organizations also play a crucial role by conducting awareness campaigns, offering legal aid to affected workers, and engaging with policymakers to drive reforms. Despite these efforts, the broader ecosystem still lacks the urgency and scale required to address systemic exclusion. However, such efforts remain limited in scope and scale. A broader cultural shift is necessary to normalize diversity and challenge deep-rooted social prejudices that affect employment decisions. **Mandatory Diversity Audits:** Organizations should be required to conduct annual audits on inclusion and publish data on workforce diversity.

To bridge the gap between policy intent and ground reality, a multi-pronged approach is essential. **Extension of Reservations to Private Sector:** The government could consider incentives or legal mandates to implement reservation policies in large private firms.

Strengthening Enforcement: Labour inspectorates need better resources and autonomy to monitor workplace discrimination. **Skill Development Programs:** Targeted vocational training for SCs, STs, women, and PwDs can enhance employability and bridge socio-economic gaps. **Mandatory Diversity Audits:** All medium and large enterprises should be required to conduct and publish annual audits on workforce diversity and inclusion metrics. **Private Sector Reservations:** The government can explore legal mandates or fiscal incentives to promote reservation or affirmative action in private sector hiring. **Legal Awareness Campaigns:**

Dissemination of information about labour rights through community outreach can empower marginalized workers to seek redress.

Inclusive Infrastructure: Workplaces should invest in making physical and digital infrastructure accessible to all, including persons with disabilities.⁶

The main problem or the reason for the impartiality in the economic conditions in India is that there is unequal penetration of internet connectivity, infrastructure, employment opportunities, and the organised or formal setup. When we don't have any company in the rural areas or tier 3 cities then how can we expect the people to ever and ever come out of the poverty line. The jobs distribution is first of all not fair in our country and amidst all these, the lacunae either in labour law or in its implementation is the factor which is exaggerating the unequal distribution of labour and employment. Now, this unequal distribution of employment forces the laborers to migrate from one place to another or to be specific, from rural areas to urban areas which in turn increases the population ratio of the urban places leading to many administrative, social and environmental problems. The labour gets exploited in the hands of employers, no matter if the worker is educated or not. The educated employees are also not immune to this harsh system of employment. Most importantly all these factors are the ones which are discriminatory in nature and discourage India from becoming the 'welfare state'. The idea or purpose of employment is mainly to uplift the lower sections of the society but if this tool of employment itself is forcing the people to move to lower income strata of the country then nothing can be more serious than this.

Employment is not for creating the disparity but to remove them. Now, most importantly the economic sphere also overlaps with the social and political sphere of the person. This means if the person is not financially enriched then his social interests will be affected too and his political choices will be limited too. Majority of people live in places which are not developed, and thus they are also forced to not get the basic necessities of life like food, clean water and medications which is not just problematic for them but also for the whole country. The country's growth and development depends on the basic necessities of the citizens. If the citizens of the country are not able to get some basic things then forget about social protection and welfare. Hence, the problem emerging from unfair employment opportunities must be solved in all ways and at all costs.

⁶ <https://www.unicef.org/child-rights-convention/what-are-human-rights>

The laborers are always devoid of their rights and justice, thus we should take care of the situation making the laborers skilled by providing them the training and excluding all the obstacles from the path of the workers to achieve their best interests.

CONCLUSION

The government needs to assure that the workers get the opportunities for them to get the desired jobs for themselves. India is a country with people having lots of differences like caste, culture, creed and all of those. But it should not let anyone face the discrimination in the country while pursuing any job of their choice only because they are not privileged in certain situations and circumstances. The labour organization should also help in letting the laborers get justice regarding the same by raising the issues and spreading the awareness among the people. The prelude or prerequisite of getting a good job or increasing the employment chance is to provide a fantastic and world class education to them. The main problem of employment can be tackled by skilling people and preparing them for world problems. Their skill should be of such quality that it should not be challenged by the upcoming Artificial intelligence and robotics. Instead of this, the workforce should be ready to face these challenges by knowing how to regulate them and how to use it for one's favour and the development of the country.



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