



INDIAN JOURNAL OF
LEGAL REVIEW

VOLUME 4 AND ISSUE 3 OF 2024

INSTITUTE OF LEGAL EDUCATION



INDIAN JOURNAL OF LEGAL REVIEW

APIS – 3920 – 0001 | ISSN – 2583-2344

(Free and Open Access Journal)

Journal's Home Page – <https://ijlr.iledu.in/>

Journal's Editorial Page – <https://ijlr.iledu.in/editorial-board/>

Volume 4 and Issue 3 of 2024 (Access Full Issue on – <https://ijlr.iledu.in/volume-4-and-issue-3-of-2024/>)

Publisher

Prasanna S,

Chairman of Institute of Legal Education (Established by I.L.E. Educational Trust)

No. 08, Arul Nagar, Seera Thoppu,

Maudhanda Kurichi, Srirangam,

Tiruchirappalli – 620102

Phone : +91 94896 71437 – info@iledu.in / Chairman@iledu.in



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DISCRIMINATION AGAINST MEN IN INDIA AND US COMPARISON BETWEEN INDIAN LAWS AND US LAWS

AUTHORS – RANGAI MOTALE & VEDANGI KULKARNI, STUDENTS AT NARSEE MONJE INSTITUTE OF MANAGEMENT STUDIES, SCHOOL OF LAW

BEST CITATION – RANGAI MOTALE & VEDANGI KULKARNI, DISCRIMINATION AGAINST MEN IN INDIA AND US COMPARISON BETWEEN INDIAN LAWS AND US LAWS, INDIAN JOURNAL OF LEGAL REVIEW (IJLR), 4 (3) OF 2024, PG. 722-730, APIS – 3920 – 0001 & ISSN – 2583-2344.

Abstract

This abstract explores the frequently disregarded problem of gender discrimination against males in India and the US, focusing on its reflections in employment opportunities, education, legal systems, violence including domestic abuse and sexual assault, LGBTQ+ rights as well as health. Instead of concentrating mostly on women's gender inequality, this examination brings out specific problems experienced by men in both countries. Men suffer widespread discrimination across various sectors in India. Having a large fraction of the labor force they contend with job insecurity, low wages and fewer career prospects than their female counterparts do in some areas. There are educational inequalities such that men from marginalized communities face barriers to entry and graduation. The justice system is advancing but still contains biases that disfavor men under certain circumstances. Men too are victims of violence such as domestic violence and sexual harassment although these are often unreported and stigmatized. In relation to this issue, the LGBTQ+ community also experiences high degrees of discrimination with men being constantly harassed, subjected to violent acts or shunned socially. Health disparities affect males particularly when it comes to mental issues and drug abuse which have long been ignored. It's a contrasting and complicated picture in the United Kingdom. Gender equality has made some strides; however, males face certain difficulties. Within the workforce, men dominate hazardous occupations and are more likely to become unemployed. There are gender disparities in education, with men trailing women in several areas. The legal system is typically fair but there could be concerns where men's rights may be sidelined. Men experience violence including domestic abuse yet support services often target women. LGBTQ+ communities suffer discrimination and this presents challenges that are particular to males. There are health inequalities that affect men such as suicide and substance abuse. From a comparative analysis, it can be observed that despite some similarities, there exist striking differences between experiences of men in India and those of their counterparts in the US. It is true that both countries have systemic biases as well as discriminatory practices which impact on men's lives. However, the nature, extent, and response by society to these issues significantly differ between them. India faces deeply entrenched patriarchal structures coupled with low awareness about issues affecting men while Britain grapples with how not to homogenize specific needs for men without perpetuating harmful stereotypes amongst its citizens who have embraced gender neutrality.

Keywords– Employment opportunities, Education, Legal systems, Violence, Job insecurity, Low wages, Career prospects, educational inequalities, Systemic biases, Discriminatory practices, Societal response, Patriarchal structures, Awareness, Gender neutrality

Introduction

In recent years, most people especially in the international community, have regarded the

question of gender discrimination as one that affects women only. This has been emphasized and this is the reason the world has made so

many achievements in trying to organization gender equity. But I would like to point out that discrimination can also apply to men in a number of cases; the focus is on the violence of women that overshadow this problem. This introduction shall endeavour to analyse the more hidden, but comparable, discriminations that men suffer within the Indian and international societies especially the workplaces, education institutions, and the laws while also studying violence and discriminations on men in the United State. Hitherto in India social norms as well as laws are much more sensitive towards the safety and rights of women rather than accepting and recognizing the issue faced by men. For example, in the workforce area, men are often depicted along gender stereotype, which influences their opportunities in the workplace, employment security and relations therein. These biases can be in the form of favouring women in the certain positions or as the societal standards that put pressure on men pulling them to what is considered as the male norm despite if it causes poor health and low morale among the employees.

Likewise, gender bias in Indian educational system has also been reported Offender profiling; Criminal profiling: An analysis of a violent offender. These investigations reveal that there has been preponderance of the educational policies and practices to lean towards the side of the girls to the detriment of boys. Such a state of affairs can lead to poor education standards thus, poor jobs opportunities for men thus Deeping the vice of inequality. These prejudices against men can also be observed in legal and judicial worlds of India. Since the majority of family related issues involve divorces and child custody, these legal premises are inherently sexist to women. Families which are involved in child custody cases may feel that they are discriminated since the courts do not support their wishes that men deserve to have their children after separation or that they be allowed to divide the property and manage the children equally

since women were the usual victims of domestic violence implying that men should not be trusted to handle their children or make fair judgments for themselves as they recover from the violence. global level especially in countries such as United States more debates and discourses are being set on discriminations of men. The US is also not exception for male pitfalls: the case of male vulnerability, violence, and law. For instance, men victims of domestic violence are often ignored and their cases seldom reported or investigated, or protected service agencies inadequately manned. This neglect is complemented by stereotyping that downplays the male victimization thereby increasing the difficulties that men face when in search of assistance. The presence of legal disparity is evident when comparing the two jurisdictions of India and UK more particularly in the treatment of gender discrimination. The Indian law was more sympathetic towards women than men and it is again a necessity but has led to Pros that exploit men. However, there are trends for change in the recent years of the US to address the male discrimination but there are gaps that have not been filled to promote protection of all genders alike.¹⁰³⁸

In order to support these points of view cases of both India and United States will be described. These cases will help to make listeners and viewers aware of discriminative experiences of men and will deepen their understanding of the fact that gender-based discrimination and sexual harassment men are also victims of abuse.

• **Discrimination against men in India**

Every day we hear some cases of sexual harassment or injustice against women in India. It is a stigma in our society that injustice can only happens against women because women and children are the most vulnerable human beings which can be easily exploited. We never think that men can also be a victim of injustice

¹⁰³⁸ mittal, v. (2024, january). Gender Discrimination Against Men. doi:<https://www.legalserviceindia.com/legal/article-5421-gender-discrimination-against-men.html>

or sexual harassment. There are several cases where men are harassed and no justice has been served to them. As we all know that injustice against women happens in every sector be it in educational sector, at workplace, at home, in society etc, same harassment is happening against men also in our society, it's just that we are unaware about it because there are no suits filed in the court or the number of such cases is very low that no one can observe it. In our Indian society every time only women get preference if some injustice is happened against them. There are several cases where only women get preference to get justice such as, Dowry cases, Sexual harassment, rape cases, marital rapes, sexual harassment at workplace etc. we always say that women are most ignored part in a society but what about men, their problems. We never take a step in favour of men to get them justice. It is a type of gender discrimination against men or discrimination against men. In India there are several laws are made for the betterment of women but no such laws are made in favour of men. Although there are no such laws made for the men but there are several NGO's and social movements which are working for betterment of the men in a society.¹⁰³⁹

1) Discrimination against men at workplace –

Discrimination against men at workplace can occur in a different way, although it is discussed very less than discrimination against women at workplace. There are various instances where men face discrimination are of the following:

a) **Parental leave** – There are various laws for the maternity leave for women in various statutes like, Maternity benefit act, 1961 also in labour law there are various provisions which talks about maternity leave but no law is made for men to take paternity leave. It is a social stigma that men cannot take a leave and enjoy their personal life with their family and they have to work for the betterment of their family.

Parental policies are more generous for women than men because our society thinks that men cannot take paternity leave and maintain work-life balance.

b) **Family Responsibilities**– Indian society is a very stereotypical in nature. It means that there are specific functions which are divided between men and women, if a woman wishes to do some work which is given to a man, she is not allowed to do that or society will not except that. Same is with the men, if a man wants to do work which is given to woman, the society would not give permission to do that. If a man wants to take the responsibility of his family, children then people will criticize that man that you cannot do this and you have to work, you have to earn money and you cannot take care of your family, it's not your, your wife or your mother has a duty to take care of your family and you do not have to take responsibility of your family. We always say that women do not have any choices but I think this same condition also applies men also, they suffer a lot. They also don't have any choices; they have no right to take care their family otherwise society will not except the same.¹⁰⁴⁰

c) **Workplace Safety** – Usually in various sectors, a number of male workers are higher than women workers like big infrastructure sites, big buildings etc, because at such places there is a chance of physical harm men gets preference over women. Also, at such places workers need more physical strength that's why men have to work at such sites which is harmful for their health and there will be no surety of their safety at their workplace.

d) **Sexual harassment policies**– Workplace policies in India are more biased towards women than men. If we talk about sexual harassment at workplace then there are numerous laws which talks only about sexual harassment of women at workplace but there is no explicit law about sexual harassment of men at workplace plus there are no policies which

¹⁰³⁹ pleaders, i. (2015, july). Discrimination Against Men. Retrieved from <https://blog.ipleaders.in/discrimination-against-men/>

¹⁰⁴⁰ mittal, v. (2024, january). Gender Discrimination Against Men. doi:<https://www.legalserviceindia.com/legal/article-5421-gender-discrimination-against-men.html>

talks about harassment against men at workplace. Sexual harassment of women at workplace act, 2013 only talks about harassment against women. There is no strong law which in support of harassment against men at workplace in India.

2) Discrimination against men in India in education sector-

Discrimination against men in education sector happens in various ways. Although we not talk about it as much as we talk about discrimination against women in education sector, but here are some instances where men also face discrimination are of the following:

a) **Gender stereotypes-** Especially in the field of teaching, at the primary and pre-primary levels, is often stereotypically viewed as a female profession. This can lead to biases against men entering the field and a perception that they are less suited for roles involving nurturing young children.

b) **Career advancement-** Men might encounter obstacles in advancing their careers in fields like primary education, where female representation is high. Conversely, in higher education and in administrative field, they might face expectations to conform to traditional male leadership styles.

c) **Reverse Discrimination-** Institutions that implement gender quotas to increase female representation might inadvertently discriminate against men by giving preferential treatment to female candidates, even if male candidates are equally or more qualified. Some scholarships such as Pragati scholarship, DRDO scholarship scheme for girls, Abhilasha scholarship etc are specifically designed to support women in education, which can limit opportunities for men, especially in fields where men are underrepresented.

d) **Cultural expectations-** Social norms often expect men to pursue career in fields more authoritative or technical, such as engineering or business, rather than nurturing roles in education. This can result in a bias against hiring men for teaching positions, especially in subjects or age groups

traditionally associated with women. In some cases, policies designed to promote gender equality might inadvertently disadvantage men by creating quotas or preferences that favour female candidates.¹⁰⁴¹

3. Law and legal system in India –

In India, there are several laws and constitutional provisions which talks about anti-discrimination laws, regardless of any gender. While many laws are specifically designed for women, but there are also legal protections available for men. Here are some examples of the same:

a) **Dowry and cruelty laws-** Dowry is prohibited under Dowry Prohibition Act, 1961. Demand of dowry as well as dowry death is punishable offence under Section 304 B of Indian Penal Code. Now days, there are so many cases in which women or wives misuses this law and harasses their husband, The suicide rates of husband are increasing day by day because of the false cases of dowry and harassment by their wife. Now days dowry is a weapon in hands of women to protect themselves from their husband and relatives.

In the case of Sanjay vs Anita, 2007

In this case, Bombay High Court held that, false complaint against husband and his relatives by wife amounts to mental cruelty to husband and his relatives and thus become a ground for divorce.

Section 113 B of Indian Evidence Act, 1879 states that if a married women commits suicides within 7 years of her marriage, then her husband will be punishable under Section 304B of IPC. Here without any evidence, it is to be assumed that the death is happened because of her husband only. This law is discriminative against men.

Women cannot be considered as an abettor. This was held in the case of **Yusuf Abdul Aziz vs State of Bombay, 1954**. In this case the validity

¹⁰⁴¹ awasthi, a. (2023, FEB 18). An Indian Perspective on Domestic Violence against Men. Retrieved from <https://timesofindia.indiatimes.com/readersblog/my-thoughts-on-paper/an-indian-perspective-on-domestic-violence-against-men-50632/>

of Section 497 was challenged before the court stating that this law creates biasness, injustice and discrimination against men. But in this case, it was held that women cannot be held liable for adultery.

b) Divorce- Divorce means dissolving the marriage either by husband or by wife. Divorce can be happened by any type of misunderstanding or difference between the husband and wife. Earlier we have seen that divorce cases were filed by women means the number of divorce cases are mostly filed by women because of several reasons such as, cruelty, sexual harassment, extra- marital affair of her husband with other women etc. But as the time passed, many cases are filed by men. Some wives harass their husbands and made his life miserable.

In the case of Dastane vs Dastane, 1975

In this case what happened is that, the wife harassed her husband and made his life hell and miserable. She always insulted her husband in front of his friends and family. and screamed at him saying that she doesn't want his family to no lase forever. The court held that all these acts amount to mental cruelty and can be a ground of a divorce.

In many cases of divorce, men have to pay alimony and maintenance to their wives. This is based on assumption that the divorce is happening because of husband's fault and also husband is a primary earner which is discriminatory in nature although both the spouses are earning. Under various laws like, Hindu Marriage Act, 1955 and Special Marriage Act, 1954, the maintenance is awarded to either of the spouse but in most of the cases the maintenance is awarded to women only.

c) Sexual harassment against men-

The cases of Sexual harassment against men are rising day by day. People always thinks that only women can be victims of sexual harassment but it's not true men also facing the same issue as women does. Men also harassed by their co- worker or superior at their workplace. Generally, people don't believe it that men can also be harassed but it is a reality

in our society. In 2015 a survey was done by Economic times in which it was reported that 19 to 21 percent males working in various cities like Bangalore, Delhi, Chennai, Kolkata and Mumbai men have been victims of sexual harassment. It is a very serious and rising issue in India and serious steps should be taken in consideration.

Despite there are several laws which are made for women only but there is some gender - neutral laws which are made both for males and females, such as

Section 377 of IPC- This section, before being partially struck down in 2018, criminalized all heteronormative sexual activities, and it was sometimes used to prosecute cases involving sexual assault on men. After the decriminalization of consensual homosexual activities, this section is now primarily used for cases of non- consensual acts.

male victims of sexual harassment can seek legal recourse under general criminal laws against assault, molestation or intimidation depending on the specifics of the case, additionally the National Human Rights Commission (NHRC) and State Human Rights Commission can be approached for grievances related to harassment and discrimination.

d. Violence against men in India -

The IPC contains several sections that apply to violence regardless of victim's gender. These provisions can be used to address violence against women.

Section 319 to 326 (Causing hurt grievous hurt)

- These sections cover physical harm, ranging from simple hurt to grievous hurt and are applicable irrespective of victim's gender.

Section 339 to 348 (wrongful restrain and wrongful confinement)

-These sections criminalize wrongful restrain and confinement, which can be applied to cases where men are victims.

Section 351 to 358 (assault and criminal forces)

- These sections define assault and criminal forces providing legal recourse for men subjected to such acts.¹⁰⁴²

¹⁰⁴² awasthi, a. (2023, FEB 18). An Indian Perspective on Domestic Violence against Men. Retrieved from

• **Discrimination against men in US**

Discrimination against men in the workplace in US can occur in various forms, though it is often less discussed than discrimination against women in the workplace or other marginalised groups. The US laws that protect employees from discrimination such as, **title VII of the Civil Rights act 1964**, prohibit discrimination on the basis of sex, meaning both men and women are protected from unfair treatment. In this act discrimination based on sex including gender discrimination against men is illegal. This law applies to 15 or more employees and prohibits discriminatory practices in hiring, promotions, pay and working conditions. Despite this legal protection, discrimination against men in the workplace still occurs, particularly in the female-dominated fields.¹⁰⁴³

Research indicates that while the majority of workplace discrimination claims are filed by women (approximately 83% as of 2017), there has been noticeable increase in claims brought by men. The Equal Employment Opportunity Commission (EEOC) reported a 50% increase in sex discrimination claims filed by men from 2017 to 2018. A meta-study published in 2023 highlighted a persistent selection bias against male candidates for jobs as perceived as female typed, indicating that this bias has remained stable over decades. Furthermore, the social attitudes often downplay the seriousness of discrimination against men, making it less likely to be recognized or addressed compared to that faced by women.

• **Discrimination against men at workplace-**

Here are some key aspects of discrimination against men in US-

<https://timesofindia.indiatimes.com/readersblog/my-thoughts-on-paper/indian-perspective-on-domestic-violence-against-men-50632/>

¹⁰⁴³ chan, H. t. (2017, december). discrimination against men in india. *experiences and views on american men*. Retrieved from <https://www.hsph.harvard.edu/wp-content/uploads/sites/94/2017/12/NPR-RWJF-HSPH-Discrimination-Men-Final-Report.pdf>

1) **Sexual harassment-** men can be victims of sexual harassment, which includes unwanted sexual advantages, inappropriate remarks, or a hostile work environment due to their gender. While women are statistically more frequent victims, men can also file complaints under sexual harassment provisions.

2) **Gender stereotyping-** men might face discrimination when they do not conform to traditional male gender roles. For example, men who shows emotions, take on caregiving roles, or work in female dominated industries (like nursing or teaching) may face bias or considered as less competent.

3) **Hiring and promotion bias-** Men can experience discrimination in industries where women are majority or where there are affirmative action's programs aimed at increasing female representation. In each case, some men may be overlooked for promotions or hiring, based on efforts to meet gender diversity roles.

4) **Reverse discrimination claims-** Men sometimes claims of "reverse discrimination" in cases where they believe they are being treated unfairly due to efforts aimed at increasing diversity or providing opportunities to underrepresented groups, including women.¹⁰⁴⁴

• **Discrimination against men in US in education sector-**

Here are some key concepts regarding discrimination against men in education sector in US-

1) **Grading bias-** Multiple studies have shown grading biases against boys in various countries including US. Examiners regardless of their sex, tend to grade boys lower than girls with similar performance. For example, a 2004 study in Israel found grading bias against boys across 9 subjects in arts, science, mathematics. Similar biases have been observed in junior High Schools in Sweden, high schools in

¹⁰⁴⁴ commission, u. e. (2020). sex Discrimination. Retrieved from <https://www.eeoc.gov/youth/sex-discrimination>

Portugal, and France and among 15-year-old in Italy.

2) **Gender imbalance in enrolment-** in recent decades, there has been a noticeable gender imbalance in higher education, with women surpassing men in both enrolment and graduation rates. According to data from US Department of Education, women make larger proportion of college students and graduates, leading to concerns that men, particularly those from disadvantaged background, are being left behind.

3) **Teaching and academic bias-** The underrepresentation of male teachers, particularly in primary and higher education can lead to subtle bias. Teaching is often seen as a female dominated profession, and men may feel marginalized or face stereotype about their ability to work with younger children, especially in nurturing and caretaking roles.

4) **Scholarship and financial aid bias-** Many scholarship programs are aimed specifically at women, particularly in STEM fields, which have been historically male dominated. While these programs are crucial for addressing gender gaps in these areas, men may have fewer opportunities for scholarship and financial aid in fields where women are already underrepresented.¹⁰⁴⁵

• **Law and Legal System**

1. **Pension**

In case of men, they are given a pension only when they have children who are under 18. Nevertheless, widows are granted a pension perpetually. Thus, this pension scheme is being amended to remove the discrimination of men. The pension for a deceased spouse is available for women only. Earlier, women could retire earlier than men and receive bus passes at a younger age. Such things have gone through the evolution process.

2. **Retirement Age**

As per the norm, the retirement age of women is lower than that of men. However, this is being

criticized as a result of the longer life expectancy of women and a shorter retirement time of men. The government has recently adopted a policy of raising the retirement age of women to that of men. Men could actually retire earlier than women because of things like having better job opportunities.

3. **Incarceration and Sentencing**

In United States The arrest, charge, and sentencing of women are less likely compared to men. Just like their male counterparts, women are also at risk of being condemned to death. Banks argue that women often receive shorter sentences than men for committing the same crimes. This may be because, for example, the judge's gender and the notion that women are less dangerous.

4. **Rape**

In the US, women are defined as those who have been penetrated. However, men who are forced to penetrate others are not considered as victims of rape.

5. **Proposed Legislation**

A proposal to ban men from candidate selections for parliament to achieve gender equality was met with criticism and scrapped.¹⁰⁴⁶

• **Violence**

1. **Domestic Violence**

Male victims of domestic violence often faced disbelief, ridicule, and even arrest from support services. Male violence against females is widely regarded as far more serious than female violence against males, making it a very "seriousness" gender issue. Research and interventions about domestic violence are often focused only on women.

¹⁰⁴⁵ commission, u. e. (2020). sex Discrimination. Retrieved from <https://www.eeoc.gov/youth/sex-discrimination>

¹⁰⁴⁶ chan, H. t. (2017, december). discrimination against men in india. *experiences and views on american men*. Retrieved from <https://www.hsph.harvard.edu/wp-content/uploads/sites/94/2017/12/NPR-RWJF-HSPH-Discrimination-Men-Final-Report.pdf>

2. Violence Against Men

Men are the majority of the murder victims in the U.S.A crime statistics. Males are more often seen of as perpetrators of violence and thus have their hurt less acknowledged. Discriminatory practices against male victims of violence may cause lack of empathy, awareness of male victims' victimhood phenomena can be diminished.¹⁰⁴⁷

• Comparison of discrimination against men in India and US-

Discrimination against men manifests differently in India and US due to variations in social expectations, legal framework and cultural norms. Here's the comparison of the key aspects of discrimination against men in both countries:

1) Legal Framework-

India: The legal framework includes acts like Equal Remuneration Act, which aims to prevent discrimination based on gender regarding pay. However, the implementation has been incontinent and cultural biases often undermine these laws. Additionally, while there are protections for women, men can face discrimination through laws perceived as favouring women, particularly in family law context.

US: US laws such as Title VII of the Civil Rights Act, prohibit discrimination based on sex. However, there are instances where men report feeling discriminated against in areas such as parental leaves, and custody battles, where social expectations often favour women. The legal system generally protects against discrimination for all genders but can reflect social biases.

2) Cultural perceptions and gender roles-

India: Traditional norms still prevail, with a significant portion of the population believing

that men should have priority in employment during tough economic times. A few research survey found that 81% of the Indian men and 76% of women agreed that men should have more rights to jobs when they are scarce. This reflects a social bias that may disadvantage women but also emphasizes a rigid role of male role in providing for families.

US: In contrast, only 14% of Americans believe that men should have more rights than women during economic downturns, indicating a much lower prevalence of this belief compared to India. This suggests a more egalitarian approach to gender roles in employment, where merit is prioritized over gender.

3) Workplace discrimination and gender gaps-

India: There is a significant wage disparity where women earn about 64% of what their male counterparts make for similar roles. While this primarily highlights women's disadvantage, it also indicates that men may be perceived as having more stable job security and higher wages due to traditional roles. Moreover, social expectations pressure men to fulfil provider roles, which can lead to stress and mental health issues.

US: Although wage gap exists (with women earning approximately 82 cents for every dollar earned by men), there is a growing recognition of men's mental health issues related to workplace pressure and expectations. Men may feel compelled to work longer hours or take on more demanding roles due to societal pressure, leading to potential burnout or job dissatisfaction.

4) Sexual harassment and domestic violence-

India: Sexual harassment laws in India are highly skewed in favour of women. Men face stigma and ridicule when reporting harassment or domestic reporting. The sexual harassment of women at workplace act, 2013 does not extend equal recognition to male victims of harassment. Additionally, laws addressing domestic violence do not offer protection for

¹⁰⁴⁷ chan, H. t. (2017, december). discrimination against men in india. *experiences and views on american men*. Retrieved from <https://www.hsph.harvard.edu/wp-content/uploads/sites/94/2017/12/NPR-RWJF-HSPH-Discrimination-Men-Final-Report.pdf>

men, despite evidence that men can also be victims.

US: Both men and women are protected under sexual harassment laws in US, with organizations like the Equal Employment Opportunity Commission enforcing these protections. However male victims often hesitate to report incidents due to stigma. In domestic violence cases, men are also less likely to report, though legal frameworks like restraining orders apply to both genders.¹⁰⁴⁸

5) Parental leaves and family responsibilities-

India: Paternity leave is minimal or non-existent in most organizations. Men seeking time off for caregiving responsibilities are sometimes stigmatized, as the traditional expectations is that men should focus on their careers. This social pressure reinforces gender discrimination, making it harder for men to claim work life balance.

US: While paternity leave is still not universally adopted in US, there is a greater recognition of the need for the men to participate in caregiving roles. Laws like Family and Medical Leave Act offer unpaid leave to both men and women, though men may face discrimination when taking such leaves, with concerns about career penalties or being perceived as less committed.

Conclusion

Addressing gender discrimination requires a nuanced understanding that encompasses the challenges faced by all genders. While it is essential to continue advocating for women's rights and addressing systemic inequalities they face, it is equally important to recognize and address the specific issues that affect men. This includes advocating for equitable policies in workplaces and educational institutions, ensuring legal protections are fairly applied without bias toward one gender over another, and fostering societal attitudes that allow for open discussions about men's rights and

vulnerabilities. By broadening the discourse on gender equality to include men's experiences, we can work towards creating a more inclusive society where all individuals regardless of gender can thrive without fear of discrimination or bias. This holistic approach not only benefits men but also contributes to a more equitable framework for understanding and addressing gender-based issues in our increasingly complex world.

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