

Safe Environment for Working Women: A Critical Analysis

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ABSTRACT

This research paper provides a comprehensive analysis of the need for a safe working environment for women in India. The study delves into the various forms of sexual harassment faced by women in the workplace, including sexual harassment, physical and psychological harassment, discriminatory harassment, cyberbullying, and power harassment. It also examines the effects of sexual harassment on both the victim and the organization, including the impact on the victim's physical and psychological well-being, professional and financial stability, and overall quality of life. The research also explores the legal liabilities for the offenders under Indian laws, including the provisions of the Indian Penal Code and the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. The study assesses the effectiveness of the Sexual Harassment Act, 2013 in providing justice to victims and highlights the need for a multifaceted approach to enhance women's safety in India and globally. The strategies for promoting safe environments for women in corporate sectors involve incorporating youth advocates for gender equality, utilizing online complaint registration systems, developing women's safety devices, and strengthening the legal framework. The study emphasizes the importance of creating a culture of respect and inclusion in the workplace.

Overall, this research paper aims to contribute to the ongoing discourse on women's safety and rights in the workplace, highlighting the urgent need for effective measures to prevent and address sexual harassment and promote gender equality and women's empowerment.

KEYWORDS: Sexual harassment, workplace harassment, women's safety, gender equality, workplace environment, legal framework, Sexual Harassment Act 2013, workplace policies, victim support.

INTRODUCTION

It seems that the term 'sexual harassment' came to be used in the public media only from the year 1975 onwards. Till then no term existed to describe what is now universally called "sexual harassment", though the phenomenon itself was well known to women. The term sexual harassment "in a legal sense" seems to have been first coined in the United States of America and subsequently "exported" from there to other industrialized countries including Australia, Canada, New Zealand, Japan and a number of countries in Western Europe. In India, the term 'sexual harassment' was first defined in a formal legal sense in the year 1997 by the Supreme Court in *Vishaka v. State of Rajasthan*. Other terms used to describe this malady are 'unwanted intimacy' in the Netherlands, 'sexual molestation' in Italy, 'sexual blackmail' in France and 'sexual solicitation' in some states of Canada like Ontario and Newfoundland. In Malay, words like 'gatal' or 'miang' (literally meaning 'itchy') are employed to describe the phenomenon. Many reports on the

working conditions of women also refer to 'lie down or layoff practices. However, it is the term 'sexual harassment' that has acquired the largest acceptance as it more fully denotes the malady than the other terms.

Women's safety and rights in the corporate world are not just moral concerns but are recognized as critical components for achieving sustainable development, underscored by the UN's Sustainable Development Goals (SDGs), particularly in SDG 5 (Gender Equality) and SDG 8 (Decent Work and Economic Growth). Additionally, the economic ramifications of neglecting women's safety are stark, with violence against women costing approximately 2% of the global GDP annually, a testament to the urgent need for addressing sexual harassment, gender equality, and women's empowerment in the workplace .

The discourse on women's safety items, women safety apps, and legal framework concerning gender-based violence, UN Women's initiatives, and safe cities highlights the multifaceted approach required to enhance women's safety in India and globally. The strategies for promoting safe environments for women in corporate sectors involve incorporating youth advocates for gender equality, utilizing online complaint registration systems, developing women's safety devices, and strengthening the legal cell with acts and rules tailor-made to combat workplace harassment .

1. ILO, Conditions of Work Digest, 506, (Vol 11. 1/1992).
2. Cynthia Bowman, *Street harassment and the informal Ghettoization of women*, 517, *Harvard Law Review*, (Vol 106).
3. AIR 1997 SC 3011

RESEARCH QUESTIONS

- What are the different forms of Sexual Harassment at workplace?
- What are the effects of Sexual Harassment on the victim and the place where the victim works?
- What are the liabilities under the law for the offenders involved in sexual harassment?
- What are the remedies for the victim of Sexual Harassment under Constitution of India and I.P.C?
- Whether the Sexual Harassment (Prevention, Prohibition and Redressal) Act, 2013 can adequately meet victim justice?

RESEARCH OBJECTIVES

- To outline the different forms of sexual harassment at workplace.
- To identify the profile of the accused i.e. whether they are of high post or clerk post or peon post.
- To inquire about the effects of sexual harassment on victim and the department where the victim works.
- To study the liabilities for the offenders of sexual harassment at workplace under the Indian laws.
- To study about the support given to the victim either by Organization, NGO' or Family
- To examine the remedies available for the victims of sexual harassment at workplace under the given law and also the Implementing procedures of these laws
- To critically analyse the Sexual Harassment Act, 2013

RESEARCH METHODOLOGY

In accordance with the present study, the research method which would be adopted is the Qualitative and Quantitative analysis under Doctrinal Research. The Doctrinal Research would be used to study the concept, extent and the development in the laws in the area of sexual harassment at workplace. This has

been done primarily with the help of articles of the journals, books, statutes, case laws and the leading judgment by different courts. On the other hand, the reports of International Labor Organization and Justice J.S. Verma committee report on Amendments to Criminal law (2013) were examined to realize the objectives and answer the research questions of my dissertation.

SCOPE OF THE STUDY

The present study helps to give knowledge about what is the actual meaning of sexual harassment and what is the extent of sexual harassment and what kind of things included in the category of sexual harassment. It also helps to bring light on the issue what are the effects of sexual harassment on the victim or what are the remedies available to the victim under the law and what are the liabilities of the offender who are involved in the offence and lastly whether the sexual harassment act 2013 is sufficient enough to provide the justice to the victim and give a safety environment to the victim at their work place.

DIFFERENT FORMS OF WORKPLACE AGAINST WOMEN

Workplace harassment against women manifests in various forms, each creating an environment that undermines their safety, dignity, and equality at work.

- The most prevalent form, encompassing unwanted sexual advances, comments, or conduct. This includes both quid pro quo, where job benefits are contingent on sexual favours, and hostile work environment scenarios that make daily work life unbearable for women.
- **Physical and Psychological Harassment:** Ranges from outright physical assaults to subtler forms like intimidation, belittling employees' contributions, and setting unachievable deadlines, all designed to demean and control.
- **Discriminatory Harassment:** Targets individuals based on protected characteristics such as race, gender, sexual orientation, and age, manifesting through offensive jokes, insults, and exclusionary practices.
- **Cyberbullying and Power Harassment:** With the digital age, harassment extends online, involving the spreading of lies or direct messaging to intimidate. Power harassment, often seen in superior-subordinate dynamics, leverages the imbalance to exert control and instil fear.
- **Retaliation and Third-Party Harassment:** Retaliation follows complaints or resistance, aiming to punish and deter future actions. Third-party harassment introduces an external threat, where individuals associated with the company, like clients or vendors, perpetrate harassment.

LITERATURE REVIEW:

ILO Publication, (2005) “Sexual Harassment at work: National and International responses” Sexual harassment happens to workers in the public service, in large and small enterprises, in services and shops, it happens to workers on plantations and farms, to entrepreneurs and traders in markets and to students, trainees and teachers at schools, in vocational training institutes and in universities. It happens to uneducated and educated workers at all levels of the job hierarchy. While men may be subjected to sexual harassment, the majority of victims are women”.

The American Association of University Women (AAUW) (2005) defines sexual harassment as a non-consensual and unwelcome sexual behavior, and it will affect lives of the victims. This definition emphasizes the consequences and implications of sexual harassment, and it distinguishes from consensual behaviors such as flirting, kissing and touching.

Chockalingam (2008) “The Indian Journal of Criminology & Criminalistic” in an empirical research on Sexual Harassment of women in public transport in Chennai city defines Sexual harassment as behavior of males towards women while travelling by overcrowded buses during busy hours and covers the following despicable deeds (a) ogling amorously which includes leering; (b) winking; (c) making gesture, waving and facial expressions; (d) apparently unintended body contacts such as unnecessary leaning and touching; (e) pressing against women; (f) unexpected touching of the breast; (g) brushing of the thighs/bottoms; (h) slapping and pinching of the bottoms; (i) pinching of the hips. He further argues that the harassment of women is a manifestation of society’s perception of women as an object of pleasure. Changes in the social attitudes and beliefs towards women coupled with concerted efforts by the public and the State will help ameliorate the women from victimizations of such nature.

IMPACT OF HARASSMENT AT WORKPLACE

Workplace harassment profoundly impacts individuals, manifesting in both psychological and physical symptoms that can severely disrupt personal and professional lives. Studies have shown that workplace abuse, including sexual harassment, is linked to depression, sleep disturbances, and musculoskeletal injuries among employees, highlighting the urgent need for comprehensive strategies to combat these issues. Furthermore, the effects of sexual harassment extend beyond immediate distress, leading to long-term mental health conditions such as stress, anxiety, depression, and post-traumatic stress disorder (PTSD). Victims often experience symptoms akin to acute stress disorder, which, if not addressed, may evolve into full-blown PTSD, underscoring the critical importance of timely intervention and support.

The repercussions of workplace sexual harassment also extend to one's professional and financial stability. Nearly one in five women report detrimental effects on their health and welfare following harassment, with one in four facing negative impacts on their employment or career trajectories. Additionally, one in ten women experience adverse financial consequences, further emphasizing the far-reaching implications of such harassment on individuals' lives. This multifaceted impact underscores the necessity of fostering supportive environments, implementing effective education and training programs, and establishing robust grievance and complaint procedures to mitigate the prevalence and effects of sexual harassment in the workplace.

Moreover, the underestimation of women's skills and abilities in the corporate sphere not only hinders their individual career progression but also represents a significant loss of potential for companies. Addressing sexual harassment and creating equitable workplaces thus emerge as imperative strategies for harnessing the full spectrum of talent and promoting organizational success.

⁴ ILO, Action against Sexual Harassment at work in Asia and the Pacific, 256 (Vol 7 2/2001).

⁵ Janzen v. Platy Enterprises Ltd., (1989) 1 SCR 1252, Canada

⁶ Dutton v. British Columbia Human Rights Tribunal, (2001 BCSC)

LEGAL FRAMEWORK AGAINST WORKPLACE HARASSMENT NATIONAL

Constitution of India:

Article 21 of the Indian Constitution states that "Government companies, public sector undertakings, and other bodies falling within the purview of Article 12 of the Constitution being 'States' are constitutionally liable to respect life and liberty of all persons." Thus, when it comes to their own staff, they have to act accordingly." Although the Government, as the sole shareholder of these bodies, may only be liable for the debts of the company in relation to the shares it owns, the Government would still have extensive and

widespread control over these bodies in terms of the law, the enforcement of human rights, and/or the rights of citizens to life and liberty, the state Government would also have an additional duty to see that the rights of employees of such bodies are not infringed. ¹

Criminal laws

There are provisions which may be applicable to certain particular situations involving sexual harassment of women.

1. To be penalized under Section 294 of the Indian Penal Code, an individual must infuriate others by doing an obscene act or by saying, reading, or singing an obscene song in a public setting. That individual will be penalized with a fine, three months' worth of imprisonment, or both.
2. Section 354 states that anyone who wilfully assaults or uses criminal force against a woman knowing or intending to violate her modesty will be punished with either type of imprisonment for a minimum of one year, a maximum of five years, and a fine.
3. "Shall be punished with simple imprisonment for a term which may extend to three years, and also with fine" refers to situations in which an individual intends to violate the modesty of any woman by speaking, performing a sound or gesture, or displaying an object. It is crucial to remember that the accused should aim to disparage the modesty of any one or more individual ladies, not the entire class or group of women.

Supreme Court Judgements

1. As noted by Dr. A.S. Anand, CJ, in the case of A.K. Chopra v. Apparel Export Promotion Council. "It is undeniable that every instance of sexual harassment at work results in a violation of the most valuable fundamental rights guaranteed by the Indian Constitution: the right to gender equality and the right to life and liberty."
2. In Vishaka v. State of Rajasthan, J.S. Verma CJ made an observation. Gender equality include the safeguarding against sexual harassment and the entitlement to labour with honour, a fundamental human right that is widely acknowledged. The universal agreement of this right's common minimal criteria has been achieved."

The fundamental rights of "Gender Equality" and "Right to Life and Liberty" are violated by every instance of sexual harassment or assault at work, as ruled by a three-judge bench of the Supreme Court in the case of Vishaka v. State of Rajasthan. "It is a blatant violation of the rights under Articles 14, 15, and 21 of the Constitution," J.S. Verma, CJ added on behalf of the Bench. A logical outcome of this kind of incident is that the victim's fundamental right under Article 19(1)(g) 'to practice any profession or to carry out any occupation, trade or business' is likewise violated. Therefore, the remedy under Article 32 for the enforcement of these fundamental rights of women applies to such infringement." The Court reminded that the major right to continue any occupation, exchange or calling relies upon the accessibility of a "protected" working climate. In addition, the right to life entails living with dignity. The Supreme Court in Vishaka found that Articles 15, 42, 51-A, 51, and 253 of the Indian Constitution were also relevant because they "envisage judicial intervention for the eradication of this social evil": "In the absence of domestic law occupying the field, to formulate effective measures to check the evil of sexual harassment of working women at all workplaces, the contents of international conventions and norms are significant for the purpose of interpretation of the guarantee of gender equality, right to work with human dignity in Article Any worldwide show not conflicting with the essential privileges and as one with its soul should be added something extra to these arrangements to extend the importance and content thereof, to advance the object of the protected assurance."

3. In Rupan Deol Bajaj case, the High Court maintained the conviction of previous Punjab chief general of police and Indian Hockey Organization's leader K P S Gill on the charges of shocking the unobtrusiveness of senior lady Indian Regulatory Assistance official Rupan Deol Bajaj. A seat including Equity K G Balakrishnan and Equity B N Srikrishna maintained the 1998 Punjab and Haryana High Court request sentencing Gill under Segment 354 and Segment 509 of the Indian Reformatory Code and guiding him to pay a remuneration of Rs 2 lakhs to Bajaj. The Hon'ble High Court anyway excused Bajaj's request looking for rebuilding of sentence forced by the preliminary court, which condemned K P S Gill for a considerable length of time thorough detainment.
4. In the case of State of Maharashtra v. Hon'ble Supreme Court, N. Madhukar That's what Mardikar held: "The unchastity of a lady doesn't make her open to pretty much every individual to disregard her individual as and when he wishes. She is qualified for safeguard her individual assuming that there is an endeavour to abuse her individual against her desire. She is similarly qualified for the insurance of regulation. Therefore, her evidence may not be thrown overboard simply because she possesses simple virtue.

⁷ *supra* note 5, p.299.

⁸ *Vishaka v. State of Rajasthan* (1997) 6 SCC 241

¹ *Supra* note 52.

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (Sexual Harassment Act) was passed by the Parliament and came into force on 23rd April 2013. After the Delhi Gang Rape Case, there was public agitation and protest, and this law went into effect. Parliament took 16 years to draft the Act in accordance with the Supreme Court's guidelines following the Vishakha Case decision. By establishing a statutory redressal mechanism and establishing the responsibility of both the Employer and the District Officer (District Magistrate or Additional District Magistrate or Collector or Deputy Collector of every district), the act aims to provide a safe, secure, and enabling environment free of all forms of Sexual Harassment for all women, regardless of age or employment status. In this manner, the targets can be summed up as under:

- Security against harassment at workplace
- Preventing Harassment of Women
- Addressing allegations of sexual harassment

INTERNATIONAL ASPECTS

INTERNATIONAL CONVENTION ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (1996)

It perceives "the right to the enjoyment of just and favorable conditions of work, which incorporates the privileges of each and every one to gain his/her living by work which he/she unreservedly picks or acknowledges", and requires States gatherings to "find proper ways to defend this right."

THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (1996)

Article 17 of ICCPR perceives the right to security and to individual trustworthiness. On the other hand, the rights to equal protection and the equality of people before the law are acknowledged in Article 26. Since victims are deprived of their right to privacy and personal integrity, sexual harassment infringes on all of these rights, and the state is obligated to safeguard all of its citizens—men and women alike—from having their rights violated.

¹⁰International Covenant on Economic, Social and Cultural Rights (ICESCR) Article 3.

¹¹*Id.* Article 6(1)

¹²*Id.* Article 7 (a) (1)

¹³*Id.* Article 7 (b) and 7 (c)

INTERNATIONAL LABOUR ORGANIZATION DISCRIMINATION (EMPLOYMENT AND OCCUPATION CONVENTION)

Adopted in 1958, this convention characterizes segregation as "any differentiation, rejection or inclination made on the basis of sex which invalidates or impair equality of chances or opportunity in employment or occupation." It requires all State Parties to implement a national policy to end employment discrimination in all its forms. Despite the fact that the convention doesn't explicitly resolve the issue of sexual harassment, the fact that women are lopsidedly impacted by such conduct brings it under the Conventions of Employment Discrimination.

CHARTER OF UNITED NATIONS

The UN charter, which communicates "confidence in major basic liberties and in the pride and worth of the human individual and the equivalent privileges of people", forces an obligation on part states to advance "general regard for the recognition of basic liberties and the crucial opportunities for all, without differentiation as to race, sex, language or religion".

UNIVERSAL DECLARATION OF HUMAN RIGHTS(UDHR)1948

Because it establishes "the right to the work, to free choice of employment, to just the favorable condition of employment, and to protection against the employment," Article 23(1) of the UDHR has significant weight in the context of sexual harassment. Albeit this statement is just an ethically restricting record, it is as yet significant in light of the fact that it lays out clear worldwide standards that basic liberties infringement is unsatisfactory and should be remediable by regulation.

CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW)

One of the milestones driven by the UN, which has contributed considerably towards the assurance and strengthening of women, is the adoption of CEDAW on December 18, 1979, which came into force on September 3, 1981. India ratified the convention on June 25, 1993, with a declaration and reservations regarding Articles 5(a), 16(1), 16(2), and 29(1). India signed the convention on July 3, 1980. The Convention says that states must take action to stop people, groups, or organizations from violating women's rights. The CEDAW Conventions contain more specific international standards for sexual harassment in the workplace.

THE BEIJING DECLARATION AND THE BEIJING PLATFORM FOR ACTION

The Beijing Declaration and the Beijing Platform for Action were two significant documents that emerged from the UN Fourth World Conference on Women in 1995. The first reaffirms the international commitment to the UN Charter, the Universal Declaration of Human Rights, the Declaration on Violence Against Women, and the CEDAW Convention's principles of human rights and dignity. It maintains an assurance by party states "to take required steps to eliminate all kinds of discrimination against women and remove all hindrances to gender equality and empowerment of women " to "forestall all types of

brutality against women and young girls", and to ensure "women equal access to financial assets". The Beijing Platform for Action (BPFA), then again, highlights "violence against women" and "inequality in economic policies in all forms of productive activities."

INTERNATIONAL LABOUR ORGANIZATION (ILO)

The International Labor Organization first expressed concern about sexual harassment in 1985 when the International Labor Conference adopted a resolution on equal employment treatment for men and women. The resolution's appended conclusions noted the need to implement measures to combat and prevent sexual harassment within equality policies.

CONCLUSION AND WAY FORWARD

Through the exploration of various strategies, including legal frameworks, workplace policies, training programs, and the crucial role of education and awareness, this guide underscores the imperative of creating safer and more inclusive work environments for women. Recognizing the multifaceted impact of workplace harassment on women's physical and psychological well-being, as well as their professional and financial stability, it highlights the need for comprehensive approaches to combat these issues effectively. Enhancing women's safety in the corporate world not only aligns with moral and ethical mandates but also catalyses sustainable development and economic growth by harnessing the full spectrum of talent across genders.

By integrating rigorous background checks in the hiring process, encouraging a culture of respect and inclusion, and fostering the implementation of strong legal and organizational frameworks, companies can significantly advance towards the goal of safeguarding women's dignity and safety at work. Emphasizing the significance of these measures not merely as compliance checklists but as foundational elements of corporate culture is crucial. As the discourse around women's safety continues to evolve, it remains incumbent upon organizations, policymakers, and indeed, the broader society, to perpetuate this momentum towards achieving true gender equality and ensuring a safe, equitable corporate world for all.

¹⁴Also see Preamble to the United Nations Charter.

¹⁵UN Charter, Article 1(3).

¹⁶*Ibid.* Article 55, Para (c).

¹⁷*Chairman, Railway Board v. Chandrima Das* AIR 2000 SC 988

¹⁸*Ibid.* Article 7.

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