

SEXUAL HARASSMENT OF WOMEN AT WORKPLACE: A SOCIETAL ISSUE IN INDIA

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Abstract

Sexual harassment refers to any unwanted, undesired, or uninvited sexual behaviour that is likely to offend, degrade, or intimidate. According to Articles 14, 15(1), and 16(2) of the Constitution, it is a fundamental right to be treated equally by men and women, and it is unlawful to violate this right. Certain fundamental and basic rights are guaranteed to all people under the Indian Constitution. The rights to equality, a dignified existence, personal freedom, and employment are only a few of these essential freedoms. All citizens must have access to the values cherished in the Preamble of the Constitution. Women who meet the requirements for citizenship are considered Indian citizens in the same way as everyone else. As a result, individuals are eligible for all the rights, responsibilities, obligations, and guarantees provided by the Constitution. In this way, the Preamble, a crucial part of the Constitution, ensures equality of chance and status for men and women.

Many efforts have been made by the Parliament of India to protect the interests of Indian women. The framers of the Constitution of India have also made complete provisions in the Constitution of India to clarify the rights of women. Once upon a time, Indian women used to do household chores and had their world within the boundaries of the house. Time progressed, India got independence and India made its constitution. Equality of opportunity was given in the

Constitution of India and a life full of dignity and prestige was given. This dignity and prestige also includes the dignity and prestige of women. There is no gender discrimination in the equality of opportunity. Women have also been given equal opportunities. The Constitution of India also laid down the concept of equal pay for equal work. When women reached the workplace after leaving the house, such women had to face sexual harassment at the workplace. After the Supreme Court released the Vishakha rules, it may be stated that research on sexual harassment at work in India really got going (1997). These studies aid in understanding the problem from numerous angles, such as the societal perspective of sexual harassment of women at workplace.

Keywords: Sexual harassment, Constitution, Fundamental right, Equality, Right to live.

Introduction

Women were also successful in making their mark in the fields of educational, economic, social, administrative system. Many women also joined men in work places. Today women are not less than men in any respect. As many male workers are working as women workers are also working but women are still facing the brunt of the male dominated society. Being a victim of the mentality of the male dominated society. As a result, sexual harassment of women workers by men at workplaces is an example of such mentality. Nagaraj Naik, M. (2020).

Expressing its concern over sexual harassment of women at workplace, the Supreme Court has from time to time provided some guidelines so that till there is no legislation available, the sexual harassment at workplace can be effectively controlled. In exercise of the power inherent by Article 32 and Article 141 by the Supreme Court, it has been clarified that the guidelines will have effect as law. They shall be deemed to have effect until a reasonable law is made. These guidelines will be strictly followed as in cases of such sexual harassment. Vijayalakshmi, A., Dev, P., & Kulkarni, V. (2022).

In the past few years, media coverage of sexual harassment concerns has grown significantly in India. It is important for businesses to take proactive measures to create zero-tolerance rules at their workplaces toward sexual harassment and ensuring that the complaint is reviewed quickly and confidentially in order to ensure that every woman feels safe and secure at work. Hooda, R., & Talwar, A. (2020).

Literature Review

According to certain research (Saheli, 1998; Population Council, 2006), there is a link between sexism, a woman's age, and her economic level. As women's status and income declined, sexual harassment rose and intensified. The scope also increased when it came to young ladies.

According to Yugantar's 2003 study, sexual harassment at work can take many different forms. It can begin with basic body language movements and, if left unchecked, progress to sexual advances, physical contact, and requests for sexual favours.

According to a Population Council research from 2006, the majority of the female respondents did not report their instances of sexual harassment to managers or supervisors. Some of the justifications offered by women for not reporting sexual harassment at work included a lack of trust in the complaints mechanism due to concerns that the complaints committee would be ineffective, biased in favour of the harasser, unable to maintain confidentiality, and unable to stop the abuse.

According to the CFTI research from 2010, 83% of female employees continued to experience sexual harassment because they were afraid of being victimised on the job. The threat of victimisation was significant if the offender was at a senior level in the business hierarchy.

According to a 2012 Oxfam poll, women rarely report sexual harassment in a formal way, with stigma being the main deterrent. Additionally, the Supreme Court Vishakha guidelines received little public notice (1997).

The long-running difficulties of a number of working women are described in articles by Radhika (1999), Pinglay (2012), and Deshpande (2012, 2013). These women campaigned against sexual harassment, accused their employers of breaking the law, and ultimately lost their jobs as a result of their actions. These articles draw attention to and emphasise the employers' repeated violations of the laws prohibiting sexual harassment and their victimisation of women.

Scope of the Study

This research study examines every facet of sexual harassment at work in India. An effort is made to examine the Sexual Harassment of Women at Workplace (Prevention, Prohibition and

Redressal) Act, 2013, and determine how it relates to Indian society now in order to achieve inclusive observation. This study will look at all the areas that relate to legislative and judicial interpretation of workplace sexual harassment laws and their provisions.

Objective of the Study

- To Study the procedures and policies used by organisations to handle reported cases of sexual harassment.
- To investigate how people's perceptions of sexual harassment at work.
- To make recommendations for the best ways to stop and address workplace sexual harassment.

Sexual Harassment of Women at Workplace

Sexual assault is a type of conduct. It is described as a sexually inappropriate act. Whether in a developed country, a developing country, or an underdeveloped one, sexual harassment at the workplace is a problem that affects almost every country. It is an issue that affects both men and women negatively. Particularly among women, it occurs more frequently. Murugan, V., Khoo, Y. M., & Termos, M. (2021).

The term "sexual harassment" refers to unwanted sexual advances, requests for sexual favours, and other forms of verbal or physical harassment that are sexual in character. Sexual harassment is unwanted sexual behaviour that could make a person feel insulted, humiliated, or insecure. It can be done physically, verbally, or in writing. Kapoor, V., & Dhingra, K. (2013).

In *Vishakha v State of Rajasthan*, an attempt was made by an NGO working for gender equality through public interest litigation with the aim of effectively implementing the rights guaranteed under Articles 14, 19 and 21 of the Constitution. While deciding this case, the Supreme Court relied on the subject matter of international conventions ensuring gender equality and clarified that fundamentally, the right to act with due dignity while being elected and ensuring the availability of gender equality and it is an inherent responsibility to ensure protection against sexual harassment. Bhattacharyya, R. (2014).

Supreme Court guidelines for the prevention of incidents of sexual harassment with working women

- **Duties of Employers and other Responsible Officers:** It shall be the duty of the employers and other responsible officers of the workplace where there are working women, to prevent

sexual exploitation of working women, to take measures to prevent them and to take action to prosecute the guilty persons and take such other measures as may be necessary.

- **Evidence by the person prosecuted for sexual assault and ensuring that the victim woman is not harassed and harassed:** If a person is prosecuted for sexual harassment, it should be ensured that the persons giving evidence in the case of the victim woman are not harassed and harassed by the prosecuted person. The employer has to be aware of this and provide adequate protection to such persons who are giving evidence against persons harassing women.
- **Publicity for prevention of harassment:** Guidelines regarding prevention of sexual harassment of working women, information bars should be published for the purpose of publicity and the public should also be made aware of the ill effects of sexual harassment. This guideline has been given by the Supreme Court to the Governments who should take care that the laws and guidelines related to sexual harassment of women at any workplace are given clear publicity and the public should be aware that sexual harassment of women is punishable is a crime. Kachru, S. W. (2019).
- **Disciplinary action against a person guilty of sexual harassment:** If a woman working at a workplace is sexually harassed by a person working at that workplace, then disciplinary action should be taken against the person who has committed such harassment and the person who commits such harassment should be punished immediately.
- **Formation of committees to hear complaints related to sexual harassment:** Complaints committees should be constituted to hear the problems related to sexual harassment of women working at every work place. Whenever there are incidents of sexual harassment in relation to women working in the workplace, then such victims should inform the committee of their workplace.
- **Composition of literature on the topic of sexual harassment prevention, its official publicity:** With the aim of spreading awareness to the public and with the aim of providing adequate information to the public, emphasis should be given on the creation of literature on sexual harassment prevention. By distributing such literary material as much as possible, the dissemination of information should be widened so that the related information can be discussed and discussed openly.

- **Provide adequate protection to the affected women in cases of sexual harassment by outsiders:** When the person who sexually harass women working in the workplace is a person from outside and not the worker working in that workplace, then there should be a system of adequate protection to protect the affected women from outsiders, that is, what should be the structure of the workplace that no outsider The person should not be successful in doing exploitation etc. in relation to women and the organization of the workplace should work in such a way that no woman is sexually harassed in any way and if such an incident has happened then that woman should be helped. There is a lack of legislation to protect women workers from sexual harassment at the workplace. To fulfill this, work should be done by the Central and State Governments by making an efficient law for the prevention of incidents of sexual harassment. Laws related to harassment have been made by many states, but till now no central law is available in this regard and work is being done only from the sections of the Indian Penal Code. Singh, T. (2016).
- **Preventive Measures:** Employers and responsible officials at the workplace, whether it is a public undertaking or a private undertaking, should try to ensure that proper efforts are made to prevent sexual harassment. Sexual abuse as defined is level information displayed at the workplace, published and distributed. Rules and regulations related to discipline in public and private institutions should include those rules and regulations through which sexual exploitation is prohibited. Appropriate punishment should be provided to the person who violates such rules to be liable to punishment. In the context of private employment, it should be ensured that the above prohibitory and preventive measures are included in the standing order of the Industrial Employment Act 1946.
- **Proper working conditions should be provided:** Convenience, health, cleanliness should be taken care of at the workplace. The work environment should not be hostile to women and the conditions in the workplace should not be such that the female worker feels that she is being forced to work in unfavorable conditions as compared to the male worker. If any act of a person working in the workplace is tantamount to sexual harassment, then the guilty person shall be liable to punishment but if the act of the guilty person is an offense under the Indian Penal Code or any other Act, the Indecent Representation of Women Act 1986, the employer shall punish such offender shall submit the complaint before the competent authority for Employers

should allow workers to raise cases of sexual harassment in workers' meetings or to discuss the same in any other forum. This topic should also be discussed in employer and employee meetings. Lakhera, C. (2022).

Sexual Harassment of Women at Workplace as a Problem

One of the main issues our women face nowadays in various spheres of life is sexual harassment. These kinds of instances, which should be referred to as "social problems," are rarely forgotten for longer than a week.

It is a developing issue, and everyone is doing their best to address it by implementing new policies and initiatives. Sexual harassment is defined differently by each individual and by each country. Any unwelcome or inappropriate sexual attention is what is meant by the concept of sexual harassment in plain English. It includes physical contact, glances, remarks, or gestures.

It has also been noted that several instances of sexual harassment occur at work, but the victims are afraid to disclose the incidences to superiors or other relevant authorities. They are afraid to report such individuals who commit such horrific crimes. The fear stems from a variety of factors, including a fear of their boss, a fear of potential guilt in society, a worry of losing their work or being demoted, a fear that it would harm their career in the sense that it will leave a stain on their resume and make them unhirable. Some women lack awareness; they are unaware of the specific criteria for sexual harassment and fail to report it. Pathak, A. (2015).

Sexual harassment is a serious issue in schools, colleges, and other institutions, and its prevalence is rising daily. Surveys conducted on college campuses reveal that between 40% and 70% of respondents say they have experienced sexual harassment. Professors demanding sex in exchange for a good mark account for just 2% of all incidents of harassment on campuses. Typically, both male and female students are involved. Chauhan, B. (2020).

Indian Constitution on Sexual Harassment-

Sexual harassment clearly violates the fundamental rights of a women to Equality under Article 14[2] and Article 15[3], her right to life under Article 21[4], and her right to practice any profession and carry on any occupation, trade or business [5], which includes a Right to safe environment free from sexual harassment.

IPC on Sexual Harassment-

The way sexual harassment was perceived inside India's criminal justice system underwent significant modifications in 2013. Sexual harassment is described under Section 354A of the Indian Penal Code, 1860, which was incorporated in the Criminal Law Amendment Act of 2013, which went into effect on April 3, 2013. Additionally, the word "sexual harassment" and associated offences are specified in the India Penal Code, 1860, along with associated penalties: Thakur, M. M. K. (2022).

Section 354A- Sexual harassment is defined as: unwanted physical contact and advances, including unwanted and explicit sexual overtures, a demand or request for sexual favours, the showing of sexual images (pornography) to another person without that person's consent, and the making of unwanted sexual remarks. Mishra, E. (2013).

Punishment: Up to three years in prison, and a fine.

Section 354C - Observing or taking pictures of a woman without her permission (voyeurism).

One to three years in prison and a fine are the penalties for the first conviction in addition to a fine and prison time of three to seven years.

Section 354D prohibits following a woman and making contact with her or attempting to do so despite her assertions to the contrary observing a female user of the internet or any other electronic communication medium (stalking). Kumar, P. (2015).

First offences are punishable by up to three years in jail and a fine. A fine and up to five years in prison are imposed for multiple convictions.

Policies on Sexual Harassment at workplace

According to the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act of 2013, no woman shall be the target of sexual harassment at work. This necessitates that the company adopt aggressive measures to stop sexual harassment and implement them. The main form of intervention is prevention, which is typically interpreted as raising awareness through initiatives that companies can utilise to deter sexual harassment among their staff. Sharma, K. (2020).

The Rules of the Act's Section 13(a) requires the creation and widespread distribution of an internal policy against sexual harassment with the goal of promoting safe spaces for women by removing the root causes of a hostile work environment. In this case, it is essential that all businesses

implement procedures under the aforementioned statute aimed at preventing and resolving sexual harassment of women. A good policy, according to this definition, is one that not only complies with the law of the land but also handles any areas where the law is silent and makes it plain that the organisation has zero tolerance for sexual harassment in the workplace. Saxena, A. (2021).

Protection of Women under Constitution of India

The Indian Constitution's Preamble, Fundamental Rights, Fundamental Duties, and Directive Principles all explicitly state the importance of gender equality. In addition to guaranteeing women's equality, the Constitution gives the State the authority to implement measures that positively discriminate in favour of women. Our laws, development strategies, plans, and programmes have all been created within the context of a democratic polity with the goal of advancing women in a variety of fields. Additionally, India has committed to ensuring equal rights for women by ratifying a number of international agreements and human rights instruments. Sambaraju, R. (2020).

The Indian Constitution's preamble aims to ensure equality of position and opportunity for all of its residents, including women, as well as social, economic, and political justice. It also promotes fraternity among Indians and guarantees the dignity of each person, among other things. The Indian Constitution not only guarantees women's equality but also gives the State the authority to take positive discriminatory measures in their favour in order to counteract the accumulated socioeconomic, educational, and political disadvantages that women suffer. In addition to ensuring equality before the law and equal protection under the law, fundamental rights also forbid discrimination against any citizen on the basis of their religion, race, caste, sex, or place of birth and ensure that all citizens have the same opportunities in matters pertaining to employment. Ramakrishnan, D. (2019)

The government of India has made a number of actions to empower women. Sexual harassment blatantly breaches a woman's fundamental rights to equality under Articles 14 and 15, to life under Article 21 and to engage in any profession or conduct any business, including the right to a secure environment free from sexual harassment.

Conclusion

The study concludes that, in India, women are currently entering the workforce in record numbers. The rights of women must urgently be respected, safeguarded, and upheld in light of this trend, especially at work. The phrase "right to work" encompasses the freedom from sexual harassment at work. It's a complex issue when sexual harassment occurs at work. The effects of sexual harassment at work go far beyond the satisfaction of the individual woman and include economic growth, social and family interactions, work force productivity, and a host of other factors. Sexual harassment at workplace is a significant issue that has come to draw a lot of negative attention. However, India is a latecomer in formalising sexual harassment at work as a criminal offence subject to both imprisonment and penalties. The grim fact of sexual harassment cases at work is that under-reporting is a bigger concern than persons abusing the law. With the introduction of the current legislation, there has been a paradigm shift in how employers are held accountable for the breaking of the law by their employees. Vicarious liability for sexual harassment in the workplace did not exist prior to the passage of this statute. The 2013 Act's implementation in government offices has been monitored by the Indian government, but there is no system in place to ensure that it is being carried out in the private sector. The harm that is being caused by state indifference is unforgivable and irrevocable. Women frequently encounter sexual harassment, particularly in the workplace. The majority of sexual harassment instances are classified as crimes.

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