



## SEXUAL HARASSMENT OF WOMEN AT WORK PLACE

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**ABSTRACT:** Sexual harassment is area of concern to the present era. Now-a-days women provide a significant role in nation's development. She should be given safe and secure environment at workplace. Sexual harassment is one of the major social problem of all the establishments in recent years. This problem exists in various forms such as physical, verbal, non-verbal and visual sexual harassment. This put hindrances in progress of women. Sexual harassment violates the fundamental rights of women. In India we can trace the origin of sexual harassment from Bhanwari Devi case. Supreme Court in Vishakha v/s State of Rajasthan gave guidelines to prevent women from sexual harassment. This paper deals with causes and impact of sexual harassment. It also deals with laws that are enacted to prevent women from sexual harassment.

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### INTRODUCTION

Sexual harassment of woman is a global phenomenon prevalent both in developed as well as in developing countries. Due to industrialization, globalization and development in various fields, role of women is changing rapidly in India. Today, women are showing their participation in almost all the fields, such as education, economics, politics, media, art, space, service, sectors etc. The increasing number of women in the total workforce has given rise to new social interaction pattern and imparted disturbing dimensions to work place politics. The problem of sexual harassment in India is more alarming because the status of women in India is considered quite inferior to men. She suppose to be subordinate of a man and represents a weaker sex i.e. Abla. In spite of rising incidences of sexual harassment, their reporting is very less. Generally women doesnot complain of any incident of sexual harassment committed against them because the fear of being imputed by a social circle.

### MEANING OF SEXUAL HARASSMENT

Sexual harassment is invasion of privacy penetration of psychological self of a female human being. Generations of women have suffered from unwanted sexual attention at work and from offensive behaviour based on their gender. But it is only in recent years that this conduct has been given a name. Defining sexual harassment in a thorny issue. Attempts have been made from various quarters, which are given as under:

- a) **European Commission's Council Resolution** - Sexual harassment means – unwanted conduct of a sexual nature of other conduct based on sex, affecting the dignity of women and men at work.
- b) **Equal Employment Opportunity Commissions** –Accordingto EEOC in United States – unwelcome sexual advances, requests for sexual favours and other verbal or physical conduct of sexual nature constitutes sexual harassment when submission to or rejection of such conduct explicitly or implicitly affects on individual's work performance or creates an intimidating, hostile or offensive work environment.
- c) **Traditional View** –There were two well known forms
  - i. **Quid Pro Quo** –Literal meaning of this phrase is “this for that.” Applying this to sexual harassment, it means seeking sexual favour or advances in exchange for work benefits such as promises of promotion, higher pay academic advancement etc.
  - ii. **Hostile Work Environment** – It commonly involves condition of work or behaviour towards a women worker which make unbearable for her to be there.

### Cause

There is no specific cause for sexual harassment. It can happen anywhere, to anyone. It leaves victims with a question in her mind why me? Still we will analysis some main causes for sexual harassment.

- 1 **Gender Inequality** –One of the most important factor that drives sexual harassment are norms and practices that shape gender inequality. This includes ideas-about what is normal in relation to gender, for example, primary duty of mother is to take care of children. Secondly law and system organize and reinforce an unequal distribution of economic, social and political power, resources and opportunities between men and women. All these are responsible for inequality and low position of women in society.
- 2 **Male Domination** –Man’s dominance of decision making in public and private life and limits to women’s autonomy also contribute to sexual harassment against women. Women’s lower status may serve a symbolic function that communicates that woman has lower social value and are less worthy of respectful treatment.
- 3 **Stereotype Thinking About Gender Roles** –Strong belief in stereotyped thinking of masculinity and femininity and difference between their roles are associated with higher levels of sexual harassment against women. Men are often associated with characteristics like strength, independence, confidence and aggression, while females are related with sensitivity, passivity, dependence and moral purity. Gender stereotypes affect the roles and responsibilities of men and women in the family and in public life. It also affects the thinking and behaviour of male counterpart at work place.
- 4 **Misperception About Friendly Nature of Women** – Men has a misconception that if a women is friendly in her behaviour than she is inviting him for friendship. He gave justification that woman herself

indicated her intention (like in film ‘pink’). This friendly nature of women in social setup also becomes the cause of sexual harassment.

- 5 **High academic qualifications but lesser job opportunity** - There are large number of women who are with higher academic degrees but job opportunities are less. When they started their job search then they are harassed by the person incharge for the offer of job. So, above causes clearly shows that woman has to face humiliation by their male colleagues besides a number of legal and constitutional provision are present to protect their modesty and honour at the workplace.

### Constitutional Safewards Against Sexual Harassment at Workplace

Definition of sexual harassment is given in Section 354A of Indian Penal Code.

According to the section – A man committing any of the following acts,

- Physical contact and advances involving unwelcome and explicit sexual overtures; or
- A demand or request for sexual favours; or
- Showing pornography against the will of a woman, or
- Making sexually coloured remarks.

Shall be guilty of the offence of sexual harassment. The key part in above mentioned definition is the use of word unwelcome. Such unwelcome or uninvited conduct or act is totally prohibited.

### Protection Available Under Constitution

- 1 **Preamble of the Constitution** –In preamble, it is mentioned that it will secure to all its citizens – equality of status and opportunities. Sexual harassment violates the primary objective of the preamble.
- 2 **Article 19(i)(g)** –The constitution of India guarantees the right to every individual, “to practice any profession or to carry on any occupation, trade or business. Every woman has also a constitutional right to participate in public employment and this right cannot be denied in the process of sexual harassment which compels her to keep away from such employment.
- 3 **Article 21** –This deals with right to life and personal liberty. It means, no person shall be deprived of his/her life or personal liberty.

This right of woman is also violated by incidences of sexual harassment of women at workplace.

Sexual harassment violates woman's sense of dignity and the right to earn a living which are against fundamental rights and also against human rights.

## Development of Sexual Harassment Law

### Vishakha Judgement

A public interest litigation was filed against the State of Rajasthan by Vishakha and some other women group to enforce fundamental rights of working women under Article 14, 19 and 21 of Constitution of India. The petition was filed after Bhanwari Devi a social worker, was gangraped for stopping child marriage, which was her duty as a social worker. Supreme Court of India formed legally binding guidelines which are based on the principle of equality and dignity.

The main contents of guidelines were, a duty was given to employer and other responsible persons to prevent the act of sexual harassment. All the steps should be taken which provide the procedures for the resolution, settlement or prosecution of acts of sexual harassment.

Supreme Court also gave clear definition of sexual harassment. It includes such unwelcome sexual determined behaviour (whether directly or by implication) as;

- a) Physical contact or advances;
- b) A demand or request for sexual favours;
- c) Sexually-coloured remarks
- d) Showing pornography
- e) Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

All employers were asked to take appropriate steps in order to prevent sexual harassment like strict prohibition of sexual harassment and appropriate penalties should be notified. Appropriate work conditions should be provided. Work environment should not be hostile for working woman. Appropriate disciplinary action should be initiated by the employer if any misconduct was reported. It is the duty of the employer to create an appropriate complaint mechanism for redressal of the complaint made by the victim and it should be time bound. Female employees should be made aware of their rights and the mechanism against sexual harassment by prominently notifying the guidelines in a suitable manner.

After Vishakha Judgement The Central Civil Services (Conduct) Rules 1964 was amended in 1998. Rule 3-C was incorporated, which prohibits sexual harassment of working women.

**2 Changes Introduced in Indian Penal Code 1860, after Nirbhaya Case in 2013-** Following amendments were made in IPC after Nirbhaya case which are popularly referred to as Anti Rape Act.

- Insertion of section 354A which deals with sexual harassment.
- Insertion of section 354B which covers the offence of compelling a woman to remove her clothes.
- Insertion of section 354C which covers the offence of voyeurism i.e. watching a woman or capturing the image of woman without her consent when she is engaged in some private act.
- Insertion of section 354D which covers the offence of stalking.

### 3 Sexual Harassment of Women at Workplace Act 2013

The act came in force in 2013. The act applies to both the organized and unorganized sectors. An important feature of the act is that it envisage the setting up of grievance redressal form, Internal Complain Committee (ICC), failure to set up such committee is a non-cognizable offence under the law. Employees are to remain extra-cautious remembering that ICC is a non-judicial body whereas sexual harassment, whether quid pro quo or creating hostile work environment in nature, in a form of violence which is often perpetrated in circumstances of power imbalance and aimed at vulnerable women in private and hence this provision should in no way curtail the fundamental rights of women to equality freedom from discrimination on the ground of their sex, right to life with dignity and right to freedom of employment and thereby becomes a red tag provision.

### Effects of Sexual Harassment

Sexual harassment is coercive, exploitative, improper and unprofessional behaviour. It promotes hostile and offensive work environment and hurt the reputation of victim.

**Effects on Victim** –Effects can be felt at three levels, emotional, psychological and physical.

(I) At Emotional Level

- Anger
- Disgust
- Fear
- Shame
- Guilt
- Confusion
- Powerlessness

(II) At Psychological Level

- Reactions due to stress
- Anxiety

- Depression
- Feelings to low esteem

### (III) At Physical Level

- Sleeplessness
- Headache
- High Blood Pressure
- Fatigue

Others effects can be missing out on training or promotions, resignation or dismissal, and extreme serious consequence could be suicide.

**Suggestions** –The strategy to prevent sexual harassment should be based on two major points. One is dealing with victim and other is to prevent or root out sexual harassment.

- a) Help to Victim
  - i. Strict implementation and knowledge of Sexual Harassment of Working Women Protection Act 2013.
  - ii. Providing legal and therapeutic assistance to the victim.
- b) Preventing Sexual Harassment  
It should include;
  - i. Greater access to legal information and increased knowledge of women's rights.
  - ii. Information programmes on sexual harassment.
  - iii. Training programmes at preliminary levels.

### Conclusion:

Regarding the sexual harassment, women can make it easier for themselves by stop telling

themselves that this kind of behaviour on the part of man is inevitable and unavoidable. The women should express strong resistance the first time it occurs, if she would allow the action to take place without expressing her strongest disapproval, the offenders will assume the consent. Sexual harassment affects all sectors and strata of society. Due to silence surrounding the issue, it is often not discussed. So it is suggested when someone confronted with such behaviour, she should protest loudly and at once.

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