

Sexual Harassment of Women at Workplace in India: A Ubiquitous Hazard

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Abstract:

Sexual harassment at workplace is outright unacceptable criminal. No women should be subjected to sexual harassment at any workplace. It is a violation of women's right to equality, life and liberty. It creates an insecure and hostile work environment which discourages women's participation in work, thereby adversely affecting their social and economic empowerment and the goal of inclusive growth. Sexual harassment is a common problem affecting all women in this world irrespective of the profession that they are in, but legal system is sleeping and so they fail in providing them security. It's not all, women living in those countries having developed legal system faces other problems like being fired out of work, ridiculed, societal pressure or promises of desired promotion, etc. that makes them left with no words.

Key Words: Sexual Harassment, Women, Workplace, Hazard

Introduction:

Sexual harassment occurs in the workplace due to unwelcome, unwanted, uninvited, action or behavior of a person that causes discomfort, humiliation, offence or distress to the other. Majority of such cases are directed towards woman by men working at high position in an organization. Sexual harassment at a workplace is unwelcome behavior as it affects not only the terms conditions of employment but also have huge bearing on the working environment of an organization. Therefore this problem has to be understood looking at its causes and possible remedies for its effective control. In India, sexual harassment is termed as 'eve teasing' and is described as: unwelcome sexual gesture or behavior whether directly or indirectly such as sexually colored remarks; physical contact and advances; showing pornography; a demand or request for sexual favors; any other unwelcome physical, verbal, non-verbal conduct being sexual in nature, passing sexually offensive comments or any other such behavior (Singh, 2020).

What is Sexual Harassment of Women at Workplace?

In almost all cultures, sexual harassment is probably the only experience, regardless of how it is defined. It is also a very common behavior among organized and non-organized sectors of work both. It can vary, of course, in intensity and recognition from culture to culture. In general, therefore, we can say that sexual harassment is any sexually oriented conduct that could jeopardize the work of the victim, adversely affect the work performance of the victim or undermine the personal dignity of the victim. It can be physically or psychologically apparent. It may be milder or subtler forms, involving verbal innuendo, inappropriate affectionate gestures or dates, and proposals for sexual favor. But it can also take blatant and horrible forms, such as lascivious looks, physical grip and sexual assault or abuse. It was observed by Dickson CJ of the Supreme Court of Canada in *Janzen v. Platy Enterprises Ltd.* (Sameen, 2018). The Supreme Court of India defined Sexual Harassment as any unwelcome sexually determined behavior (whether directly or by implication) such as; Physical contact and advances, A demand or request for sexual favors, Sexually colored remarks, Showing pornography, Any other unwelcome physical, verbal or non-verbal conduct of sexual nature (Sharma, 2017). Under the POSH Act, sexual harassment consists of explicit acts like physical advances, demanding or requesting for sexual favours, showing pornography, making sexually coloured remarks, sending sexually explicit messages, and any other unwelcome conduct that is sexual in nature in a workplace. It also includes implicit acts, where the refusal to engage in sexually inappropriate behaviour is coupled with threats that can affect employment, or create a hostile work environment (POSH Act, 2013).

Sexual Harassment of Women at Workplace as a Social Problem

Sexual Harassment is one of the biggest problems our women are facing today in different sectors of life. We rarely pass through a week without a reminder of these kinds of incidents which should be termed as "social problems". It is a growing trouble and all try their satisfactory to combat this hassle via adopting new guidelines and measures. The definition of sexual harassment varies from individual to character and from jurisdiction to jurisdiction. The definition of Sexual Harassment in simple words is "any unwanted or inappropriate sexual attention. It includes touching, seems, comments, or gestures". Key part of Sexual Harassment is that it is far one sided and undesirable. There is a top notch distinction between Sexual Harassment and Friendship, considering those are mutual feelings of two humans. Often Sexual Harassment makes the victim feel guilty, however it is miles vital for the victim to take into account that it is not her fault; the fault lies mostly on the person that is a harasser. Sexual Harassment affects all women in a few shape or the other. Lewd comments, touching, wolf whistles, seems are a part of any women's existence, so much in order that it is disregarded as every day. Working women aren't any exception. In fact, workers most normally face the backlash to women taking new roles, which belong to male domain names inside patriarchy. Sexual Harassment at work is an extension of violence in ordinary existence and is discriminatory, exploitative, thriving in the ecosystem of chance, terror and reprisal.

Many times fear is involved in Sexual Harassment because it is not physical attraction, it is approximately power. In fact, many Sexual Harassment incidents take location when one character is in a position of energy over the other; or when a girl has an untraditional job inclusive of police officer, manufacturing unit worker, business government, or another traditionally male job. It has additionally been determined that there are masses of sexual harassment incidents taking region within the workplace, but the sufferers fear to record the identical to the better officials or the involved government. They fear to report a grievance against such offenders who does such heinous acts. The worry is due to the worry of boss, worry of guilt within the society that they may need to face, worry of being thrown out of the task or being demoted, fear that it's going to jeopardize their profession as in it will put a blot on their resume and might render them un-hireable. Some women have lack of knowledge- they do not recognise what exactly qualifies a sexual harassment and fail to document the equal. Every country is facing this problem day by day. No female employee is secure and the feel of security is missing in her. There are sure developments in legal guidelines of many countries to protect women workers from Sexual Harassment. Sexual Harassment is most important hassle in faculty, colleges, universities and institutions, and it's percent is increasing daily. Surveys on college campus display the wide variety of respondents reporting have been sexually careworn starting from 40-70 per cent. Only two percent of campus harassment involves a professor demanding intercourse in return for true grade. Most instances involve male and female college students (Keyal, 2014).

Sexual Harassment in India

Sexual harassment cases at workplaces in India's largest companies fell sharply in the last financial year as these organizations shifted to remote and hybrid work models following the coronavirus outbreak. The total number of sexual harassment complaints at workplaces in 44 Nifty companies fell 38.26% in FY21, showed data analysed by anti-sexual harassment advisory complykaro.com from company annual reports. These companies received a total of 455 complaints of sexual harassment in the year ended 31 March, compared with 737 and 739 in FY20 and FY19 respectively. Women in both formal and informal industries are less likely to report incidents of sexual harassment due to pervasive patriarchal cultural narratives and the phenomenon of victim-blaming. A study carried out by Menon and Allen in 2018 demonstrates that patriarchal narratives and victim-blaming are common practices amongst traditional formal responders, such as police. Additionally, the onus for protecting oneself from sexual harassment and violence is largely placed on women. A government official was quoted in the study saying "Another challenge I would say in India is when police commissioners say 'please avoid going late in the night', people say 'oh how could you say that' - with the complexity of the society people need to be careful as well" (Ria, in Menon and Allen, 2018: pg. 5). A lack of faith in official channels due to such attitudes being held at all levels of public institutions, as well as the fear of judgement, hold victims back from making complaints at all. Women can also file complaints through the Women and Child Development Ministry's Sexual Harassment electronic-Box (SHeBox), an online complaint platform for all women workers, launched in November 2017. Complaints filed through this platform are then passed on to either the internal or local complaints committee. The majority of India's women workers find it difficult to access these redressal methods, especially SHeBox, given that the number of women who use the internet in India is low. Women's internet use varies widely across states, with 77 per cent women in Sikkim reporting that they had used the internet compared to 21 per cent women in Bihar, according to data from India's latest National Family Health Survey. (Bhuyan&Khaitan, 2021)

Causes of Sexual Harassment of Women at Workplace

There are many reasons of sexual harassment but maximum essential one is the way of life and values system and the relative power and standing of the female and male in our society. The manner in which women and men are added up in India strongly affects their conduct in an enterprise. Women frequently lack self-confidence due to the manner they were socialized and are custom designed to go through in silence. Whereas men are delivered up with macho beliefs, who recollect females an insignificant toy to play with and without difficulty convey those values into the administrative center. Such patriarchal viewpoints create an environment that lets in men the freedom of sexual harassment within the place of work, whilst girls continue to be vulnerable (Singh, 2020). Men in groups often behave differently from how they would as individuals. This can explain some of the "gang harassment" that occurs when a woman enters a plant or walks past a group of workers at lunch; after a few drinks at an office party; or when a group of colleagues attend a conference. Alone, those men would probably be "harmless", or less bold (Prekel, 2001). Women are liable to sexual harassment because they extra often lack electricity and regularly paintings in an insecure positions. Due to the fear issue women frequently resign to their destiny in place of enhance their voice towards sexual harassment. Since they do not realize wherein to go for complain and how their complain might be handled, they frequently hold give up and go through in ignominy. Some instances sexual harassment is also seen a power game, in which man insists on sexual favors in exchange of blessings he can dispense with because of his prevailed function. The 'casting couch' is probably the exceptional-recognised instance of such power game. As latest economic and social adjustments have modified power relation of the family among males and females in the Indian society, men are feeling a sense of insecurity. With women now being empowered, some men experience threatened by means of their career development. To over come such insecure emotions, a few men resort to harassing girls in the work area. (Singh, 2020).

Impact of Sexual Harassment of Women at Workplace

Sexual harassment leads to professional also as a personal loss. Professional loss encompasses decreased overall performance and extended absenteeism, which results in lack of pay. Other impacts encompass withdrawal of interest in work, separation, and feeling of being objectified, lacking out on promotional opportunities, being ostracized, and having to search for a brand new agency or place to work. This in the end ends in unnecessary profession fluctuation. Personal loss due to harassment includes anxiety, intellectual troubles, panic attacks, stress, and headaches. These may also lead to victims taking intense steps, which includes eating drowsing tablets or trying suicide. The sufferers every so often need to switch to anti-depressants to avoid loss of

motivation, feeling powerless, losing self-worth, and inability to believe humans. These people may additionally lead to isolation and withdraw from social gatherings (Gupta, 2021).

Existing Indian Laws on Sexual Harassment

In India, The Indian Penal Code, 1860; The Code of Civil Procedure, 1908; The Code of Criminal Procedure, 1973; The Indian Evidence Act, 1872 along with many other special Acts, and welfare legislations deal with this issue in one way or the other ways as well as provide safeguard to women against harassment and abuse (Keyal, 2014). Sexual harassment is considered as a violation of a woman's fundamental right to equality, which right is guaranteed by Articles 14 and 15 of the Constitution. The legislature enacted The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 aimed at providing protection to women at workplace. The amendment brought to the Indian Penal Code, 1860 (IPC) Section 354 (Assault or criminal force to woman with intent to outrage her modesty), Section 354A (Sexual harassment and punishment for sexual harassment), Section 509 (Word, gesture or act intended to insult the modesty of a woman) Section 375 & 376 (Rape & Punishment for Rape), are women centric and do little to provide any protection for men against a female aggressor. Surprisingly the recommendations of Justice Verma Committee, which was constituted to suggest reforms to sexual harassment laws in 2013, with regard to gender-neutrality of sexual offences, have not been incorporated in the Criminal Law (Amendment) Act, 2013 (Sundd, et al., 2020).

Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

In 2013, the Government of India notified the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act. Consistent with the Vishaka judgment, the Act aspires to ensure women's right to workplace equality, free from sexual harassment through compliance with the elements of Prohibition, Prevention and Redressal. The Prevention of Workplace Sexual Harassment Act extends to the 'whole of India' and stipulates that a woman shall not be subjected to sexual harassment at her workplace. Further, the Prevention of Workplace Sexual Harassment Act applies to both the organized and unorganized sectors in India. The statute, inter alia, applies to government bodies, private and public sector organisations, non-governmental organisations, organisations carrying out commercial, vocational, educational, entertainment, industrial, financial activities, hospitals and nursing homes, educational institutes, sports institutions and stadiums used for training individuals and a dwelling place or a house. Aggrieved woman in this Act means a woman of any age who is employed or not at the workplace who alleges to have been subjected to any act of sexual harassment. It also includes woman employed in a dwelling place or house. It covers domestic workers which includes a woman who is employed to do the household work in any household for remuneration whether in cash or in kind. She may be appointed directly or through any agency. She may be on permanent, part time or full time basis. It does not include any member of the family of the employer. It means in relation to a workplace which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the Central Government or the Union territory administration, the Central Government and by the State Government, the State Government. In relation to any workplace not covered under sub-clause (i) and falling within its territory, the State Government. The scope of workplace in this Act is inclusive in nature. It includes: (i) Any department, organization, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned, controlled or wholly or substantially financed by funds provided by the appropriate government or the local authority or a government company or corporation or a co-operative society (ii) It also includes private sector organization or a private venture, undertaking, enterprise, institution, establishment, society, trust, non-governmental organization, unit or service provider carrying on commercial, professional, vocational, educational, entertainment, industrial, health services or financial activities including production, supply, sale, distribution or service. (iii) Hospitals or nursing homes. (iv) Any sports institute, stadium, sports complex or competition or games venue, whether residential or not used for training, sports or other activities relating thereto. (v) Any place visited by the employee arising out of or during the course of employment including transportation provided by the employer for undertaking such journey. (vi) In relation to unorganized sector, workplace means an enterprises owned by individuals or self-employed workers and engaged in the production or sale of goods or providing service of any kind whatsoever and where the enterprise employs workers, the number of workers is less than ten. In relation to any department, organization, undertaking, establishment, enterprise, institution, office, branch or unit of the appropriate Government or a local authority, it is the head of that department. In relation to a workplace not covered under sub-clause (i) of this section, it is whoever is responsible for the management, control and supervision of such workplace. In relation to workplace covered under sub-clauses (1) and (ii), the person discharging contractual obligations with respect to his or her employees is the employer. In relation to a dwelling place or house it is a person of a household who employs or benefits from the employment of domestic worker, irrespective of the number, time period or type of such worker employed, or the nature of the employment or activities performed by the domestic worker. The term sexual harassment under the Act covers one or more unwelcome acts or behaviour whether directly or by implication. Such unwelcome acts or behavior are: (i) physical contact and advances or (ii) a demand or request for sexual favours or (iii) making sexually coloured remarks or (iv) showing pornography or (v) any other unwelcome physical, verbal or non-verbal conduct of sexual nature (Baruha, n. d.).

Litigation

A 2017 survey through the Indian National Bar Association of over 6,000 employees—the most important conducted thus far in India—determined that sexual harassment was pervasive in extraordinary activity sectors, starting from lewd remarks to an outright demand for sexual favours. Most girls, it observed, selected no longer to document sexual harassment to management due to stigma, worry of retribution, embarrassment, lack of understanding of reporting guidelines, or loss of self-assurance in the proceedings mechanism. It additionally found that most businesses nevertheless did not observe the regulation, or participants of Internal Committees did no longer understand the procedure safely. There are no studies in India that document the extent to

which sexual harassment in the workplace contribute to women leaving their jobs. “There are anecdotal sources,” said journalist Namita Bhandare who wrote a multi-part investigation series for India Spend a data journalism website, on this phenomenon. “Girls don’t want to talk about sexual harassment because they fear that their families will just ask them to stop working. There is no data or a substantive quantitative study on sexual harassment, and none at all in the informal sector.” Garima (name changed), a nursing officer who had sought protection and redress from her employers at a government hospital, complained to the Delhi Commission for Women in 2019 about the proceedings of the Internal Committee. The committee, which was formed only after her complaint, consisted of people that were already aware of the problems but had failed to intervene because the accused was their supervisor. “When the medical superintendent accused in my case entered the room, all the committee members rose to greet him,” she told Human Rights Watch. “Their bias was very obvious. The Internal Committee worked to protect him.” Garima also alleged that committee members, who were employed at the hospital, threatened her to withdraw her complaint and did not provide her the final report of the investigation. The Delhi Commission for Women held a hearing for her and said they would forward her complaint to the district-level Local Committee for investigation. Garima said she was not called by the Local Committee for a hearing. Instead, the commission informed her in February 2020 that the committee filed a final report quoting police officials saying she did not have enough evidence to prove her case. Said Garima: “If I did not need this job, I would not do it. Why should women have to work like this, in such a terrible environment? I have become an example for others to point out ‘See what happens? Nothing.’ Sexual harassment is so normalized that other doctors tell me, ‘Why are you bothering to fight. This is childishness. We all deal with it, why cannot you?’” (Human Rights Watch, 2020). In *Saudi Arabian Airlines, Mumbai v. Shehnaz Mudbhalkal* first time ever an employee won a legal battle in a labour court against her employers on the ground of sexual harassment. This judgment aptly illustrates that how a typical case of Sexual Harassment may include both ‘quid pro quo’ and ‘hostile work environment’ elements. Medha Kotwal Lele’s case reveals the sexual harassment of female students in educational institutions. The Apex Court held that the Vishakha guidelines had not been properly implemented by various States and Departments in India and referred to the direction it provided on that occasion to help to achieve better coordination and implementation. There have been other important cases that have helped in interpreting sexual harassment cases even more clearly. These include- *Swapna Barman V Subir Das*, *Miss Radha Bai vs The Union Territory of Pondicherry*, *A.V. Ramana vs State Of Gujarat* (Sharma, 2017).

Conclusion

Sexual harassment in a workplace is a sensitive problem. It cannot be checked merely presenting staff contributor’s facts about the sexual harassment policy or counting on disciplinary action. The business enterprise ought to play proactive position, provide behavioral aid and talk this component as part of the work recurring. The body of workers need to nurture an inclusive, supportive, and respectful environment within the workplace a good way to construct a congenial running surroundings. Equally critical is that the agency have to support the sufferer of sexual harassment, and help to conquer the bad consequences of such a revel in. Finally, every working women must recognise that it is excessive time to arise and fight for such injustices. Its handiest then sexual harassment in paintings location can be checked. In order to check sexual harassment, an organization should have clear cut policy to register complaints of such nature and procedure for taking disciplinary action. Such guidelines is already available through Supreme Court judgment, its only its implementation that is required. Every organization should have an effective employment policy that should ensure well planned career paths based on merit to reduce the vulnerability of individuals and harassment by those who abuse their power and authority.

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