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# A STUDY ON SEXUAL HARASSMENT OF WOMEN AT WORKPLACE IN INDIA

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## ABSTRACT

This research paper discusses the undesirable activities that are performed in India at the workplace with women i.e. sexual harassment against women at the workplace and the paper also deal with laws that are enacted to prevent women at the workplace like Indian government passed an act Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. Sexual harassment is a very broad legal issue and major forms of violence against women in India are performed. It is a universal problem in the world whether it to be developed or developing or under-developing countries. It is a more problematic and negative emphasis on both men and women.

Most probably, it has been seen to be happening with the female gender. The sexual harassment of women at the workplace violates the basic fundamental rights of women especially the “Right to equality” under article 14,15 and her right to life and to live with dignity under Article 21 of the Constitution of India. It is a criminal offense according to section 354A of the Indian penal code, 1860 it deals with the meaning of sexual harassment and punishments for sexual harassment.

This act protects women from all types of sexual harassment at their workplace in the government sector or the private sector. The guideline was issued in a supreme court landmark case Vishaka v. the State of Rajasthan will be treated as law under Article 141 of the Indian constitution. Before this act, there was no law around and concerning the measures to check the abhorrence of inappropriate behaviors faced by women. This paper indicates making some suggestions to the government to pay special attention towards appoint the monitoring team to visit the government offices as well as the private sector (un-organized) to prevent sexual harassment against women at the workplace.

## Introduction

*“You can tell the condition of a nation by looking at the status of its women”*

**Pandit Jawaharlal Nehru**

With globalization the role of women has changed now women are independent they are not only the housekeeper but can also run the houses solely. But with the development of the nation and the high rise of women, many problems are faced by women at the workplace that are not acceptable. Such unacceptable behavior in the workplace is detrimental to the economy.

Sexual harassment of women at the workplace is considered a violation of women's rights it creates an insecure and hostile work environment, which discourages women's participation in work. Before the guideline of supreme court landmark case Vishaka and others v. the State of Rajasthan (1997) 6 SCC 241, AIR 1997 SC 3011 the women had taken to the matter of sexual harassment at workplace register complaint under sec 354 and 509 of Indian penal code.

After 16 years of Vishaka's case, the sexual harassment of women at works place (Prevention, Prohibition, and Redressal) act 2013. This act was enacted to protect against sexual harassment of women in the workplace. This act defines sexual harassment as unwelcome acts or behavior (whether directly or by implication) namely, physical contact and advances, a demand or request for sexual favors, making sexually colored remarks, showing pornography, any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

When we see many women are entering into the work for today and contributing the country we also see that many women are facing sexual harassment at the workplace on daily bases now the contract this is this act where it's become an obligation for an employer to provide safe working spaces for women and to build enabling work environments that respect women's right to equality of status and opportunity.

### **What is sexual harassment?**

The following definition given under section 354A of Indian penal code

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 women; or
- Making sexually coloured remarks, shall be guilty of the offence sexual harassment.

Any man who commits the first three-point offense shall be punished with rigorous imprisonment for the term which may be extended to three years, or with fine or with both.

Any man who commits the last point offense shall be punished with imprisonment for the term which may be extended to one year, or with fine or with both.

Earlier, there were no laws related to the Indian penal code that could be evoked. There were three sections in Indian penal code S.94, S.354 and S.509 to deal with such type of crime like sexual harassment of women.

Example of sexually harassing behaviour include:

- Unwelcome touching
- Suggestive comments or jokes
- Sexually explicit picture or posters
- Staring or leering
- Requests for sex
- Unwanted invitations to go out on dates
- Sexually explicit emails or SMS text messages
- Sexually explicit physical contact
- Insults or taunts based on sex
- Unnecessary familiarity, such as deliberately brushing up against a person
- Intrusive question about a person's private life or body

### **Constitutional Protection of women against the sexual harassment at workplace**

The Indian constitution ensures the rights of every individual “ to practice any profession, or to carry on any occupation, trade or business ” under Article 19 (1)g. Participating in public employment is a constitutional right of every woman and this right is denied in the process of sexual harassment, which forces to keep away from such employment. Sexual harassment of women at the place where women work exposes her to a big risk and hazard.

The right to life and personal liberty is also violated by the sexual harassment of women at the workplace according to article 21 of the Indian constitution that no person shall be deprived of his life or personal liberty. The right to livelihood is an integral facet of the right to life. So according to this right to livelihood is violated by sexual harassment.

### **How laws on sexual harassment developed over the year in India**

Before the 1997 if a female gender facing the sexual harassment at work place then she lodge a complaint under section 354 of the Indian penal code (1860) that section deal with the 'criminal assault of women to outrage women's modesty' and section 509 that punishes an individual/individuals for using 'word, gesture or act intended to insult the modesty of a woman.

- **Landmark judgement of Vishaka case**

A PIL(public interest litigation) was filed against The state of Rajasthan by Vishaka and some women it was filed because the women wanted to get enforced the fundamental rights of working women under the three major articles of India it is 14,19 and 21 of constitution of India the reason behind filing the petition was a lady named Bhanwari Devi she was a social worker in Rajasthan, as she was a social worker so it was her duty to stop unjust in society one day when she was performing her duty that is she try to stop child marriage but she was brutally gang raped for doing the same. Supreme court of India took the matter very seriously and there by created legally binding the guideline based on the principle of equality and dignity mentioned in the constitution of India and it also finds a mention in UN Convention on the Elimination of All forms of discrimination against Women (CEDAW). The following guidelines were:

- A duty was handed over to the Employer and other responsible persons to make sure that prevent of act of sexual harassment committed by person has been kept under check and it also mention that all the step should be taken which provide the procedures for the resolution, settlement or prosecution of acts of sexual harassment.
- Sexual harassment includes such unwelcome sexually determined behaviour (Whether directly or by implication) as;
  - (a) Physical contact and 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 whether they work in public or in private sector appropriate steps needs to be taken by them in order to prevent sexual harassment. Following step needs to be taken then:
  - (a) The prohibition of sexual harassment which has been discussed above should be notified, circulated and published appropriate ways.
  - (b) Rules/regulations provided by government and public sector bodies which are related to conduct and discipline should also include rules/regulations prohibiting sexual harassment and it shall also provide appropriate penalties in such rules against the offender.
  - (c) It should be ensured that the appropriate work condition should be provided as far as work, leisure, health, medical and hygiene is concerned and after that it should also ensured that women are not given hostile environment at workplace. And no women shall be subjected to disadvantaged as far as her employment is concerned.
  - (d) When ever such conduct take place it is equivalent to offence which is punishable under Indian penal code than after this employer should ensure that he had made complaint an front of authority in accordance with the law with this there is one thing which need to be considered that there is no short of discrimination against victim being done when it comes to dealing with complain of sexual harassment. One privilege should given to victim have the option getting the transfer of perpetrator or himself done.
  - (e) Where it is found that the act committed is of such a nature that is can be construed as misconduct according to the services rules and regulation after this thing that proved disciplinary action should be taken against.
  - (f) Liberty should be given to employees so that they can find themselves to file a complain if ever anyone try to sexual harass them.
  - (g) Female employee should be taken care of in a sense that they should be told about there right and whenever any legislation gets enacted they should be notified at the earliest.
  - (h) When the questions comes on that conduct committed is comes under the ambit of an offence is it breach of rules of the service in following this procedure a complaint mechanism should be established in organization so that redressal can be made of complaint which is made by victim and one important aspect which is related to this as that the complain should be result with specified time limit.

### **Amendment in Indian penal code (1860) after Nirbhaya Case in 2013**

**Section 354A.** Sexual harassment is: unwelcome physical contact and advances, including unwanted and explicit sexual overtures, a demand or request for sexual favors, showing someone sexual images (pornography) without their consent, and making unwelcome sexual remarks.

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

**Section 354B.** forcing a woman to undress

**Punishment:** from three to seven years in prison, and a fine.

**Section 354C.** Watching, or capturing the image of a woman without her consent (**voyeurism**).

**Punishment:** 1<sup>st</sup> conviction- one to three years in prison and a fine. More than one conviction – three to seven years in prison and a fine.

**Section 354D.** Following a woman and contacting her or trying to contract her despite her saying she does not want contact. Monitoring of a woman by the using internet, email or any other form of electronic communication(**stalking**).

**Punishment:** 1<sup>st</sup> conviction- up to three years in prison and a fine. More than one conviction- up to five years in prison and a fine.

## CONCLUSION

With the rapid change in the role of women from housekeeping to the commercial world, there is a need for a safe environment and proper laws as offenses against women are also increasing like unwelcome sexual overtures at the workplace. In a civilized society, such unwelcome actions have a greater sequel on physical and mental health along with that it discourages the other women to become independent. Participating in public employment is a constitutional right of every woman and this right is denied in the process of sexual harassment, which forces to keep away from such employment. On one side the women try to become independent but on the other side the insecure and apprehensive environment reduces the opportunity for women and also such an act is detrimental for the economy. By building a culture of respect and awareness can lead to a healthy environment in the workplace. Sexual harassment of women at the place where women work exposes her to a big risk and hazard. By providing awareness and enhancing preventive measures a safe environment can be made. It can be done

by providing proper training to the employees, having policies, and keeping check on it will have a positive impact. By providing a space of freedom and security among colleagues it can curb the apprehensive environment at workplace.

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