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## Sexual Harassment at the Workplace: A Growing Menace

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### **Abstract:**

*The article deals with sexual harassment at workplace. Sexual harassment at workplace occurs everywhere in this world and mostly females are victims of this. The meanings of sexual harassment and reasons behind it have been discussed in this article. It is considered as a crime under the existing Indian law. The law dealing with this crime has been explained and at the same time proactive role played by the Supreme Court of India in different circumstances is discussed. The redressal mechanism is also explained in the article to promote positive work environment.*

*The problem can be solved by legislations and redressal mechanism at the workplace. The need for building awareness regarding human dignity and maintaining that at work place has been emphasized.*

**Key words:** sexual harassment, behavior, reactions, violence, crime

### **1. Introduction**

Sexual harassment at workplace generally takes place everywhere in this world. It is secretly practiced by men and in most cases silently suffered by women. Sociologists feel that it is the manifestation of male power as women lack it. Women maintain silence because of insecurity, lack of self confidence and prevailing social conditions. Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) states that equality in employment can be weakened when women face gender – specific violence, such as sexual harassment at the workplace.

It is found that sexual harassment at workplace started since time immemorial when men and women began to work side by side. But unfortunately, it was and continues to be considered as trivial and even supported. Most of the time, women are themselves blamed for their plights. The term “sexual harassment” used first time in the United States in 1970s (Mediratta, 2009). The label “sexual harassment” indicates a form of male behavior which the women are subjected to and needless to say that it is objectionable and women need not and must not tolerate or remain passive sufferers.

Meaning of Sexual harassment-

Sexual harassment is generally defined as unsolicited and unwelcome sexual advances. Indian Penal Code (1860) does not define sexual harassment. Legal definitions also vary from country to country but on principle the legal codes recognized it as an unwanted sexual conduct. Department of justice, State of California, USA in their Administrative manual reference (2003) mentions that sexual harassment occurs “when a supervisor or manager:

- Demands, as an explicit or implicit term or condition of employment decisions, a subordinate submit to sexual advances ( this may include situations which began as reciprocal relationships, but which later ceased to be reciprocal); and /or;
- Makes requests for sexual favours or other verbal, visual or physical conduct of a sexual nature that is an explicit or implied term or condition of employment decisions.”

The Sexual harassment of women at workplace ( Prevention, Prohibition and Redressal ) Act,2013 clearly states that sexual harassment results in violation of the fundamental rights of a women to equality and liberty under Articles-14, 15 and 21 of the Constitution of India. Section-2(n) of the same Act defines ‘ sexual harassment’ includes anyone or more of the following unwelcome acts or behavior ( whether directly or by implication) namely-

- Physical contact and advances; or
- A demand or request for sexual favours; or
- Making sexual coloured remarks; or
- Showing pornography; or
- Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

Before passing of this legislation, cases of sexual harassment were dealt in the court by keeping in mind the guidelines issued by the Supreme court of India in Visakha Vs State of Rajasthan, AIR 1997 SC 3011.

### **2. Types of Sexual Harassment**

- Gender Harassment- It indicates generalized sexist statements and behavior that convey insulting or degrading attitude about women. This type of harassment may include insulting remarks, offensive graffiti, obscene jokes or humour about sex or women.

- Seductive Behaviour- Inappropriate, offensive and unwanted sexual advances come under this type of behavior.
- Sexual bribery- The perpetrators often solicit sexual activity by promising of any reward. The act of proposing may be either overt or subtle.
- Sexual Coercion- The victims are often coerced to have sexual activity by threat of punishment. The boss may threat to evaluate performance negatively or may withhold promotions and many times the subordinates are terminated for not complying the indecent proposal.
- Sexual Imposition-It covers gross sexual impositions like forceful touching, feeling, grabbing and also includes sexual assault.

### 3. Myths Surrounding Sexual Harassment

Sexual harassment continues in the Indian and as well as other societies because of certain myths surrounding it are not challenged. There is a belief system that it happens to those who use provocative dresses, the woman did not say emphatic “no” to the harasser, the best possible way out is ignore the harassment and it goes away, all men are harassers, sexual harassment is harmless, it affects only few women etc. These myths adversely impact the women and encourage the harassers to perpetuate this unfair power play at the workplace and the women are left to express their important rage.

#### Impacts of Sexual Harassment-

Sexual harassment can devastate the psychological health, physical well-being, vocational development of the victims (www.twu.edu,2014). The TWU Counselling Centre of USA has identified several bad impacts of sexual harassment on women. They are as follows:

#### 3.1. Psychological Reactions

- Depression, anxiety, shock, denial
- Anger, Frustration, fear, irritability
- Feeling of being powerless, Confusion
- Shame, Low self esteem
- Isolation, self-blame, Guilty feeling

#### 3.2. Physiological Reactions

- Sexual Problems
- Panic Reactions, Phobias
- Sleep disturbances
- Nightmares
- Weight fluctuations
- Dermatological Reactions
- Lethargy
- Headaches
- Gastrointestinal distress

#### 3.3. Career Related Effects

- Withdrawal from Work or Academic institutions
- Change in career goals
- Absenteeism
- Drop in academic or work performance due to stress
- Loss of job or promotion
- Unfavourable performance evaluations
- Decreased job satisfaction

### 4. Sexual Harassment and the Supreme Court of India

The Supreme Court of India has played and is continuing to play a pivotal role for the protection of women who have faced sexual harassment at their work place. There are several instances where Supreme Court forged new tools which were needed to ensuring complete justice and upheld the fundamental rights mentioned in the Indian Constitution.

In a very highlighted case where a senior woman IAS officer was slapped on the posterior by the then Chief of Police , Punjab, at a dinner party, The Supreme Court held : *The accused being a police officer of the highest rank should have been exceedingly careful and failure to do so and by touching the body of the complainant with culpable intention has committed the offence punishable under Sections 354 and 359 of the IPC.* ( Kanwar Pal S. Gill V. State ( Admn. U.T. Chandigarh) AIR 2005 SC 3104 at 3106)

The court is very clear and categorically stated in another case that even a woman of easy virtue is entitled privacy and no one can invade her privacy. She is entitled to protect her person if there is any attempt to violate it against her wish. She is equally entitled to the protection of law ( State of Maharashtra V. Madhukar Narayan Mardikar(1991)1 SCC 57).

It was in 1997 in Vishaka Vs State of Rajasthan Case, the Apex court has defined sexual harassment explicitly. It defined it as an unwelcome sexual gesture or behavior whether directly or indirectly as

- Sexually coloured remarks
- Physical contacts and advances
- Showing pornography
- A demand or request for sexual favours
- Any other unwelcome physical, verbal/ non-verbal conduct being sexual in nature

It was the first time that sexual harassment had been identified as a separate illegal behavior. In this case, the Supreme Court commented 'Gender Equality includes protection from sexual harassment and right to work with dignity, which is universally recognized basic human rights'. ( Vishaka V. State of Rajasthan, AIR 1997 SC 3011 at 3014)

In another landmark case, the then Chief Justice of India, A.S.Anand stated that the sexual harassment of a female at the place of work is incompatible with the dignity and honour of a female and needs to be eliminated. (Apparel Export Promotion Council V. A.K.Chopra, AIR 1999 SC 625 at 634)

So it can be said conclusively that the Apex Court of India has made it sufficiently clear that sexual harassment at the workplace is a form of sexual discrimination and it is the violation of the Right to Equality mentioned in the Constitution. The Supreme Court undoubtedly uplifted the position and status of the women employees. It has made it mandatory for the employers to make it sure that women do not work in a 'hostile work environment'. Thus the Indian judiciary has played a commendable role to recognize and protect the right of women to work with dignity.

### 5. Reactions of Victims

It is to be noted that no work place on earth is immune from sexual harassment. But it is seen that most the cases the women victims remain silent. There are numerous reasons of maintaining studied silence. These can be enumerated as follows-

- Fear of professional and social repercussions
- Fear of revenge
- Inaction by the authority
- Not willing to publicize a very private matter.
- Fear of termination from service
- Postponement of Promotion
- Ignore the 'typical male' behavior

The above stated reasons have made 'sexual harassment' an invisible crime. It is not possible to estimate the extent of this crime as most of the cases go unreported (Mediratta, 2009).

It is important to mention that after the guidelines issued by the Supreme Court of India and subsequent passing of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, the responsibility for dealing with sexual harassment is on the organization.

### 6. Need of Sexual Harassment Free Workplace

It is often seen the organizations think about sexual harassment from the point of view of legal costs and potential damages ( Lightle & Doucet, 2011). But it can be looked at from a different angle. The hostile work environment and feeling of insecurity can cost time and low productivity. When sexual harassment occurs, the employees feel that adequate safety and security are not there and ultimately the productivity suffers. It is desirable that the workplace must be safe and secure from physical and psychological harm ( Lightle & Doucet, 2011). The employees need to respect each other to promote a safe work environment which ultimately builds teamwork. A good teamwork always produces good productivity and ensures organizational success.

It is often found that the employees are seldom given training to address sexual harassment. It is the women employees who are mostly prone to face this menace. But they are not confident and capable enough to raise the issues in a right manner and suffer in silence.

### 7. Lightle & Doucet (2011) States That

- Don't touch another person in any way unless he or she has given you permission to do so. Do not make remarks that could be construed as harassing. When in doubt, keep quiet.
- Do privately and clearly state, in a nice way, what truly annoys you, and do it immediately. Do not wait! Do not overreact.

They identified these above two fundamentals to form the core of anti-harassment training. Other possible measures that can be adopted by the organizations to stop sexual harassment at workplace are the following:

- Formulations of a policy prohibiting sexual harassment
- Publish policy on sexual harassment
- Train all employees including the top management about sexual harassment
- Clearly state the Grievance Redressal Procedure
- Disciplinary actions will be taken if found guilty of sexual harassment
- Punishment which might include termination.

To conclude, it can be said that sexual harassments are mostly deliberate but sometimes the harassers do not also realize that they are doing it. But it is important on the part of the victim to identify and complain about it. The present legislation suggests that the

employer is required to protect employees from sexual harassment. It is seen many times that informal approach can solve the problem but if is not amicably settled, the victim may have to make a formal complaint. It is to be remembered that legal provisions alone cannot prevent the predators as they know that it is very difficult to prove and victims often keep silent to protect their dignity. The solution lies in the creating awareness regarding this unwanted gestures and acts which amount to violating of human rights of an individual and also affects the victims' self-confidence, feeling of insecurity and leads to low self-esteem. The attempts should be made to promote and maintain a workplace free from sexual harassment by creating a positive work place environment.

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