

Review of Literature: Sexual abuse of women at workplace

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Abstract:

Sexual harassment of women at workplace is being observed over past so many decades. This hostile work environment force women to leave job. Although, awareness on this issue is increasing among working women yet the issue needs to be addressed properly. This paper is an attempt to analyze studies conducted in India with special reference to globe. Thus, the paper covers the emergence of sexual abuse at workplace and the variety of researches conducted to find problems, causes and remedial actions at national and international level. Vishaka's judgment played a very significant role in India in context of this abuse. Various authors have presented studies on real incidents of sexual harassment faced by women at their workplace. The paper analyses that this sexual harassment at workplace hampers women health resulting into depression, tendency of suicide etc. It is a criminal offence. It violates the human right of equality and live with dignity as recognized by CEDAW and other legal frameworks in India and at globe. It is a serious issue related with gender discrimination. It is also found that there is persistence of gender inequality and male domination deep rooted in culture across borders. Thus, the research findings of present paper depict that in spite of legal framework at globe still a long way to go ahead to overcome impediments on the way of working women.

Keywords: - Sexual harassment, workplace, male domination, Gender inequality, Vishaka's judgment.

I. Introduction:

1.1 Concept of sexual harassment:

Culture has a huge impact on an individual's personality because not only are individuals born into the human community; but are grow up while learning the culture, customs and values that are accepted among their people. The concept of male domination and treating women as subordinate is being observed across the globe. They were always treated inferior to men and these types of societal traditional of gender discrimination prevails even today at working places. In spite of so many reforms, still women face sexual abuse at working place. Many of the victims leave the organization and seek for employment elsewhere, or they have to remain within the organization and face whatever consequences may arise. Due to the economic recession, nowadays most of the victims of harassment tend to stay in their organizations, but this has a lot of implications for them psychologically, emotionally and on their level of productivity at large. Harassment comes not exclusively because of sex but is a matter of power and is done mostly by a person who has an advantage over the other. Sexual harassment is any unwanted attention imposed upon a woman. By categorizing this intrusive and objectionable behavior as 'light flirtation' or 'harmless jokes', the seriousness of the offence is masked (**Bhattacharyya, Arundhati, 2017**).

1.2 Emergence of sexual harassment:

^[1]The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979, which followed the United Nations Declaration on Elimination of Discrimination against Women, 1967, re-emphasized that discrimination against women disrupts the values of equality of privileges and esteem for human pride. It is an obstacle to the participation of women on equal terms with men in the political, social, economic and cultural life of their countries and it hampers the growth and prosperity of society. CEDAW's General Recommendation No. 12, of 1989, recognized sexual harassment as a form of violence against women. In 1992, through General Recommendation No. 19 on violence against women, the Committee characterized gender-based violence as a type of sex discrimination and therefore a breach of CEDAW. The Recommendation notes that "equality in employment can be seriously impaired when women are subjected to gender-specific violence, such as sexual harassment in the workplace." Violence against women shall be understood to encompass, but is not limited to, physical, sexual and psychological violence, including sexual harassment and intimidation at work ^[1].

^[2] The Discrimination (Employment and Occupation) Convention, 1958 (No. 111), addresses discrimination in employment on a number of grounds, including sex, and requires International Labor Organization (ILO) member states declare and pursue a national policy designed to promote equality of opportunity and treatment, with a view to eliminating discrimination. Like CEDAW, it predates widespread awareness of the issue of sexual harassment. As a consequence, it has been necessary for the Committee of Experts on the Application of Conventions and Recommendations to take the lead. In its 1996 Special Survey on Convention No. 111, the Committee confirmed that it views sexual harassment as a form of sex discrimination against women in employment, which undermines equality, damages working relationships and impairs productivity.^[2]

^[3]The Committee defined sexual harassment as: Any insult or inappropriate remark, joke, insinuation and comment on a person's dress, physique, age, family situation, etc; a condescending or paternalistic attitude with sexual implications undermining dignity; any Undesirable invitation or demand, implicit or explicit, whether or not escorted by threats; any lascivious look or other signal linked with sexuality; and any needless bodily contact such as touching, caressing, pinching or assault^[3]. ^[4]Sexual harassment is not consensual sexual behavior between two people who are attracted to each other. It also has nothing to do with mutual attraction or friendship ^[4].

Any conduct which, under reasonable grounds, leads a woman to believe that her objection would result in adverse employment action or would create a hostile working environment, amounts to discrimination, which is a serious form of violence, amounting to criminal offence in India. In academic public, when a woman is harassed by a teacher or a co-worker, there can be worries for coming forward, lodging a grievance and facing the inquiry committee for fear of status, fear of revenge, fear for consequences to one's career and academic pursuits.

Sexual harassment should be affirmatively discussed at the workers' meetings, employer-employee meetings, etc. Treat sexual harassment as misconduct and initiate service rules and disciplinary proceedings against the alleged person **Aligi Srikanth(2018)**. In the Indian context, sexual nuisance at workplace is one of the most confined forms of gender discrimination (Shukla 2002). In many cases, employers do not go beyond setting up a complaints committee as mandated by the law (Shukla 2002; Tejani 2004).

II. Objective:

To understand the concept and evaluation of the problem of sexual abuse of women at workplace. The present paper focuses on critical review of the researches conducted to find causes, problems, legal framework related with women regarding their harassment at workplace with special reference to India.

III. Review of Literature

Nemy (1975) speaks that it was in April 1975 that the expression sexual harassment was used in the communal for the first time by Farley during her evidence before the New York City Human Rights Commission Reaches on Women and Work. She defined it as unwanted sexual advances by male managers towards women such as constant leering / ogling, scrubbing against, pinching squeezing bodies, forced intimacy and forcing sexual intercourse. Thus, it can be understood that prior to the 1970s the term sexual harassment at office did not exist plus it was identified as a part of daily work life, a problem without any name. Farley (1978) explains that women in her class defined their practices in the workplace which had a different pattern. They either quit or were fired from a job because they were rough by the behavior of men. This spectacle of male harassment and bullying of female workers had not been described in the literature and was not publicly documented as a problem, although she sustained to hear it described by women from all walks of life.

It was recognized in 1986 by the US Supreme Court as sex discrimination and consequently by an international body such as United Nations through the General Recommendation number 19 (1992) of the CEDAW which is one of the core international human rights treaties adopted by the UN General Assembly in 1979. This is confirmed by a report by Forum against Oppression of Women (1991). The report revealed, during the 1980s, militant action by the Forum against the sexual harassment of nurses in public and private hospitals by inmates and their male relatives, ward-boys and other hospital staff; of air-hostesses by their colleagues and passengers; of teachers by their colleagues, principals and management councils; of PhD students by their guides and so on and so forth acknowledged a lukewarm answer from the trade unions and opposing publicity in the media. It is evident that, at that time the issue did not receive importance and attention from the society.

^[5]The Committee on the Elimination of Discrimination against Women, set up under the CEDAW, explicitly addressed the problem. It's General Recommendation Number 19 of 1992 recognized sexual harassment as a form of violence against women. It said gender-based viciousness was a type of sex discrimination and therefore a break of CEDAW. Article 11 of the General Recommendation Number 19 recognized that equality in employment was seriously impaired when women were subjected to gender-specific violence, such as sexual harassment in the workplace. It defined sexual annoyance as unwanted sexually determined behavior as bodily contact and advances, sexually colored remarks, showing pornography and sexual demand, whether by words or actions. It confirmed that such conduct was humiliating and could constitute a health and safety problem. It further stated that it was discriminatory and creation of hostile work environment if the work conditions made the woman believe that her resistance to sexual harassment would cause disadvantage to her in connection with her employment, including recruitment or promotion.^[5] Workplace bullying' has grown substantially since the term was introduced as a workplace problem in Britain in the early 1990s (Adams, 1992).

The judgment cited the Nilabati Behera v. State of Orissa (1993) judgment that had invoked a provision of the Civil and Political Rights Covenant in support of its argument. Therefore the Court stated it was all the more needed the international conventions and norms were to be used and relied upon for realization of the fundamental rights expressly guaranteed in the Constitution of India which represented and upheld concept of gender equality in all areas of human activity. Sexual harassment at workplace was recognized as violation of human rights by the CEDAW. This was the time when awareness of sexual harassment was only beginning to emerge. Though the CEDAW did not mention the term sexual harassment at workplace, in its preamble, the Convention explicitly acknowledged that extensive discrimination against women continued to exist, and emphasizes that such insight disrupts the philosophies of equality of privileges and respect for human self-esteem. Article 11 specifically talks about discrimination against women in the field of employment, affirms right to work as an inalienable right of all human beings and right to protection of health and to safety in working conditions. Finally the CEDAW recommends the State Parties to take all appropriate measures to eliminate discrimination against women in the field of employment including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men (Article 3 and 11). In 1997, in the landmark judgment of Vishaka and others v. State of Rajasthan, the Supreme Court of India said that sexual harassment at the workplace, pronounced preventive, prohibition and redresses measures and issued regulations towards a legislative mandate to the guidelines

proposed. Before these rules came into picture, the women had to file cases of Sexual Harassment at Workplace through lodging a grievance under Sec 354 and 509 of IPC. Sexual Harassment has become a global problem which is a type of violence against women. International community has recognized in their International treaties and documents, the protection from Sexual Harassment as a human right of women. All the legal instruments dealing with this matter in India provides solutions to protect life and liberty and these instruments have been used as a means to curb and address this issue. In India, before Vishaka's judgment, there was no law to deal with this matter and the guidelines which came as a result of this case were derived from the Convention on the Elimination of all forms of Discrimination against Women (CEDAW). The Indian Structure had grounded provisions in the form of essential rights. Currie and Maclean (1997) suggest that telephonic discussions can have a high rate of expose, as the process delivers a certain mark of "anonymity" to the contender especially for delicate issues like sexual harassment. The discussions were audio logged after looking for due authorization and copied. In a few instances, a second round of telephonic interviews was conducted to obtain additional information or to seek clarifications.

(Uma Shankar Jha and Premlata Pujari 1998) Working women may encounter challenges which are not perceptible or identifiable, but are nevertheless inherent. Quite often, male superiors or peers or subordinates consciously, or subconsciously, are not ready to accept that women, who are much inferior in physical strength and mentally deprived of necessary experience, could have the capacity to withstand the hardship of working life and compete with men. Discrimination against women is systemic in India, embedded in socio-cultural norms and laws that structure the family, community, and workplace and state policies. Piotrkowski (1998) explains that historically sexual harassment of women employees was ignored, denied, made to seem trivial, even implicitly supported. Women were blamed for it too. Sexual harassment has a positive relationship to sleep disorder, depression and alcohol usage, and is negatively associated with job satisfaction C.S. Piotrkowski(1998). Victoria A. Velkoff (October 1998) According to a 1998 report by U.S. Department of Commerce, the chief barrier to female education in India are Inadequate school facilities (such as sanitary facilities), Shortage of female teachers and most importantly Gender bias in curriculum.

In prospectus women being portrayed as weak, helpless and innocent versus strong, bold, and intelligent men with high prestige jobs.

The Saheli survey (1998) done with sixty-five women conclude that despite the wide prevalence of the problem, sexual harassment at workplace was not recognized as a systemized form of violence. It said sexual harassment was often trivialized as eve teasing and hardly recognized as an issue in the Indian society. Radhika (1999) states till 1997 sexual harassment was treated as personal problem till the Supreme Court acknowledged it as a criminal offense and infringement on a woman's fundamental right of gender equality and the right to life and liberty.

Wilson and Thompson (2001) argued that it is mainly about men exercising supremacy over women. They stated that sexual harassment is connected with disadvantaged status of women at work and subordinate position in society. Haspels, Kasim, Thomas and Mckann (2001), According to them the problem relates not so much to the actual biological differences between men and women rather but to the gender or social roles attributed to men and women in social and economic life, and perceptions about male and female sexuality in society resulting in unbalanced male-female power relationships. Kalof, L., Kimberly L. E., Jennifer L. M. & Rob J. K. (2001) In an article on the influence of race and gender on student self-reports of sexual harassment by college professors, authored by Kalof et al. (2001) survey result revealed that out of 525 undergraduates, about 40 percent of the women and 28.7 percent of the men had been sexually harassed by a college professor or instructor within or outside the campus.

Reese and Lindenberg's (2003) study on public sector administrations climaxes that a good policy must be supported by training, to have the desired impact.

The Yugantar report (2003) provides an vision into nature of sexual harassment faced by the working women. It is described as a slow poisoning process. It started from simple actions through body language and if not stopped at that point reached to the stages of sexual advances, physical contacts and demand for sexual favors. The study jointly done by Sophia College and India Centre for Human Rights and Law (2003) brought forward that sexual harassment was inflicted verbally through slang remarks, talking on sexual intercourse, comments on dress and figure, asked to sit closer, invitation to join at a pub, lunch or dinner, pressurizing to please clients, condition of increasing the pay if the woman went out with the boss.

The Sakshi survey (2001) and the Yugantar study (2003) showed that sexual harassment of women caused in loss of their efficiency, ill health, depression and suicides. The Yugantar study additionally revealed, sufferers of sexual harassment were afraid of every male fellow around them, advanced a feeling that their life was worthless, were unhappy as their relatives tried to avoid them, the family members looked down upon them and suspected their character. Many of the sufferers of sexual harassment were distressed to an extent that they were continuously

thinking of quitting the job. The family life of the women was also disturbed and it became a trigger for onset of domestic violence in the marriage.

Studies by Sanhita (2000) in Kolkata, Yugantar Education Society (2003) in Maharashtra and multistate study done by Sakshi (2001) reconfirmed that sexual harassment of women at workplace was rampant but not reported due to fear of stigma, loss of reputation and widespread blaming and disbelief in the complaints. In the Indian framework, sexual harassment at work is one of the most cloistered forms of gender discernment (Shukla 2002). In many cases, employers do not go beyond setting up a complaints committee as mandated by the law (Shukla 2002; Tejani 2004).

Sood (2006) brought out that the Vishakha judgment represented a quantum leap forward not only for gender justice, but also for the development of Indian jurisprudence on international law. It compelled the Indian government to acknowledge the issue as a form of violence against women. Elsesser and Peplau's (2006) study on cross-sex attachment at work highlights that acute cognizance of sexual annoyance at workplace, policies, etc, effects the relationship between colleagues, especially cross-sex attachment and how a glass panel can be injurious for women as they can lose friends, particularly in a male-dominated workplace. Chaudhuri (2008) reports that even if there is a grievance mechanism in place, the power dynamics against a woman if she makes a formal report, or the status of the perpetrator, plays a major role in the complaint getting invalidated.

D. K. Srivastava (2010) the attention to sexual harassment of women has resulted from humanistic and economic considerations. It has been realized that if women are not equally integrated into the workforce and if the workplace is not free of hostile work environments, absenteeism and stress-related healthcare problems may result. This may further result in increased costs of businesses and loss of production. Cruelty by husband and relatives formed nearly half of cases of crimes against women, whereas Sexual harassment in 2012 showed an increase of 7% since 2011 and accounted for 3.8% of total crimes against women. The reason it took so long could be because representation of women at the decision making centre is as follows: Women representation in Parliament (both houses) in India averages only 11.4% while Pakistan has a better women representation of 20.4%. Best women representation is in the parliament of Rwanda with 63.8% followed by Andorra with 50%. According to NCRB (National Crime Record Bureau) in 2012(5), around 2.4lakh women had reported crimes against them i.e. at a national average of 41 per lakh population of women with the highest incidence in Assam of almost 90. Chevalwala (2012) declares that sexual pestering along with lack of backing by peers and family can cause permanent damage to an specific like protracted

depression and stress. Gopalakrishnan, G. Solanki, A. S. and Shroff, V. (2013) It took long 16 years for Indian legislatures to enact a Bill that provide a mechanism to redress grievance pertaining to sexual harassment and gender equality of women in India (Gopalakrishnan, V and Shroff, 2014). Anagha Sarpotdar (2014) It can be arrived at that sexual harassment of women is system of discrimination and violence based on gender which has grave results on service of women. Therefore, it forms a fit case for involvement from the perspective of human rights.

Bhat ahmadrouf & Prof. Dr. Deshpande Anita (2017) Sexual harassment affects the social and psychological behaviour of women within and outside the workplace. Subsequently sexual harassment hinders the job security of women and threatens their earning potential. The causes for the above problem are male dominated society, inferior job position, and aggressive masculine trait of male gender, misperception about friendly nature of women and higher education academic profile and lesser job opportunity.

Sexual harassment of women is basically dealing with unwelcome acts or behavior which may be in the form of physical contact, sexually colored remarks or any other unwelcomed physical, verbal or non-verbal conduct which is of sexual nature. The term workplace includes organized and unorganized sector. The workplace can be a manufacturing concern, educational institute, manufacturing concern, trading unit, hospitals etc. **(Bhatia and Garg 2020)**.

IV. Analysis and Findings:

In the Year 1975, sexual harassment terminology was coined for the very first time which means that prior to this, there was a problem but nobody had defined it as an inappropriate behavior. After this, various cases came into limelight of sexual abuse at workplace such as educational, institutes, hospitals etc. In India, it was in 1993, Nilabati Behera Vs. Sate of Orissa, where demand of upholding gender equality was raised. And after the Vishakha case, finally India got some legal guidelines, which were specifically framed by considering women requirements. Also, some authors argued that it is society, who is responsible for this condition of women as it has always treated women as subordinate to men.

Sexual harassment at workplace is considered as a slow poison to women as it develops a feeling that they are meaningless to the society and this leads to mental sickness. Sometimes, this may turn into family sickness, which is inappropriate for any nation or society. As employees are the most precious asset to the organization, an organization must take care of all the employees especially in case of women workforce. The reason of this is that, if workforce is not mentally or physically well, they will be unable to perform their operations effectively and efficiently. This may result in downfall of the organization. Also, from moral point of view, women should

always be supported and appreciated for their efforts. That is why, this delicate issue needs a very attentive humanistic and economic consideration.

V. Conclusion:

The paper outlines the historic evaluation of the concept sexual harassment of women at workplace. It also throws light on various cases of sexual harassment of women at their workplace identified by various researchers all around the world. The paper covers all the problems and consequences may arise due to sexual harassment. The reasons of sexual harassment of only women at their workplaces is identified by various researchers and solutions are provided to eradicate this social and professional evil from society. From the above detailed overview of past researches available, it can be concluded that over the years this problem was ignored, then identified and measures were taken against it. Although the role of CEDAW, internationally and various judgements given in India in the context of sexual abuse had played positive role. The sexual harassment of women at workplace (Prevention, Prohibition and Redressal) Act framed in 2013 is a major ray of hope and optimism. But still this problem is in existence which needs to be tackled in aggressive and systematic way by all the stakeholders for eradication of this abuse faced by women not only in India but across the globe.

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