

Sexual Harassment At Workplace: An Overview of Offline And online Initiatives in India.

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Abstract:*The world today is changing, but unfortunately, some women still fall prey of lust and inhumane practices in the male dominated society. Over the past few decades, many women organizations, networks and Government have created a paradigm shift in understanding and acting actively to end Violence against Women (VAW) which once was limited to silent sufferings and within the four walls. Sexual Harassment is not confined to just being a crime rather it is an extreme violence of women's right to live a dignified life, freedom and security. The first section of research paper consists of overview of Legal, Constitutional and online initiatives taken by Government in India to support women to stand for the cause of ending sexual harassment at workplace.*

Women must feel free to be what they actually are, more conscious, swift, rejuvenated and interested in the affairs of society, as they constitute approximately half of the human race. New technologies have made it viable for people to communicate, network and collaborate on a more global scale than was earlier possible. The second section highlights the numerous online campaigns initiated at global level and utilized by Indian women at the local level to raise voice. The involvement of women in efficient utilization of Technological initiatives (Internet and Social Media Avenues) has a ripple effect, as women involve become the role models for the other women in the community. The third section of the study also reflects the travesties in accomplishing these efforts and imperative measures, which are substantial to incorporate in order to get the most out of these practices in the present scenario.

Keywords: *Sexual Harassment, IPC, Fundamental Rights, ICT, Social Media, SHe-Box, #MeToo, Online Petitions.*

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I. Introduction

There is nothing more toxic and demoralizing than having to work in a work environment where a bully or stealth harasser gets to threaten, haze, feast, overpower, and exist daily. Ty Howard.

Women on the one hand, are most important as well as on the other hand most vulnerable segment in the society. Undoubtedly, women have always played an imperative role in balancing highs and lows by withstanding whirlpools, which have posed threat to the existence of sodality. They always have to dwindle between the two facets of life. At one point of time, they had been revered as deities where as on the other, they have to face disrespect and practices, which are derogatory in nature. This often raises a question why women are subjected to such kind of miseries and evil practices? This is the outcome of the attitudes, practices and spirit of male dominance, which is an obstacle in the process of

development. The patriarchal society has revamped the practices, which only cater to the needs of male ideology.

The status of women in the Indian society has changed manifold with the passage of time. Although several Social Movements took place to uplift the status of women even then women are facing many gauntlets, which pose a threat to dignity, freedom and prosperity. Violence against women is a gender-based violence, which is chiefly committed against women. It is committed against women expressively because they are women. United Nations Declaration on Elimination of all forms of Discrimination against Women states Violence against Women (VAW) is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men. They are coerced to subjugate men. As per Kofi Annan (The Former Secretary to United Nations), Violence against women could be defined broadly in several categories which a women suffer through different stages of her life cycle; occurring from pre birth, infancy, girlhood, adulthood to elderly echelon (Report, 2006). Such inhumane practices are carried out either by individuals or States as well as are the result of antiquated traditions. It is even evident from the past that women have always been the victim of several types of violence condoned to them in terms of domestic violence, coercive use of contraceptives, prenatal sex selection, abortions, rape, sexual harassment at work place, incestuous behavior, honor killings, child marriage, dowry violence, genital circumcision, marriage by abduction, human trafficking, prostitution, violence in police custody and by authoritative personnel and pedophilia etc. Sexual Harassment at workplace is an extension of violence in every day life and is exploitative and discriminatory.

With the last decade, more women have entered the workforce. Even in India, being a diversified country where among 30.87 lakh Government employees, women constitute 10.93% of the total workforce (Census of Central Government Employees, 2011). As the number surge, their vulnerability to harassment has also been mushroomed. Women while working with their male colleagues are often exposed to disgruntle treatment. With the involvement of women in the working sector, the chance of sexual harassment at work place has increased a lot. This is one of the worst types of treatment given to a woman when she is trying hard to contribute in family and nation building. Therefore, Sexual Harassment is one of the biggest problems our women are facing today in different sectors of life. Sexual Harassment affects all women in some form or the other.

Sexual Harassment: The Conceptual Framework

The Supreme Court (in context to (Vishakha vs. State of Rajasthan) ² has defined Sexual Harassment as any unwelcome sexually determined behavior (whether directly or by implication) such as:

1. Physical contact or advances
2. A demand or request for sexual favors
3. Sexually colored remarks
4. Showing pornography
5. Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

Such unwelcome or unwanted conduct/act is totally prohibited (The Hindu, 1997 & Bag, 1997). The International Instruments have conceptualized Sexual Harassment as violence against women and discriminatory treatment which is a wide definition compared to the National laws (Keyal, 2016). As per CEDAW, "Sexual harassment includes such unwelcome sexually determined behaviors as physical contacts and advances, sexually colored remarks, showing pornography and sexual demands, whether by words or actions. Such conduct can be humiliating and may constitute a health and safety problem; it is

discriminatory when the women has reasonable grounds to believe that her objection would disadvantage her in connection with her employment, including recruiting or promotion, or when it creates a hostile working environment (Singh, 2000). As per a report by International Labor Organization, Sexual Harassment is a clean form of gender discrimination based on sex, a manifestation of unequal power relations between men and women (ILO, 2010).

The Equality Act of 2010 legally protects people from discrimination in the workplace and in wider society. It defines sexual harassment as “ unwanted conduct of a sexual nature which has the purpose or effect of violating someone’s dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for them”. It encompasses indecent or suggestive remarks, unwanted touching, requests and exigencies of sex and dissemination of pornography (Sivaramakrishna, 2013).

The Sexual Harassment at workplace (Prevention, Protection and Redressal) Act, 2013 highlights certain acts or behaviors if get conducted at the workplace (well defined in the Act) mark the sexual harassment. This Act defines sexual harassment in a wholesome and comprehensive manner and is symbolic of India’s commitment under CEDAW¹ to recognize women’s basic rights as human rights, as suggested by the Vienna Accord and the Beijing Women’s Conference, 1995 (Section 2n). The circumstances, which are considered immoral and inhumane are:

1. Implied and explicit promise of preferential treatment in her employment, or
2. Implied and explicit threat of detrimental treatment in her employment, or
3. Implied and explicit threat about her present or future employment status, or
4. Interference with her work or creating an intimidating or offensive or hostile work environment, or
5. Humiliating treatment likely to affect her health or safety.

Some facts related to sexual harassment at work place:

1. 70% of women do not report workplace sexual harassment in India (Indian National Bar Association, 2017).
2. Complaints regarding Sexual Harassment rose from 249 in 2013 to 336 in 2014 (National Commission for Women; 2013, 2014).
3. Cases of Sexual Harassment within office premises rose more than 100% between 2014-2015 (National Crime Record Bureau; 2014, 2015).
4. 51% rise in Sexual Harassment cases at other places related to work i.e. 469 in 2014 to 714 in 2015 (National Crime Record Bureau; 2014,2015).

II. Provisions Regarding Sexual Harassment Of Women At Workplace:

An Overview in Context To India

Offline initiatives: As sexual harassment is a threat to women’s right to live with dignity and equality to carry on any profession and trade which includes a right to safe environment from harassment. Many International Conventions, Legal and Constitutional safeguards provide road maps and beacons right direction to society to move on to fight against this evil practice. With (Article 2) enshrined in Universal Declaration on Human Rights 1948 adopted general ban on any kind of discrimination including on the basis of sex (UDHR, 1948). With Para 18 in Convention on Elimination of all forms of Discrimination against Women (CEDAW) conceptualize it as a humiliating conduct. There are many legal and constitutional provisions to provide safe environment to women at work and an instrumentality against any misconduct, which hurt their dignity. Moreover, The **61st Commission on the Status of Women (CSW 61)** took place from 13 to 24 March 2017 based on the theme “Women’s economic empowerment in the changing world of work”. It

was therefore a magnificent opportunity to inculcate consensus on the critical actions essential to accentuate women's economic empowerment globally. **International Labor Conference** will be held in June 2018 to discuss the topic of "Violence against women and men in the world of work". New international instruments on this issue will be recognized to ensure the sustenance and safety of women.

- **Constitutional Provisions related to Women:** There are certain Articles enshrined in the Constitution of India to secure and promote opportunities for women.
 1. Article 14 guarantees to all citizens and others equality before law
 2. Article 15(1) that prohibits of any discrimination on grounds of religion, race, caste, sex or place of birth.
 3. Article 15(3) empowers the State to make special provisions for women and children.
 4. Article 16 deals with equality of opportunity in employment or appointment to any office under state.
 5. Article 19 deals with freedom of speech and Expression (Rao, 2001&Ghai, 1992).

Apart from this, (Section 354 and 509) of Indian Penal Code ensure penalty of imprisonment for act intended to insult the modesty of a woman (Talgeri, 2017).

With the Landmark Judgment in Vishakha's Case, there have been certain guidelines promulgated by Supreme Court Of India to address the issue of sexual harassment (Vishakha vs. State of Rajasthan [1997 (6) SCC. 241]).

- **Directive Principles of State Policy** also contains important provisions for enhancing the status of women. Some of them are:
 1. Article 39(a) states that the policy of the State should be directed towards securing equality of right, for both men and women, to an adequate means of livelihood.
 2. Article 39(d) mandates equal pay for equal work for both men and women.
 3. Article 42 ensures that the State shall make provision for securing just and humane conditions of work and for maternity relief (Ghai, 1992).

The Sexual Harassment of Women at Workplace (Prevention, Protection and Redressal) Act, 2013³ has been reckoned as the magnificent initiative to tackle the blunders which women have to deal with while working to earn their livelihood. This Act ensures no woman shall be subjected to sexual harassment at any workplace. Some highlights of this Act are:

1. This act has a provision to grant leave to the women during pendency of proceedings (Under Section 12).
2. A woman can exit if she desires so in the form of conciliation (Under Section 10).
3. Limitation period of three months for filing of complaints to safeguard against misuse of the law (Section 9).
4. Procedure for disposal of complaints in a time-bound manner and action to be taken against the accused within 60 days of the submission of findings and recommendations to the employer or the District officer (Section 13).
5. Provision to penalize the complainant in case of false complaints (Under Section 14).
6. Well defined duties of employers to provide a safe environment, spread awareness amongst its employees, assist women complainants in filing complaints and initiating action against perpetrators (Under Section 19).

Online Initiatives: The world is in the transitional phase between industrial and information society. With the development of ICTs, the Government is now expecting participation through the utilization of internet facilities and various social media avenues. E-participation is the basic tool that enables government to dialogue with their citizens and vice-a-versa. By increasing government's efficiency to request, accept and incorporate the reverts from citizens, various strategies have been tailored, implemented and improved to meet the needs and priorities of citizens (UN e-Government Survey, 2008). The Ministry of Women and Child Development, GOI took initiatives on the foundation of this ground and launched comprehensive (SHe-Box)⁴ Sexual Harassment electronic Box; an online complaint management system for women to lodge complaints related to sexual harassment at workplace. Earlier it was launched in July, 2017 for registering complaints related to women working or visiting Central Government agencies. But later in November, 2017 this initiative was extended to women working in both non-government as well as public workspaces to ensure effective implementation of The Sexual Harassment of Women at Workplace (Prevention, Protection and Redressal) Act, 2013. This initiative aims to provide quick remedy to women struggling with harassment and keep vigil over the workspaces too. More than 346 complaints have been registered so far after the inception of the initiative (Indian Express, 2017). She-Box also provides platform to launch various capacity building programs to aware women. She-Box can also be accessed at <http://www.wcd-sh.nic.in/>.

As internet and social media avenues are widely used for advocacy, catalyzing and disseminating the information and as source of mobilization because it reaches millions of people with the click of a button. Social media avenues such as Facebook, Twitter and YouTube lay a platform for victims to candidly express their experiences with sexual harassment in hope to bring attention to the issue. They also enable women to think innovatively about the process of raising issues relevant for society leading to a new phenomenon called social activism also called Hash tag activism.⁵ Hashtag activism has become increasingly popular in recent times. It enables women all over the world to express their views without wandering and passing through the harsh procedures. This is also considered to be the best source of awaring womenfolk because the silent sufferers get oodles of voices to raise the issue and bring to world's notice. Various online Movements against Sexual Harassment at workplace have created turmoil in the world and Indian society has felt the heat. The #MeToo movement exploded on Facebook, Twitter and Instagram after Hollywood actress Alyssa Milano called for women to use it in the wake of Harvey Weinstein Scandal. #MeToo has acted as a watershed movement when women across the world came together to support each other in breaking their silence about sexual harassment and assault, to spread cognizance about the related issues. It became something larger as a lens through which we view the world (Bennet, 2017). Online or e-petitions⁶ on the other hand, is another initiative to bring together many people to make up any matter of grave importance.

Thus, there are many initiatives, which have been taken by the Government as well women to root out the evil from the system. Although, there are Acts, strategies and plans even then there are certain challenges which pose obstacles in the flawless performance of the initiatives.

III. The challenges, which pose hurdles in attaining the safe, human and just system

The provisions and mechanisms have proved to be fundamental by laying a foundation where women can initiate, protest and fight for their justice as well as for the sake of other aggrieved women in the society. The Mechanisms by the Government and the advent of Information and Communication Technologies have made it possible to reach justice with the application of many useful tools. The biggest problem is the silence of women and

reluctance because they fear the repercussions. The inefficiency on the part of system is another major hindrance in achieving the objective of safe and humane environment. There is a provision to penalize the complainant in case of false complaints (Under Section 14) of the Act, 2013. But the irony is that the offences related to sexual abuse are committed in privacy and difficult to prove. Such a provision is demoralizing. Our patriarchal society has many a times, proved to be biased in favor of males (**With reference to Anjali Gupta case, 2005**)⁷ where the flying officer was unable to prove the allegations and she had to accept the verdict helplessly. It proved to be the failure of justice machinery. The mentality of malefolk is the biggest challenge because the root of such problem arises due to the approach and actions of males. Women who try to confront them, have to bear the brunt in the hands of traditions, societal patterns and ways of living. The approach is fabricated which needs psychological change and improvement in the framework. There is problem of lop sided development in the system as women in the urban areas have started taken the initiatives on their own because they are more exposure of technology, education and awareness as compare to women in the rural and remote areas. The rural urban digital divide is the biggest challenge, which is the stumbling block to attain the safety, security and ensure fine existence of women in the society.

IV. Remedial Measures For Rendition Of Smooth Operational Strategies To Mark The Secure Workplaces For Women

There is a dire need to rejuvenate the framework of entire society. It is therefore important to have a winning outlook and a determination to seek justice for each one of the victim's in such cases. There must be a transparent pattern of sorting the matter of justice. Government must initiate balanced strategies to generate technological efficiencies, making the provision of educational facilities to all. There is need to revamp the education pattern by including the curriculum regarding awareness among the children at the school level to understand the importance to respect all women. All these concepts are essential to engross in the pattern of living. Family could also play an important role by acting as the iconic models hand in hand with the entire system. Males must think that it is their responsibility to provide safe and clean workplace to women because their daughters are likely to act as work force in future also. It is the high time to understand, think and move ahead in the battle to support women creating a celestial and worth working environment. As such practices influence the development of the nation in a negative manner. The Last and most imperative is the active involvement of women in helping each other to make the society a better place. As it is rightly said **when Women Support Each Other, Incredible Things Happen.**

V. Conclusion

In the nutshell, it is substantial to say that the actions have been working well gradually in the wake of ICTs and provisions initiated by the Government. Many women have got the benefit out of the initiatives. The main reason for the success of such initiatives lie in the active participation of women in the process of getting and helping others to reach justice. There are still many problems, which halts the precise functioning of the aspects and accomplish the cause of their incipience. As ICTs can amplify women's voices and help to publicize their experiences and perspectives, this may stimulate Government to update and work further to plan as well as execute more strategies to help women to find the safe work places. It is considered as the pre requisite to transform the society and keep at par with the dynamic environment. A nation to combat and keep pace with the changing society has to prove to be worth functioning for its most important base and segment. On the other hand, there is the wake up call for women across the work to come forward to be the key to unlock

the chains of sick orthodox mentality of men, the obnoxious practices and fear of their own. **Maya Angelou has rightly said that nothing can dim the light, which shines from within.**

Notes

1. CEDAW (Convention on Elimination of all forms of Discrimination against Women) is an International Convention, which has been ratified by GOI on 25 June, 1993 has universally recognized protection against Sexual Harassment and right to work with dignity as Human Right. There are 30 Articles enshrined in this Convention, which are related to upliftment of women in one aspect or other. (Article 2) ensures that everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it is independent trust, non-self-governing or under any other limitation of sovereignty. (Article 3) states that everyone has the right to life, liberty and security of person.
2. Vishakha Vs. State of Rajasthan; The judgement was given by a bench of J. S. Verma (then CJI), Sujata Manohar and B.N. Kirpal, provided the basic definitions of sexual harassment at work place and provided guidelines to deal with it popularly called Vishakha Guidelines. Vishakha took initiative for justice in support of Bhanwari Devi who was a social worker in Rajasthan. She was gang raped by a number of upper class men because she tried to stop a child marriage. Vishakha (Group for Women's Education and Research) joined together with other women groups to file the petition against the injustice done to Bhanwari Devi.
3. Sexual Harassment Act was constituted in 2013 to provide protection against Sexual Harassment at workplace. This Act extends to whole India including domestic workers too (Section 2a and e). However there is no mention of women in the armed forces and those employed in the agriculture sector. It requires the employers to form ICC within 3 months to redress the issues related to women employees (Section 4 to 8). Any suffering woman can give her complaint to either committee of the concerned employer in written. It encapsulates Central Ministries, Departments, public Sector Undertakings, Autonomous Bodies and Institutions, any private sector organization, NGOs, Hospitals, Sports Institutions and 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.
4. She-Box is an online portal to relieve the women struggling with Sexual Harassment at Workplace. Once the complaint is submitted to portal, it would be directly sent to ICC (Internal Control Committee) or LCC (local Control Committee) of concerned employer constituted under Sexual Harassment Act. This portal enables Ministry of Women and Child Development as well as aggrieved person to monitor progress to enquiry conducted by the concerned committees. All the women from Government and private sector can file complaint through this portal. MWCD has even identified a pool of 29 resource institutions willing to provide capacity building programs, training and workshops on sexual harassment and ways to fight and keep the environment safe and worth working.
5. Social activism also known as Hashtag (#) activism is actually taking over various socio-political, economic and economic movements and agitations to the digital world by bringing to notice public opinions of the country's women. This is the scorching and most prevalent initiative to promote advocacy over the issues influencing the women themselves. #HerToo, #MeToo, #BringBackOurGirls etc. #BringBackOurGirls became

- too popular as Michelle Obama also took part in it.
6. E-petitions can be signed for 120 days following their publications on the e-petitioner websites such as Indiavoices.com, Change.org and socialostracism.com etc. These are online petition tools to bring social reforms and about imperative causes. While creating, it gives opportunity to connect with community who support the cause for powerful actions in different catalogues like human rights, education, government and politics, sports and fitness, culture and religion, law and justice etc. The ways are also mentioned to start and proceed with list of sample petitions. Change.org organized an online petition-“President, CJI: Stop Rape Now!, that received more than 65000 signatures for an appeal seeking the intervention of the President and Chief Justice of India. Anal Haque Warsi’s petition with change.org against sexual harassment and religious discrimination to Government of India is one example of women who understands the loss of being silent sufferer and need to step ahead for justice.
 7. Anjali Gupta Case (2005), Anjali Gupta was a flying officer in IAF. During her posting at the aircrafts Systems and Testing establishment at Bangalore, she accused three of her seniors of Sexual Harassment at work place. In December 2005, a court of inquiry concluded that she had failed to prove her allegation. Due to which the General Court Martial dismissed her and sentenced her to be cashiered on five charges. She has to accept the verdict.

References

- [1]. Bag, R.K. (1997), “Domestic Violence and Crime against Women: Criminal Justice Response in India”, Journal of the Indian Law Institute, Vol. 39, No. 2/4(April-December), 1997 also available at <http://www.jstor.org/stable/4395326/>.
- [2]. Bennet, Jessica (2017), “The #MeTooMovement : When the blunders Come Off” , 30 November, 2017 available at <http://www.nytimes.com/2017/11/30/US/the-metoo-movement.html> accessed on 24/12/2017.
- [3]. Census of Central Government Employees, 2011
- [4]. Ghai, U.R. (1992), Indian Political System: A Study in Indian Government & Politics, New Academic Publishing Co., Jalandhar.
- [5]. Gurusurthy, Anita (2006), “Promoting Gender Equality? Some Development Related Uses of ICTs by Women”, Development in Practice, Vol. 16, Number 6, November 2006.
- [6]. <http://ncw.nic.in/pdfReports/sexualharassmentatworkplacebill2005.pdf>.
- [7]. <http://india.gov.in/sexual-harassment-women-workplace-prevention-prevention-prohibition-and-redressal-act-2013>
- [8]. Keyal, Nikunj (2016), “Sexual Harassment of Women at Workplace”, 2 June, 2016 available at <http://www.legalservicesindia.com/article/sexual-harassment-of-women-at-workplace-21143.html> accessed on 23/12/2017.
- [9]. Indian National Bar Association, Report 2017
- [10]. International Labor Organization, Report 2010 also available at http://www.slopvaw.org/international_labour_organisation2.and
http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-beijing/documents/publications/wcms_157626.pdf.accessed on 21/12/2017.
- [11]. Ministry of Women and Child Development, GOI Report, 2013
- [12]. National Crime Record Bureau, Report 2014
- [13]. National Crime Record Bureau, Report 2015
- [14]. National Commission for Women, Report 2013
- [15]. National Commission for Women, Report 2014

- [16]. Press Information Bureau, GOI, Ministry of Women and Child Development, 2017
- [17]. PTI (2017), “Government Launches ‘She-Box’ portal for Sexual Harassment Complaints”, July 24, 2017 available at <http://www.thehindu.com/news/national/govt-launches-she-box-portal-for-sexual-harassment-complaints/articles19342828.ece> &<http://currentaffairs.gktoday.in/she-box-portal-launched-oublic-private-sector-1120174951.html> accessed on 25/12/2017
- [18]. Ray, Saumya (2006), “Legal Construction of Domestic Violence”, *Sociological Bulletin*, Vol. 55, No. 3 (September-December), 2006 also available at <http://www.jstor.org/stable/23620755>
- [19]. Rao, Meena (2001), “Ramification of Harassment of Women”, *Journal of the Indian Law Institute*, Vol. 43, No. 3(July-September), 2001 also available at <http://www.jstor.org/stable/43951780>
- [20]. Sivaramakrishna, Arvind (2013), “Caste Out by the Law”, available at <http://www.thehindu.com/opinion/op-ed/caste-out-by-the-lawarticle4974756.ece> accessed on 24/12/2017.
- [21]. The Equality Act, 2010 also available at <http://www.equalityhumanrights.com/en/equality-act-2010/what-equality-act> & <http://www.hse.gov.uk/equality-duty/equality-act-2010.htm>
- [22]. Telgeri, Kunal (2017), “Why India is Far Behind the US in Addressing Sexual Harassment at the Workplace” available at <http://economictimes.indiatimes.com/news/politics-and-nation/why-india-is-far-behind-the-us-in-addressing-sexual-harassment-at-the-workplace/articleshow/61312681.cma>. accessed on 19/12/2017.
- [23]. UDHR,1948 also available at <http://www.un.org/en/universal-declaration-human-rights>.
- [24]. Vishakha vs. State of Rajsthan 1997(6), SCC 241; *The Hindu*, 14 August, 1997

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