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JOURNEY FROM A WORKPLACE PROBLEM TO A HUMAN RIGHTS ISSUE: SEXUAL HARASSMENT OF WOMEN AT WORKPLACE IN INDIA

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ABSTRACT

The current scenario of sexual assault of women is becoming the most common crimes in India and it has various forms. Women faces violence, physical abuse like eve-teasing, molestation, rape. Sexual harassment at workplace creates an environment of threat and terror and also violates women of their basic fundamental rights which is not good because workplace is meant to be making a healthy relation. This paper covers a brief study of such forms offences which have led to the growing harassment of women. There are acts like Sexual Harassment of Women at IT workplace (Prevention, Prohibition and Redressal) Act,2013 which is been so vital to the working ladies, finding a way to punish the one who are involved in such kind of offenses. The objective is to create a good working environment in India. The objective of this paper is to learn about the sexual harassment against women and what are the effects of it.

1. Introduction

Sexual violence is one of the most underreported crimes against women, mainly due to the fear of being stigmatised and retaliation from the offender and thus, making the environment more hostile. Sexual abuse experienced at work is both humiliating and dehumanizing. The victim feels powerless especially when the harassment comes from someone who has more power. The victim then blame themselves for other's misdeeds.

The Convention of the United Nations on the Elimination of All Types of Discrimination of Women (CEDAW), adopted at the General Assembly in 1979 and ratified by India also called the International Human Rights Charter for Women, advocates women's and men 's equality in the fields of human rights and basic freedoms in diplomacy, economy , environment and culture. This stresses that sexism against and assault on the dignity of women contradicts the concept of equal treatment.

Moreover, with the emergence of rapid industrialisation, modernisation, economic growth and globalisation, there was undeniably a continuous rise in the job rate of women in the organized sector in large and multifaceted spheres. Nevertheless, other unethical behaviors such as physical and emotional abuse, gender inequality and sexual assault on the job have been brought on. In addition to the relationship of disproportionate control, sexual assault is superfluous provocation, which involves physical touch, demand for a sexual preference, abusing comments, both oral and non-verbal sexual behaviour, and pornography. Women suffer physical and emotional torment by sexual abuse. Sexual abuse took on new ways as women were working. The bosses and superiors leave little stone unturned for systematic and systemic abuse of women at work.

The moral impudent side of sexual abuse has created a culture of negative, less productive consequences on the workplace, under which it has long been regarded as the most dangerous type of violence worldwide. This is not straightforward to describe sexual assault in any setting. "Unwelcome sexual advances, demands for sexual affection and any verbal or physical behavior of sexual nature become sexual harassment when: The United States' Equal Employment Opportunities Commission has established a supportive definition of sexual harassment.

- a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment,
- b) An individual's submission of or rejection of such actions shall be used as a justification for decisions on jobs involving that person.

No doubt sexual harassment is such a cruel offence that every women have experienced it at some point of instance, may be either in office or on their way to work. Every affected woman who has faced this crime is never let to loud the incident in public if they do so they are subject to worst crimes like assault, rape, acid attack etc. And surely these incidents led to the devaluation of women and domination of men.

1. Forms of sexual harassment:

1.1.Eve- teasing:

A very common practice in India is that of eve teasing, that is sexual harassment of a woman in public places. It could also be sexually explicit statement or brushing against a woman or following her. As per the Oxford Dictionary, eve teasing means “the making of unwanted sexual remarks or advances by a man to a woman in a public place.” A large numbers of Indian women feel vulnerable to the threat of eve teasing have are facing this issue, whether it is a public transport or public places, streets or workplace. Even

young girls are being harassed in public places. It may effect a women psychology.

1.2.Molestation / Rape:

Molestation is assault or abuse sexually. It is the sexual exploitation of a child or a woman by a male person for sexual gratification. It can happen in many forms like Mutual masturbation, Coitus, Child pornography and child prostitution, etc. When sexual abuse is done by a known person like family member it becomes even more difficult to disclose and complaint against the person. It is very hard for a person who is molested to face the society due to fear of being disregarded by society.

Rape is much more than just a molestation. There have been cases where a rapist have destroyed the soul of the female and have also murdered her after rape.

The Indian Penal Code, 1860 defines the offence of Rape under Section 375.

2. Discussion

1. Sexual harassment at work place:

1.1 What is workplace?

The workplace includes offices, manufacturing factories, stores, and in any other location where work is performed.

It can also be defined as any place where working relationships between employer and employee exist or any place visited by the employee arising out of or during the course of employment. Thus it includes both the organised and un-organised sectors.

Some of the work place examples include:

- Private sector organisations
- Hospitals/Nursing Homes;
- Educational or sports Institutions ,
- Government Organizations etc

1.2 What is sexual harassment at the workplace?

“Sexual Harassment” includes the following behaviour namely:

- Personal Harassment.
- Discriminatory Harassment.
- Psychological Harassment.
- Cyberbullying.
- A demand or request for sexual favours
- Making sexually coloured remarks
- Showing pornography

There are a lot of cases of sexual assault in Indian organizations. iGate Chief Executive Mr. Phaneesh Murthy, was asked to resign with an immediate effect after the charges of sexual harassment levelled by his subordinate employee (The Hindu, 2013).

In an another high-profile case, former Tehelka’s editor-in-chief Mr. TarunTejpal, was accused of sexual harassment by his subordinate employee at the Goa ‘Thinkfest’, an event organized by the magazine itself.

2.Negative effects on Mental and Physical Health:

Sexual harassment has negative mental health effects. It can lead to depression or even to PTSD. These effects can last for many years after the assault. Physical health problem also arise in response to repeated, long-term harassment.

3.Reduced Opportunities for job, career growth and learning:

In many occupations advancing in one's profession depends on the mentorship of more experienced workers. There is a high correlation between sexual harassment and job change. Women who faces sexual assault drops out of their jobs or research careers devoiding them of future leadership opportunities.

The survey report given by the Centre for Transforming India of 2010 found that 80 percent of the working women in the metropolitan cities have been subjected to workplace sexual harassment.

4.Legal laws:

The Sexual Harassment of Women (Prevention, Prohibition and Redressal) Act 2013 was enacted to provide protection against sexual harassment of women at workplace and for preventing and addressing complaints of sexual harassment. The Act recognizes that sexual harassment results in the violation of a woman's fundamental right to equality under Articles 14, 15 and 21 of the Constitution which provide for equality before law, prohibition of discrimination on grounds of religion, race, caste, sex or place of birth and protection of life and personal liberty. The Act specifies that:

- No court shall take cognizance of any offense punishable under this Act, or any of its rules, save on a complaint made by the aggrieved woman, or any other person authorized by the Internal Complaint Committee (ICC) and the Local Complaint Committee (LCC).
- No court inferior to that of a Metropolitan Magistrate or Judicial Magistrate of the first class, shall try any offense punishable under this Act
- Every offense under this Act is non-cognizable.

The Supreme Court of India, in a landmark judgment in August 1997 (*Vishaka & others vs. the State of Rajasthan & others*) stated that every instance of sexual harassment is a violation of "Fundamental Rights" under Articles 14, 15, and 21 of the Constitution of India, and amounts to a violation of the "Right to Freedom" under Article 19 (1)(g). In the *Vishakha* case, the Supreme Court laid down guidelines on tackling the problem of sexual harassment at the workplace.

Through the Criminal Law (Amendment) Act, 2013, Section 354 A was added to pulates what consists of a sexual harassment offence and what the penalties shall be for a man committing such an offence. Penalties range from one to three years imprisonment and/or a fine.

In April 2013 IPC was amended to include new section for sexual harassment i.e., Section 354A which talks about the punishment to be given for this crime and many more sections under IPC are also involved in dealing with this issue.

In 2010, the High Court of Delhi endorsed the view that sexual harassment is a subjective experience and for that reason held "We therefore prefer to analyze harassment from the [complainant's] perspective. A complete understanding of

the [complainant's] view requires... an analysis of the different perspectives of men and women. Conduct that many men consider unobjectionable may offend many women... Men tend to view some forms of sexual harassment as "harmless social interactions to which only overly-sensitive women would object. The characteristically male view depicts sexual harassment as comparatively harmless amusement. ... Men, who are rarely victims of sexual assault, may view sexual conduct in a vacuum without a full appreciation of the social setting or the underlying threat of violence that a woman may perceive." Dr. Punita K. Sodhi v. Union of India & Ors. , in the High Court of Delhi.

3. Conclusion

As the society is changing more women are taking up the leadership roles and thus men who have always being in the patriarchal society abuse them and also try to dominate them. There are laws to punish these criminals and to stop sexual harassment of women. With the help of laws it is possible to protect them but more awareness among the people is needed and this is also the time to educate people so that they understand the difference between right or wrong. At workplace the other employees should understand that they should not make gender discrimination. The Sexual women at workplace Act, 2013 is a significant step to protect women from sexual assault and give them the rights to raise their voice if something unpleasant is happening to them so that proper punishment can be given. It can also be said that the Vishakha judgment was a result of the women's activist who wanted to fight against this sexual violence and also wanted women's right. The government also recognised this issue of sexual violence against the serious one

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