



## Sexual Harassment of Women At Workplace

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### ABSTRACT

*Sexual harassment speaks more to power relationships and victimization than it does to sex itself. It is improper use of power to extort sexual gratification and consists of misperception or misunderstanding of a person's intentions. It refers a power relationship, male over female that is exploitative. "It results from a misuse of power not from sexual attraction" as it reflects disparity in power between the perpetrator and the victim, which more often than not, mirrors the power differentials between men and women in society (ILO 2005). Sexual Harassment is embedded in the socio-economic and political context of power relations. It is produced within class, caste and patriarchal social relations in which male power dominates. Actually sexual harassment is all about power play and sexual politics.*

**Objectives:**

1. To know the nature of Sexual harassment
2. To discuss preventive measures to reduce the sexual harassment

**Methodology:** The study was undertaken collecting information from secondary sources. Many journals, magazines and research articles have been consulted to prepare the paper.

**KEYWORDS :** Harassment, Victimization, Constitution, Empowerment, Preventive measures

**Introduction:** Women in India are not yet equal to men. There is no legal or constitutional barrier to equality. There is only the social barrier. Women in India are more a 'respectable' and 'meaningful' social status which is free from all sorts of exploitation. There is no urge in them to outsmart men. They want their interests to be protected and problems solved. As long as the problems of women remain as 'women's problems' and not as 'societal problems', so long, attempts at the solution of these problems do not get required speed. Indian women are not very much after equality with men. But they expect a change in the attitude of men towards them and their status. On the contrary, they expect greater freedom, better education, self-dependence, decent jobs, a proper treatment of women by men folk and a socio-economic environment free from all types of exploitation. Our attempts to provide such a type of socio-economic environment to women will definitely influence their social status and the socio-economic conditions in the days to come.

Sexual harassment and rape are two sides of the same coin. Both showcase the power of man to dominate that of women. Both have one victim- 'women'. Both are barbaric in nature; but many people extenuate sexual harassment to rape, just because the victims are not physically harmed. Both have the same object- to undermine the integrity of the victim, physically as well as mentally. As observed by Justice Arit Pasayat: "While a murderer destroys the physical frame of the victim, a rape degrades and defiles the sole of a helpless female." The official statistics of 1991 says that one woman is molested every 26 minutes. These statistics refer to the reported cases, whereas, if the unreported cases were to be included, it would have been in seconds-rather minutes. Most cases are not reported by victims because of various reasons such as family pressures, the manner of the police interrogation, the unreasonably long and unjust process and application of law, and the resulting consequences thereof.

### What is sexual harassment?

Sexual harassment is defined as unwelcome verbal, visual or physical conduct of a sexual nature that is severe or pervasive and affects working conditions or creates a hostile work environment. Sexual harassment euphemistically described in popular parlance as 'eve teasing' is a form of violence against women. Sexual harassment like rape, sexual molestation is the expressions of male aggression against women and aimed at asserting male power. It is also an act of unwelcome and uninvited, attention unsolicited physical contact demand or request for sexual favour, display of pornography, Live remarks sexist jokes or songs or unwelcome touches or looks and some of the behaviours which curtails women's right. Sexual harassment is any unwelcome sexual advance or conduct on the job that creates an intimidating, hostile or offensive working environment. Any conduct of

a sexual nature that makes an employee uncomfortable has the potential to be sexual harassment.

According to Supreme Court sexual harassment is any unwelcome sexually determined behaviour, such as;

**Physical contact:** it means subjecting women to an unwelcome act of physical intimacy like grabbing, brushing, touching pinching etc. and influence for sexual act.

**Demand or request for sexual favour:** it is an act of an unwelcome demand or request towards women (directly or by implication) for sexual favour and further makes it a condition for employment, payment of wages, increment, promotion etc.

**Sexually coloured remarks:** it refers to make an unwelcome remark with sexual connotations, like sexually explicit compliments, cracking sex jokes, making sexist remarks and songs to provoke women to gain sexual favour.

**Pornography:** this is an advanced means of seeking favour. Showing a woman any sexually explicit material in the form of pictures, cartoons, pin ups, calendar, screen savers on computer and offensive written material, pornographic e-mails etc.

**Verbal or non-verbal conduct of sexual nature:** this includes engaging in any other welcome conduct of a sexual nature which may be verbal or non-verbal. Making women uncomfortable, by offensive gestures, kissing, sounds, unwelcome looks, staring, sexual signs etc.

### Why only targeted to women:

Women are subjected to sexual harassment because of the work place hierarchy, the sexuality harassed women is unlikely to complain. Often she is economically and emotionally dependent on her aggressor. Moreover, the abuse is humiliating, so the victim is forced to keep secret. Fearful losing her job and economic security, she keeps quiet. Studies have shown that repeatedly that very few individuals report their experiences or lodge an official complaint. All working women, regardless of their age, physical appearance, social status and job security may encounter sexual harassment. The only difference is that women working for lower scale are subject to more gross expression of sexual harassment rather than professional and managerial women. The women of owner economical scale is subject to crude and physical assaults while the professional and managerial are psychological intimidation.

The real fact is that eve teasing or sexual harassment is humiliating, intimidating painful and frightening. Behaviour that unwelcome cannot be considered harmless. Women have the right to act, dress and move around freely without the threat of harassment. If a woman keeps quiet that does not mean that she likes it. On the other hand she will be accused of provoking it, of being victimized, of being called liar and made the subject of gossip. A woman faced with unwanted and unexpected sexual advances may feel confused, scared and frustrated she is often unsure whether real injustice has been committed etc. she hesitates to file a complaint due to the fear of losing her job, affects social status and disorganizes her family life are the realities.

### Law on Sexual Harassment

The basic problem in dealing with the problem of sexual harassment is that Indian Penal Code (IPC) has no specific provision covering the subject in its entirety. However, the related laws are framed as offences that either amount to obscenity in public or acts that are seen to violate the "modesty" of women. This should be noted that for the first time in 1994, Crimes in India Report categorized section 509 of the IPC as sexual harassment. It is significant that this category was footnoted to explicitly say; 'referred in the past as eve teasing'. Thus the social contestations are read into the legal categories making eve teasing a matter of the past. Sexual harassment at workplace can also be incorporated in section 209, 294 and 354 of the IPC.

A civil suit can also be filed for damages under court laws, on the grounds of mental anguish, physical harassment, loss of income and employment caused by the sexual harassment. The Apex Court in the State of Rajasthan v. Vidhyawati held that, the Government will be vicariously liable for the tortious act of its employees. Besides, a victim can seek remedy under the Indecent Representation of Women (Prohibition) Act (1987) which lays down that if an individual harasses another with books, photographs, paintings, films, pamphlets, packages, etc. containing "indecent representation of women"; he is liable for a minimum sentence of 2 years. Further, section 7 (offences by Companies) holds companies guilty where there has been "indecent representation of women" and the minimum punishment is sentence of 2 years.

Further, Rule 3C of the Civil services (Conduct) Rules provides that, no Government servant shall indulge in any act of sexual harassment of any woman at her work place and they shall also take appropriate steps to prevent Sexual harassment of women at work place. However the violation of this rule comes under 'misconduct' only.

### Preventive steps:

In India, sexual harassment was for the first time recognized in 1997 by The Supreme Court as human rights violation and gender based systematic discrimination that affects woman's Right to Life Livelihood. The Court defined sexual harassment very clearly as well as provided guidelines by name Vishaka Guidelines for employers to redress and prevent sexual harassment at workplace. Vishaka Guidelines for employers is for resolution and prevention of sexual harassment enjoying employers by holding them responsible for providing safe work environment for women.

Vishaka guidelines apply to both organized and unorganized work sectors and to all women whether working part time, on contract or in voluntary/honorary capacity. The guidelines are a broad framework which put a lot of emphasis on prevention and within which all appropriate preventive measure can be adapted. One very important preventive measure is to adopt a sexual harassment policy, which expressly prohibits sexual harassment at work place and provides effective grievance procedure, which has provisions clearly laid down for prevention and for training the personnel at all levels of employment. It is necessary and useful for employers in work places as well as other responsible persons or institutions to observe certain guidelines to ensure the prevention of sexual harassment of women.

Since law is an effective weapon for bringing about socio-economic justice and Constitution has been so devised so as to achieve this objective, Parliament must enact a comprehensive law to prevent sexual harassment of women at workplaces. Most women hesitate to complain about sexual harassment from employers because of the fear of losing their jobs. So the new legislation must incorporate provisions

to protect their jobs when complaints are made. A termination or resignation after a complaint should also be considered as sexual harassment. The best way to prevent sexual harassment is that employers need to set up redressal mechanism/complaints committees. The aim is to ensure that sexual harassment does not occur and, where it occurs, to ensure that adequate procedures are readily available to deal with the problem and prevent its recurrence.

The central and the state governments and also the public at large should take the Apex Court's judgment seriously and initiate measures to end the menace of mounting sexual harassment. A deterrent punishment to the culprits appears to be the only solution to the serious problem of sexual harassment whether at the workplace or outside. The ultimate solution to this social problem lies in massive awareness determined community action.

### Conclusion:

Law alone is not enough to root out this social evil. Society has to change its attitude so that women can come out and participate in public life without feeling threatened. What needs to be inculcated is a sense of mutual respect between men and women. There is a divinity in each of us. The recognition of this divinity will automatically bring forth mutual self-respect and that alone will be source of liberation and empowerment of women.

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