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# Safeguarding Women in the Workplace: Analyzing Workplace Sexual Harassment Laws in Bangladesh

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## ABSTRACT

*In Bangladesh, sexual harassment is a serious and widespread problem that affects women in multiple areas, including workplaces, schools and public spaces and even in their homes. This paper analyses the legal framework of Bangladesh regarding protecting women from sexual harassment which they face in the workplace. It aims to evaluate the effectiveness of existing laws and regulations in providing a safe and secure working environment for women. Through a comprehensive analysis of legislative texts, judicial decisions and enforcement mechanisms, this study identifies key strengths and weaknesses within the current legal system. The findings reveal significant gaps in the implementation and enforcement of sexual harassment laws despite the presence of robust legislative provisions. Key challenges include a lack of awareness among employees and employers, insufficient training for enforcement agencies, fear of retaliation, cultural barriers etc. that discourage the victims from reporting. The study concludes with a series of recommendations that aimed at strengthening the legal and institutional framework of Bangladesh. These include comprehensive definition of sexual harassment, formation of internal complaint committee, anti-retaliation process, uniform code of conduct, ratification of ILO etc has been discussed. By addressing these issues, Bangladesh can make significant strides toward ensuring a safer workplace for women which will help to promote a gender balanced environment in the professional sectors. This analysis contributes to the broader discourse on workplace safety and women's rights, offering insights that can inform policy reforms and advocacy efforts both within Bangladesh and in comparable socio-legal contexts globally.*

**Keywords:** Sexual Harassment, Workplace protection, Legal Analysis, Women's Rights, Legislative Reforms.

## I. INTRODUCTION

The problem of sexual harassment in Bangladeshi workplaces remains prevalent, shaped by complex socio-cultural, economic, and legal dynamics. Historically, gender inequality and

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societal discrimination have fueled harassment against women at work. Traditional gender roles and patriarchal norms positioned women in subordinate roles both socially and professionally, limiting their presence in the formal labour market.<sup>3</sup> Consequently, many women worked in agriculture, informal sectors, and domestic jobs, often without economic independence or adequate representation, making them susceptible to exploitation.<sup>4</sup>

In the late 20th century, Bangladesh's rise as a global centre for garment manufacturing and other industries created new job opportunities for women. However, this rapid industrial growth, along with expansion in the informal sector, brought heightened risks of workplace harassment.<sup>5</sup> Over time, reports of harassment have surfaced across diverse sectors—from factories and agricultural fields to offices and service roles. Power imbalances, weak legal protections, and a pervasive culture of impunity have contributed to the persistence of harassment against women in these work settings.<sup>6</sup>

#### **(A) Manifestations of Sexual Harassment:**

Sexual harassment can manifest in various forms, each with its individual characteristics and impact on the victim. Here are some common types of sexual harassment:

**Quid Pro Quo:** Involves authority figures coercing subordinates into sexual acts in exchange for workplace benefits like promotions or job security, abusing power and violating ethics.<sup>7</sup>

**Verbal Harassment:** Includes unwelcome sexual comments, propositions, or explicit language delivered in person, via phone, or digital channels.<sup>8</sup>

**Non-Verbal Harassment:** Covers actions like staring, whistling, or displaying explicit imagery, fostering discomfort or hostility.<sup>9</sup>

**Physical Harassment:** Involves unwelcome physical contact such as groping or hugging, violating personal boundaries.<sup>10</sup>

**Hostile Work Environment:** Sexual conduct creating an intimidating atmosphere, hindering job performance.<sup>11</sup>

**Retaliatory Harassment:** Harassment or adverse actions following rejection or reporting of

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<sup>3</sup>Maheen Sultan, 'Preventing and Protesting Workplace Sexual Harassment: Women Agro-Processing Workers in Bangladesh' (2023) 41 WOL 233

<sup>4</sup> ibid

<sup>5</sup> Flora Begum and others, 'Harassment of Women Garment Workers in Bangladesh' 2011 8 JOTBAU 291

<sup>6</sup> ibid

<sup>7</sup>What is sexual harassment' < <https://www.un.org/womenwatch/osagi/pdf/whatishh.pdf>> accessed 7<sup>th</sup> April, 2024

<sup>8</sup> ibid

<sup>9</sup> ibid

<sup>10</sup> ibid

<sup>11</sup> ibid

sexual misconduct.<sup>12</sup>

### **(B) Theoretical Framework:**

Theories on workplace harassment emphasise its roots and impacts like: Feminist Theory links it to patriarchy and systemic gender inequality. Socio-Cultural Theory emphasises cultural norms and stigma that deter victims. Dominant Theory critiques laws shaped by patriarchal values. Power Dynamics Theory examines how workplace hierarchies enable harassment. Psychosocial Theory examines its emotional impact and recovery needs and Human Rights Theory frames it as a violation demanding accountability and protective policies.<sup>13</sup>

### **(C) Importance of the Study:**

This study examines workplace sexual harassment in Bangladesh, assessing legal frameworks and highlighting the need for reforms to address gender inequality. It emphasises strengthening laws, challenging systemic discrimination and empowering women while fostering accountability and respect. By identifying legal gaps, it offers insights for reforms to safeguard women's rights, ensure safe workplaces and align with international standards. The research aims to remove barriers to women's economic participation and serves as a resource for policymakers and advocates to promote equity and professional inclusion.

### **(D) Literature Review**

#### **a. Definition and Types of Workplace Sexual Harassment**

Throughout human history, sexual harassment has persisted, but it has only lately been acknowledged as a significant issue, especially in the workplace. This behaviour, which dates back centuries, is defined as superiors forcing unwanted sexual advances on subordinates. For example, African American women who lacked legal protection were subjected to sexual coercion, a systemic feature of chattel slavery. Furthermore, testimonies from late 19th-century women employed in clerical and manufacturing occupations describe a variety of circumstances in which men coerced them into having sex.<sup>14</sup> Sexual harassment is frequently characterised as a widespread and persistent problem in contemporary workplaces, impacting people from a variety of sectors and institutions.<sup>15</sup> Such harassment can take many different forms, such as designating some tasks as being exclusively appropriate for men, disparaging women's

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<sup>12</sup> *ibid*

<sup>13</sup> Pallavi Kapila, 'Theoretical Perspective to Sexual Harassment of Women at Workplace' (2017), 6, RG, 32

<sup>14</sup> Dipali Gupta and Dr. Juhi Garg, 'Sexual Harassment at Workplace' (2020) 2(1) *International Journal of Legal Science and Innovation* <<https://ijlsi.com>> accessed 09 November 2024.

<sup>15</sup> Stephanie R Sipe, C Douglas Johnson, and Donna K Fisher, | 'University students' perceptions of sexual harassment in the workplace: A view through rose-colored lenses' | (2009) 28(4) *Equal Opportunities International* 336 <<https://doi.org/10.1108/02610150910954791>> accessed 09 November 2024.

performance or their capacity to succeed in the workplace, denying them access to information, training, or opportunities for advancement, and purposefully undermining their efforts, to name a few.<sup>16</sup> According to the ILO's Violence and Harassment at Work Guide for Employers, sexual harassment encompasses behaviours like rape, sexual assault, indecent exposure, and stalking. Unwelcome physical contact, invasive enquiries, and offensive remarks about gender or sexual orientation are also covered. It also entails sharing explicit content and asking for sexual favours in return for job benefits. These actions make the workplace intimidating or hostile.<sup>17</sup>

### **b. Comprehending the current state of understanding regarding WSH**

Bangladesh's garment industry, which is a major contributor to the nation's GDP, has been beset by allegations of sexual harassment and worker exploitation. Huq noted that international conventions and labour laws both mention legal protections for employees, including prohibitions against sexual harassment. However, enforcement remains a challenge due to the informal nature of employment relationships, power imbalances, and lack of accountability mechanisms.<sup>18</sup> Efforts to address sexual harassment in the garment industry require a multi-stakeholder approach involving government, employers, trade unions, and civil society.<sup>19</sup> Srivastava analyzed the legal framework and policies related to addressing sexual harassment of women in the workplace.<sup>20</sup> The author made an effort to illustrate the laws that are in place to stop and handle these kinds of incidents, the importance of creating a safe workplace for women, and the need for robust policies to stop sexual harassment in the workplace.<sup>21</sup> Moving forward to another author named Rahman, who primarily aimed to address the issue of sexual harassment faced by women in workplaces within Bangladesh.<sup>22</sup> The article emphasized the need for a women-friendly working environment and discussed the legal framework in place to prevent such harassment.<sup>23</sup> Khan and Halder in their paper emphasized the importance of workplace Codes of Conduct in safeguarding female employees from harassment, particularly sexual harassment.<sup>24</sup> Despite the implementation of such codes, surveys reveal a concerning prevalence of sexual harassment across various sectors, including health, garment, and private

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<sup>16</sup> Vicki Schultz, 'Reconceptualizing Sexual Harassment' (1997) 107 Yale LJ 1683.

<sup>17</sup> International Labour Organization, *Violence and Harassment at Work: A Practical Guide for Employers* [https://www.ilo.org/global/publications/books/WCMS\\_649189/lang--en/index.htm](https://www.ilo.org/global/publications/books/WCMS_649189/lang--en/index.htm) accessed 9 November 2024.

<sup>18</sup> *ibid*

<sup>19</sup> *ibid*

<sup>20</sup> S.C. Srivastava, 'Sexual Harassment of Women at Work Place: Law and Policy' (2005) 39 JSTOR 364

<sup>21</sup> *ibid*

<sup>22</sup> Sarjean Rahman, 'FM Associates Bangladesh' 2022 <<https://www.fmassociatesbd.com/laws-regarding-sexual-harassment-in-workplaces-in-bangladesh>> accessed 21 March, 2024

<sup>23</sup> *ibid*

<sup>24</sup> Mahabub Ul Alam Khan and Gita Debi Halder, 'Sexual Harassment in Bangladesh: A Note on Legal Perspective' (SSRN, August 30, 2022) <[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4202244](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4202244)> accessed 21 March, 2024

industries.<sup>25</sup> Islam and Haque referring the case of BNWLA vs Government of Bangladesh and others stated that if women cannot be protected from sexual harassment then they cannot enjoy their constitutional rights, not even any single one because each rights are interconnected.<sup>26</sup> So they referred this case which clearly shows that sexual harassment also leads to the violation of constitutional rights.<sup>27</sup> Another author named Tandon covered about Indian laws regarding sexual harassment at the workplace, relevant judgements in detail.<sup>28</sup> Stockdale showed a thorough examination of international human rights concerns and regulations pertaining to sexual harassment.<sup>29</sup> She talked about laws from more than 50 countries that deal with sexual harassment at work.<sup>30</sup> It covers opinions on workplace sexual harassment, the effects of rulings from the US Supreme Court and Circuit Courts on instances involving sexual harassment in hostile environments and more.<sup>31</sup> Huda in his article noted about #MeToo movement and examined how Bangladesh's legal system addresses sexual harassment.<sup>32</sup> He lastly said Bangladesh lacks specific legislation solely addressing sexual harassment and needs to work more in it.<sup>33</sup>

## II. THE BANGLADESHI SITUATION

In Bangladesh, sexual harassment is classified into two distinct categories. One of these is referred to as 'Eve-Teasing,' predominantly associated with instances of harassment faced by women.<sup>34</sup> It encompasses situations where women experience harassment in various settings such as workplaces, streets, or homes. Conversely, there exists a parallel concept known as 'Adam-Teasing,' denoting harassment encountered by men in either public or private settings.<sup>35</sup> Recently, there has been a noticeable surge in incidents of eve-teasing in Bangladesh. Over the past five to ten years, the country has witnessed a significant rise in such cases, with the numbers escalating steadily. According to a report released by Ain-O-Salish Kendra on January 1, 2021, there were 1627 reported cases of rape in 2020, resulting in the deaths of 53 victims and

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<sup>25</sup> *ibid*

<sup>26</sup> M Rafiqul Islam and Muhammad Ekramul Haque, *The Constitutional Law of Bangladesh Progression and Transformation at Its 50th Anniversary*, (1<sup>st</sup> edn, Springer Singapore 2023)

<sup>27</sup> *ibid*

<sup>28</sup> Amish Tandon, *Law of Sexual Harassment at Workplace: Practice & Procedure*, (1<sup>st</sup> edn, Niyogi Books 2017)

<sup>29</sup> Margaret S. Stockdale, *Sexual Harassment in the Workplace: Perspectives, Frontiers, and Response Strategies* (5<sup>th</sup> edn, SAGE Publications, inc. 2013)

<sup>30</sup> *ibid*

<sup>31</sup> *ibid*

<sup>32</sup> Taqbir Huda, 'Sexual Harassment and the Law: Where's the Problem?' *The Daily Star* (Dhaka, 27 June 2019)

<sup>33</sup> *ibid*

<sup>34</sup> Mahabub Ul Alam Khan and Gita Debi Halder, 'Sexual Harassment in Bangladesh: A Note on Legal Perspective' (SSRN, August 30, 2022) <[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4202244](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4202244)> accessed 21 March, 2024

<sup>35</sup> *ibid*

prompting fourteen others to take their own lives.<sup>36</sup> Additionally, findings from a 2015 study conducted by ActionAid, as reported by Farhin on May 21, 2018, revealed that 84% of women and girls across seven cities in Bangladesh were subjected to derogatory comments and sexually explicit language.<sup>37</sup>

With Bangladesh experiencing growth in its industrial sector, there has been a notable increase in the number of female workers employed in various industries.<sup>38</sup> However, these women face significant safety concerns within their workplaces. They encounter numerous challenges from their colleagues and, at times, even from higher-ranking authorities. Unfortunately, they often lack avenues to address these issues with the administration, fearing potential repercussions such as job loss. According to a report by ActionAid International dated June 10, 2019, nearly 80% of garment workers in Bangladesh are subjected to eve-teasing or harassment in their workplace. Not only garments worker, highly educated female employee also face such problem in their workplaces.<sup>39</sup>

#### **(A) WSH :A Global Perspective**

Due in large part to a lack of awareness of the seriousness of the problem and the disparate status of women in various geographical areas, sexual harassment laws have developed inconsistently throughout the world. Because they speak to the collective conscience, issues like sexual harassment are receiving more attention as societies come to recognise women's rights<sup>40</sup>. Laws pertaining to sexual harassment differ greatly between nations, reflecting disparate perspectives on workplace misconduct. A superior abusing their position for sexual favours is considered harassment in Brazil<sup>41</sup>. Any sexist behaviour that damages an employee's dignity or fosters an offensive, demeaning, humiliating, or hostile work environment has been illegal in France since 2015, according to the French Labour Code<sup>42</sup>. Additionally, as of 2019, businesses with 250 or more workers must designate a "sexual harassment officer." This officer is chosen from among the members of the company's Social and Economic Committee<sup>43</sup>.

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<sup>36</sup> *ibid*

<sup>37</sup> *ibid*

<sup>38</sup> Fatima Zahra Ahasan Raisa 'Bangladesh: Key Gaps in Responding to Gender-Based Violence against Women in the Workplace' (Asia Law Portal, 16 March 2023) < <https://asialawportal.com/bangladesh-key-gaps-in-responding-to-gender-based-violence-against-women-in-the-workplace/>> accessed 2<sup>nd</sup> May, 2024

<sup>39</sup> *ibid*

<sup>40</sup> 'What is sexual harassment' < <https://www.un.org/womenwatch/osagi/pdf/whatish.pdf>> accessed 7th April, 2024

<sup>41</sup> Brazilian Penal Code, Law No 2,848 of 1940, art 216-A.

<sup>42</sup> French Labour Code, art L 1142-2-1

<sup>43</sup> CMS Law, 'CMS Expert Guide on Sexual Harassment in the Workplace: France' <https://cms.law/en/int/expert-guides/cms-expert-guide-on-sexual-harassment-in-the-workplace/france> accessed 6 January 2025.

Greece now acknowledges harassment as gender-based discrimination and provides compensation to victims<sup>44</sup>, while Switzerland has a broad definition of harassment and shields workers who file complaints from being fired<sup>45</sup>. According to the Discrimination Act of 1975, sexual harassment is considered discrimination in the UK<sup>46</sup>.

Sexual harassment is considered an unfair labour practice in Zimbabwe under the Labour Relations Act, which is reported to labour officers<sup>47</sup>. Sexual harassment is defined by Australia's Sex Discrimination Act (1984) as unwanted sexual advances or behaviour that raises a reasonable expectation of harassment<sup>48</sup>. Following the Vishaka guidelines (1997), India's Sexual Harassment of Women at Workplace Act (2013) acknowledges harassment as a violation of women's equality rights, and the Criminal Law (Amendment) Act (2013) makes it even more illegal<sup>49</sup>.

Sexual harassment is defined by Pakistan's Protection against Harassment of Women at Workplace Act (2010)<sup>50</sup>, which also mandates a Code of Conduct for Gender Justice. The Anti-Sexual Harassment Act of 1995 in the Philippines also defines harassment and imposes fines and jail time as punishments<sup>51</sup>.

So, it is understandable that, The strength of the legal framework and its enforcement determine how effective sexual harassment laws are. Western nations, particularly those in Europe and North America, generally have more extensive and well-established legal systems that are backed by robust institutional frameworks and public awareness. In general, a strong system of accountability makes it easier to enforce these laws. On the other hand, despite their growing awareness of the problem, many Eastern nations struggle with law enforcement and public perceptions that frequently compromise their efficacy. The implementation gap emphasises the necessity of ongoing legal development and social transformation to guarantee the safety of women in the workplace.

### **III. AN ANALYSIS OF THE LEGISLATIVE FRAMEWORK AND REGULATORY GAPS IN BANGLADESH'S LEGAL SYSTEM**

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<sup>44</sup>Law No 4604 of 2019, art 17.

<sup>45</sup>Federal Act on Gender Equality (Switzerland)

<sup>46</sup>Discrimination Act 1975 (UK)

<sup>47</sup>Labour Relations Act (Zimbabwe)

<sup>48</sup>Sex Discrimination Act 1984 (Australia)

<sup>49</sup>Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013 (India). This Act states that sexual harassment violates a woman's fundamental right to equality under arts 14 and 15 of the Indian Constitution. The Criminal Law (Amendment) Act 2013 designated sexual harassment as an express offence

<sup>50</sup>Protection against Harassment of Women at Workplace Act 2010 (Pakistan)

<sup>51</sup>Anti-Sexual Harassment Act 1995 (Philippines)



In recent years, Bangladesh has made significant strides in addressing workplace sexual harassment against women, reflecting a growing commitment to gender equality and women's rights. Recognizing the detrimental impact of sexual harassment on women's participation in the workforce and overall societal development, the government has undertaken various initiatives to combat this pervasive issue. Notably, Bangladesh has ratified key international instruments, including the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the International Labour Organization (ILO) Convention No. 190, which provide a framework for ensuring safe and equitable work environments.<sup>52</sup>

By ratifying CEDAW and other important international human rights treaties, Bangladesh is legally bound to provide women with robust protection against sexual harassment. The government has taken a proactive approach, enacting policies and legislation designed to shield women from such violations. In alignment with constitutional principles, these laws affirm individuals' rights to life, personal freedom, employment, and equal treatment, irrespective of gender, ethnicity, religion or social status<sup>53</sup>. However, there remains a gap in laws and enforcement mechanisms specifically addressing sexual harassment in the workplace in our country.

Some existing laws regarding this issue are-

**Prevention of oppression against women and children act-2000:** On February 14, 2000, Bangladesh enacted a law to combat crimes against women and children, focusing on penalties for sexual violence, trafficking, and dowry-related abuse, and providing legal support for victims<sup>54</sup>.

While it does not specifically mention workplace sexual harassment, the Act addresses all forms of sexual harassment, implicitly covering workplace situations. Section 10 defines sexual harassment broadly, including unwelcome sexual advances, requests for favors, innuendo, showing pornographic material and other offensive acts within workplaces, with penalties ranging from one to five years in prison and fines. Additionally, Section 9A prohibits actions that could lead a woman to take her own life by "outraging her modesty," allowing victims to seek legal recourse for workplace violations<sup>55</sup>.

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<sup>52</sup>Taslima Yasmin, 'Laws against sexual harassment: Analyzing the legal framework of Bangladesh', (2021), 32, *DULJ*, 103

<sup>53</sup> *ibid*

<sup>54</sup> Government of the People's Republic of Bangladesh, Legislative and Parliamentary Affairs Division, 'Prevention of Oppression Against Women and Children Act-2000' (February 14, 2000) <<http://bdlaws.minlaw.gov.bd/act-835.html>> (accessed May 2<sup>nd</sup>, 2024)

<sup>55</sup> *ibid*

**The Penal Code 1860:** Section 354 of the Bangladesh Penal Code addresses "sexual assault" stating that anyone who assaults or uses force against a woman with the intent to offend her modesty may face up to two years in prison and a fine.<sup>56</sup> Section 509 further prohibits acts intended to insult a woman's modesty. It specifies that anyone who speaks, makes sounds, gestures, displays an object intending for a woman to hear or see it or invades her privacy, with the aim of demeaning her, may face up to one year of imprisonment, a fine, or both. However, a noteworthy concern regarding these provisions rely on the somewhat subjective concept of "outraging or insulting a woman's modesty" and require clear intent to commit the offense<sup>57</sup>.

**The Bangladesh Labour Act, 2006 (Amended in 2013):** This act includes provisions on preventing and addressing workplace sexual harassment, requiring employers to ensure a safe, harassment-free environment. A significant 2013 amendment, especially in Rule 88, introduced an updated definition of workplace sexual harassment. The change highlights the importance of judicial precedents in addressing this issue. With the growing presence of women across industries—including corporations, multinationals and the ready-made garment (RMG) sector—there was a strong need for such regulations.<sup>58</sup>

Section 332 of the amended Bangladesh Labour Act, 2006, titled "Conduct towards women" states that "No person in any establishment shall behave indecently, disrespectfully or in any way that compromises a woman's modesty or honor, regardless of her rank or position." Although this section does not specify a penalty, Section 307 indicates that violations of any Act provision may result in up to three months' imprisonment, a fine of up to 25,000 taka or both. The amendment also requires every workplace to establish a sexual harassment prevention committee with five members, led by a female chairperson.<sup>59</sup>

**Bangladesh Labour Rules, 2015 (Amended in 2022):** The amended Bangladesh Labour Rules 2015, effective from September 2022, introduced Rule 361 KA to prevent workplace sexual harassment in the private sector. This rule defines harassment broadly, covering unwanted advances, misuse of authority for sexual favours, sexually explicit comments, sharing of pornographic content and coercive behaviour among other actions<sup>60</sup>.

Rule 361 KA (2) requires each workplace to form a Complaint Committee with at least five

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<sup>56</sup>Government of the People's Republic of Bangladesh, Legislative and Parliamentary Affairs Division, 'The Penal Code 1860' (October 6<sup>th</sup>, 1860) <<http://bdlaws.minlaw.gov.bd/act-835.html>> (accessed May 2<sup>nd</sup>, 2024)

<sup>57</sup> *ibid*

<sup>58</sup> Srom o Karmasangsthan Montronaloy, 'Bangladesh Labour Act-2006 (amended)' (September 3<sup>rd</sup>, 2015) <<https://mole.gov.bd/site/page/1acc251b-d520-4619-8de2>> (accessed May 2<sup>nd</sup>, 2024)

<sup>59</sup> *ibid*

<sup>60</sup>Sarjean Rahman, 'FM Associates Bangladesh' 2022 <<https://www.fmassociatesbd.com/laws-regarding-sexual-harassment-in-workplaces-in-bangladesh>> accessed 21 March, 2024

members, predominantly women, led by a female chairperson. Additionally, Rule 361 KA (3) mandates a visible complaint box in all offices, checked regularly, with any complaint filed upon discovery. All organizations must also establish their own policy to prevent workplace sexual harassment, ensuring a safer work environment for women<sup>61</sup>.

**The High Court Division's Guidelines (2009):** The Bangladesh High Court has been instrumental in addressing sexual harassment across public and private settings. In its 2009 and 2011 guidelines for educational institutions, workplaces, and public spaces, the Court insisted these guidelines be enforced until comprehensive legislation is enacted. Under Article 111 of the Constitution, the Court affirmed these directives as binding, filling a critical legal gap<sup>62</sup>.

**The 2009 Guideline-** This guideline applies to all workplaces and educational institutions across Bangladesh, both public and private. Its goals are to raise awareness of sexual harassment, highlight its consequences, and establish it as a punishable offense. Employers are required to implement strong measures to prevent and address harassment, with a focus on prosecuting offenders through all legal channels. The guideline provides a clear definition of harassment, including "quid pro quo" and "hostile work environment" types. Although mandated for enforcement in all sectors since 2009, most institutions have not fully implemented these provisions<sup>63</sup>.

**National Women Development policy, 2011:** This policy in Bangladesh addresses sexual harassment against women with key provisions:

- **Prevention:** Advocates for new legislation and administrative actions to prevent harassment in workplaces and public spaces, along with public awareness campaigns.
- **Punishment:** Calls for legal action and strict penalties for offenders, emphasizing swift trials and significant consequences for those convicted.
- **Complaint Mechanisms:** Requires accessible complaint centres for women from all backgrounds, ensuring confidentiality and effective resolution.
- **Victim Protection:** Provides for legal, medical, and psychosocial support to victims, aiming to protect their dignity and rights throughout the complaint and investigation process<sup>64</sup>.

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<sup>61</sup> *ibid*

<sup>62</sup> Taslima Yasmin, 'Laws against sexual harassment: Analyzing the legal framework of Bangladesh', (2021), 32, *DULJ*, 103

<sup>63</sup> *ibid*

<sup>64</sup> Mohila O Shishu Bishoyok Montronaloy (March, 2011) < <https://mowca.portal.gov.bd/sites/National-Women-Policy-2011English.pdf> > Accessed 2<sup>nd</sup> May, 2024

**The National Action Plan to Prevent Violence against Women and Children (2013-2025):**

This plan seeks to ensure a safe environment for women by implementing strategies to prevent and address violence, including workplace sexual harassment<sup>65</sup>. Key elements of the plan include:

**Objective 1: Prevention of Violence**

This objective focuses on establishing and enforcing laws and policies to prevent workplace sexual harassment.

**Strategic Area 1.3: Preventing Workplace Violence Against Women and Children**

Key strategies include:

- Developing and implementing national policies and legislation specifically targeting workplace sexual harassment.
- Setting up complaint and resolution mechanisms in both public and private workplaces.
- Increasing awareness and skills among employers and employees on harassment prevention and response<sup>66</sup>.

**Monitoring and Evaluation Indicator**

One indicator is the "presence of effective sexual harassment complaint mechanisms" in both public and private sectors.

**Whether it obstructs the constitutional rights of women:****Constitutional Rights and Workplace Sexual Harassment:**

1. **Equality (Art. 28, 29):** Sexual harassment denies women equal professional opportunities, breaching constitutional protections against discrimination.
2. **Life & Liberty (Art. 32):** Harassment violates personal liberty by creating a degrading work environment.
3. **Profession (Art. 40):** It restricts women's freedom to pursue careers of their choice.
4. **Assembly (Art. 37):** Harassment impedes women's ability to freely assemble in the workplace<sup>67</sup>.

In response to global focus on workplace sexual harassment, particularly influenced by India's Vishakha Guidelines, civil society in Bangladesh has called for similar legal protections for

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<sup>65</sup> ibid

<sup>66</sup> ibid

<sup>67</sup> ibid

women. The case of *BNWLA vs. Government of Bangladesh* emerged from the widespread issue of sexual harassment affecting women in both public and private sectors. This persistent problem has long threatened the safety, dignity, and well-being of women nationwide<sup>68</sup>.

In *BNWLA vs. Government of Bangladesh*, the Bangladesh National Women Lawyers Association, a key advocate for women's rights, highlighted the pressing need for legal protections against workplace sexual harassment. Filing a writ petition, BNWLA presented real-life cases, prompting the court to act as a judicial law-making body for the first time. Drawing from India's *Vishakha vs. State of Rajasthan* case, the court emphasized that failing to protect women from harassment undermines all constitutional rights, as these rights are interconnected. Consequently, the court established new provisions to safeguard women's rights and uphold constitutional integrity, recognizing harassment as a barrier to equality.<sup>69</sup>

#### **IV. EFFECTIVENESS OF THE LEGISLATION OF BANGLADESH TO PREVENT WORKPLACE SEXUAL HARASSMENT OF WOMEN**

The legal measures designed to prevent workplace sexual harassment of women in Bangladesh serve as a vital foundation in protecting the rights and dignity of female employees. While these regulations signify a notable advancement in addressing such misconduct, there are concerns regarding their effectiveness, enforcement, and potential loopholes. In light of the prevailing situation regarding sexual harassment in Bangladesh, it is imperative that existing laws concerning sexual offenses explicitly include sexual harassment as a distinct offense, outlining its parameters clearly.<sup>70</sup>

##### **(A) Analyzing the effectiveness of our legal provisions to prevent such harassment:**

Though Bangladesh has legal framework to address workplace sexual harassment, but the laws are not specific regarding this issue. Also, the enforcement and implementation of these laws remain a significant challenge. Bangladesh needs to establish strong legal actions with specific legal provisions for having control over the offense related to workplace sexual harassment. The primary issue concerning women is the inadequate implementation and legal safeguarding of existing laws against sexual harassment.<sup>71</sup> According to a survey conducted by the Shojag coalition, 22% of female garment workers experience physical, psychological, and sexual

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<sup>68</sup>BNWLA vs. Government of Bangladesh

<sup>69</sup>BNWLA v Government of Bangladesh (2009) 14 BLC (HCD) 694

<sup>70</sup>Editorial, 'Preventing discrimination and harassment of women at workplace', *The Daily Star* (Dhaka 7<sup>th</sup> March 2020)

<sup>71</sup>Zahra Ahasan Raisa 'Bangladesh: Key Gaps in Responding to Gender-Based Violence against Women in the Workplace' (Asia Law Portal, 16 March 2023) < <https://asialawportal.com/bangladesh-key-gaps-in-responding-to-gender-based-violence-against-women-in-the-workplace/>> accessed 8<sup>th</sup> May, 2024

harassment at work, with 67% refraining from seeking assistance from workplace violence against women committees due to trust deficits.<sup>72</sup> Another lacking is in the current legal framework lies in the absence of a precise and comprehensive definition of sexual harassment.<sup>73</sup> While the High Court Guidelines of 2009 offer a definition of sexual harassment and outline punishment for offenders, they provide little support for victims beyond counseling.<sup>74</sup> Also, very few number of industries or factories follow this guideline.<sup>75</sup>

On the other hand, numerous employees, particularly those in the informal sector, lack awareness of their rights and the existing laws concerning sexual harassment.<sup>76</sup> Enforcement of these laws frequently lacks rigor, characterized by inadequate monitoring and follow-up from relevant authorities.<sup>77</sup> There is a lack of resources and adequately trained personnel to efficiently handle and investigate complaints of sexual harassment.<sup>163</sup> Furthermore, reported cases often encounter delays in investigations and legal procedures, resulting in a lack of accountability for the perpetrators.<sup>78</sup> Moreover, the penalties outlined by the laws may at times be insufficiently severe to serve as an effective deterrent.<sup>79</sup> For all these factors, the existing laws in our country are not effectively preventing this issue.

#### **(B) Loopholes in the Legislation:**

The current legislation in Bangladesh concerning workplace sexual abuse and harassment is severely lacking, leaving numerous victims without adequate legal remedies and safeguards.<sup>80</sup> A major flaw in the existing legal structure is the absence of a precise and thorough definition of sexual harassment.

The Prevention of Oppression against Women and Children Act of 2000 offers a vague and broad definition, complicating the establishment and substantiation of sexual abuse cases.<sup>81</sup> This ambiguity frequently results in inconsistent interpretations, thereby weakening the law's

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<sup>72</sup>Rummana Foaisal Nafiu 'Survey: Most Women Face Sexual Harassment at Work', *Dhaka Tribune*, (Dhaka 29<sup>th</sup> August, 2020)

<sup>73</sup>Taqbir Huda, 'Sexual Harassment and the Law: Where's the Problem?' *The Daily Star* (Dhaka, 27 June 2019)

<sup>74</sup>Taqbir Huda, 'Sexual Harassment and the Law: Where's the Problem?' *The Daily Star* (Dhaka, 27 June 2019)

<sup>75</sup> *ibid*

<sup>76</sup>Helal Uddin Ahmed, 'Protecting Women From Workplace Harassment', *The Daily Sun*, (Dhaka, 15<sup>th</sup> October, 2021)

<sup>77</sup> *ibid*

<sup>78</sup>Fatima Zahra Ahasan Raisa 'Bangladesh: Key Gaps in Responding to Gender-Based Violence against Women in the Workplace' (Asia Law Portal, 16 March 2023) < <https://asialawportal.com/bangladesh-key-gaps-in-responding-to-gender-based-violence-against-women-in-the-workplace/>> accessed 8<sup>th</sup> May, 2024

<sup>79</sup> *ibid*

<sup>80</sup> *ibid*

<sup>81</sup>Lutfun Nahar, 'How Effective Are the Laws of Bangladesh in Protecting Women from Sexual Harassment', (2015), 1, AE, 07

effectiveness. Moving to the Penal Code 1860, one issue with the provisions of this law is their reliance on the notion of "outraging or insulting the modesty of a woman," coupled with the requirement of "intentionality."<sup>82</sup> The concept of "outraging modesty" is ambiguous and opens the door for victim-blaming based on stereotypical beliefs about a woman's modesty. Consequently, a woman who feels harassed or abused may find no recourse under these provisions if the perpetrator did not intend to make her feel that way.<sup>83</sup> This requirement of "intent" poses significant challenges, particularly in cases of sexual harassment, where discriminatory behavior may be ingrained and normalized within institutions.<sup>84</sup> Such behavior may not always be "intentional" in the strict legal sense. Importantly, this requirement overlooks the crucial element of the definition of sexual harassment, which is the aspect of it being "unwelcomed," as recognized globally.<sup>85</sup>

Also, the labor law of Bangladesh fails to provide a clear definition of workplace harassment and violence. Section 332 of this act prohibits individuals in any establishment from engaging in behavior towards employed women that may be considered indecent, unmannerly or offensive to their modesty or honor.<sup>86</sup> However, this provision lacks gender sensitivity and does not explicitly address the harassment or violence experienced by women in the workplace. On the other hand, the maximum penalty under this provision is mere fine.<sup>87</sup>

Another problem is, there are no specific laws addressing this issue. Countries like India, Australia have enacted independent laws specifically preventing this problem. This gives women a safe, secure workplace which encourages them to engage more in the job sector.

It's imperative for Bangladesh to overhaul its outdated penal laws from the 1860s. Sexual harassment at workplace is not included as a criminal offence. For which, the punishment provisions, execution procedures and remedies are not adequate to prevent this issue. Legislators must prioritize amending crucial sections of the Penal Code that urgently require updating.

Another major flaw within the existing legal framework lies in its feeble enforcement mechanisms.<sup>88</sup> The procedure for lodging complaints and pursuing justice is frequently

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<sup>82</sup>Mahabub Ul Alam Khan and Gita Debi Halder, 'Sexual Harassment in Bangladesh: A Note on Legal Perspective' (SSRN, August 30, 2022) < [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4202244](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4202244)> accessed 8th May, 2024

<sup>83</sup> *ibid*

<sup>84</sup> *ibid*

<sup>85</sup> *ibid*

<sup>86</sup>Staff Correspondent, 'Sexual Abuse at Workplace: Legal Framework Inadequate', *The Daily Star*, (Dhaka, 5<sup>th</sup> May, 2019)

<sup>87</sup>*ibid*

<sup>88</sup> *ibid*

convoluted, prolonged and daunting for victims.<sup>89</sup> Numerous individuals refrain from reporting incidents due to apprehensions surrounding societal shame, potential reprisals and a lack of trust in the judicial process.<sup>90</sup>

There is provision in our law addressing the internal complaint committee.<sup>91</sup> But it is not clearly written and also it has not mentioned about the corporate sector's working environment. For this, many workplaces, particularly in the informal sector, are not aware of well-established internal complaint and investigation systems. The enforcement of such a committee is very vague and weak.

### **(C) Factors Influencing Reporting Such Harassment by Women:**

The reporting of sexual harassment by women in the workplace in Bangladesh is influenced by several significant factors:

#### *i. Social Stigma and Victim-Blaming Attitudes:*

- Bangladeshi society often fosters a culture of victim-blaming, where women may be held responsible for the harassment they experience. This cultural mindset can dissuade women from coming forward, fearing ostracization or blame.

#### *ii. Fear of Retaliation:*

- Women may hesitate to report harassment due to concerns about potential retaliation from the perpetrator, such as job loss, missed promotions, or other professional and social repercussions.

#### *iii. Lack of Confidence in the Justice System:*

- Perceptions of an ineffective, slow, and biased legal system discourage victims from lodging formal complaints. The daunting process of navigating the justice system further discourages women from seeking legal recourse.

#### *iv. Economic Dependence and Job Insecurity:*

- Many women in Bangladesh are primary providers for their families, making the fear of losing their job or livelihood a significant deterrent to reporting

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<sup>89</sup>Fatima Zahra Ahasan Raisa 'Bangladesh: Key Gaps in Responding to Gender-Based Violence against Women in the Workplace' (Asia Law Portal, 16 March 2023) < <https://asialawportal.com/bangladesh-key-gaps-in-responding-to-gender-based-violence-against-women-in-the-workplace/>> accessed 8<sup>th</sup> May, 2024

<sup>90</sup> *ibid*

<sup>91</sup> *ibid*



harassment, especially for those in informal or precarious employment.

v. *Absence of Workplace Policies and Grievance Mechanisms:*

- Numerous organizations lack clear and well-defined policies and procedures for addressing sexual harassment, leaving women without accessible and reliable avenues to report incidents.

vi. *Lack of Awareness and Education:*

- Both employers and employees often lack awareness of the laws and regulations surrounding sexual harassment in the workplace. This lack of understanding can hinder women from recognizing and reporting incidents.

vii. *Normalization of Harassment:*

- In certain work environments, harassment may be normalized or considered part of workplace culture, leading women to believe that such behavior is acceptable or unavoidable.<sup>92</sup>

**Data Collection:** For a better understanding of this issue, Google form data have been collected only from those working women who have experienced this problem during their employment in various organizations by maintaining ethical consideration for the victims.

According to the survey, sexual harassment at work is very common; 86.4% of participants said they had been the victim of it, compared to just 13.6% who said they had not. This points to a serious problem that requires increased focus and action in the workplace.

**(D) Types of Harassment Experienced:**

Among the various forms of harassment, verbal harassment was reported by 45.5% of respondents, visual harassment by 18.2%, and both verbal and visual harassment by 4.5%. 13.6% reported other types or combinations of harassment, and 4.5% reported physical harassment. These findings show that although verbal harassment is the most prevalent, physical and visual harassment are still issues.

**(E) Reporting and Reluctance to Report**

In terms of reporting, 31.8% of respondents reported the harassment, compared to 68.2% who did not. This demonstrates that many workers are reluctant to report incidents or feel uncomfortable doing so.

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<sup>92</sup> *ibid*

### **1. Satisfaction with Handling of Reports**

The degree of satisfaction with the way their case was handled varied greatly among those who reported. 18.2% were extremely dissatisfied (given below 2.5/10), 27.3% were somewhat dissatisfied, and 40.9% were satisfied ( given above 7.5/10). These conflicting answers show how irregular and frequently insufficient organisational support systems are.

### **2. Perception of Adequacy in Workplace Sexual Harassment Prevention Training**

According to the survey on sexual harassment prevention training in the workplace, 45.5% of participants said their company does not offer enough training, while only 18.2% thought it did. Notably, 9.1% of respondents did not say yes or no.

### **3. Incidence of Observed Sexual Harassment in the Workplace**

13.6% of survey participants said they had not witnessed any sexual harassment, compared to 86.4% who said they had.

### **4. Workplace Comfort Levels in Addressing Sexual Harassment**

According to a survey conducted , only 36.4% of participants felt comfortable addressing sexual harassment, whereas 63.6% of respondents said they were uncomfortable speaking up about it.

### **(F) A Comprehensive Approach to Preventing Workplace Sexual Harassment: Insights from Respondents**

Respondents stressed the need of taking a holistic approach to preventing workplace sexual harassment. Implementing explicit policies and confidential reporting systems (20%), monitoring using surveillance in common locations (10%), and conducting training programs (15%) are all important methods for promoting awareness, respect, and accountability. Awareness programs, complaint boxes, and open talks (15%) encourage victims to speak up in confidence. Strict implementation of anti-harassment rules, with high penalties (20%), and the establishment of safeguard departments or committees (10%) are critical. Promoting an inclusive, respectful culture (10%) and removing authority prejudice against male employees are critical to ensuring a safe, unbiased workplace.

#### **a. Retaliation After Reporting Sexual Harassment**

According to the responses, 25% reported facing retribution or negative consequences for reporting occurrences of sexual harassment. In contrast, 70% reported no retaliation, while 5% said they didn't tell anyone about the instances. This demonstrates that, while the majority did not encounter retaliation, a significant fraction did, underlining the need for enhanced protections for individuals who come out.

### **b. Improving Organizational Support for Employees Affected by Sexual Harassment**

To better support employees who have been sexually harassed, firms should develop zero tolerance policies (15%), form dedicated legal teams for direct assistance (13%), and provide mental health support, such as counselling and therapy (18%). Strict rule enforcement and sanctions for abusers (14%) should be addressed, along with regular awareness training (10%) and accessible, confidential reporting methods (10%). Fostering a supportive culture in which victims are heard and justice is prioritised (5%) and making the workplace more women-friendly (5%) are also critical to achieving a holistic, victim-centred strategy.

So, based on the preceding discussion, it is obvious why current rules are ambiguous, lack effective enforcement mechanisms, and fail to adequately protect victims, causing many women to be afraid to report incidents. To remedy this, the government, legislators, and civil society must prioritise strengthening these laws, guaranteeing their strict enforcement, and fostering a climate in which women feel safe and empowered to report harassment.

## **V. RECOMMENDATIONS**

Bangladesh's existing laws require considerable modifications to adequately combat sexual harassment and abuse in the workplace, particularly for women. A broad definition of sexual harassment should be adopted, including not just physical harassment but also activities such as prolonged staring, improper comments, sending explicit messages, and creating a hostile work atmosphere. Bangladesh, taking inspiration from India's Sexual Harassment of Women at Workplace Act of 2013, might alter its legislation to create a clear, precise understanding of harassment, giving stronger protection for female employees. Furthermore, a separate, independent law designed specifically for this issue is required, specifying victims' rights, safeguards, and redress processes, as well as a broad definition of 'workplace' to incorporate extended contexts.

Preventive measures, open investigation processes, strong legal remedy mechanisms, victim compensation, and witness confidentiality should all be included of this legislation. Labor courts should set up specialized units with trained staff that are intended to handle matters involving sexual harassment. These units should provide victim-centred, easily accessible procedures. Financial fines, therapy, and termination of job for major violations are some examples of more appropriate and deterrent punishments for sexual harassment. In order to safeguard individuals who report harassment and guarantee that victims or witnesses have no unfavourable outcomes, whistleblower protection and anti-retaliation methods ought to be put

into place. Organizations should also be required to have explicit policies in place for dealing with and preventing sexual harassment, as well as standardized processes for reporting and investigating such incidents and frequent updates on how well they are working. All organisations ought to enforce a consistent code of conduct for staff members, guaranteeing a respectful and professional environment and offering unambiguous reporting protocols. Organizations should implement strict codes of conduct to stop sexual harassment, as demonstrated by the British American Tobacco Bangladesh case, in which the victim won a court decision due to the company's reluctance to handle the issue. Bangladesh can create a thorough and efficient legal framework to shield women from sexual harassment and abuse in the workplace with the help of these revisions and regulations.

## **VI. CONCLUSION**

In conclusion, creating safe and equitable workplaces for women in Bangladesh necessitates a multifaceted approach that incorporates both societal changes and legal improvements. While it is a positive beginning to align workplace rules with the 2009 HCD Guidelines, companies must also establish explicit internal procedures to guarantee compliance. Effective reporting is nevertheless hampered by low knowledge and enduring obstacles, such as fear of shame or reprisal. Additionally, it is necessary to remedy the loopholes in complaint protection, confidentiality, and unbiased inquiry processes. Bangladesh can only promote women's empowerment and real workplace gender equality by working together to address these issues.

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