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# Sexual Harassment of Women at Workplace: A Socio-Psychological Trauma

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## ABSTRACT

*“I felt violated and scared. Even though I said I was going to report this, I felt I could not because I thought I could easily lose my job if I told”*

*The research article discusses about sexual harassment of women at workplace in India with related laws passed by the Indian government most importantly Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013 . The article further deals with breakdown of various Indian laws supporting the act and their analysis. Sexual harassment in the workplace may be on the decline, but it is still an ongoing risk to the safety of the employees as well as the mindset of the employer. Such activities not only give women mental and physical trauma but also socio-psychological agony for the rest of their lives. There exist multiple theories behind the attitude of a man towards women at workplace backed up by the country’s customs, traditions and societal pressure which a woman has to face throughout her life.*

*The article’s objective is to discuss about sexual harassment of a woman at workplace specifically highlighting the socio-psychological trauma suffered as well as the reasons behind such harassment taking place in the work environment. The research will be further backed by ancient theories, case laws and arguments. The methodology used in the article will be doctrinal research methodology with the help of secondary sources as well, i.e., essential data analysis. The secondary sources are collected from the internet, articles, journals, books and case laws in light of the subject.*

**Keywords:** *sexual harassment, women, workplace, ancient theories, socio-psychological trauma*

## I. INTRODUCTION

Harassment is a word which is commonly used by people now a days but what we forget to interpret is the meaning and difference between a harassment and a sexual harassment. Both the words have similar yet different meanings to it. Harassment often means intimidating a person in an offensive manner or creating an aggressive pressure upon him/her by abusing or

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harassing him/her verbally, emotionally, mentally, physically. Whereas, sexual harassment of a person has a clearer ambit of taking physical advantage of a person against their will in such a manner that may cause physical, mental and emotional injury to the victimised person.

Sexual harassment at workplace is a wrongful conduct of taking physical advantage by an employer towards his employee/ co-worker. Most of the abuses happen in the light of misleading the victim by offering either a raise/promotion or getting them fired. In India, many cases have come up in the light of sexual harassment of a woman at workplace before the society and law. Considering the vulnerability of woman backing with illogical reasons being financially unstable, mentally weak, or excessive workload, etc., men have been repetitively suppressing women since the time immemorial.

Keeping in mind the traditional history of India being a male-dominant society, women did not usually get opportunities to go out of the house and tests their external skills and talents. They were often suppressed by the elderly family members as well as the society with the reason being “a women’s work is inside the house taking care of her husband and children rather going out and trying skills of men that she is incapable of.” But with the development in the society and culture, women stood up for their rights and performed equally well in the field and sometimes setting examples for being more efficient than men too.

As the safety policies for women’s work environment in India were initially weak and had not been set up, many incidences and cases of women being sexually harassed in the work place were not acknowledged in the first place. With the active participation of women standing up for their rights, the government took initiative in considering making laws and polices for safety of a woman in work environment. Hence, Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013<sup>2</sup> came into existence. Before this act, there was no such rule or regulations governing the workplace harassments. In 1997, the Supreme Court of India acknowledged<sup>3</sup> sexual harassments of women at workplace and laid down the following guidelines defining sexual harassment:

- Any unwelcome physical contact and advances;
- Demand or request for sexual favours;
- Sexually coloured remarks;
- Display of pornography;

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<sup>2</sup> Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013.

<sup>3</sup> *Vishakha and others v. State of Rajasthan AIR 1997 SC 3011*

- Any other unwelcome physical, verbal or non-verbal conduct of a sexual nature.

After these guidelines were laid down, many women were able to seek support from the law in getting justice, but there was still a significant ratio of women who were still being suppressed by the harassment and trauma.<sup>4</sup> Hence these guidelines set a benchmark for other women to build up confidence in being vocal about their victimization by taking a stand for themselves and others and seeking justice.<sup>5</sup>

In 2018 (late), the **Me-Too Movement** in India was started under the manifestation of international me-too movement. It was a movement initiated by international campaigns against sexual harassment of women at workplace and showed tremendous outgrowing and influential support throughout various countries including India. This movement took a peak graph just within few months and many famous organizations and personalities (mostly high-profile personalities) got exposed<sup>6</sup>. This movement gave unimaginable media support to victimized women who was willing to come out of the closet and speak about their traumas and mis happenings. Eventually, many high-profile cases were lodged and put under investigation. Despite the high record and drastic shift in witnessing long over-due of social, cultural and legal changes, #MeToo even helped women to come out trauma and put their stories before everyone anonymously. Many people realized the widespread criminal activities in respect to molestation and sexual harassment around and advocated the same by supporting victims.

## II. SOCIOLOGICAL TRAUMMA

Traditionally, looking at Indian history, the country was known to follow patriarchal way of living which is also known as male-dominant society. Where women have been considered subordinate in status, it is quite obvious for a woman to face workplace challenges. Therefore, the theory behind women being considered as equals but still be tortured when competed comes from ancient India. In the current case scenario, women possess equal role, rights and responsibilities as that of men. Many such women have raised from a village to set an example for the community. Yet there come times when we have to accept the cruel fact that in most of the rural as well as urban parts of the country, women are being tortured, raped, harassed, murdered by men for their personal or societal benefit<sup>7</sup>.

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<sup>4</sup> *Tuka Ram And Anr vs State of Maharashtra*, AIR 1979 SC 185

<sup>5</sup> *State of Maharashtra vs. Madhukar Narayan Mardikar*, AIR 1991 SC 207

<sup>6</sup> #metoo in India available at <https://economictimes.indiatimes.com/magazines/panache/metoo-in-india/panachespecial/66132889.cms> (last visited 15-09-2020)

<sup>7</sup> *K.P. Anil Rajagopal v State of Kerala*, Kerala High Court ((2018) 1 KLJ 106)

Many such cases have been seen where a woman was tortured and harassed sexually at workplace and despite of knowledge of the incidences, no one actually raised a voice in support<sup>8</sup>. There is a history of cases where an employee has sexually harassed his co-worker or subordinate female employee in the understanding that women will not be able to do anything against them<sup>9</sup>. Despite of being one's education, man tries to fool his own moral values in doing such inhumane activity with a woman.

It is important to understand that when a woman faces sexual harassment at workplace, her journey of traumatic life begins from thereon. Living in a country like India, women have to face a lot of things apart from struggling for her dream job in everyday life. After a woman has been sexually harassed, her perception for that job changes whether it was her dream job or not. If at all she shares the incidence with her peers, friends or society, she suffers to the traumatic incidence the more people try to console her or pay sympathy to her or even let her repeat the incident again and again by asking questions. Her intimate relationship changes, the aura around her changes, people see her from a different opinion after getting to know her sufferings. All these changes in social behavior makes a person (referring solely in respect with victimized women) go through a traumatic disorder leading to suffocate the inner peace, confidence and right attitude towards dealing from her tragedies and sufferings. A victimized woman then decides to isolate herself rather sharing her stories with other people around.

Despite social trauma, if a woman gathers courage to speak and take a stand for herself, she needs to be brave enough to fight her own battles and deal with the outside darkness. In a country like India where more than 3.19 crore cases are pending on the district level courts<sup>10</sup>, it is really hard for a woman to move back and forth for years in order to get justice. One can seek help from media and gain public support but media trials aren't really a success in these segments too. By doing sting operations, many people have been exposed through media too, but if it flashes light on the real faces such criminals, it also stands as no evidence in the court of law. Hence, a woman has to be really strong and patient in order to get justice after suffering huge amount of social and financial agony.

Financial burden and future instability are two probable causes for a victim getting into a traumatic disorder. After losing a job, she has to deal with societal pressure about future

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<sup>8</sup> *Jaya Kodate v Rashtrasant Tukdoji Maharaj Nagpur University, Bombay High Court (2014 SCC OnLine Bom 814)*

<sup>9</sup> *Shanta Kumar v Council of Scientific and Industrial Research (CDIR) & Ors, Delhi High Court ((2018) 156 FLR 719)*

<sup>10</sup> Nearly 46 lakh cases pending in High Courts; 3.19 crore in lower courts *available at* <https://www.deccanherald.com/national/nearly-46-lakh-cases-pending-in-high-courts-319-crore-in-lower-courts-805320.html> (last visited 15-09-2020)

instability and the risk of getting another job. She often loses self-confidence and fails to give herself another try and feel A-Okay after experiencing a tragic incidence or may have negative thoughts of her own future as well. Moreover, if a victim does not shares about her sufferings to anyone, she has to face everyday torture of either working in the same workplace environment and facing the same people again and again which may lead to one incidence to another or if the victim decides to simply quit the job she has to listen to the bad mouths and suffer from great amount of financial burden as well.

### **III. PSYCHOLOGICAL TRAUMMA**

When a woman has gone through sexual harassment at workplace, it affects her mental and emotional well-being as well. Her memories might fade away with time and actually may heal but her bodily scars and psychological well-being will get affected if not given a proper treatment. Majority of the victimised people suffer through Post Traumatic Stress Disorder (PTSD)<sup>11</sup>, this is more prone in almost every person because that is how a body takes traumas. Like we say, body, mind and soul are three different entities at one time as well as are connected and intertwined with each other at another time. Hence, the traumatic consequences have major negative impacts on mental, social, legal and health problems because of its high prevalence which includes decreased productivity, loss of job, decreased income, impaired psychological and physical well-being.

Despite of recorded data (shown as an evidence) from empirical studies<sup>12</sup> all around the globe that victims of sexual harassment at workplace often show PTSD symptoms, some people still argue upon the fact. Whereas, what people are unaware of are the other facts and aftermath of the experiences<sup>13</sup> of the victims like continuous change in blood pressure, sleeping disorder, suicidal tendencies, bipolar personality, anger management issues, etc<sup>14</sup>. These are the psychological hidden effects which a victim has to face after being harassed for a pretty long period of time.

Misogyny is an ancient Greek word which means hatred towards women. Many other forms of misogyny can be seen now a days such as patriarchy, gender discrimination, sexual harassment,

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<sup>11</sup> The Present State of Sexual Harassment Law: Perpetuating Post Traumatic Stress Disorder in Sexually Harassed Women *available at* <https://engagedscholarship.csuohio.edu/cgi/viewcontent.cgi?article=1665&context=clevstrev> (last visited 15-09-2020)

<sup>12</sup> Workplace Sexual Harassment Law: An Empirical Analysis Of Organizational Justice And Legal Policy *available at* <https://www.jstor.org/stable/40604386?seq=1> (last visited 15-09-2020)

<sup>13</sup> SEXUAL HARASSMENT *available at* <https://www.usf.edu/student-affairs/victim-advocacy/types-of-crimes/sexualharassment.pdf> (last visited 15-09-2020)

<sup>14</sup> Sexual Harassment Research *available at* <https://www.ncbi.nlm.nih.gov/books/NBK519455/> (last visited 15-09-2020)

belittling of women, sexual objectification, etc. Many ancient script writers have presented various forms of women gods (goddesses) in India yet no one talked about the hardships a woman had to suffer or still suffering in the society. Aristotle, a Greek philosopher and a famous scientist of golden era was a misogynist. He used to think about women as a deformity or an incomplete male. He also preached that men should always command and women should always follow his lead without questioning them as they belonged to an inferior being created by god.<sup>15</sup>

Majority of the time, victims fail to acknowledge the behavioural changes inside them. Since some of them avoid even thinking about the incidence and move on with their lives, they tend to pile the emotions and hence forget to deal with it. Symptoms like short temper, distraction, lack of creativity or doing excessive work/ putting extra efforts than needed, all these symptoms are the symptoms of PTSD. One needs to open their heart and soul and take a stand for what happened with getting ahead of filing a FIR (first information report)<sup>16</sup>.

#### IV. LEGAL BACKGROUND

In India, sexual harassment at workplace infringes a woman's fundamental right of gender equality<sup>17</sup> as well as the right to live with dignity<sup>18</sup>. Various other provision undertaking sexual harassment of a women as a criminal activity are given under Indian Penal Code <sup>19</sup>as well. Some of those provisions are:

- Section 294 – obscene acts and songs at public place
- Section 354 – assault or criminal force against women
- Section 376 – rape
- Section 510 – uttering words or making gestures which outrages a women's modesty

Traditionally, sexual harassment is distinguished between two basic categories called *quid pro qui* and *hostile work environment*. The former term generally means 'this for that', but in terms of sexual harassment it is considered as job favours at workplace in return for sexual harassment<sup>20</sup>. This can negatively result into retaliation being a demotion, etc. Whereas, the later deals with an unhealthy working atmosphere for women specifically. Because of the

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<sup>15</sup>Misogyny, feminism, and sexual harassment available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6058438/> (last visited 15-09-2020)

<sup>16</sup> Ministry of women and child development, available at <http://www.shebox.nic.in/user/faq> (last visited 15-09-2020)

<sup>17</sup> Article 14 of Indian Constitution, 1950

<sup>18</sup> Article 21 of Indian Constitution, 1950

<sup>19</sup> Indian Penal Code, 1860

<sup>20</sup> Apparel Export Promotion Council Vs A.K Chopra (1999) 1SCC 759

gender difference in most of the mindset of people, they either treat a woman with extra respect or totally makes bias judgements and behaviour against her. Considering these facts with a working woman, she either has to face a hostile working environment by getting much of an absurd behaviour<sup>21</sup>.

The Prevention of Sexual Harassment of a woman at workplace, 2013 (POSH) had many loopholes when it first got introduced/enforced. Some words were not clearly defined such as workplace, employee, etc. and was vague in its provisional aspect as well. This act was enacted under the Ministry of Women and Child Development and not only created a sense of security for women at working environment but also affected the performance of women at workplace environment. This act was much clear in nature than the guidelines prescribed in Vishakha case<sup>22</sup>, and put focus on the clarity of the nature of crime committed. Despite the POSH act, there are still increasing amount of cases against women being sexually harassed at workplace leaving a sense of emotional, mental and physical level trauma which eventually leads to a disturbed mental capacity of dealing with events and decision making of a person's life.

It is evident by the recited case laws as well as the provisions of law that Indian government needs to lay down strict laws in light of this burning issue. Harassment of a woman at workplace has never ended and despite of knowing that every woman has a right to approach the court to seek justice, many employees are still there who cannot raise up their voices due to various reasons. In light of this reason, there has been a few amendments<sup>23</sup> such as follows:

- According to the recent report of the October 2018, 29 states in India have notified the district officers as well as constituted a Local Complaint Committee<sup>24</sup> (LCC) under the Sexual Harassment Act.
- It was requested before the Ministry of women and child development to organise workshops/seminars/programmes to spread the knowledge and awareness about sexual harassment at rural and urban places as well were all the organizations/institutions are set up.
- The ministry has launched an online complaint mechanism called Sexual Harassment

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<sup>21</sup> Rupan Deol Bajaj & Anr. v. Kanwar Pal Singh Gill & Anr [1] By Vatsala Walia 1995 SCC (6) 194

<sup>22</sup> Supra 3

<sup>23</sup> Notification under Companies Act, 2018 available at <http://164.100.117.97/WriteReadData/userfiles/Notification%20Under%20Companies%20Act.pdf> (last visited 15-09-2020)

<sup>24</sup> The Act mandates all the workplace having more than 10 workers to constitute Internal Complaint Committee (ICC) for receiving complaints of sexual harassment. Similarly, the Appropriate Government is authorized to constitute Local Complaint Committee (LCC) in every district, which will receive complaints from organizations having less than 10 workers or if the complaint is against the employer himself.

Electronic – Box (She-Box) for the women to register complaints so that they do not have to face an embarrassment of any further harassment. This platform has been made for the women who have been victim of sexual harassment at workplace (workplace being private, government or any other institution).

- Lastly, the ministry of women and child development has identified a figure of 233 resource institutions to provide capacity building programmes – trainings, workshops, etc on the subject of sexual harassment at workplace in order to create awareness and make women vigilant about their fundamental rights and the way to exercise them.

## **V. CONCLUSION**

The crime of Sexual harassment of a woman has been existing since many decades now. Irrespective of a woman working inside or outside her house, there will still be cases where women are sexually harassed multiple times. This practice is been increasing just like the increase in population and the mentality of some men is not going to change. Despite of costly education and a reputed job, male chauvinism will not end unless women learn to speak and take rigorous actions for the violation of their rights. There has to be changes in the attitude of women if there is no change in the mentality of men. If a woman is harassed at her workplace, not just her physical body and emotional well-being gets affected but also her mental health is traumatised in a long run. If educated people cannot behave like a human, then there should be rigorous actions taken against them. Despite of merely giving long delayed justice, the law as well as the society should consider of setting long term examples so that a man should think twice before committing such inhumane crime against women.

No women deserve to be treated as a subject to an environment where her dignity, respect, body, mind and soul gets exploited to such a level where she has to suffer from socio-psychological trauma. Rather than assaulting and harassing a woman, the people outside should support and encourage her in difficult times. It is our moral values which have been depleted even after getting education from a good institution. Unfortunately, however, these are the prices a woman has to pay for earning her own livelihood. Hence, sexual harassment at workplace must be considered under a traumatising experience rather than an unlawful employment practice in a workplace because this is a major issue which women have been suffering which is leading to PTSD which is not good for their mental as well as physical health overall. It is high time that the legislature should focus more on peoples' mental health as well and make amends in the existing laws accordingly.

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