

THE STUDY ON WOMEN AND SEXUAL IMPACT



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Abstract:

Of the different types of violence against women, sexual harassment is the commonest form of violence which women encounter in urban space in particular. Sexual harassment in the workplace is usually associated with a heterosexual employee making unwelcome sexual advances to another heterosexual employee of the opposite gender. And from a traditional perspective, sexual harassment is a demand that subordinates, usually women, and grant sexual favour to retain a job benefit.

Keywords: *Harassment, Impact, Justice, Remedy, Women.*

In every society women have a prominent position. The prominent role played by the women in her various stages of her life itself is sufficient evident to show her contribution in the family as well as in the society. In spite of her priceless contribution in the life of every individual; she still belongs to a vulnerable section of the society due to several social barriers and impediments. The position of Indian women is no better compared to their counterparts in other parts of the world. The rich and the poor alike are the victims of social barriers and disadvantages of varying kinds.¹

The difficulties for women seem to be never ending in the world. In the present context, women pass through the realms of practical life and the world can at last pleased about the presence of law against sexual harassment. The vulnerability of females to this repugnant offense has increased manifold. The patriarchal system, which is our principal social setup, not only limits men to engage in inhuman and immoral acts against women but also grants them the license to blatantly to prove false the prevalence of these prejudices that almost

every woman experiences at some point in her life.² In a conventional and male dominated society, women be inclined to remain silent on the prejudices they face because they fear that their image in the society will be ruined and that their own family will discourage them from working in organizations. The concept of sexual harassment is an old one, it was acknowledged as a socio-legal phenomenon in recent times. Sexual harassment has been recognized and addressed at international level by various organizations.³

Sexual harassment in the workplace refers to an verbal or physical act with a sexual nature. The verbal or physical acts with a sexual nature include:

- i. Joking or teasing with a sexual nature;

² Maheen Salman, Fahad Abdullah, Afia Saleem, *Sexual Harassment at Workplace and its Impact on Employee Turnover Intentions*, Business & Economic Review: Vol. 8, Issue 1: 2016, p. 87.

³ i. The International Confederation of Free Trade Unions,

ii. International Labour Organization,

iii. The United Nations Committee on the Elimination of Discrimination against Women,

iv. The European Union.

¹ Dr. G.B. Reddy, *Women and the Law*, Gogia Law Agency, Hyderabad (2012) at p. vii.



- ii. Continuous invitation to dinner or date despite rejection;
- iii. Intentional dissemination of hearsay with a sexual nature;
- iv. Enquiring for or sharing sexual experience;
- v. Spreading and displaying a nude or image with apparent sexual contents;
- vi. Request for sexual intercourse;
- vii. Unnecessary physical contact;
- viii. Forced sexual intercourse, etc.⁴

The ILO Committee of Experts on the Application of Conventions and Recommendations, in the general observations on the application of the Discrimination Convention (1958, No. 111) in 2003, expressed the view that sexual harassment is a form of sex discrimination and should be addressed within the requirements of the Convention. Thus, in accordance with the Convention's requirements to prohibit sex discrimination and adopt a policy to promote equality of opportunity and treatment, measures should be taken to address sexual harassment.⁵

Sexual Harassment - Definition

To eliminate sexual harassment, efforts have been made both at the national and international level. There is no definition which explains about what exactly constitutes sexual harassment. At the international level the term sexual harassment has been broadly defined as a form of violence against women and as discriminatory treatment, while the same

term has been defined at the national level as, the laws relating to the sexual harassment focus more closely on the illegal conduct.⁶ At the international level, the United Nations General Recommendation 19⁷ defines sexual harassment as:

“Such unwelcome sexually determined behavior as physical contact and advances, sexually colored remarks, showing pornography and sexual demands, whether by words or actions. Such conduct can be humiliating and may constitute a health and safety problem; it is discriminatory when the woman has reasonable ground to believe that her objection would disadvantage her in connection with her employment, including recruitment or promotion, or when it creates a hostile working environment.”

The International Labor Organization (ILO) is a specialized United Nations agency that has addressed sexual harassment as a prohibited form of sex discrimination. The ILO has made clear that sexual harassment is more than a problem of safety and health, and unacceptable working conditions, but is also a form of violence primarily against women.⁸ The European Union (EU) and the Council of Europe (COE) address sexual harassment as illegal behavior. The European Commission of the EU defines sexual harassment as *“unwanted conduct of a sexual nature, or other conduct based on sex affecting the dignity of women and men at work. This includes unwelcome physical, verbal or nonverbal conduct”*.

The definitions of sexual harassment found at the international and regional level form the international law that prohibits sexual harassment. The first country which defines the terms sexual harassment was United States. It defines term as a prohibited form of

⁴ Guide on Prevention of Sexual Harassment in the Workplace, Compiled by Beijing Zhongze Women's Legal Consultation and Service Center – Women Watch China, International Labour Organization, December 2010.

http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-beijing/documents/publication/wcms_157626.pdf

⁵ ILO: General observation on Convention No. 111: Discrimination (Employment and Occupation), 1958, Report of the Committee of Experts on the Application of Conventions and Recommendations, Report III (Part 1A), International Labour Conference, 91st Session, Geneva, 2003, pp.463-464.

⁶ <http://hrlibrary.umn.edu/svaw/harassment/explore/1whatis.htm>

⁷ Convention on the Elimination of all Forms of Discrimination Against Women

⁸ *Discrimination (Employment and Occupation) Convention (No. C111)*.



sex discrimination that violates the Title VII of the Civil Rights Act, 1964⁹. According to Employment Opportunity Commission (EEOC) the term sexual harassment has been defined as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

According to Gutek and Done (2001) sexual harassment is defined as a legal and a psychological phenomenon. Legally, two types of sexual harassment were identified (a) quid pro quo (this for that) harassment that requires the employee to submit to sexual demands as a condition for promotion to avoid trouble, or being dismissed or in the case of faculty-student relationship, sex for better grades and (b) hostile-environment harassment where sexuality or discriminatory intimidation, ridicule, and insult are being practiced in the environment in which the employee works or students learn.¹⁰

Psychologists defined sexual harassment on the reasonableness of the offender. Sexual harassment is perceived as an act of unsuitable mind or lack of understanding as

prevents one from having the mental capacity required by law to enter into a particular relationship. Therefore, sexual harassment was seen as an act done as a result of mental imbalance.¹¹

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013¹² is an act "to provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment."

The Act defines the term "sexual harassment" includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication) namely:-

- (i) physical contact and advances; or
- (ii) a demand or request for sexual favours; or
- (iii) making sexually coloured remarks; or
- (iv) showing pornography; or
- (v) any other unwelcome physical, verbal or non-verbal conduct of sexual nature;¹³

The atrocious gang rape of a social worker in Rajasthan in 1997 brought to the attention of the Supreme Court of India, the absence of law led the Hon'ble judiciary to formulate effective measures to check the evil of sexual harassment of working women at all work places. The concern showed by the judiciary towards this made the Indian legislators to think seriously about this issue and finally the legislation has been enacted on prevention of sexual harassment against female employees at the workplace.

⁹ PUBLIC LAW 88-352-JULY 2, 1964

¹⁰ Carina Maris Amaka Okeke, *Impact of Sexual Harassment on Women Undergraduates' Educational Experience in Anambra State of Nigeria*, Seton Hall University Dissertations and Theses (ETDs), 2011, p. no. 31. See Gutek, B. A. & Done, R. (2001). Sexual harassment. In R. K. Unger (Ed.), *Handbook of the Psychology of Women and Gender*. New York: Wiley,

¹¹ *Ibid*, p. no. 32. See Browne, K. R. (1997). An evolutionary perspective on sexual harassment: Seeking roots in biology rather than ideology. *Journal of Contemporary Legal Issues*, 8.

¹² Act No. 14 OF 2013

¹³ Section 2(n) Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.



The guidelines framed the Hon'ble judiciary in the *Vishaka Case*¹⁴ hopes to redress as well as prevent cases of sexual harassment. The key features of the guidelines framed in the Vishaka case is as under:

1. The law applies to women harassed in the workplace including women working as domestic workers, daily wagers, temporary or permanent, full-time or part-time, as well as volunteers. The women may or may not be employed and can be of any age. The law is only applicable to women and women only.
2. Sexual harassment includes any one or more of the following unwelcome acts or behavior:
 - Physical contact or advances
 - A demand or request for sexual favours
 - Making sexually coloured remarks
 - Showing pornography
 - Any other unwelcome physical, verbal or non-verbal conduct of sexual nature

If any act is done under the following circumstances that would also count as sexual harassment:

- Implied or explicit promise of preferential treatment in employment
 - Implied or explicit threat of detrimental treatment in employment
 - Implied or explicit threat about her present or future employment status
 - Interferes with work or creates an intimidating/hostile/offensive work environment
 - Humiliating treatment likely to affect her health and safety.¹⁵
3. The act of harassment can occur in the workplace and also if a woman is

¹⁴ (1997) 6 SCC 241, AIR 1997 SC 3011

¹⁵ The guideline of the judiciary has been inserted under Section 3(2) of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

harassed while visiting a place arising out of or during the course of employment including transportation provided by the office, a complaint can be filed under this Act.

4. The Act requires all workplaces to set up Internal Complaints Committees to address the issue of sexual harassment. There will also be a Local Complaints Committee for each District where complaints can be filed.
5. An aggrieved woman can file a complaint within 3 months of the incident (or later if allowed by the committee).
6. The Act provides the option of a settlement between the aggrieved woman and the responded through conciliation but only on the request of the woman. However, money compensation cannot be a basis for the settlement.
7. The inquiry has to be completed within 90 days.
8. In case of malicious complaints or false evidence, the Committee may take action against the woman/person. However, simply not being able to prove an allegation will not mean that it is a false/malicious complaint.
9. The identity of the aggrieved woman, respondent, witnesses as well as other details of the complaint cannot be published or disclosed to the public/media.
10. The Act also hopes to prevent such incidents by placing a duty on employers to hold regular workshops/awareness programmes as well as, display the consequences of harassment in the workplace. Every employer has a duty to provide a safe working environment to all employees.¹⁶

Impact of Sexual Harassment

Violence against women can have a myriad of devastating consequences on women's short and long-term health and wellbeing.

¹⁶ <http://www.indiatvnews.com/news/india/10-things-to-know-about-law-relating-to-sexual-harassment-at-wor-30985.html>



Along with the immediate physical and emotional impacts of violence, women's overall quality of life can be adversely affected over an entire lifetime, which can, in turn, impact their participation and engagement in various aspects of life and society.¹⁷

Sexual harassment may be manifested in both verbal and physical conduct. The use of objects of pictures to harass the victim is also another form of harassment.¹⁸ Some examples of verbal, non-verbal and physical harassment as follows

VERBAL

- Whistling at someone
- Making sexual comments about a person's body
- Making sexual comments or innuendos
- Turning work discussions to sexual topics
- Telling sexual jokes or stories
- Asking about sexual fantasies, preferences, or history
- Making kissing sounds, howling, and smacking lips
- Making sexual comments about a person's clothing, anatomy, or looks
- Repeatedly asking out a person who is not interested
- Telling lies or spreading rumors about a person's personal sex life

NON-VERBAL

- Looking a person up and down (Elevator eyes)
- Staring at someone
- Blocking a person's path
- Following the person
- Giving personal gifts
- Displaying sexually suggestive visuals
- Making sexual gestures with hands or through body movements
- Making facial expressions such as winking, throwing kisses, or licking lips

¹⁷ <http://www.statcan.gc.ca/pub/85-002-x/2013001/article/11766/11766-3-eng.htm>

¹⁸ <http://www.pcw.gov.ph/sites/default/files/documents/resources/sexual%20harassment1.pdf>

PHYSICAL

- Giving a massage around the neck or shoulders
- Touching the person's clothing, hair, or body
- Hugging, kissing, patting, or stroking
- Touching or rubbing oneself sexually around another person
- Standing close or brushing up against another person¹⁹

Harassment is associated with increased risk of anxiety, depression, and posttraumatic stress disorder as well as diminished self-esteem, self confidence, and psychological well-being.²⁰ According to stress theory, group differences in mental health and well-being result from disparities in exposure to stressors and access to personal and social resources that allow individuals to cope with stressful experiences. Stressful experiences are expected to be particularly deleterious to mental health when they are chronic, negative, and unpredictable; are a threat to one's identity; or signify a failure to achieve a desired goal. Louise Fitzgerald, Sandra L. Shullman and Schneider, Kimberly T. has developed an integrated theoretical model that identifies the causes and consequences of workplace sexual harassment. They identify possible experiences of sexual harassment, including individual and workplace characteristics. They also hypothesize that sexual harassment is a stressor that can lead to work withdrawal, career instability, job dissatisfaction, and poor mental and physical health.

When a person is forced, pressurized and manipulated for unwanted sexual activity, when she or he is unable to consent due to age, illness, disability, or the influence of

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<http://www.un.org/womenwatch/osagi/pdf/whatissh.pdf>

²⁰ Jason N. Houle, Jeremy Staff, Jeylan T. Mortimer, Christopher Uggen, and Amy Blackstone, *The Impact of Sexual Harassment on Depressive Symptoms during the Early Occupational Career*, Society and Mental Health 1(2), American Sociological Association 2011, P. No. 89.



alcohol or other drugs there is more possibility of sexual violence. Sexual violence can be done in various ways like rape, incest, child sexual assault, ritual abuse, nonstranger rape, statutory rape, marital or partner rape, sexual exploitation, sexual contact, sexual harassment, exposure, and voyeurism. It is considered as crime not only because of sexual desire but by the desire to control, humiliate and harm. It violates the trust and feelings of safety of the person subjected to sexual violence. It can, and does, happen to people of all ages, races, genders, sexual orientations, religions, professions, incomes, and ethnicities. Sexual violence affects all of us: survivors, significant others, communities, and society.²¹

Sexual violence results in negative impact on daily life not to the person who is victim but also on their survivors also. Each survivor reacts to sexual violence in their own unique way. There are long-term and short-term impacts of sexual violence on overall health and well-being. Common emotional reactions include guilt, shame, fear, lack of sensation, shock, and feelings of segregation. The psychological effects of sexual violence have been linked to long-term health risk behaviors. Physical impacts may include personal injuries, concerns about pregnancy, or risk of contracting. Economic impacts of sexual violence include medical expenses and time off work.

Sexual violence can affect parents, friends, partners, children, spouses, and/or coworkers of the survivor. As they try to make sense of what happened, loved ones may experience similar reactions and feelings to those of the survivor. Fear, guilt, self-blame, and anger are a few common reactions.²² Sexual violence also affects the feelings of communities at large. The communities like

cultural and religious, neighbors, workplace, campuses may feel fear, anger or disbelief. If sexual assault happened than the above communities they feel very bad. Sexual violence tears at the fabric of community well-being. Additionally, there are financial costs to communities. These costs include medical services, criminal justice expenses, crisis and mental health services fees, and the lost contributions of individuals affected by sexual violence.

The contributions and achievements that may never come as a result of sexual violence represent a cost to society that cannot be measured. Sexual violence endangers critical societal structures because it creates a climate of violence and fear. Sexual harassment alone cost the federal government an estimated \$327 million in losses associated with job turnover, sick leave, and individual and group productivity among federal employees.²³

The effect of sexual assault on women takes many forms – some lasting short while and others lasting for long. Men can experience sexual assault, but assault on women is far more prevalent. The mental and physical effects of sexual assault on women include:

- *Post Traumatic Stress Disorder (PTSD)* – Victims may experience severe anxiety, stress, and fear as an effect of sexual assault.
- *Substance Abuse* – Women sexual assault victims may use alcohol or drugs to dull their emotional suffering and pain.
- *Self-Harm* – Some sexual assault victims may harm themselves by cutting or other means.
- *Depression* – Depression represents one of the most common effects of sexual assault on women.
- *Sexually Transmitted Disease (STD)* – Perpetrators of sexual violence may infect their victims with STDs.

²¹https://studentaffairs.duke.edu/sites/default/files/u7/NSVRC_Publication_Factsheet_Impact-of-sexual-violence.pdf

²²http://www.nsvrc.org/sites/default/files/saam_2016_impact-of-sexual-violence.pdf

²³ According to 1995 U.S. Merit Systems Protection Board



- *Pregnancy* – Sometimes, assault on women may result in pregnancy.
- *Flashbacks* – Some victims become tormented by flashback memories that make it seem as if the sexual assault is happening all over again.
- *Eating Disorders* – Frequently, victims of sexual assault may use food to control and cope with their negative emotions. Using food in this way can result in the development of eating disorders, such as anorexia nervosa and bulimia.
- *Sleep Disorders* – Sexual assault survivors may develop sleep disorders characterized by sleeping too much or not being able to sleep.
- *Body Memories* – Frequently referred to as psychosomatic symptoms, body memories occur in the form of physical problems like headaches, migraines, digestive issues, light headedness, or dizziness that medical examinations cannot explain.²⁴

Violence against women world-wide indicate that violence is an issue that permeates every corner of society, is widespread and costly. A common way to organize the economic costs of violence is to place them in categories based on the consequences of violence and the services utilized as a result of violence. Costs can be found in seven major categories:

- Justice,
- Health,
- Social Services,
- Education,
- Business Costs,
- Personal or Household Costs and
- Intangibles

²⁴ <http://www.healthypplace.com/abuse/sexual-assault/effect-of-sexual-assault-on-women-sexual-assault-victims/>

Justice

Justice costs include policing, court trials, penal costs and related costs such as victim compensation, administering community sentences, and organizations that support the incarcerated. They can include labour, capital and material inputs.

Health

Health is another area that is expensive for the state, and also for individuals depending on the extent to which health care is publicly or privately funded. Health costs result from both direct and indirect health concerns caused by violence. They can also be both short and long-term.

Social Services

Social costs stem from the provision of public services to both victims and perpetrators of violence against women. They can be privately or publicly funded. Social services include social welfare agencies helping abused women, abusive men and their children.

Education

Education costs can include the added demand for special education services related to behavioural problems and learning disabilities in children who witness abuse at home, as well as school programs with the aim of reducing violence against girls.

Business and Employment Costs

When violence happens at home, the woman's paid work environment is affected as well. These effects have a serious impact on the business sector. Business costs include her lost time at work and reduced attention, the time her co-workers spend covering for her, the time she may spend in the restroom or on the phone with friends or family, actual time she may need to take off work, administrative time spent processing



her time off, administrative costs for the search and training of a replacement employee if she leaves the job, administration costs for programs or policies designed to help support her, lost profits from her decrease in output, and the increase in overtime payments to other workers who cover for her.

Household and Personal

Many personal and household costs result from violence against women. Victims spend a great deal in direct out-of-pocket costs for such things as transportation, childcare, alternative therapies, replacing destroyed belongings, relocation, and medications. These expenditures greatly affect household consumption, skewing it away from the goods and services that would be chosen in the absence of violence.

Intangibles

Many consequences of violence are not tangible. Intangibles are very difficult to cost, and many studies do not attempt to do so. Nevertheless they represent very important and significant costs. A few examples include the fear that women harbour as a result of abuse; pain and suffering or the loss of life; and second generation effects of violence. It is impossible to measure the costs associated with fear and, while attempts have been made at developing measures of pain and suffering or loss of life, they are imprecise at best. Finally, second generation effects are well-documented but also not easy to measure.²⁵

Conclusion

The concept of sexual harassment can be experienced in both developing and

developed nations. Sexual harassment is existed in India for a long time. Under Article 19(1)(g) of the Constitution of India it has been recognized as an infringement of the fundamental rights of Women. The efforts of the Women's movement and human rights concern, an increasing number of women are come forward to reporting such cases and fight for their legal rights in the judiciary. The provisions of the Indian Constitution like Article 14, 15, and 21 protects against all forms of discrimination. To eliminate all forms of discrimination against women including sexual harassment there is need of reform in our criminal justice system. Sexual harassment affects the values of women from all corners may be social values, cultural values and economical values. The impact of sexual harassment will not affect only the women but also her surroundings, family, parents, neighbor and society at large. There is a need to put an end for all sorts of violence against women at workplace, education and all other forms. There is need both at the national and international level to have a effective law and effective implementation of the same.

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