

# WORKPLACE SEXUAL HARASSMENT IN INDIA

**Dr. Bhupander Kaur**

*Assistant Professor, Education Department, IFTM University, Moradabad (U.P.)*

## **Abstract**

*Today, a significant number of Indian women are joining the workforce due to enhanced opportunities for education and employment. However, a considerable number of employed women experience frequent instances of sexual harassment within their professional environments. It is imperative, therefore, that as a nation, we endeavor to eradicate workplace sexual harassment. This is essential to ensure that women have the opportunity to engage in gainful employment within an environment that is both safe and secure. The safeguarding of women is crucial for achieving gender equality and fostering the overall progress and advancement of the nation.*

***Maneka Gandhi**, an Indian politician and animal rights activist, has been actively involved in politics and has held various positions.*

***Sexual Harassment in the Workplace** Sexual harassment in the workplace can be viewed as a manifestation of pervasive violence in society. It is characterized by discriminatory and exploitative behaviors that infringe upon women's fundamental rights to personal safety and economic well-being. The infringement upon a woman's fundamental rights to equality, as outlined in **Articles 14 and 15**, and her right to live with dignity, as enshrined in **Article 21** of the **Constitution of India**, constitutes a violation.*

*On July 9, 1993, India acceded to the **Convention on the Elimination of all Forms of Discrimination against Women (CEDAW)** by becoming a signatory. In the Indian context, it is noteworthy to mention that in 1997, a petition was formally submitted to the highest court of the land with the aim of upholding the fundamental rights of women engaged in gainful employment. This legal action was prompted by the highly distressing incident of the gang rape perpetrated against **Bhanwari Devi**, an individual actively involved in social work from the state of Rajasthan.*

*In addition to the **Vishaka guidelines** established in the case of **Vishaka & Ors. v. State of Rajasthan**, the **Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013** (referred to as the **POSH Act**) has also been implemented.*

**Keywords:** *Sexual Harassment, Vishaka guidelines, POSH Act, Globalization and Economy.*

## **\*\*INTRODUCTION\*\***

Women's independence has increased along with their economic power as a result of globalization, and they are no longer restricted to the role of housework. However, as the country progresses and the status of women rises, they continue to encounter several unacceptable obstacles in the job market. The economy suffers when people engage in inappropriate behavior at work.

The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act of 2013 was implemented 16 years after the Vishaka case. This legislation was enacted with the purpose of providing protection to women in the workforce against instances of sexual harassment. According to the legislation, sexual harassment is defined as the occurrence of unwelcome physical, verbal, or nonverbal behaviors with a sexual connotation. These behaviors include physical contact and advances, solicitation or insistence for sexual favors, the utterance of sexually suggestive comments, the display of explicit material, and any other form of unwanted sexual conduct.

It is widely acknowledged that a significant number of women are currently joining the labor force and playing a crucial role in the progress of our society. However, it is also evident that a considerable proportion of these women encounter instances of sexual harassment regularly. As a result of the enactment of the **\*\*Women's Equal Pay Act of 2013\*\***, employers are now obligated to establish a work environment that is free of sexual harassment.

The status of a nation can be discerned by examining the condition of its women. **\*\*Pandit Jawaharlal Nehru\*\***, a prominent figure in Indian history, holds significant academic and political importance.

## **\*\*WHAT IS SEXUAL HARASSMENT?\***

Sexual harassment is a form of behavior that involves unwelcome advances or conduct of a sexual nature. It is characterized as any form of sexually explicit behavior that is not consensual. Gender-based violence against women, including workplace sexual harassment, is pervasive across global regions, regardless of their level of economic advancement. This issue can impact individuals of all genders. From a statistical standpoint, this phenomenon exhibits a higher prevalence among the female population.

Violations persist despite concerted efforts and the implementation of numerous safeguards. The act in question can be classified as a violation against the most vulnerable individuals within the community—namely, women. Hence, a wide range of offenses, including female feticide, human trafficking, stalking, sexual abuse, harassment, and the most severe manifestations of sexual violence, are perpetrated against women. Sexual harassment is considered unlawful, whether it is targeted at an individual seeking employment or an existing employee.

The term "sexual harassment" encompasses various forms of unwelcome verbal or physical conduct with a sexual connotation, including making sexual advances, soliciting sexual favors, or engaging in sexually suggestive remarks.

Sexual harassment is characterized as behavior that is unwelcome and has the potential to cause offense, degradation, or intimidation to the individual being targeted. Various forms of communication, including physical, verbal, and written, can be used for harassment.

The crux of the matter lies in an individual's behavior. The term "unwanted" does not necessarily imply involuntariness. There is the potential for a victim to provide consent to offensive behavior by actively participating in it. Hence, in cases where the recipient perceives the behavior as undesirable, it can be deemed as unwanted. The receptiveness of an individual towards a sexually-oriented comment, joke, or invitation for a date depends on the specific circumstances at hand.

**According to *\*\*Section 354A of the Indian Penal Code\*\**, the following definition is provided:**

A male individual can be deemed culpable of sexual harassment when he exhibits any of the following behaviors towards a female counterpart:

- Initiating unwelcome physical contact and advances that involve explicit sexual overtures.
- Making demands or requests for sexual favors.
- Displaying pornography against the will of a woman.
- Uttering sexually suggestive or inappropriate remarks.

In the event that an individual accumulates a three-point score for the initial instance, they are subject to potential penalties, including monetary fines, an extended period of incarceration of up to three years, or a combination of both.

The team has the authority to administer a maximum prison sentence of one year to any male individual found guilty of committing the final point offense, in conjunction with a monetary penalty.

Historically, the utilization of provisions outlined in the Indian Penal Code was not a viable recourse. Sections 94, 354, and 509 of the Indian Penal Code pertain to legal provisions concerning offenses committed against women, specifically acts of sexual harassment.

### **SEXUAL HARASSMENT OF WOMEN AT WORKPLACE AS A PROBLEM**

One of the major issues our women face today is sexual harassment in various settings. The kind of events that should be labeled "social problems" are constantly brought to our attention, and seldom do we go an entire week without being reminded of them.

The prevalence of sexual harassment is steadily rising, making it a serious issue in educational institutions. Surveys indicate that between forty and seventy percent of college students have experienced sexual harassment. Professors who demand sexual favors in exchange for excellent grades account for only 2% of all cases of harassment on college campuses. Both male and female students make up the bulk of those affected.

## CONSTITUTIONAL PROTECTION OF WOMEN AGAINST SEXUAL HARASSMENT AT WORKPLACE

According to Article 19 (1)(g) of the Indian Constitution, everyone has the right "to practice any profession, or to carry on any occupation, trade, or business." Every woman has a constitutionally protected right to work in the public sector; however, sexual harassment often discourages women from pursuing these careers. The workplace becomes a dangerous place for women due to the prevalence of sexual harassment.

Article 21 of the Indian Constitution, which states that no individual shall be deprived of their life or personal liberty, is also violated by sexual harassment of women in the workplace. A person's right to make a living is essential to their right to life. Consequently, sexual harassment is a form of economic sabotage.

### HOW LAWS ON SEXUAL HARASSMENT DEVELOPED OVER THE YEARS IN INDIA

If a woman experienced sexual harassment in the workplace before 1997, she could file a complaint under Indian law, specifically sections 354 ('criminal assault of women to outrage women's modesty') and 509 ('word, gesture, or act intended to insult the modesty of a woman').

#### Landmark Judgement of Vishaka Case

Vishaka, along with a collective of women, initiated a Public Interest Litigation (PIL) against the state of Rajasthan, seeking the enforcement of the constitutionally protected fundamental rights of employed women as outlined in Articles 14, 19, and 21 of the Indian Constitution. The petition was submitted on behalf of Bhanwari Devi, a social worker based in Rajasthan who was subjected to a brutal gang rape as a result of her efforts to combat child marriage and other injustices. The Indian Supreme Court demonstrated significant concern regarding the matter and derived its decision from the principles outlined in the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), as well as the constitutional provision safeguarding women's entitlement to equitable treatment. These regulations were implemented, assigning employers and other relevant entities the duty to proactively prevent instances of sexual harassment and take appropriate measures to address, resolve, or pursue legal action in response to claims of sexual harassment.

#### **Employers in both the public and private sectors need to take necessary measures to combat sexual harassment in the workplace. This includes:**

Providing appropriate notice, circulation, and publication of the above-discussed restriction on sexual harassment.

Government and public sector organizations providing rules and regulations pertaining to conduct and discipline should provide rules and regulations preventing sexual harassment and shall provide adequate sanctions under such rules against the offender.

Ensuring that women are not subjected to a hostile work environment and that they have access to adequate working conditions in terms of employment, leisure, health, medical care, and hygiene. In addition, no woman shall face discrimination in the workplace.

If such behavior constitutes an offense punishable under the Indian Penal Code, the employer has a legal obligation to ensure that the victim has filed a formal complaint with the appropriate authorities. Victims must not be treated differently when filing a complaint of sexual harassment. The victim should be allowed to choose whether or not the offender is transferred.

If the act is serious enough to be considered misconduct according to the norms and regulations of the service, disciplinary action should be initiated.

Workers should have the freedom to take legal action against sexual harassment if they experience it on the job.

Caring for female employees means informing them of their rights and keeping them updated on new legislation as soon as possible.

## **CONCLUSION**

As more and more women in India enter the labor sector, the country as a whole makes tremendous progress towards its development goals. Preserving women's human rights necessarily includes the right to protection against sexual harassment. All of this is a step in the direction of granting women autonomy, equal opportunity, and the right to be treated with respect in the workplace.

The issue of sexual harassment in the workplace is one that must be solved as a social problem. Employers and workers alike would benefit from a greater understanding of sexual harassment in the workplace, its causes, potential solutions, and the laws that protect against and punish it.

Offenses against women, such as unwanted sexual advances in the workplace, are on the rise, highlighting the need for a safe atmosphere and effective rules. Such undesirable behavior in a civilized society has far-reaching effects on physical and mental health and prevents women from achieving independence. Every woman has a constitutionally protected right to work in the public sector; however, sexual harassment often discourages women from pursuing these careers. Women strive for autonomy, but their efforts are hampered by an unsafe and unsettling society that does nothing but harm women and the economy.

A positive work environment can be fostered through the promotion of a culture of respect and awareness. The workplace should not be a dangerous place for women due to the prevalence of sexual harassment. A secure setting can be achieved through education and the implementation of preventative measures. Staff training, clear guidelines, and regular inspections are all effective ways to achieve this goal. Creating a safe haven for employees to congregate in can help alleviate tension in the office.

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