



A STUDY ON STATUS & PROVISIONS TOWARDS SEXUAL HARASSMENT OF WOMEN AT WORK PLACE

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Abstract

Women constitute a good half of the Population of our Nation and efforts have always been laid down to empower Women. The Five year Plans have been instrumental in developing the Empowerment opportunities for Women. Economic Empowerment is one such agenda where by Women upliftment has always been executed. However there have been traces of Gender biasness at Organisations and women employees have been at the receiving end. Be it the glass ceiling debate or harassment cases, Women haven't found the just & appropriate environment in the Organisations. The harassment at work place is a slowpoisoning process and today has been witnessed across the gender however the harassment to Women at Workplace has been debated since long & prevails as black spot on the sphere. Leadership at Organisation plays a vital role in ensuring harmony in this regard and developing conducive work culture at the Organisation.

The Governments over the years have gauged the status and created provisions in this respect. The Indian Penal Code (IPC) has a respective section to punish under such offences. **The Sexual Harassment of Women at Workplace (PPR) Act 2013** has laid down provisions for relief to the aggrieved. **Vishakha guidelines** laid down by the Government have taken a strong route of maintaining Anti-Harassment environment at the Organisations. This article aims to understand status & provisions created towards tackling the Harassment of Women at Workplace. It further aims at discussing the respective Laws pertaining to the Anti-Harassment norms and also the article highlights the Work place Management aspects towards curtailing harassment cases. This conceptual study is based on secondary data and has the scope of understanding the research plot in Indian context. The study is conducted while considering the harassment cases across Industries rather any specific region or Industry; this may be a limitation to the study. Hence the inferences drawn from the article would be indicative in nature rather exhaustive. Women are the victims of undue practices at workplace however this may be one side of the coin. Women at large are gearing up to establish them and conquer the corporate world.

Key Words: Sexual Harassment, Women at Workplace, Vishakha Guidelines.

Introduction

In the 21st Century, I'd like to think women have the right to live lives free of both sexual violence and daily harassment, as well as any other form of inequality.-

Laura Bates, Writer

Sexual harassment in the workplace is hardly a new phenomenon, but the upsurge of disturbing allegations of sexual assault and harassment by powerful, high-profile men has prompted an increasing number of women to come forward with stories of how harassment has impacted their careers. The "Me Too" campaign has brought forward the crude realities of the Human relations. Starting from simple actions through bodylanguage and leading to the stages of sexualadvances &assaults, all these & many creates uncomfortable situation for the Women at workplace. The work culture that continuously ignores such behavior eventually gets succumbed. The Women at workplaces often face fear of speaking out due to possible repercussions.Right from the Production layout to the financial outlay, from Marketing attributes to Human Resource capitalization; all requires a proper working environment. Any mental disturbances shall be detrimental to the interest of the Organisation. Both the Genders are at vulnerable situations with more of issues surrounded to the Women especially.

Women Population of the Nation is building a strong momentum and the enactment of **the Sexual Harassment of Women at Workplace (PPR) Act 2013**has given further strength. Although the Women need to gather strength to tackle harassment cases yet it's the employers' foremost responsibility, to develop absolute intolerance against



sexual harassment at workplace to ensure a harmonious environment. The Act has specific provisions of constituting Redressal committee, involving Women representatives in the committee to ensure justice isn't influenced and also to engage Non Government Organisations (NGO). Harassment cases have negative impact on the progress of the Organisation and the employees involved face the repercussions in professional career.

Objectives of the Study

The Author has considered the following objectives for the study:

1. To understand status & provisions towards the Harassment of Women at Workplace.
2. To discuss the Laws pertaining to the Anti Harassment and highlight the Work place Management aspects towards curtailing harassment cases.

Research Methodology

The article on Status & Provisions towards Sexual Harassment of Women at Workplace is a conceptual study conducted with the help of massively secondary data. The study aims at understanding the status & provisions towards the Harassment of Women at Workplace. The scope of the study comprises of the thoughtful review of the harassment conditions in the workplace atmosphere. The intent also has in scope the discussion on the Laws pertaining to the Anti-Harassment and highlights the Work place Management aspects towards curtailing harassment cases. The Author has considered the Harassment cases across industries rather any specific reason or industry; this may be a limitation to the study as the results gathered are more indicative in nature rather exhaustive.

Sexual Harassment At Workplace

“Sexual harassment in the workplace confuses rewards for performance with rewards for attractiveness and sexual availability.”-

Warren Farrell, Author

Sexual harassment at workplace may be defined, as any unwanted sexual attention that is explicitly or implicitly made a condition for favorable decisions affecting a woman's employment or that, which creates an intimidating, hostile or offensive work environment. It is a specific form of harassment, which occurs all over the world. At times regarded as harmless flirting, it is increasingly recognized that whatever the intent of the perpetrator, it can demean and damage the victim. The harassment however may happen across the gender. The Act specifies the definition of Sexual harassment as any one or more of the following unwelcome acts or behaviour namely Physical contact and advances; or a demand or request for sexual favours; or making sexually coloured remarks; or Showing pornography; or any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

Sexual harassment of a woman at workplace violates her right to job, security and equal opportunity. It can create working conditions that impact the psychological and physical well being of women workers. Sexual harassment cases need to be taken very seriously as if it gets ignored then costs to the organisations in terms of loss of productivity, high rate of absenteeism among affected women workers, disruptions of work from long-term sick leaves and low morale. It may also smudge the public image of the organisations.

Exhibit – 1: Glimpses on Status of Harassment of Women at Workplace

1. Referring to an independent study constituting 6,047 participants (both male and female) surveyed on Harassment aspects - 38% said they'd faced harassment at the workplace, of these 69% did not complain about it due to embarrassment and even a fear of losing their jobs.
2. The Anti-Harassment Law was enacted in December 2013 to tackle the Harassment cases. The Two years time frame from the enactment of the Act witnessed increase in sexual harassment complaints, proving the rationale behind the enactment.
3. India's 50 Largest companies by Market Valuation have experienced 10.3% rise in Sexual Harassment complaints (2017). Majorly IT Companies & Banks are topping the list. WIPRO, ICICI and Infosys reported the highest number of cases (2017)



4. Number of cases reported by the NSE listed companies:
 - a. 2015-16 : 525 cases
 - b. 2016-17 : 579 cases

Source: www.vccircle.com, Indian National Bar Association (INBA)

Women Anti Harassment Laws: Need & Significance

“Street harassment, sexual violence, sexual harassment, gender-based violence and racism, are all acts committed by a person who in fact has no self-respect.”- Miya Yamanouchi, Author

Sexual harassment at workplace hampers women’s constitutional and fundamental rights to equality, justice and dignity. Harassment can be defined as a course of conduct which annoys, threatens, intimidates, alarms, or puts a person in fear of their safety. It is unwanted, unwelcomed and uninvited behaviour that threatens or offends the victim and results in a hostile environment for the victim. A large number of cases of victims of sexual harassment of women at work places remain undetected and unreported. Thereasons are threats by perpetrators, false promises of promotions and better placement and fear of false allegations on character. There are broadly Two types of Harassment cases:

Quid pro quo harassment

When an employee is asked, either directly or indirectly, to submit to a sexual advance in exchange for some benefit at work. Only supervisors or managers can engage in this type of harassment since it requires the authority to grant a job favour in return for the unwelcome advance or request.

Hostile work environment harassment

When harassment makes the workplace intolerable because constant sexual or gender-based activity or comment interferes with an employee's ability to do her job, hostile work environment sexual harassment has occurred. This type of harassment can be committed by co-workers or supervisors because it does not require any authority to create such an environment.

In consideration to the Sexual Harassment legal attributes, two essential outcomes are discussed. One being the Vishakha Guidelines constituted based on a real life instance in the state of Rajasthan and the other is the enactment of the provisions in the form of the Sexual Harassment at Workplace (PPR) Act 2013.

Provisions under Vishakha Guidelines, 1997

1. All the workplaces should have an appropriate complaints mechanism with a complaints committee, special counsellor or other support services.
2. Women must head the complaint committee and no less than half its member should be women.
3. The committee should include an NGO’s /individual familiar with the issue of sexual harassment.
4. Confidentiality should be maintained.
5. Complaints/witnesses should not experience victimisation / discrimination during the process.

History behind Vishakha Guidelines

During the 1990s, Bhanwari Devi, State government employee who was engaged in her Women Development Programme was raped by the landlords at her workplace as she tried to prevent child marriage, which was a part of her social duty. And at that time the accused were free to go without any punishment. And the case by the women groups and NGO’s was taken to Supreme court. At that time there was no such guidelines which protect women sexually harassed at the workplace.

So, the certain guidelines were made by the Supreme court which are considered to be the most powerful tool for women to guard them against sexual harassment and which punish the guilty. This judgement is to be considered the landmark judgement as no such protection was provided to women at the workplace before this.



The Sexual Harassment at Workplace (PPR) Act 2013

The 21st century atmosphere in the Nation badly needed a Law that protects more than just the human rights. Abolishing the harassment cases & instances were looking a distant dream even after the Vishakha guidelines and hence the enactment was done of law that straight away tackles the harassment cases. The sexual harassment at Workplace (PPR) Act 2013 came in force to protect the aggrieved in harassment cases. Specifically the Act mentioned three terms - **Prevention, Prohibition and Redressal**. The Act stated that the organisations must take preventive measures to ensure curtailing such issues. At the same time Employees at workplace or people at large must understand the prohibition of such nuisance. The Act specifies the remedial & procedural format of addressing the harassment issues in the form of the Redressal committees. The Act has a total of VIII chapters and they are as following:

1. Chapter 1 deal with the preliminaries and definitions.
2. Chapter 2 deals with internal complaint committee.
3. Chapter 3 & 4 describes constitution of the local complaints committee & Complaints.
4. Chapter 5 deals with inquiry into complaints.
5. Chapter 6 & 7 with duties of the employer and district officer.
6. Chapter 8 deals with misc sections of the act.

Source: The Gazette of India, released in April 2013.

Exhibit – 2: Instances of the Sexual Harassment at Workplace

1. **AIR INDIA**- In 2012, Senior Air India official was sued by an employee working at an restaurant at the Indira Gandhi International Airport, Delhi for sexually harassing her.
2. **GREEN PEACE**- In 2015, a women employee at Green Peace India was forced to leave the job in 2013 as she was facing a sexual harassment and rape by her colleagues.
3. **DOORDARSHAN**- An employee working with Doordarshan, television broadcaster had filed a suit against her supervisor for sexually harassing her. She approached the police, the case was not filled.
4. **TARUN TEJPAL**- Tarun Tejpal a senior journalist and editor of Tehelka magazine was accused of raping a female staff member in an elevator in Goa hotel during magazine's annual conclave.
5. **BCCI CEO Case – Then working with Discovery Channel**: BCCI CEO Rahul Johri has been given a clean chit (2018) in the sexual harassment case. Johri was victimised after a Woman alleged him to be party of sexual harassment with another colleague while working at Discovery Channel.
6. **The Viral Fever Media**: Arunabh Kumar, founder & CEO, accused of Sexual Harassment by a former colleague, had to step down (June 2017)

Source: <https://qz.com/india>, <https://timesofindia.indiatimes.com>, www.vccircle.com

Impact of the Harassment Incidents At Workplace

Harassment incidents have been talk in the Industrial town. The Act in this regard has given a relief and at the same time strength to the aggrieved party. Harassment may happen to either of the Genders but largely the Women Section at the Workplace has been reporting the instances. The cases of harassment at workplace have been increasing year on year and every year the same is recorded at an average of more than 500 cases (www.vccircle.com). There is an obvious impact of harassment on the overall Organisational context. The article emphasizes on the following possible impact of the Harassment at Workplace – **Disturbs Industrial Relations (IR), Productivity suffers, Peer group Team spirit lessens, Negative impact on goodwill, career at stake of the employees involved, cliental relations at Risk, Governmental compliance at stake and the Organisational progress starts diminishing.**

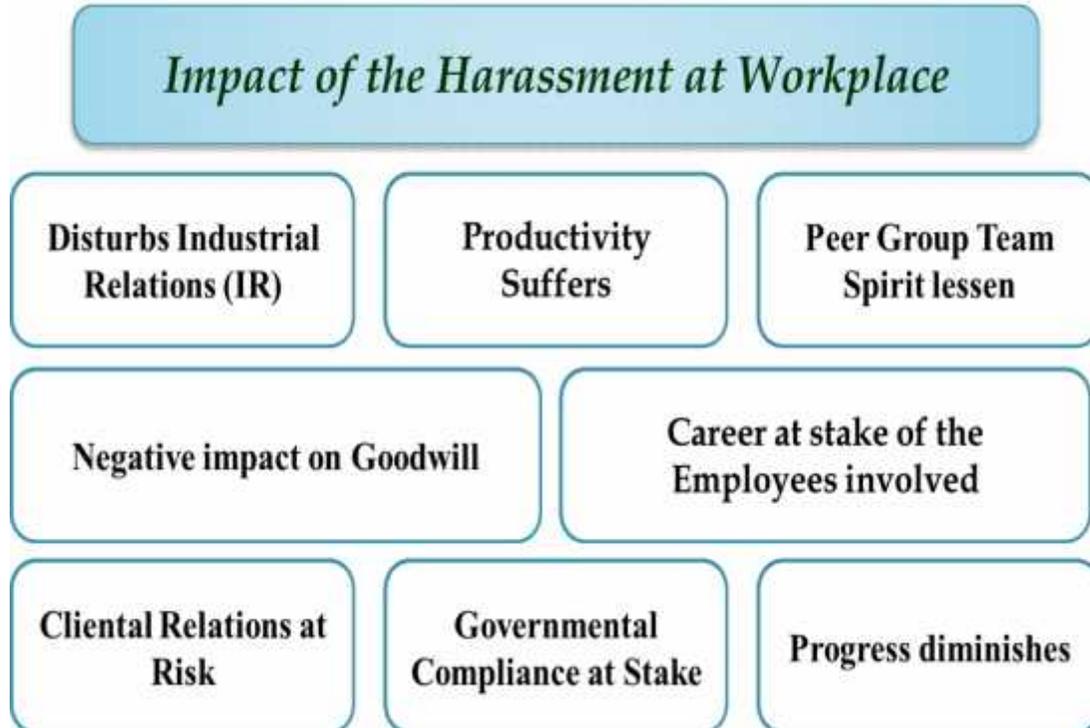


Chart No.1: Impact of the Harassment at Workplace
 Source: Author's Study

The Harassment cases ultimately have an impact on overall atmosphere of the Organisation. It literally **disturbs Industrial Relations(IR)** i.e., the relations between the employees and with the Management / Employer. This further impact the **Productivity** and the same suffer. The hostile environment gets generated at the workplace leading to low morale, absenteeism, gossips, stress etc. among the staff. This eventually impacts the commercials for the business. The harassment instances **lessen the team spirit** among the Peer group due to the detrimental environment. The performances happens more individual centric rather aiming the goal congruence.

The impact of the harassment cases doesn't only disturb the internal environment; it also has an impact on the external environment of the Organisation. Gradually the impact of such harassment cases lead to the **Negative impact on Goodwill**. Also the Employees involved in the harassment cases especially the one who is guilty of the offence finds it difficult to continue in the professional assignment and the **Career is at stake**. The opportunities shrink for them and lead to further depression & disappointments. The Organisations involved in the Harassment issues find an impact on the **Cliential Relations** as well. The clients of the companies find it uncomfortable to maintain professional relationship with the company. The Organisation facing Harassment instances find it engaged into human complications and may not concentrate on effective operations. These cases go more intense when the **Governmental Compliances are at Stake**. Adherence to the laws & provisions shall lessen the impact of the harassment cases. The Organisations who aren't transparent in their Redressal approach miss the compliances leading to further more issues. All these disturbed **internal & external** aspects culminate into a non productive environment and the overall **progress of the Organisation starts diminishing**. Rationally the Organisation must create an environment that doesn't attract such instances and even if there are a few cases, those need to be tackled lawfully & logically. This shall lessen the impact of Harassment cases on Organisational growth.

Way Forward: Recommendation

The article puts forward recommendary thoughts constituting to the way forward to the situations of sexual harassment at Organisations. The recommendation is more into the form of advisory to the Organisations. There have been various measures adopted by the organizations and the stated measures in this recommendation chart also focuses on the same intent of ensuring an environment that leads to a NO-SUCH situations i.e., being proactive in maintaining harmonious relations & environment and if such instances occur then a better solution to such cases can be sought. The recommendation include - **Extensive Research for Better Solutions, Awareness campaigns, Information system to be full proof, Academic Inclusion, Legal Counseling Sessions & Review on the existing Laws.**

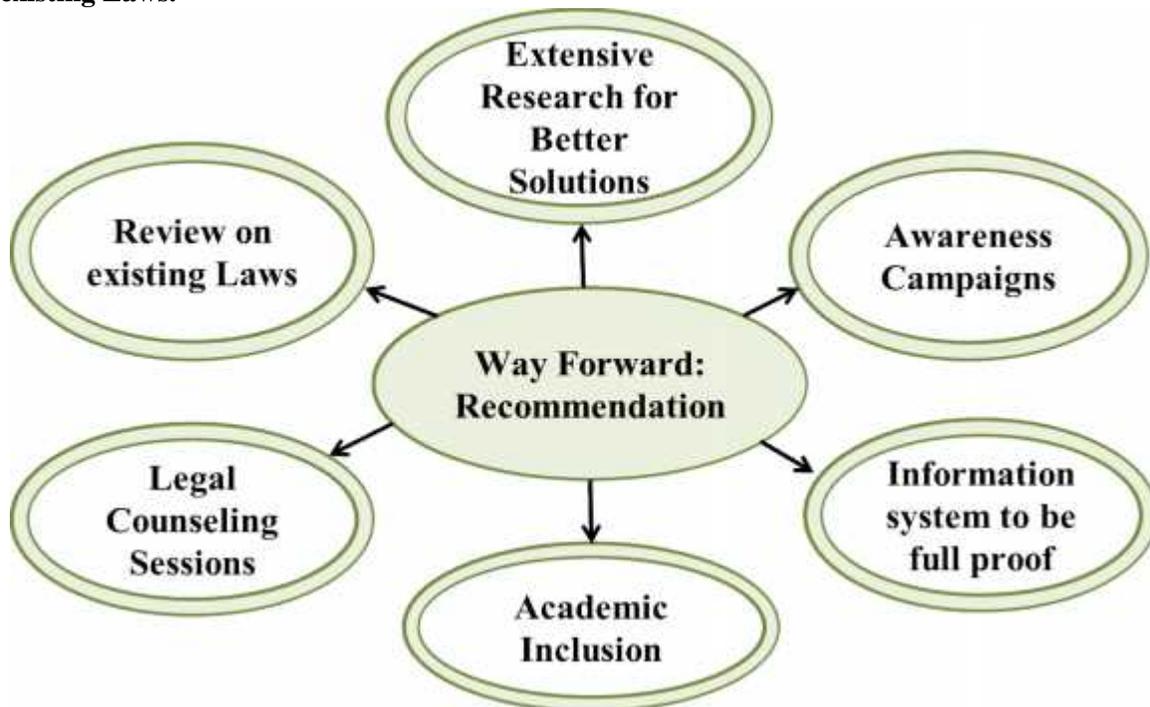


Chart No.2: Way Forward - Recommendation
Source: Author's Study

The harassment cases require **Extensive Research for Better Solutions** rather a quick fix. All parameters, once taken into consideration without any instinct of gender biasness shall lead to a solution that will be non-questionable. To promote a conducive environment **Awareness campaigns** can be arranged in the Organisation. Role plays, do's & don'ts fliers, open forums etc. can help in creating better Awareness campaigns towards curtailing harassment cases. The Organization do have these awareness sessions during their induction programme and then further inculcating the same in regular intervals will provide a better sense & knowledge about safety policies & other regulations pertaining to the harassment laws.

Harassment cases are very sensitive issues as the career of the employees is at stake. The grievance redressal cell must a **full proof Information system** to enable the committee with adequate decision making plot. The Organisation must follow the cell appointment guidelines and ensure that the complainant gets an appropriate environment to log the complaint. Also internal process flow must be defined to ensure all required information is collected. A proper reality check must be done in order to ensure that the innocent is not being punished. The sexual harassment cases aren't stopping in the workplace, which gives ample of evidence to work more in this regard. One such solution will be focus on individuals during the Education period. **Academic Inclusion** has potential to do wonders. The Indian education system has already included Human Rights, Information security & Skill development related topics in curriculum. Sex education is already being discussed to implement from school days. Similarly Sexual Harassment Laws & provisions must be discussed through educational modules.



This will make the potential employee further ready with Moral attributes. A welcome step in this regard is already implemented at schools where children are taught about the good touch and the bad touch. While this sounds more proactive, however the issue is larger & requires moral upgradation of both genders. **Legal Counseling Sessions** may also work well in developing a better environment. This will help employees to know their rights & the respective laws and shall create an environment of self-care. The anti-harassment law was enacted recently i.e., 2013, a periodic **review on the existing Law** shall help controlling mechanism being developed further robust.

Conclusion

Harassment Cases at Workplace are realities and need to be tackled on the same priority as commercial issues of Organisations. The status and provisions discussed in the article aptly leads to an understanding that the sexual harassment has been considered as an imperative concern in the Nation. The Act & the guidelines in this behalf have strengthened the movement towards prohibiting & preventing such issues to occur at Organisations. The Authors have gathered understanding on relevant Act pertaining to the Anti- Harassment Law. While the law put forwards guidelines & procedures to tackle harassment cases however the Industrial Society has to move in the direction of avoiding any such detrimental activities. Understanding on Vishakha Guidelines empowers the rationale behind learning the sexual harassment conditions and deepening thoughts on morality. More of Legal Counseling, Awareness Campaigns, investigative approach etc. shall lead to a better workplace management pertaining to potential Harassment conditions.

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