

Workplace Harassment and #MeToo in India: A critical analysis

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Abstract- Women have been adored as goddesses since the time of the Vedic civilization, particularly as the deities of wealth, knowledge, and power. This paper highlights however women in India enjoys fundamental rights guaranteed by the constitution, she is not treated equally in workplace. The role of women in India is changing quickly as a result of industrialization, globalisation, and development in numerous fields. In almost every sector today, including education, economics, politics, media, the arts, space and culture, the service industry, science and technology, etc., women in India are making progress. The number of crimes against women is rising daily as women's roles have changed from domestic to professional. Despite an increase in sexual harassment incidents, very few of them are reported because women are afraid of losing their livelihood and reputation in society. The objective of this paper is to understand various workplace laws in India, the reason behind the success of #MeToo in India and how to stop workplace harassment of women in India.

Keywords- Workplace harassment, Workplace harassment, #MeToo, Women

I. INTRODUCTION-

Position of women in India: -

In India females are worshipped, whenever a girl child takes birth, she is said to be an incarnation of the goddess Laxmi. However, the Epic period's reality was a little different. Women were married off at a young age when they had no concept of marriage and were completely immature. They were not encouraged or permitted to pursue an education. A female being born into a family was unwelcome. A daughter was valued less than a son because they were seen as liabilities. Sati, or forcing widows to pass away at their husband's cremation, was a common practice. Even though she enjoys every fundamental right guaranteed by the Constitution, her male coworkers do not treat her equally. Rural Indian families still adhere to the dowry

system, and they are motivated to marry off their daughters as young as possible in order to relieve them of the financial burden. The dowry death, female foeticide, sexual harassment, infanticide, etc. are still issues that women face today. Metropolitan areas are thought to be extremely unsafe for women. The tragic Nirbhaya gang rape case was the headline event of 2013, and it significantly changed our criminal code. International Women's Day is observed annually on March 8th throughout the world to recognize the cultural, socioeconomic, and political accomplishments of women. Despite numerous protections, women continue to feel unworthy at home and at work, making them feel unsafe in both environments.

The Indian Constitution upholds the rights of women by treating them equally and offering safeguards and redress. Harassment at workplace hinders women's mental and emotional well-being as well as their physical development. The MWCN has enacted the Sexual harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 (PoSH Act) to prevent women from being sexually abused. The PoSH Act was created by the Supreme Court as a result of the decision Vishakha & Ors. Vs. State of Rajasthan, and the Convention on the Elimination of All Forms of Discrimination Against Women was also created. The #MeToo movement in India contends that despite the Vishakha guidelines and the 2013 Sexual Harassment of Women at Workplace Act, sexual harassment claims have not been adequately addressed by the Indian legal system.

II. WORKPLACE HARASSMENT

According to Williams (2001), physical assault, inappropriate behaviour, and verbal or physical abuse directed at a single employee or a group of employees constitute workplace harassment. The act of subjecting another person to demeaning behaviour at work, such

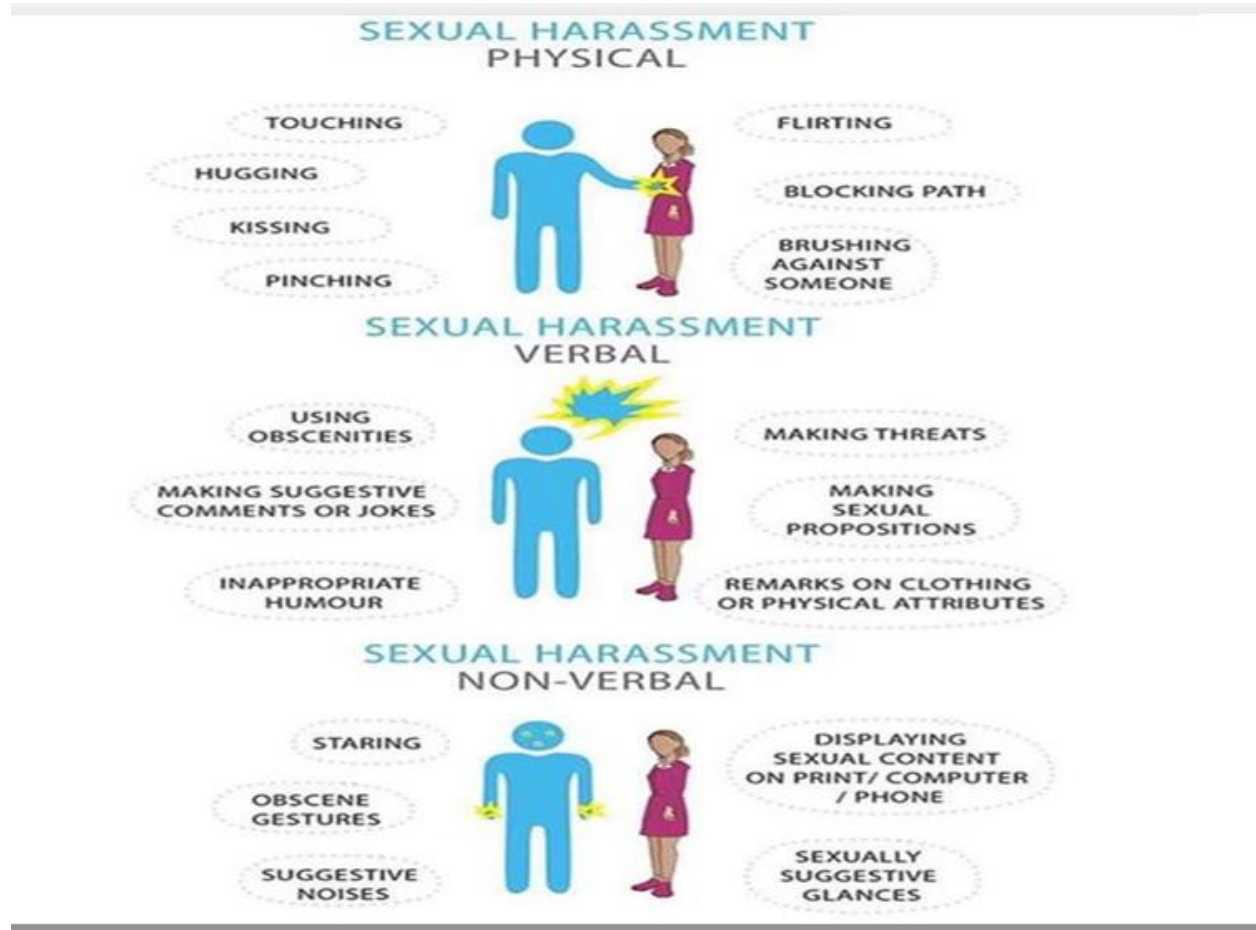
as verbal abuse, threats, or actual physical violence, can be considered workplace harassment. The harassed person's boss, a coworker, or a subordinate may be the one who is harassing them.

One typical misconception about workplace harassment is that it is just sexual harassment that occurs at work. The United States Department of Labour defines workplace harassment as being more than just sexual harassment, despite the fact that it is a common form of workplace harassment. It might involve 'quid pro quo' harassment, which is when decisions about how to treat you at work are based on whether you accept or reject unwanted behaviour, usually sexual behaviour. Workplace harassment can also include offensive behaviour directed at one or more of the aforementioned protected groups that is so severe or pervasive that it fosters a hostile or offensive work environment or when it leads to a negative employment decision (like being fired, demoted, or paid less). Therefore, sexual harassment is included in the larger category of workplace harassment.

Sexual harassment at work is a continuation of violence in daily life and is exploitative and discriminatory because it interferes with women's right to life and livelihood. It is a violation of a woman's fundamental rights to equality under Articles 14 and 15 of the Indian Constitution as well as her right to live in dignity under Article 21. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) was ratified on July 9, 1993, and India became a signatory.

Types of harassment

A wide range of actions is considered to be sexual harassment, including sideways glances, crude jokes, derogatory remarks based on gender stereotypes, sexual assault, and other physical acts of violence. Such harassment may, but need not, take the form of something that prevents employees from doing their jobs, makes employment a requirement, or fosters an environment that is intimidating, hostile, or offensive.



III. VISHAKHA JUGDEMENT

Our society has long struggled with sexual harassment, whether it takes the form of gender discrimination or not. The Supreme Court took into account workplace sexual harassment in India in the case of Vishakha v. State of Rajasthan. In order to fill the gap left by inadequate legislation and offer redress for "sexual harassment" at work, which violates a fundamental right, the Apex Court acknowledged the urgency of establishing guidelines. The Supreme Court also made reference to several Constitutional clauses that depicted judicial intervention as being necessary to eradicate this social crime. The articles 15, 42, 51, and 51A were mentioned. The Vishakha Guidelines were developed and became a legal requirement based on the UN CEDAW, an international treaty that the Indian government signed and ratified.

Vishakha & Ors v State of Rajasthan (1997):

Bhanwari Devi, a state government employee from Rajasthan, made an effort to stop child marriage as part of her responsibility as a Women Development Programme employee. Because she spoke out against the feudal patriarchy, she was repeatedly raped by the Gujjar community's landlords. The Rajasthan High Court did not uphold her rights, and the rapists were permitted to walk free. As a result, a number of other women and non-profit organisations joined Vishakha to file a petition with the Supreme Court.

Features of Vishakha guidelines

- Make women's working environments safer.
- It is the employer's responsibility to file a complaint if an employee's behaviour amounts to a criminal offence.
- All organisations must establish complaint redressal committees.
- If an employee is sexually harassed, the employer must assist her.
- It is the employer's responsibility to raise awareness in his organisation about women's safety and sexual harassment issues.

Post-Vishakha Scenario:

Prior to the 2005 introduction of the Bill for Protection of Women from Sexual Harassment in Parliament, India lacked any legal protections. Finally, a law prohibiting sexual harassment of female employees at work was passed in India in 2013. By way of the Indian Gazette, the Sexual Harassment of Women at

Workplace (Prevention, Prohibition, and Redressal) Act, 2013 went into effect on April 23, 2013. This Act replaced the Vishakha guidelines put in place by the Indian Supreme Court.

IV. (SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PROHIBITION, PREVENTION AND REDRESSAL) ACT, 2013

It became an extreme requirement to enact legislation that dealt solely with SHW at the workplace and included a redressal mechanism. The Parliamentary Bill for the same received Presidential assent on April 22, 2013 and went into effect on December 9, 2013. The Act is applicable throughout India. It defines an aggrieved woman as a woman of any age who claims to have been subjected to sexual harassment by the respondent, whether she is employed or not. An employee is defined in this Act as a person employed at a workplace for regular, temporary, ad hoc work, or on a daily wage, whether employed directly or through an agent, with or without the knowledge of the principal employer, whether or not for remuneration, working voluntarily or otherwise. Domestic workers benefit as well.

The PoSH Act addresses the establishment of Complaints Committees, Internal Committees (IC) and Local Committees (LC). The IC can be established in companies with more than ten employees. Complaints from businesses with fewer than ten employees are directed to the LC.

The IC, on the other hand, has been given the same powers as the Civil Court for the purpose of conducting investigations. A domestic committee with no members from the legal profession is vested with such authority. It should be made a strict requirement to have at least one member with legal knowledge. The provision for submitting a written complaint to the Committees appears to be limited. In some cases, the distressed woman may not be literate enough to file a complaint. Such a provision should be amended to make it possible to file an oral complaint with the appropriate authority.

V. #METOO

In India, the #MeToo Movement began in October 2018 with the accusation of sexual harassment leveled by actress Tanushree Dutta against Nana Patekar while

they were filming 'Horn Ok Please' in 2008. It was followed by a series of stories shared on social media by various women with diverse professional backgrounds. Many well-known celebrities, producers, and politicians, including Alok Nath, Sajid Khan, Vikas Bahl, M.J. Akbar, and Former CJI Ranjan Gogoi, were swept up in the #MeToo movement.

Many people supported #MeToo, but there was also a lot of criticism. One positive outcome of his Movement is that discussing and raising awareness about "sexual harassment" is no longer considered taboo. It has become encouraging and reassuring to see other victims come forward and share their stories. It aids in the identification of unreported cases. Men have also begun to police how they act around their female colleagues or friends. Since the beginning of the Movement, private companies have committed to allocating a specific budget for HR training and organizing workshops for their employees. They are also developing stricter workplace SHW policies. Such training programs and workshops have made men realize that their behaviour around females was toxic and needed to change.

VI. WAY FORWARD

- Holistic Approach needed- Women's empowerment must occur at all levels and in all sectors if it is to become strong, widespread, and effective.
- Effective networking between grassroots women activists, intermediary level activists, women in government, media women, women politicians, women academics, women artists, women entrepreneurs, and others is required.
- We need education to help women not only read and understand the written word, but also to read, understand, and control our world and shape their own destiny.
- Women's Empowerment remains an ongoing struggle and it cannot be won without the cooperation of society as a whole.

VII. CONCLUSION

Harassment in the workplace is a worldwide problem. It is deeply ingrained in Indian society and remains prevalent today. It must be eradicated because it

behaves like a disease. The government must ensure that both men and women have a safe environment. Because an individual spends roughly one-third of their day at work, they must be assured by their employer of an environment free of sexual harassment. The government must make the 'constitution of IC' mandatory in any organization that has at least one member with a legal background or profession. The government should not only change the legislation but also monitor how it is implemented at the primary level. It is past time for the government to take firm steps to reduce, if not eliminate, workplace "sexual harassment" and give meaning to the term "gender equality." In India, #MeToo encouraged people to discuss workplace harassment openly on social media, which led to a review of workplace laws and the creation of safer workplaces for women. This was something that had not previously been done.

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