Sexual Harassment at the Workplace in Public and Private Sectors in India: A Study at National Capital Region of Delhi

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Abstract

This study aims to understand the prevalence of sexual harassment at workplace in public and private sectors in selected regions of National Capital Region of Delhi, India. A comparison between the two sectors will focus on the awareness about the existing laws, resistance to sexual harassment at workplace and also to identify the common factors playing crucial role in cases of sexual harassment. Due to time and money constraints the study is conducted with 100 samples (50 from public and 50 from private sector) and it does not aim for generalization, but, it intends to collaborate legal viewpoint on sexual harassment at workplace with respondents’ outlook to tackle this issue.

Keywords: Sexual Harassment, Women, Workplace, Delhi.

Introduction

Women’s rights and issues have always been a subject of serious concern of academicians, intelligentsia and policy makers. From pastoral society to contemporary information and global society, the role of women has changed drastically. The role of a typical “Grihani” (housewife) who catered to all the requirements of the households including the rearing and upbringing of children in various sub roles of daughter, daughter-in-law, wife, mother, aunt etc. has been played quite efficiently alongside being a working women. The continuity of changes in socio-economic and psycho-cultural aspects of human living has influenced the role of women. With the process of industrialization, modernization and globalization showing its deep impact on the human society all over the world, the role and responsibilities of women has attained new

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definition and perspective. The women issues have received tremendous attention in the planning circle and in wide intellectual discussions and forums at national and global platforms. However the existing lacuna in the formulation and execution of the policies has not changed the grass root situation to a great extent. On the encouraging front, in the South Asian Countries there have been relatively increasing economic participation in past one decade. Statistically, the rate of literacy among women has also increased. The educational and occupational patterns have also changed and widened with women entering the domains, which till decade was considered to be dominated by men. Further there has been encouraging rise in the percentage of the women joining service sector especially Banking and Information Technology. In the background of the gigantic transformation, the core issue, which still remains unanswered, is that of women’s right and empowerment. There is a need to understand the term ‘legal empowerment in ensuring right to justice’ as guaranteed by Indian Constitution; wherein right to justice initiated with making legislation, its implications and successful implementation through separation of powers.

Many use the term “legal-empowerment” and “access to justice” without understanding what it really means. It is easy to define empowerment by its absence but difficult to define in action as it takes on different forms in different people and contexts. Even defining the concept is subject to debate. Asserting a single definition of empowerment may make attempts to achieve it formulaic or prescription-like, contradicting the very concept of empowerment. A literature review resulted in no clear definition of the concept, especially one that could be used in cross-disciplinary lines. Page and Czuba (1999) define women’s legal empowerment and access to justice as a multi-dimensional social process that helps people gain control over their own lives, a process that fosters power in people for use in their own lives, their communities and in their society, by acting on issues they define as important. According to them, the core of the concept of access to justice is the idea of power. Power is often related to the ability to make others do what we want, regardless of their own wishes or interests (Weber, 1946). Traditional social science emphasizes power as influence and control, often treating power as a commodity or structure divorced from human action (Lips, 1991).

Independent India for the past five decades has been trying to protect women from violence and discrimination and to strengthen their entitlements in the social and economic fields through scores of schemes, policies and programmes. In the institutional area, independent administrative departments, development corporations and commission for women have spring up at the centre as well as in the states. Also women’s movement and their network with the international community often give forceful expression to women’s enlistment and issues in legislature, executive and judiciary for reviewing the age-old principles of patriarchal society. Yet, the status of women from all the sections of the society is mixed and not substantially altered. In the face of global competition traditional economic occupations of women have withered. In the new economic regime, the withdrawal of the activities of the state leaves the women in cold. Further gender blind legislation and laws are extending its coverage of shadow on women.

Surprisingly, the empowerment of women is one of the central issues in the process of development of countries all over the world, not just India. These issues of gender equality are an area of discussion in National and International Conferences, research studies, various forums and even establishing of special departments for women welfare.
The imperative of gender partnership in matters of development has been widely recognized and institutional mechanisms and interventions have been consciously built into the development design.

It has only been since the 1990s, when women have been identified as key agents of sustainable development and women’s equality and empowerment are seen as central to a more holistic approach towards establishing new patterns and processes of development that are sustainable. Though the principal of gender equality was recognized in the United Nations Charter in 1945 and the UN Declaration of Human Rights in 1948, the majority of development planners did not fully address the role of women in development process. In 1975, the first UN Conference of Women and Development was held at Mexico under the motto, ‘Equality, Development and Peace’. The need to integrate women into development was internationally proclaimed in the 1995 Beijing Conference.

The Economic Survey (1999-2000) used an entire section on gender inequality. It began with a reminder of the commitment made in the ninth plan document of allocating 30 per cent of resources for women’s development schemes through Women’s Component Plans. According to Menon and Prabhu (2001), there was a strong plea for investing in women’s equality on the ground than this made economic sense and spoke of the social rate of return on investment in women being greater than the corresponding rate for men. According to Robeyns (2003), women’s development can be attained by improving her status and bargaining power in the economy. Nussbaum (1995) argues that approaches and strategies for women empowerment could be possible by outlining the mechanisms and tools that will influence their empowerment and they are unable to realize their full identity and powers in all walks of life.

The World Bank has suggested that empowerment of women should be a key aspect of all social development programs (World Bank, 2001). Since the 1980s the Government of India has shown increasing concern for women’s issues through a variety of legislation promoting the education and political participation of women. International organizations like the World Bank and United Nations have focused on women’s issues especially the empowerment of poor women in rural areas. In the late 1980s and early 1990s, non-governmental organizations (NGOs) have also taken on an increased role in the area of women’s empowerment. NGOs, previously catering to women’s health and educational needs, have moved beyond this traditional focus to addressing the underlying causes of deprivations through promoting the economic and social empowerment of women (McNamara, 2003).

**Conceptual Analysis of sexual harassment of women at workplace**

The chronological paradigm shift in defining the sexual harassment at workplace marked victory for the Indian working women from all the sectors viz. public and private. Articles 14, 15 (1) and (3) of the Constitution of India affirms gender equality, no discrimination on grounds of sex and to make special provisions to counter any discrimination. In the year 1988, issue of outraging the modesty of a woman was raised in *Rupen Deol v. KPS Gill* (1995 SCC (6) 194). It is followed by the infamous *Vishakha Guidelines* (1997) that specifically set norms and guidelines to tackle sexual harassment at workplace in India. Also, in *Apparel Export Promotion Council Vs. A.K. Chopra AIR 1999 SC 625* the Apex Court defined the corollary towards sexual harassment while deciding an issue whether the act of a senior official (wherein such senior officer tried to molest his
junior woman employee) would amount to sexual harassment, the Court relied on the definition of the term 'sexual harassment' laid down by the Supreme Court in the Vishaka Judgment held that "the act of the respondent was unbecoming of good conduct and behavior expected from a superior officer and undoubtedly amounted to sexual harassment...".

Finally, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (SHW Act) came into force to provide safe working environment for the women employees only in India. It also directs an employer to endow healthy working environment, constitution of internal complaints committee, etc. The main objective of SHA Act talks about three tire system of protection, prevention and redressal from sexual harassment at workplace and related matters. In its entirety, sexual harassment is infringement of guaranteed rights under the Constitution of India viz. right to equality (Article 14), right to profession (Article 19), right to live life with dignity (Article 21), welfare state (Article 38), duty to obey and maintain the women respect and dignity (Article 51 A). An act of sexual harassment includes any unwelcome acts or behavior (express or by implication) such as physical contact and advances, demand or request for sexual favors, making sexually colored remarks, showing pornography or any other unwelcome physical, verbal or non-verbal conduct of sexual nature. It should be an act done in a series to understand the \textit{malafide} intentions of perpetrators. It may affect the emotional, social, psychological and in some cases physical health of an aggrieved woman or victim. It provided a well framed mechanism to file a complaint, its recourse, penalty and action against employer in case of non-follow of any complaint registered. The Act went one step ahead and included various issues which remained unaddressed in the past such as extension of the definition of workplace to include almost all types of establishments including private sector organization, third party in case sexual harassment happened during travelling, hospitals, sports complex, dwelling places or houses, inclusion of the term domestic worker and unorganized sector in order to address the issue of sexual harassment of women.

Furthermore Section 354-A of the Criminal (Amendment) Act, 2013 (Crml. Act, 13), sexual harassment has been defined which may lead to punishment for up to three years of imprisonment or fine or both. Interestingly, both the SHW Act and Crml. Act, 13 are gender-specific in nature, wherein only men could be blamed for sexual harassment of female. Moreover, the SHW Act has failed to differentiate the terms of ‘sexual harassment’ and ‘gender harassment’.

However, Panday (2015) asserted that a third of Indian Corporations and a fourth of global companies surveyed in the country were not compliant with Sexual Harassment Act 2013. Further it has been quoted that number of sexual harassment complaints at workplace raised to 526 in year 2014 as compared to 249 cases in year 2013. Nonetheless, the Supreme Court’s guidelines for the prevention of sexual harassment at workplace came in the year 1997, i.e., almost 2 decades ago but still the incidences of sexual harassment are prevailing (Basu, 2003). The prevalence of sexual harassment is lot more than what it actually appears in Indian society (Bhattacharyya et al. 2013). The clandestine modus operandi from the perpetrator in conservative society gives confidence to the potential offender. The tendencies to remain silent due to the fear of stigmatization make such instances even worse for submissive and introvert victims. This is silently affecting lives of many innocent employees and instills irreversible abnormalities in behavior which would further hamper their relations with others (Chiodo et al., 2009).
The Study

This study aims to understand the prevalence of sexual harassment in the Universe selected as Delhi (Public Sector) and Gurgaon (Private Sector). The Data was collected through purposive sampling method. The important variables apart demographic ones are: Awareness, Victimization, Reporting Behavior and the Impact of Sexual Harassment. The objectives of the study discusses awareness and reporting behavior of respondents irrespective of gender (in lieu of UN Campaign ‘He for She’), examine the victimization and related effects on professional tranquility and finally to suggest preventive measures for sexual harassment at workplace.

Major Findings

The demographic features of the respondents are as follows: Majority of respondents was female (56.3%) and majority of respondents belonged to the private sector (63.5%). Only 36.5% of respondents belonged to public sector.

The major findings of the study are categorized in terms of objectives. On awareness issue figure 1 shows that, majority of respondent perceived sexual harassment to be a crime (60.4%). This shows that nearly 40% of respondents do not think of sexual harassment as a crime.

Figure 1. Awareness of sexual harassment

Kath (2005) in her research mentioned about existence of incorrect perception of sexual harassment amongst employee is due to lack of emphasis by the organizations on sexual harassment training program at employee’s induction level. Kath’s study was conducted in the US which has totally different workplace culture as compared to India but considering the fact that majority of workplace in India comes under unorganized sector, the lack of awareness training on sexual harassment too becomes a major issue in India.

It was found that majority of respondents were not aware of the Supreme Court’s judgment on Vishaka (70.8%) (Figure 2).
Among those who were aware of the Supreme Court’s Judgment, majority of these came to know about it due to academic/professional course (18.8%) (Figure 3).

This shows that on general level other mediums like Radio/TV, Newspaper/Magazine and Internet were not utilized adequately to spreads the word amongst masses on the Supreme Court’s guidelines. It is nearly two decades now since the Supreme Court gave its judgment in Vishaka case but still common masses are unaware of it.
Majority of respondents were aware of having an Internal Complaints Committee at their workplace (87.5%) (Figure 4).

**Figure 4. Awareness about Internal Complaint Committee at Workplace**

However, the situation of complaints committee at national level may not be as sound as it is on papers. The Indian National Bar Association conducted a survey of more than 6,000 participants from major cities of India and found that 69% of respondents feared of complaining about sexual harassment against them and 65% of respondents stated that their organization do not adheres to the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. As a result of it, 66.7% of respondents do not feel that Complaint Committee in their organization is working properly (Firstpost, 2017). On closer examination of these complaint committees, there is high possibilities of other discrepancies as well, such as, Complaint Committee headed men (as per guidelines, it has to be women), lack of third-party association or no involvement of NGOs in Complaint Committees, less than required representation of women members in complaint committees and in worse cases there may not be a complaint committee set up at all.

The second objective focused on understanding the reporting behavior of the respondents. Figure 5 shows that majority of the respondents were of the opinion that they would seek redress of sexual harassment from ‘Employer-Employee meeting/Human Resources-Administration department/Complaint Committee’ (36.5%) and 8.3% of respondents felt that they would consult their senior officers. However, only 1% of respondents stated that they would go to the Police.
Considering that complaint committees are not working properly around the country and despite that if citizens are unwilling to report cases of sexual harassment to the police, it shows that the victim of sexual harassment do not look up to the formal social system (police and complaint committee) and rather refer to informal social system (seek support from friends, family and senior officers for advice). In India, a lot of room for improvement is there for formal social systems to gain trust of common citizens.

Considering the work culture of their organization, figure 6 shows that majority of the respondents believed that in case of sexual harassment occurring to any women, she would complaint the matter to Internal Complaint Committee (64.6%) and 27.1% feels that first the woman would discuss the matter with her colleagues and then would take appropriate action. 4.2% of respondents felt that they would rather remain quiet and ignore the acts of senior than taking any action against the perpetrator. It was found that only 1% of respondents would chose to humiliate or take revenge instantaneously if they face sexual harassment.

On being asked ‘what the respondent would do in case of finding a female colleague being sexually harassed by a senior officer’, figure 7 shows that majority of the respondents preferred to ‘strictly communicate with the officer and warn him to not repeat it’ (47.9%). This shows that there is a wider sense of hesitation amongst respondents to take the matter to Complaint Committee.
Figure 6. If two seniors passed lewd comments, what a woman employee would do?

- Remained quite & ignored her senior’s actions: 1%
- Discussed the matter with her colleagues and decided thereafter: 4.20%
- Complained the matter to internal complaint committee: 27.10%
- Tried to convince her that this is part of healthy office flirting: 64.60%
- Would slap/humiliate or take revenge instantaneously: 1%

Figure 7. Senior officer harassing female colleagues, what would you do?

- Try to convince her that this is part of healthy office flirting: 1%
- Advise her to move to some other division: 6.30%
- Strictly communicate with the officer and warn him not to repeat it: 47.90%
- Take the matter to Internal Complaint Committee for further action: 1%
Awasthi (2007) justified this behavior by stating that majority of the complainant in India faces cross-enquiry and isolation by colleagues which might also lead to more sexual harassment of the complainant by the offender to take revenge. Hence, it could force the victim to weigh other options of compromising with the offender before taking the matter to the complaint committee. It was also found that 6.3% of respondents would advice the victim of sexual harassment to change her division or department. Workplace culture in India gives a considerable parking space for ‘shaming and labeling’ by colleagues that makes the victim helpless and force her to resort to defensive measures rather than taking strict action against perpetrator/s.

It was also found that majority of respondents feels that they would inform to their family if they are victimized (72.9%) and they think that their family would advise them to step towards reporting the matter (57.3%). Figure 8 shows that 9.4% of respondents believed that their family would warn the harasser whereas 8.3% of respondent’s family would neglect the harassment in order to avoid bad name to the family. 5.2% of respondents feel that their family would make them leave the job without taking any action against harasser.

Figure 8. Reaction of the family members

It seems that despite being urban areas (New Delhi and Gurgaon) significant number of families would not be willing to report the matter. Due to lack of support from families of women employees in workplaces of India, a significant number of victims do not feel confident to come forward and raise their voice against perpetrators.

A significant relationship was found between having an Internal Complaint Committee at Workplace and tendency to inform to their families in case of victimization (Chi Sq. Sig. [2-Sided] = 0.003) (Table 1).

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It appears that having a redress mechanism at workplace psychologically encourages the victim to open up and share problem with family as well. This suggests that not having an Internal Complaint Committee shall be detrimental to the existence of victim of sexual harassment because there would be no one to look up to for sharing her grievances. This may in worse case could possibly yield to self-inflicting/chronic depression/suicidal tendencies as well. It was also found that majority of respondents relying more on in-house justice (warning to harasser [27.1] & dismissing him/her [19.8%]) rather than taking the matter to the police (14.6%) (figure 9).

The reason for the respondents not reporting to the police was that majority of respondents feels that there is lack of support from others (30.52%) and it would damage their reputation (29.47%). Also, 22.1% of respondents had no trust in police (figure 10).

In order to improve public reporting behavior, organization management shall ensure induction awareness training that also includes a module on importance of support system from colleagues in instances of sexual harassment. A victim shall not be made to feel humiliated by other staffs. Further, lower level of trust in police shows that police department needs to organize meetings and programs that are aimed for developing stronger relationship between police and public.
In terms of victimization, majority of respondents were not harassed sexually at their workplace (92.7%). Among those who were sexually harassed, 3.1% of respondents stated that it was done by their Superior Officer and one respondent was harassed by a co-worker. Also, it was found that at the time of sexual harassment, 4.2% of the victims had work experience of less than one year. In terms of frequency of sexual harassment, it was found that 3.1% of victims were sexually harassed once and one respondent was harassed between 2-5 times. In another test a significantly moderate correlation was found between ‘the way family reacts to sexual harassment’ and ‘the opinion of the respondent to seek redress of sexual harassment’ (Pearson Correlation = 0.569; Sig. [2-tailed] = 0.000) (Table 2).

### Table 2. Chi-Square Test for relation between reaction of family members and opinion to seek redress of sexual harassment

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<th>Reaction of family members/friends</th>
<th>Pearson Correlation</th>
<th>Opinon to seek redress of sexual harassment</th>
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<td>Sig. (2-tailed)</td>
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**Correlation is significant at the 0.01 level (2-tailed).**

As majority of respondents stated that their family would advise them to take steps towards reporting the matter leading to majority of respondent’s opinion of ‘complaining to grievances cell’. This shows that family support is vital in encouraging the victim to seek for justice from appropriate authorities.
The respondents who were sexually harassed, it was found that they have suffered significant impacts in terms of Physical [Sleeplessness (4), Headache (1) & High Blood Pressure (3)], Psychological [Anxiety (3) & Depression (4)], Emotional [Anger (3), Confusion (3), Powerlessness & Disgusted (1)] and adverse effect on work performance [unable to concentrate (4), lost motivation to work (3), frequent absenteeism & unable to interact with coworkers (4)].

Preventive Measures

The study’s practical implications lie in its suggestions for wide scale awareness on the Supreme Court’s judgment and dissemination of preventive strategies in work place environment. The study showed lack of awareness among the respondents on Supreme Court’s Guidelines on Sexual Harassment because it was found that the information resources like TV/Radio, Newspaper and Magazines has not taken enough initiatives to spread the word. It is a matter of consideration that a motivated offender with wrong intent is likely to sexually harass a woman colleague even if he is aware of the Vishakha judgment. For this type of cases, it is important to sensitize right from childhood. This could be done by introducing sexual harassment related issues from school to university level. Students shall be encouraged to participate in debates and discussions about understanding nuances of sexual harassment and preventive measures for it. Police too have an important role to play here by extending support through community meetings and encouraging families to discuss these issues with their children. These practices shall lay a social foundation against prevention of sexual harassment in workplaces and beyond. Another influential player is religious institution that should include relevant social issues as well in their preaching. Considering the mass following, few lessons on prevention of sexual harassment at workplace would have a larger positive impact in society.

It was also found that in the present study majority of the respondents were unwilling to report the matter to the police; it calls for the support of police organizations to be more approachable and friendly. Police department may consider hosting awareness and discussion programs on various issues (which may not be restricted to sexual harassment issue only). This would help in building trust in police and could further improve the public’s reporting behavior. On practical grounds, prevention of sexual harassment needs different approaches for organized and unorganized sector. In organized sector, there is a need for sensitizing each and every member of the organization, taking swift and fair disciplinary action even in case of a misdemeanor and linking conduct of the employee with the annual performance report amounting to discretion for giving promotions. In case of unorganized sector, NGO’s have a crucial role to play. Presently, Government of India may not be able to reach each and every unorganized sector in nooks and corners of urban settings to the workplace at grassroot level. NGO’s are able to extend their reach and could act as para-governmental bodies. It would be difficult to prevent sexual harassment in unorganized sector because majority may not be educated and sensitive to women rights. What happens in workplaces in unorganized sector is actually an extension of situation of women in domestic settings of employees of unorganized sector. Here, NGOs not only need to target unorganized sector but informal social systems as well (family and peer groups) and create of sub-culture that ensures women’s safety and protects her dignity in and beyond workplace environment.
On a positive note, majority of the respondents were aware of having an ‘Internal Complaint Committee’ at their workplace, they have never been sexually harassed and were willing to share it with their family if in case it happens. Overall, in terms of sexual harassment issues at workplace, Delhi and Gurgaon may be termed as safe place to work.

Conclusion

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 was introduced when the legislators felt that Vishakha Guidelines are not adequate to ensure safety of women at workplaces in India. Now that the Act is there, the incidences of sexual harassment are still happening. It may be due to poor implementation of guidelines emphasizing on institution of Internal Complaint Committees or maybe the collective public conscience is not promoting equal and safer existence of women in India. Due to various social-cultural-economic factors the man-woman relationship is made into a power dynamics of superior-inferior type which is underlying feature for gender based discrimination in India. It is evident from here that before implementing the SHW Act, 2013, a lot of socio-cultural ground work for women equality needs to be done.

The process of globalization has increased the number of women workforce in organized and unorganized sector and the in many cases we could see a role reversal of a woman being bread-winner of the family. The times of changes in gender relations needs to be complemented well with the progressive mentality of the society in order to attain gender justice. For the preventive effect of the SHW Act, 2013 to take place, the involvement of all stakeholders is important and the efforts should start with bottom-up approach. The informal systems (family, friends, and religious institutions) of the society need to propagate the idea of gender equality. So far, the SHW Act, 2013 is not able to ensure safety of women at workplace in India because the ideology of women safety is still not absorbed well in the workplace environment at all levels equally. A lot of sensitization need to be done in unorganized sector and this shall be done effectively if organized sector come forward to do that. A model may be created where the sensitized segment of workforce shall organize awareness camps and hold public meetings with the unorganized sector on awareness and sensitization regarding sexual harassment at workplace and its preventive measure. It shall not only aware the workers at lower strata but shall also reinstate the values of gender justice across all levels of workers in organization.

Limitations of the Study

As far as limitations of the study goes, the study was initially aimed for 100 respondents irrespective of gender (50 from public and private sector each) although only 95 samples were found to have given complete responses. Also, seeking permission from Head of the Department in public sector is mandatory before data collection; which was a major hindrance in the process of data collection. It was also observed that most of the respondents were reluctant to participate in the study. However, such respondents were convinced that there wouldn’t be any ramification on their career due to the present study. Another major limitation was lack of national statistics from an authentic source for referring because there is as such no centralized mechanism to collect data on incidences of sexual harassment comprehensively. It is only since 2014, that National Crime Records...
Bureau has been collecting data under the Section 509 of IPC (Insult to the modesty of women at office premises and other work place).

References


