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Sexual Exploitation of Women at Workplace

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ABSTRACT

The paper analyzes the despondency of women in a workplace when she has to fight to prove her existence in a gender-biased society on one side of the hand and tormented incidents harassment of woman on the other. Efficacious legislation came up in the year 2013 as "Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal)". Despite coming of this Act, women are continuously subjected to sexual harassment at the workplace due to some major shortcomings of this Act which has been rightly pointed by many scholars and jurists. The paper also throws light over the legislative measures which have been taken and laid down to establish a more equitable platform of working place for women.

Keywords: *sexual harassment, legislature, fundamental rights, work-placework-place, discrimination.*

I. INTRODUCTION

The Sexual harassment at workplace against women remains a stern example of sexual exploitation, and the incidents of sexual abuse and harassment must not in any case be tolerated as it leads to compromising with the principle of '**Righ to Equality**' of the women by pointing at the dignity and well-being of the woman.²

The keyword 'sexual harassment' might be a new terminology for many people in India but undesirable and unpalatable actions of a sexual character, otherwise known as "eve-teasing," is not a brand new occurrence in India, it is, in fact, has become part and parcel of women's life. In order to get familiar with the grievances of woman going through sexual harassment we all must focus our attention towards suffering of these women as no one can explain the sufferings better than the women who have actually gone through it. Whenever a question is asked as to "**what sort of disturbing thoughts come in your mind whenever you go through the memory of sexual harassment in past** ", they mentioned the term '**uncaring**' it means that none of them got enough support at that time. Whenever any incident of sexual

¹ Author is a student at Amity Law School, Noida, India

²An. L.O., Report of the Committee of Experts on the Application of Conventions and Recommendations (articles 19, 22 and 35 of the Constitution): General Report and observations concerning particular countries, Report III (Part 1A), 91st Session of the International Labour Conference, Geneva, 2003, page 463.

harassment takes place woman often narrates the dominating character of men and their perception and instead of blaming the perpetrator they start blaming themselves for the incident of sexual harassment³ Women after going through the incidents of harassment start considering themselves as 'abnormal', 'vulgar' 'cheap' and person who should be subjected the violence⁴

II. LEGAL PROVISIONS

National Commission for Women (NCW) took the initiative to draft the first Bill on protecting women from sexual harassment at workplace, which underwent several changes⁵. Finally, the act meant for the protection of "**Women from Sexual Harassment at Workplace, 2013**" was introduced after a series of changes. This Act has emphasized over the definition of 'aggrieved woman' in Section 2(a) as a woman of any age who has been subjected to sexual harassment at a workplace, house or dwelling house, whether employed or not by the accused. Section 2(n) of the Act has almost reiterated the definition of sexual harassment laid in "**Vishakha v. the State of Rajasthan**". 'Section 2(o)' of the Act has expanded the definition of the workplace, and it includes Government, private, NGO, agreeable society, trust, sports, arena, instruction, entertainment, emergency clinics, industry, complex, specialist organization and dwelling buildings . Even a woman who goes to certain place due to the employment reasons and for the work of office as a employee. ⁶

Section 3 of the Act has laid down the most crucial provision preventing Sexual Harassment at the workplace; a person would be guilty of committing an offence under this Act if he behaves in any manner laid below:

- (I) inferred or unequivocal guarantee of equal treatment at workplace; or
- (ii) the inferred or unequivocal danger of inconvenient treatment at her working organisation; or
- (iii) the inferred or unequivocal danger about her present or future business status; or
- (iv) obstruction with her work or making a scary or hostile or threatening at workplace for her; or
- (v) mortifying treatment liable to influence her wellbeing or security.

³ The Impact of Sexual Harassment on Women (<http://www.legalserviceindia.com/helpline/help6.htm>).

⁴Sexual Harassment at Work Place and its Implications, 1.1 NLIU LR (2010) 175 at page 183.

⁵Archana Sarma, Discrimination Against Women at Work-place in India: A Legal Perspective.

⁶Mohd. Ashraf and Sajid Hamid, *Sexual Harassment in India: A Social Menace*.

Section 4 of the Act requires every employer who has employed more than ten employees to constitute Internal Complaints Committee (ICC) on the other hand if the employees employed are below ten then the Constitution of Local Complaint Committee (LCC) under section 6 of the Act. Section 9 has laid down the provision in consonance with the filing of a complaint by the supposed aggrieved. Under this Section, a woman can file a case after the expiration of the term of three months if the inbuilt Committee finds the reason given by the complainant as valid. Section 15 of the Act has laid down the provision for determination of compensation to be to the aggrieved party. Compensation will be ascertained by keeping factors like the mental trauma, loss of career opportunity, medical expenses in case of any bodily injury, financial status, the feasibility of payment in mind.

Section 16 has been laid down to protect the identity and to maintain the confidentiality of the complainant, and the provision of punishment has been laid down in Section 17 of the Act. In this case, 12 guidelines were laid down by the court; guidelines are as follows: ⁷

- i) It will be obligatory for the business or other employer capable in charge of authority at working places to forestall or dissuade the commission to lay down methods of resolution, settlement, inducement for those who are subjected through sexual harassment.
- ii) Definition of Sexual Harassment has been laid down.
- iii) All the employers, whether in the public or private sphere in charge of authority, must create an environment suitable for the women to work and must take preventive measures to combat sexual harassment at the workplace.
- iv) To initiate proper action in accordance with the provision of the Indian Penal Code if any female employee wants to initiate a case of criminal proceeding against the accused.
- v) Disciplinary action should be taken against the person in the circumstance where the Act committed is of serious nature.
- vi) To protect the rights of women at workplace, it's important to establish an appropriate complaint mechanism in order to encourage women to raise their voice for their own right.
- vii) A complaint committee should be established at the workplaces, which would comprise counsellor and other support services, and they would be wholly

⁷*Vishaka v. the State of Rajasthan*, (1997) 6 SCC 241: 1997 SCC (Cri) 932 at page 252.

responsible for maintaining the confidentiality of the women who come for support.

- viii) Meetings should be organized at workplaces where employees must be allowed to put their point in front of officials in charge of maintaining their security at the workplace
- ix) Female employees should be made aware of their rights which they possess at workplace.
- x) In the case where the third party is involved and it should be the duty of the employer to assist the affected employee and take necessary steps to safeguard her modesty.
- xi) The Central/State Governments should take responsibility to encourage private employers to implement these guidelines as well.
- xii) These rules won't come in strife with any rights accessible under the Protection of Human Rights Act, 1993.

Section 26 of the Act also prescribes punishment against for an employer who fails to constitute Committee or fails to implement the recommendations of Committee⁸. The initial fine is 50,000 though it will continue to increase if the employer still doesn't comply with the direction.

This Act invigorated many female workers to raise their voices against the officials at their workplaces; on the other hand, this Act was criticized on many grounds. Many suggestions were recommended to make it more accessible, so those female employees could reach the Committee with their grievance without hesitation.

But the question which still persists is whether the implementation of such law is enough to curb the practice of demeaning women at the workplace? And the answer stands as no. Nothing can be perfect, and thus this legislation is also one of an example of imperfection.

III. LACUNAS IN THE LEGAL PROVISIONS

After the implementation of *the 'Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act', 2013*, many questions were raised over the credibility of Legislatures while formulating this Act. Legislatures were confounded to ignore the recommendations made by the Verma Committee when the Bill was pending in Parliament.

⁸Neeraj Gupta, Legislative Trends: The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013II JCLC (2014) 217.

The Advisory group recommended that the ‘**Section 10(1)**’ of the Bill, which proposes mollification between the person in question and the individual charged must be discarded as such an arrangement subverts the pride of the ladies who muster strength to complain and considerably more⁹. Verma Committee also pointed at Section 14 of the Bill which laid down the provision for punishment for women who registers a false complaint under this Act. According to The Verma Committee, the whole purpose of the Act will be nullified due to the presence of such provision. The most important recommendation was to establish an employment tribunal instead of dealing with the matters of sexual complaints within the internal complaint committee, according to Committee, this will nullify the whole purpose of the aforementioned Act. However, none of the recommendations was taken into consideration, and the Act was introduced.

Legislatures must establish a new committee to give recommendations or the legislatures must focus on the recommendations which were laid down by Verma Committee. It is becoming increasingly important for the legislatures to realize the danger in which the women are in the workplace. Legislatures should not wait for another instant like that of Vishaka case to take place to bring a new series of amendment for the protection of women at the workplace.

IV. CONCLUSION

Sexual assault in an offence which tends to destroy not just the integrity and dignity of women however also shatters the essence of mankind into tatters and torn. This offence signifies an attempt towards rupturing the modesty and dignity of women. In a country like India where there are scriptures as well as religious texts that have always been preaching the significance for respect to women, their undisputable prestigious position inside the society, the alarming increase in the cases of sexual assaults forced the country to have a thorough introspection of the existing laws.

The need of the hour is the strict implementation of the *Sexual Harassment Act, 2013*. The provisions underneath the Act need to be successfully implemented, and the complaints committees at the workplace as well as at the district level should promptly be constituted. There is a need to hold timely inspections at workplaces to ensure that the guidelines are being implemented properly. All places of work should have a clear policy prohibiting and dealing with sexual harassment. These Anti-harassment policies should give an explanation of what harassment is, inform all employees that harassment will no longer be tolerated, and

⁹, Varun Malik, A Deliberate Critique to Sexual Harassment Laws in India, 4.1 NLUJ LR (2017) 46.

set out mechanisms for response to incidents of harassment by employers and employees. Anti-harassment policies must also set forth a detailed mechanism with the aid of which aggrieved employees can make complaints.

We hope for a better future of working women and dignified working condition where these women won't have to fight every day to get equal pay, to prove themselves every day, to protect themselves from evil eyes of society.

"Is this growing into an adult woman is—having to predict and accordingly arrange for the avoidance of sexual harassment?"

- *Candice Carty-Williams, Queenie*
