

SEXUAL HARASSMENT AT WORKPLACE: A DIGNITY WRONG ON WOMEN

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I. Introduction

Among all the crimes, sexual harassment of women at the work place has emerged as one of the least recognized and most appalling crimes. During the last few years, sexual harassment of working women has given an inclination of the horrible behavior patterns prevailing in the Indian society. Women workers constitute an important component of the Indian work force. An increasing number of women are today compelled to leave the security of their homes and venture out in search of work depending upon the socio-economic status. Sharing of economic activity by women is neither a new phenomenon nor a new development, but the magnitude of their involvement is correlative to socio-economic and political conditions prevalent in a country. With the change in the outlook, attitudes and approach towards living, it has now become necessary, by and large, for the families with inadequate incomes to supplement their requirements through additional earnings. For this reason, women have recorded impressive gains in employment from, 1991 onwards as is evident, from the Economic Survey of Ministry of Finance, Government of India in 2003-04. It is quite pertinent that globalization has accelerated the way for women to enter the field of employment to lead a dignified life.²

But the other side of the picture is that it has led to many evils, such as gender discrimination, physical and mental harassment and more specifically sexual harassment at workplace.³ Harassment, especially of the sexual nature at workplace, is still spoken about in hushed tones, as the-thing-that-shall-not-be-mentioned. Sexual harassment is insidious because of its secrecy.⁴ Until now, women have silently endured the sexual harassment at workplace, considering it to be a normal occupational hazard, but with the increasing liberation in women's outlook and society in general, the facts regarding sexual harassment are coming out in open. Sexual harassment is a personal attack on women's minds and bodies, instilling fear and violating a

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² Dr. Ranbir Kaur, “*Sexual Harassment of Working Women : The Legal Approach*”, Kashmir University Law Review, Vol.XII, No.XII, 2005, p.91

³ Wikipedia, ‘*Sexual Harassment*’, available at http://en.wikipedia.org/wiki/sexual_harassment.

⁴ *Supra* note 1. p.92

woman's right to bodily integrity, education and freedom of movement. It is utilized as powerful mechanism of control and intimidation, through which woman's subordinate social status is maintained.⁵

In fact, working women most commonly face the backlash to women taking new roles which belong to male domains within patriarchy. Sexual harassment at work is an extension of violence in everyday life and is discriminatory and exploitative. Sexual harassment is all about expression of male power over women that sustain patriarchal relations. It is used to remind women of their vulnerability and subjugated status. In a society where violence against women, both subtle and direct, is borne out of the patriarchal values operating in society, force women's conformity to gendered roles. These patriarchal values and attitudes of both men and women pose the greatest challenge in resolution and prevention of sexual harassment.⁶ In this background, the Paper firstly traces the magnitude of the problem, secondly analyses its impact on Women and thirdly looks into various theories that explain sexual harassment of women at work place.

II. Magnitude of the Problem

Sexual harassment in organizations has a long past but a short history. Documented in historical accounts since the advent of the industrial revolution that led large numbers of women to work outside the home. It has only lately been recognized as an important social problem. Recently, the magnitude of sexual harassment has become increasingly well documented.⁷ Sakshi, a Delhi based NGO, conducted a survey among 2,400 men and women across various organizations and institutions and it was found that 49 percent of the respondents admitted that they have encountered sexual harassment at workplace were as 80 percent admitted that sexual harassment existed at their workplace.⁸ The National Commission for Women conducted a survey in 1998 that said that of about 50 percent of the working women have suffered some kind of sexual harassment at work. For the majority of the respondents, mental and physical harassment and gender discrimination were the most dominant forms of problems relating to sexual harassment. About 37 percent of the

⁵ Ms Radhika Coormaraswamy, 'Violence Against Women, Its Causes and Consequences' UN Report of the Special Rapporteur, 1997, p.11

⁶ Neeta Raymond, *Sexual Harassment at Work*, Vol 2, Issue 3, Combat Law, available at : 'http://www.india-together.org/combat_law/Vol2/issue_3/harass.htm

⁷ Charles L. Hulin, Louise F. Fitzgerald, Fritz Drasgow, "Organizational Influences on Sexual Harassment", p.128 in Margaret S. Stockdale (ed), *Sexual Harassment in the Workplace*, (London, New Delhi : Sage Publications, 1996)

⁸ The Male Gaze, Times of India, 8 December 2002

respondents worked in the public and Government sectors. Majority of such respondents preferred to ignore such problems. A mere 3.5 percent reported the harassment, however, in most cases the employers took no adequate or satisfactory action. Majority of respondents were not aware of their rights or of the employers' obligations relating to sexual harassment.⁹

Evidence from studies conducted by NGO's suggests that sexual harassment in the workplace continues to be a common occurrence, typically perpetrated by a person in a position of authority; the majority of women do not take action or lodge an official complaint for fear of being dismissed, losing their reputation or facing hostility or social stigma in the workplace.¹⁰ The Vishaka Judgment came into effect almost a decade ago, but the efforts to implement the guidelines have been limited. Indeed, many public and private organizations have not even set up complaints committees or amended the service rules, as mandated by the guidelines.¹¹

A study exploring women's perceptions and experiences of sexual harassment in the health sector confirm the persistence of sexual harassment in the workplace, the reluctance of women to invoke the complaints mechanism and the ineffectiveness of existing complaints mechanisms in punishing the perpetration. Findings also suggest that attitudes to sexual harassment in the workplace mirror society's norms about sexuality and masculinity more generally – that it is normal and harmless behavior, that it is women who provoke this behavior and that it is an occupational hazard for women in the workplace. A variety of reasons appeared to endorse a culture of silence and denial. Most women were not aware of the Supreme Court guidelines and complaints mechanisms/formal institutions of redress. Many feared attitudes that would blame them for provoking an incident or feared the loss of their reputation as a result of complaining. They also recognized their relatively powerless positions and feared job-related discrimination, including dismissal and withholding of promotions and income.¹²

⁹ Jayashree Gupta, (ed) *Human Rights and Working Women*, Publications Division, Ministry of Information and Broadcasting, Government of India pp.5-6

¹⁰ Studies conducted by Saheli 1998; Sakshi 1999; Sanhita 2001; cited in Paramitha Chauduri, *Sexual Harassment in the Workplace: Experience of Women in the Health Sector*, 2004, available at. <http://www.popcouncil.org/asia/india.html>

¹¹ Study conducted by Sanhita 2006 cited in Paramitha Chauduri, *Sexual Harassment in the Workplace: Experience of Women in the Health Sector*, 2004, available at. <http://www.popcouncil.org/asia/india.html>

¹² Paramitha Chauduri, *Sexual Harassment in the Workplace: Experiences of Women in the Health Sector*, 2004, p.28, available at <http://www.popcouncil.org/asia/india.html>

A survey published in November 2010 by the Centre for Transforming India found that more than 80 percent of the female employees of information technology, business process outsourcing and knowledge process outsourcing (BPO/KPO) companies have been subjected to some form of workplace sexual harassment. The survey covered 600 women working in the IT sector in Delhi, Mumbai, Bangalore, Chennai, Pune and Hyderabad. More than 50 percent said that the harassment was extreme – abusive language, physical contact or demands for sexual favours – and 72 percent of the incidents involved superiors. 42 percent of the respondents said they did not know how to report the incident.¹³

Certain categories of women are actually more vulnerable to sexual harassment. For instance, women who are single, divorced, separated or widowed; single parents; women from minority ethnic groups; women who have a physical or non-physical disability; women working in predominately male jobs; and new entrants to the workplace. Women are often not sure what is sexual harassment or whether it is part of the work culture. This factor can be very disempowering for them.¹⁴

The magnitude of the problem of sexual harassment may be viewed as corresponding to an iceberg floating in water. Sexual harassment is also a largely under reported phenomenon as there are several myths that surround the concept. It is generally believed that sexual harassment is fun; it is trivial; it does not happen to professional women; women falsely implicate men; and it is for the women to handle. These myths camouflage the true nature of the sexual harassment as a power crime.¹⁵ The above mentioned statistics reveal a very gloomy picture and high incidence of all types of sexual harassment which is indicative of urgency and seriousness which is required to combat sexual harassment.

III. Impact of Sexual Harassment at Workplace

Sexual harassment is often characterized as inconsequential and harmless to women, which is a completely misplaced assumption. It is vehemently threatening, malicious, unwelcome and intrusive, affecting not only the emotional, physical and psychological health of the victim but also

¹³ *Gender Violence in India*, A Prajnya a Report 2010, available at <http://www.prajnya.in/gvr10.pdf>

¹⁴ Naina Kapur & Rita Rupal, *Sexual Harassment and Victimization of Women at the Workplace*, available at http://www.diccentre.org/docsweb/sexual_harassment/victimization - workplace.html

¹⁵ Vandana, *Sexual Violence Against Women: Penal Law and Human Rights Perspectives*; (Nagpur: Lexis Nexis Butterworths Wadhwa, 2009) p352.

drastically affects her work potential as well.¹⁶ Sexual harassment is one of the most offensive and demeaning experience an employee can suffer. Effects of sexual harassment can vary depending on the individual, and the severity and duration of the harassment. Sexual harassment incidents can fall into the category of the “merely annoying” to situations that can have life-altering effects particularly when they involve severe / chronic abuses, and / or retaliation against a victim who does not submit to the harassment, or who complains about it openly. Indeed psychologists and social workers report that severe/chronic sexual harassment can have the same psychological effects as rape or sexual assault.¹⁷

Plagued by intense feelings of shame (failure) and guilt (transgression), an increasing number of victims suffer from sexual harassment syndrome. Peculiarity of sexual harassment syndrome is that the victim tends to feel that whatever has happened to her is due to her fault and she must have done something, individually to elicit or encourage that behavior.¹⁸ The woman’s confidence in their job performance is totally shattered. In the words of Catherine Mackinnon: attempting to decline gracefully and preserve a facade of normalcy has its costs, which are paid by the victim.¹⁹

Numerous studies have also shown that victims suffer a variety of negative job-related outcomes. Surveys indicate that substantial numbers of harassed individuals leave their jobs, withdraw from work in the form of absenteeism and lowered productivity, change career intentions, experience lower job satisfaction and deteriorated interpersonal relationship with coworkers, as well as a host of other negative attitudinal changes.²⁰ A number of women who experience harassment remain in their jobs and do not report the incidents. For women who remain in their jobs, sexual harassment affects their overall satisfaction with their jobs and the way they think about their organizations.²¹

¹⁶ *Ibid*, p.234.

¹⁷ Mary P. Koss “*Changed Lives: The Psychological Impact of Sexual Harassment*”, in Paludi, Michele A. (ed.) Ivory Power : Sexual Harassment on Campus, (Abany, New York: State University of New York Press, 1990) pp.73-92

¹⁸ Catherine A. Mackinnon, *Sexual Harassment : The Experience*, in Barbara Raffel (ed.), The Criminal Justice System and Women – Offenders, Victims, Workers, 1982, p.360, in Vandana, *Sexual Violence Against Women: Penal Law and Human Rights Perspectives*; (Nagpur : LexisNexis Butterworths Wadhwa, 2009) p.234.

¹⁹ *Ibid*, p.235.

²⁰ Gutek, B.A., & Koss, M.P., “*Changed Women and Changed Organizations : Consequences of and Coping with Sexual Harassment*,” Journal of Vocational Behaviour, Vol 42, pp28-48.

²¹ *Ibid*.

Many women may define sexually harassing behaviors as “normal”, typical of their expectations of male-female relations, and therefore “to be expected” and not worth reporting. Women are often blamed for the sexual harassment they receive. That is, women, who claim harassment, are asked what they themselves did to bring on the harassing behavior.²² Furthermore, people who file harassment complaints are often labeled “trouble makers”. Such labels can follow them to new jobs or different work settings. Thus, fear of being blamed (either for the harassment or for filing charges against the perpetrator) may prevent many women from labeling a behavior as harassment.²³

Women who suffer sexual harassment do not come forward for lodging a formal complaint for several other reasons. First and foremost is the problem inherent in identifying the annoying or offensive behavior as sexual harassment. It is not surprising that women would not complain of an experience which cannot be aptly described by a name. Till some years ago, sexual harassment was literally unspeakable, which made a generalized shared and social definition of it inaccessible.²⁴ Catherine Mackinnon comments on the situation: unnamed should not be mistaken for the non-existent and this silence speaks of pain and degradation, and not of any absence.²⁵ Another major reason for the vast under reporting of sexual harassment is the stigma attached with being a victim of sexual harassment. Sexual subjects are generally sensitive and considered private and women feel embarrassed, demeaned and intimidated by these incidents. The victims feel afraid, despairing, alone and complicit.²⁶

Majority of women victim fear calling attention to the sexual harassment perpetrated on them as they are fearful of the retaliation of the harasser which may follow; and also, they are unsure of any institutional or organizational support. The victims are also fearful of employment or educational stakes in case the employer or academic superior is involved in the harassment of the victim.²⁷ Many a times, the women victims are fearful to the disclosure of sexual misconduct of strangers with whom they have no long term economic or intellectual relationship but who nonetheless have the short term power of physical strength over them. All these women victims keep silent because they fear provoking their harasser to some worse

²² Benokraitis, N.V., & Feagin, J.R., *Modern Sexism : Blatant, Subtle and Covert Discrimination* (Englewood Cliffs, NJ :Prentice Hall, 1995).

²³ Malovich, N.J., & Stake, J.E., “Sexual Harassment on Campus: Individual Differences in Attitudes and Beliefs”, *Psychology of Women Quarterly*, 1990, Vol. 14, pp 63-81.

²⁴ *Supra* note, 17, p.237.

²⁵ *Ibid.*

²⁶ *Ibid.*

²⁷ *Supra* note 14, p.238.

heinous deed.²⁸ So the cases of sexual harassment, which are reported by the victim, reveal only tip of the iceberg whereas a large number of cases go undisclosed and unreported.²⁹

IV. Explaining Sexual Harassment at Workplace

Scholars doing research on the sexual harassment of women at work began to develop and test various theories to explain harassment. Initially, theoretical work revolved around three potential explanatory models: the natural / biological model, the organizational model, and the sociocultural model. Conventional wisdom favors the natural / biological model, which sees sexual harassment as an outgrowth of the natural attraction between men and women being played out in public contexts. Those who subscribe to the biological model generally accept the corollary that the naturally aggressive sexuality of men contributes to the phenomenon, but that only “sick” men escalate from normal sexual banter to sexual harassment.³⁰

Early feminist theory had generally rejected the premises of the biological model. In adopting a more structural approach that focused on the distribution of power and the division of labor in organizations, feminist research on harassment has contributed much to the development of what is known as the organizational model. In this model, the hierachal nature of modern organizations provides a clear framework within which to take account of women’s location in organizational structures relative to men, the nature of women’s work, and eventually, the social construction of gender in organizational contexts. Sociological research on the blocked mobility of women in corporations, as well as the treatment of women in nontraditional occupations, and the gendered discourses of power in bureaucracies, set the stage for the integration of harassment in to a more general theory of gender exploitation in workplaces.³¹

The organizational power perspective is probably best articulated by Mackinnon, who described sexual harassment as occurring when “a man in the position of authority, whether a supervisor or teacher, uses his hierarchically super ordinate role to place conditions of sexual compliance on his female subordinates access to the benefits of her job or her educational program”.³² This perspective derives strength from the gender

²⁸ *Ibid.*

²⁹ *Ibid.*

³⁰ Laura L. O Toole and Jessica R. Schiffman, *Gender Violence : Interdisciplinary Perspectives*, (New York and London : New York University Press, 1997) p.131

³¹ *Ibid*

³² Catherine Mackinnon, *The Sexual Harassment of Working Women*, (New Haven, CT: Yale University Press 1979) p.235, cited in Laura L.O’ Toole and Jessica R.

demography of modern organizations, in which the majority of women workers are segregated into low-wage, sex-typed jobs with less access to organizational power than men. Indeed, a significant number of women who have experienced harassment have been victimized by superiors or other powerful men in their workplaces.³³

Organizational power explains the harassment experiences of many women, but apart from it, enough research established the existence of harassment by working peers and subordinates to suggest that the work roles and occupations of women were significant per se, regardless of the distribution of organizational power.³⁴ In particular, the concept of sex-role spill over provided an important lens through which to view harassment. Sex-role spill over occurs when gender based expectations for behavior get carried into the workplace so that workers in their work roles are expected to behave as males or females. Thus, the ‘women’s job’ requires women to serve, emotionally support and be sexually attractive to men. Due to influence of sex role spillover, to acquiesce to sexual demands of male superiors acquires the form of a legitimate job expectation.³⁵

Sex role spillover is the idea that “the sexual dimension that characterizes male female relationships outside of a work environment spillover.....into the work environment, and becomes environment”.³⁶ Sexualization of the workplace imposes burdens on women that are not borne by men because it tends to make men view their female co-workers as sex objects. When sexual stereotyping of women occurs, it definitely leads to their discrimination at workplace. It destroys the ambience of the workplace as tolerance of non-professional conduct promotes the stereotyping of women in-terms of their sex object status which is detrimental to all female employees.³⁷

Schiftman, *Gender Violence : Inter disciplinary Perspectives*, (New York, London : New York University Press, 1997) p.133.

³³ *Supra* note 29. p. 134.

³⁴ Gutek, B.A., *Sex and the Workplace: The Impact of Sexual Behavior and Harassment on Women, Men and Organizations*', (San Francisco : Jossey- Bass, 1985)

³⁵ Martin S.E. *Sexual Harassment: The Link Joining Gender Stratification, Sexuality and Women's Economic Status*, in J. Freedman (ed) *Women: A Feminist Perspective* (Palo Alto, CA: Mayfield Publications, 1989) 3rd ed. pp.54-69.

³⁶ As defined by Dr. Eugene Borgida, while giving expert psychological testimony in *Jenson v. Eveleth Taconite Co* (D C Minn 1993 61 FEP cases 1252. Cited in Vandana *Sexual Violence Against Women: Penal Law and Human Rights Perspectives*; (Nagpur : LexisNexis Butterworths Wadhwa, 2009) p.249.

³⁷ *Supra* note 14. p. 249.

It is not that sex role spillover occurs in traditionally ‘female jobs’ only. Women who enter male dominated occupations or higher status positions, as conspicuous ‘token’ exceptions to women’s place in the occupational world, also suffer sexual harassment. For them, too, sex role expectations spill over into work role expectations as they are viewed as women and not as workers, who have barged into a typically male area. The sexuality of such women employees blots out all other characteristics. In addition, women in traditionally ‘men’s jobs’ are sexually harassed as a condition of work. Men view the presence of women as an invasion of male economic turf (i.e., as a challenge to men’s better pay and supervisory authority); an invasion of their social turf (e.g. army barracks, police stations etc.) and threat to their definition of their work and selves as masculine.³⁸ In fact, research suggests that women in male-dominated professions and male-dominated institutions suffer higher rates of victimization than women in socially sanctioned female occupations.³⁹

Sexual harassment is looked at, as a means to perpetuate gender hierarchies, which in return are based on sex discrimination.⁴⁰ Sexual harassment is treated as a “dignity wrong” for human beings are worth respect irrespective of any consideration as to their sexual or color. A juridical woman is protected invariably under all legal systems so long her individual autonomy is respected. It means that no one takes another as a means to achieve one’s own end. Also that, one should refrain from humiliating another and avoid denial of the autonomy and self -conception of another.⁴¹ This theory looks at sexual harassment as a mechanism to impoverish woman both psychologically and economically that ultimately contributes to disempowerment of women. It is a part of the whole syndrome of discrimination and exploitation that upholds unequal economic and social structures thriving in an atmosphere of threat, terror and reprisal

V. Conclusion

Sexual harassment occurs at the intersection of social and economic inequalities by expressing the unequal social power of women, sexualizing their subordination and deepening their powerlessness as women. Sexual harassment of working women presents a closed system of social predation

³⁸ *Ibid*

³⁹ Mansfield, P.K., Koch, P.B., Henderson, J., & Vicary, J.R. “*The Job Climate for Women in Traditionally Male Blue-Collar Occupation*”, *Sex Roles*, 25, 1991, pp. 63-79.

⁴⁰ Catherine Frank, “*What is Wrong with Sexual Harassment*” 88 Cornell Law Review, 1997, pp 693-94.

⁴¹ Anita Berstein, “*Treating Sexual Harassment with Respect*”, 111, Harvard Law Review, 1997, p. 487.

in which powerlessness builds powerlessness. Working women are sexually accessible and economically exploitable. They are economically vulnerable so they become sexually accessible and exploitable and as they are sexually exploited they cannot assert their economic independence and rights. In this manner, the sexual and economic inequalities of women reinforce and perpetuate each other. Sexual harassment disrupts women's drive for autonomy outside home and family by sexualizing women's work role and by making sexuality a condition of economic survival.⁴²

The UN Declaration on Elimination of Violence against women, describes sexual harassment as glaring instance of violence against women which not only violates the rights of women to life, liberty, and equality but also completely negates women's right to have equal opportunities in terms of employment thereby causing severe detrimental consequences in terms of her economic independence and participation in economic activities of the society. Sexual harassment at workplace strikes at the heart of women's economic self-sufficiency, disrupting women's earning capacity by forcing them out of the workplace.⁴³

Until the mid-1970s no term existed to describe what is now universally called 'sexual harassment', though the phenomenon itself was well known to women.⁴⁴ Sexual harassment is the most widespread of all forms of sexual victimization. It is a grave manifestation of violence against women and constitutes a stark violation of human rights. It is a part of whole syndrome of discrimination and exploitation that women are subjected to sexual harassment at work.⁴⁵ It is the most oppressive form of sex discrimination that undercuts women's potential for independence and equality. It disrupts a woman's drive for autonomy outside the home and family by sexualizing her work role and by making sexuality a condition of economic survival. Sexual harassment in the workplace attacks the dignity and self respect of the victim both as an employee and as a human being. Therefore, "addressing the issue of sexual harassment is directly linked to the core concerns of improved working conditions and respect for the dignity of women."

⁴² *Supra* note 14 p.286

⁴³ *UN Declaration on Elimination of Violence against Women*, 1993, Art 2

⁴⁴ Ariane Reinhart, "Sexual Harassment - An ILO Survey of Company Practice", ILO Publication, 1999, p.vii

⁴⁵ Madhu Kishwar; 'Off The Beaten Track - Rethinking Gender Justice for Indian Women', 1999, p.153, cited in Vandana, *Sexual Violence Against Women: Penal Law and Human Rights Perspective* (Nagpur : Lexis Nexis Butterworths Wadhwa), 2009, p. 285