

Analysing the Global Scenario of Sexual Harassment Laws with Special Reference to India: A Comparative Study

Upala Basu¹

Abstract

The fear about workplace sexual harassment is a global issue now. In addition to violating the victim's human rights, this specific type of gender-based violence also impairs their sense of dignity, productivity, and general well-being. Even with subject-specific legislation in place, there has been a rise in workplace harassment of women. Working women are not aware of the resources accessible to them in the event of sexual harassment. This paper on sexual harassment focuses on making a comparative study of the existing sexual harassment laws between India and other countries.

Keywords: *Countries, Sexual Harassment, Legislation and Workplace*

I. Introduction

“Once made equal to man, woman becomes his superior.”

- Socrates

The act of bullying, sexual coercion, or the unwanted or improper offering of compensation in exchange for sexual favours is known as sexual harassment. As is the case in many nations, discrimination against employees can also take the form of sexual harassment. Psychological bullying with the intention of harassing someone sexually or taking advantage of another sexual category are examples of sexual harassment that occurs in the workplace. Unwanted behaviour based on sexual orientation occurs when a man or woman is harassed online, at home, in public, or at work solely because of their sexual orientation. This type of harassment does not require sexual behaviour. The actions must be motivated by

¹ Ph.D. Research Scholar, Department of Law, North Bengal University and Research Assistant, Calcutta High Court., Mail ID – basu.upala4@gmail.com . ORCID ID - <https://orcid.org/0009-0008-9283-8981>.

or result in the victim's dignity being violated, or they must create an environment that is threatening, hostile, demeaning, humiliating, or offensive. Unwanted sexually suggestive behaviour, whether verbal, physical, or nonverbal, is frequently illegal and falls under the umbrella of sexual harassment. A person may be harassed by remarks or queries about their sexual lives, comments about their appearance that they find humiliating or immoral, or by members of their own or opposing sex that make sexual demands. Additionally, touching encounters and other physical threats can be included.²

According to projections made by the World Economic Forum, it will take over 267 years for gender parity to be achieved worldwide and for sexual harassment and gender discrimination to be completely eradicated. It is clear that sexual harassment at work contributes to these differences. Sexual harassment has a significant negative impact on employment rates when victims quit their jobs to avoid the harassment or face termination from their employer. Harassment raises absenteeism and work disengagement among individuals who stay at the same place of employment. Documentation of these economic repercussions has been provided on other continents. Even if the harassed workers remain to work and do not show more absenteeism, the company's success as well as the individuals themselves may suffer if they are refused training and promotions. Not only do women who have experienced sexual harassment at work have greater rates of headaches, insomnia, nausea, weight loss, and cardiovascular sickness, but they also have higher rates of anxiety, dejection, and PTSD. Therefore, it is critical to lessen sexual harassment for both individual employees and society as a whole. When combined, these detrimental effects on business turnover and productivity can lead to decreased economic performance, significant productivity loss, and financial expenses at the national level. Several studies demonstrate that sexual harassment occurs often in both high- and low-income countries. A survey of women in 28 EU member states revealed that 55% of them had personally experienced sexual harassment at some point in their lives.³

² Jody Heymann et. al, Progress Towards Ending Sexual Harassment at Work? A Comparison of Sexual Harassment Policy in 192 Countries, 25(2) Journal of Comparative Policy Analysis 173 – 174 (2023).

³ *Id.* at 174.

It is obvious that there are significant differences between the sexual harassment laws that have been established in various parts of the world. Although rules against sexual harassment in offices and other settings are not in place in every country but this type of harassment is recognised as such under existing regulations in most of the countries. It is probable that measures will be adopted to guarantee the application of distinct legislation concerning the same as the issue becomes more widely acknowledged and the seriousness of it is recognised by the residents of these areas. But as is frequently the case, the laws end up being little more than paper guidelines, with implementation that is far from ideal. This further emphasises the necessity of upholding these regulations, regardless of how crucial it is to establish precise and acceptable definitions. Compliance with the law will remain an unmet goal until it is ingrained in individuals that breaking the law is a serious matter and is punished accordingly. Lastly, it is imperative that the law change throughout time. The legislation should adapt to reflect how people's perceptions of pertinent social issues develop over time. As a result, the growing consciousness about women's safety ought to guarantee that any new legislation established has the same goal in mind.⁴

II. Sexual Harassment under International Human Rights Law

Sexual harassment related provisions of International Law can be found in regional organisations, general and specialised human rights agreements, and the institutional framework of the International Labour Organisation (ILO). Compared to expectations, there has been less of an exchange of institutional knowledge and experience as they have all grown independently. This section looks at each person's contribution in brief.

The ILO was founded to give workers' rights legal protection. The organisation is the predecessor of the United Nations human rights procedures and structures in many respects. Its dedication to equal opportunity was reaffirmed in the 1944 Declaration of Philadelphia marked the ILO's change from the League of Nations to the United Nations era. The International Labour Organisation (ILO) has concluded treaties that are both protective of women workers and those that

⁴ Workplace Sexual Harassment and laws across the world, <https://www.ungender.in/workplace-sexual-harassment-and-laws-across-the-world/> (Last visited: Dec. 10, 2023).

promote equality in the workplace since the League's founding. Of the latter, Convention 111 is the most significant. Equal opportunities are promoted by this convention in both public and private employment. The Convention is subject to the oversight and monitoring mechanisms of the ILO. Among these are the duties states have to the Committee of Experts regarding the actions they have taken to effectively incorporate the Convention into national law. The Conference Committee on Standards selects important topics for public discussion at the ILO annual Conference that are brought up by the Committee of Experts during the reporting process. Representing the interests of the ILO's three constituent groups namely employers, employees, and government delegates, the Conference Committee is a political organisation. Governments who fail to carry out the conventions they have ratified may be cited by it. Although the prohibition of discrimination, including on the basis of gender, has long been a part of human rights law, sexual harassment has not always been easily understood to fall under the purview of the general human rights international instruments signed within the framework of the United Nations. The list of economic and social rights that have, at least in Western law, been given less weight than civil and political rights include specific employment rights. Although sexual harassment is not specifically mentioned in the International Covenant on Economic, Social, and Cultural Rights (ICESCR), the major international instrument that guarantees economic and social rights does allow it to be brought up due to its assertions of workplace equality, the right to "just and favourable conditions of work," and the right to "safe and healthy working conditions." Separate treaty monitoring bodies, the Committee on Economic, Social, and Cultural Rights and the Human Rights Committee (covering civil and political rights), have contributed to the false dichotomy between categories of rights and have obstructed a logical strategy for redressing violations that fall under both. Harassment is not limited to situations at work. Although it infringes against civil and political rights including equality, freedom of movement, and association, it is often categorised under workplace rights, often without taking into account how it affects the enjoyment of these other rights. This impression ought to be improved by the declaration made at the 1993 Vienna World Conference on Human Rights that all human rights are interconnected." However, compared to its counterpart for civil and political rights, the ICESCR has less robust language and enforcement mechanisms in practice

III. International Perspective on Sexual Harassment Laws in Various Countries across the Globe

Different countries around the globe have been striving to reach an attainable goal in framing and implementation of sexual harassment laws. Few countries include:

A. United States of America

The elements of US legislation pertaining to workplace sexual harassment are briefly described here. Sexual harassment victims in the US have the right to file a civil lawsuit against their employers. According to the U.S. Supreme Court, sexual harassment is against Title VII of the Civil Rights Act of 1964, a federal law that forbids discrimination in the workplace. Additionally, civil rights laws in the majority of US states have been construed to prohibit sexual harassment. State and federal laws may have different purviews, and state claims are not superseded by federal law. To prove a claim of workplace sexual harassment, a plaintiff must generally establish the following:

i. Because of Sex

A plaintiff for sexual harassment must show that she was singled out "because of sex," or simply because she is a woman, as the practice is considered a form of sex discrimination under federal law. Men may also file lawsuits saying that their sex was the reason behind the targeting of them. It is not necessary for the harasser to be a different gender than the victim, nor is it necessary for the words or actions of the harasser to have a sexual connotation. In most cases, sexually motivated harassment is assumed by courts to have occurred "because of sex." Courts have also determined that harassment was "because of sex" in cases when the harasser showed animosity towards either gender in the workplace, when one gender was singled out for harsher treatment, or when the harasser singled out the victim for defying gender norms. Regarding whether discrimination based on sexual orientation is actionable under Title VII, federal courts cannot agree. Sexual harassment may be defined differently by state laws. Sexual harassment is defined by some jurisdictions as physical or verbal behaviour that is "of a sexual nature." "Sexually harassing conduct need not be motivated by sexual desire,"

according to a state (California). Discrimination on the basis of gender identity and sexual orientation is outlawed in many states.

ii. **Severe or Pervasive**

A plaintiff must show that the harassment was "severe or pervasive," both subjectively that is, in the victim's opinion and objectively that is, in the opinion of a reasonable person. It is not necessary for harassment to result in physical or mental injury in order to satisfy this requirement. "The frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance; and whether it unreasonably interferes with an employee's work performance," according to the U.S. Supreme Court, are among the considerations to be taken into account. It could only take one instance, such a sexual assault or a demand for sexual favours in exchange for something in return. The standard for what constitutes severe or widespread has been raised by lower federal courts, drawing criticism for this. A bill to make it clear that harassment does not have to be severe or widespread to be prosecuted is being considered by one US state, Minnesota.

iii. **Unwelcome**

The victim's voluntary submission to sexual contact does not serve as a defence against sexual harassment. The fact that the harassment was unwanted is what counts. The use of evidence by a defendant on a victim's sexual preferences or behaviours is restricted by the Federal Rules of Evidence.

iv. **Employer Liability**

Employers are the only parties subject under Title VII; harassers themselves are not. If the harasser is one of the company's highest executives or if the harasser took a "tangible employment action" against the victim, which is defined as an official act of the business, like a demotion, then the employer is legally accountable for sexual harassment. The employer bears the responsibility of substantiating the Faragher/ Ellerth defence in cases where the victim's supervisor was the harasser and there was no foundation for automatic guilt. The employer must demonstrate that it "exercised reasonable care to prevent and correct promptly any sexually harassing behaviour" in order to achieve this, as well as that the plaintiff employee was unreasonable in failing to take advantage of any

chances the employer offered for prevention or correction or to avoid harm in any other way. The plaintiff bears the burden of demonstrating the employer's negligence if there is no automatic culpability and the harasser was not a supervisor, in which case the Faragher/ Ellerth defence does not apply. In order to accomplish this, a plaintiff must demonstrate that the employer was aware of the harassment and did not take proper action. When the harasser was a client or coworker, the negligence standard typically applies. A few state statutes permit lawsuits against both employers and individual offenders. Supervisor harassment carries automatic liability in states where the Faragher/ Ellerth defence has not been adopted by the courts.

v. **Damages**

Sexual harassment victims may be entitled to punitive and compensatory damages, lost earnings and other forms of restitution, and injunctive remedies under Title VII. The total amount of compensatory and punitive damages is limited to \$300,000, with the amount varying based on the size of the employer. Some states do not allow the collection of any punitive or compensatory damages, while others have caps akin to those imposed by federal law.

vi. **Mandatory Arbitration and Nondisclosure Agreements**

Many American firms force their employees to sign agreements restricting their rights to redress for sexual harassment as a condition of employment. These agreements may provide that, in lieu of going to court, accusations of sexual harassment must be resolved through private arbitration. They might impose confidentiality requirements, prohibit class-wide claims, and cap damages. Employers typically demand nondisclosure agreements as a condition of any settlement of a sexual harassment lawsuit, regardless of the existence of an arbitration agreement. Although arbitration agreements do not bind the EEOC in litigation it files to get remedies on behalf of employees, the EEOC does not file many lawsuits due to its lack of funding. Pre-dispute agreements to arbitrate accusations of sexual harassment would be prohibited by a proposed federal law, and laws restricting nondisclosure agreements in sexual harassment cases are being considered by a number of states.

vii. **Mandatory Trainings**

Certain private sector businesses are mandated by three U.S. states like California, Connecticut, and Maine to provide sexual harassment trainings.

B. United Kingdom

Unlike India, the UK does not have a separate law that just targets sexual harassment at work. In 2013, the "Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act" was passed by the Indian government. The purpose of the POSH statute is to protect employees from sexual harassment in the workplace, prevent it from happening, and provide prompt resolution for any complaints made in accordance with the statute. This act aims to provide a safe and secure workplace free from sexual harassment for all Indian women, irrespective of their age or employment level. The most prominent law in UK is the Equality Act of 2010. This law gives emphasis to workplace protection of employees and the related provisions.

The Equality Act of 2010's Section 26 provides the following definition of harassment:

- (1). When someone (A) harasses someone else (B) if — (a). A exhibits undesirable behaviour pertaining to a pertinent protected trait, and (b) the behaviour has the intent or effect of infringing upon B's dignity or producing an environment that is threatening, hostile, demeaning, humiliating, or insulting to B.
- (2). If—(a)—A harasses B as well. A participates in unwelcome sexual activity, and (b) the activity serves the goal or achieves the objective mentioned in subsection (1)(b).
- (3). If—(a)—A harasses B as well. A or another individual participates in inappropriate sexual behaviour, gender reassignment, or sex-related behaviour,
(b) The conduct serves the objective or achieves the effect mentioned in paragraph (1)(b); (c) A treats B less favourably as a result of B's rejection or submission to the conduct than A would have treated B in the absence of B's rejection or submission.
- (4). When determining if an action has the effect mentioned in subsection (1)(b), the following factors need to be considered:

(a) B's perspective; (b) the case's other circumstances; and (c) whether it is fair for the behaviour to have that result.

(5) The relevant protected characteristics are Age, Disability, Gender reassignment, Race, Religion or belief, Sex and Sexual orientation.

i. Employer and employee relationship

Section 40 pertains to the relationship between an employer and an employee. It stipulates that: (1) An employer (A) may not, in connection with A's employment, harass a person (B) who: (a) is A's employee; or (b) has applied for work with A.

According to the "three strike" rule, employers have historically been held legally responsible for harassment of their employees by other parties (suppliers, customers):

If there had been two prior instances of third-party harassment of an employee, the employer could not be held accountable for the activities of a third party; however, if there was a third incidence and the employer "knew" about the two prior instances, the employer would be held accountable. 2013 saw the elimination of these Section 40 of the Equality Act 2010 requirements. When parliamentary time permits, the U.K. government has proposed to reinstate protection against third-party harassment.

ii. Vicarious Liability of Employers

Employers' Vicarious Liability is covered under Section 109. It says that:

(1). Everything that an individual (A) does when they are employed by their employer must be seen as also being done by the employer.

(2). Any action taken on behalf of a principle by an agent acting under the principal's authority is deemed to have been taken by the principal as well.

(3). Whether something is done with the principal's or employer's knowledge or agreement is irrelevant.

(4). When A's employer (B) is being sued for something that A is alleged to have done while working for B, B may use this as a defence by demonstrating that B took all reasonable precautions to stop A (a) from doing that thing, or

What precisely qualifies as being "in the course of employment" has been unclear. In the case of *Chief Constable of Lincolnshire Police v. Stubbs*⁵, a fellow police officer was accused of sexual harassment when he or she went to a pub right after work and attended a colleague's farewell party. It was determined that there was a sufficient relationship with the job for the Chief Constable to be held vicariously accountable for these get-togethers of several fellow police officers. In a similar vein, *Livesey v. Parker Merchanting*⁶ determined that sexual harassment committed by a coworker during a Christmas party was considered to have occurred while the victim was on the job, as was the harassment that persisted during the drive home after the celebration. As a result, it seems that "in the course of employment" may refer to situations that arise outside of the office as well, though these will need to be evaluated on a case-by-case basis. This term of "workplace" is also strikingly similar to that found in the POSH Act of 2013.

iii. **The Employer's Defences**

The aforementioned provision's requirement that employers take reasonable measures to stop sexual harassment is one of its key features. However, as some of the case laws below illustrate, determining what would constitute reasonable care may need to be done on a case-by-case basis. In the case of *Croft v. Royal Mail Group*⁷, the employer implemented a number of measures to shield a worker who was undergoing gender reassignment from harassment. These included emphasising their harassment policy, agreeing to amend her records, and telling the staff that she was to be addressed as a woman. Additional actions that may have been taken included training the staff and changing the harassment policy to include references to transsexuals however an employment tribunal found that these actions would have only had a minor impact on the workforce.

The plaintiff, Al-Azzawi was of Iraqi Arabic descent and claimed to be the victim of racial discrimination at work in the case of *Al-Azzawi v. Haringey Council*⁸. The Council (Employer) contended that they had prevented racial discrimination

⁵ [1999] IRLR 81.

⁶ [2004] UKEAT 0755_03_1301 (Jan. 13, 2004).

⁷ 2003 EWCA Civ 1045.

⁸ [2001] UKEAT 158 – 00 – 0312.

by taking all appropriate measures. It had policies in place, and those policies weren't simply for show. Employees were reprimanded under them when violations could be verified. The Tribunal came to the conclusion that the issue at hand was the particular actions that needed to be done, not the general prevention. Therefore, it was decided that if an employer had a reasonable suspicion that a worker would engage in sexual harassment, it would be permissible to take certain actions, like warning the worker, providing frequent supervision, alerting other managers to the worker's potential behaviour, etc.

Health and Safety legislation

Employers are required by the Health and Safety at Work Act of 1974 to protect the health, safety, and welfare of all of their workers at work, as well as to shield non-employees from risks to their health and safety resulting from or related to their employment. This includes volunteers, interns, and members of the public.

Protection from Harassment Act, 1997

- Additional legal protection against harassment is offered under the Protection from Harassment Act, 1997 (PHA). The safeguards, which do not apply only to the workplace, stipulate that an individual is not allowed to engage in behaviour that “amounts to harassment of another” or that “he knows or ought to know” constitutes such harassment.
- The PHA does not define harassment; however, it does specify that verbal harassment and actions that alarm or disturb a person are included.
- Under the PHA, one has two ways to take enforcement action against the harasser which includes filing a claim in civil court or report the harasser to the police, which may result in a criminal charge. When one of their workers or agents engages in harassment while they are employed, the employer may be held vicariously accountable. In this case, a civil claim may be used to sue the employer for damages.
- Even though the United Kingdom has had the Protection from Harassment Act and the Equality Act since 1997, the #MeToo movement and the rise in online sexual harassment during the epidemic demonstrate that particular laws may be beneficial in tackling issues pertaining to sexual harassment at work.

C. Canada

Division XV.1 of Part III of the Canada Labour Code (Labour Standards) lays forth an employee's right to employment free from sexual harassment and mandates that employers take proactive measures to stop sexual harassment in the workplace. Employers and workers under federal authority may find the following queries and responses useful.

According to the Code, sexual harassment is any behavior including remarks, gestures, and physical contact that is likely to offend or degrade any employee or that the employee reasonably believes imposes a sexual condition on their employment or their ability to advance in their career. Every employee has the right to work without being penalised for sexual harassment under the Canada Labour Code.

Employers are mandated to do all reasonable efforts to prevent sexual harassment of their workforce. Every business is required to publish a sexual harassment policy following consultation with staff members or their representatives. At minimum, the following elements must be included in the policy:

- a) A definition of sexual harassment that is essentially the same as the one found in the Code; b) a declaration that each employee has a right to work free from sexual harassment;
- c) a pledge that the employer will use all reasonable efforts to prevent sexual harassment of any kind towards any employee;
- d) a declaration that the employer will take disciplinary action against any individual working under their supervision who harasses any employee;
- e) a statement outlining the process for reporting sexual harassment to the employer;
- f) a declaration that the employer will not divulge the identity of the complainant or the details of the complaint to any third party unless doing so is required to look into the matter or implement disciplinary action; g) a notice alerting staff members to their right to file a complaint under the Canadian Human Rights Act.

All employers are required to display and maintain copies of their sexual harassment policy in areas where staff members are likely to view them.

D. Israel

Sexual harassment is addressed in every social situation by Israel's Prevention of Sexual Harassment Law of 1998, which declares that it is a serious social problem that undermines core societal values, such as human dignity and the rights to equality, freedom, and respect. The new law takes an integrated approach, treating sexual harassment and the intimidation that follows as criminal offences as well as civil wrongs. It also provides unique remedies for workers who have been the victim of sexual harassment at work. In order to make clear to the general public and those tasked with enforcing the new statutory norm what constitutes sexual harassment, the statute describes the forbidden behaviours in great detail and with accuracy. The statutory definitions are based on American conceptions as developed by courts and feminist jurisprudence, even though they do not use the categorical distinction between *quid pro quo* and hostile environment harassments. The standards are written to preclude the possibility of utilising any such fictional figure in the definition of sexual harassment (and especially in evaluating the victim and her behaviour), and they do not use the "reasonable person" criteria. Although the term "sexual harassment" is defined, reference is made specifically to sexual harassment that is related to employment and to sexual harassment that involves a flagrant misuse of authority. Permit me to explain the most important provisions of the Act in more detail.

The purpose of the law is made clear in Article 1, "Purpose," which states that it is "to prohibit sexual harassment in order to protect human dignity, the rights to respect, liberty and privacy, and to promote equality between the sexes." The notes explain that "sexual harassment aimed at women humiliates them with respect to their gender or sexuality and places obstacles in their way of integrating into the realm of careers and into other aspects of life as equal participants, thus denying them equality." In order to uphold human dignity and the right to respect, the courts are directed to interpret the law as part of the legal protection provided by the Israeli legal system. However, they are also encouraged to consider sexual harassment as a form of discrimination,

particularly sex discrimination, and to take inspiration from American judicial precedent and legal academic scholarship.

Article 3, which lies at the core of the statute, contains detailed definitions of eight types of "sexual harassment."

3. (a) Sexual harassment is defined as any of the following behaviours:

- 1) indecent acts, as those terms are defined in sections 348 and 349 of the Penal Law;
- 2) threats of blackmail when the act being demanded is of a sexual nature;
- 3) repeated sexually suggestive remarks made to a person, even after the target has shown the harasser that he is not interested in the propositions;
- (4) persistent allusions to a person's sexual orientation, even after the target has shown the harasser that he has no interest in the material;
- (5) a dehumanising or frightening statement made about a person's gender, sex, or sexual orientation, particularly his inclinations towards sexuality;

E. China

In China, the term "sexual harassment" has no official definition. The existing laws in China prohibit sexual harassment against women; this law does not extend to men. On the other hand, sexual harassment is only loosely and only locally defined by municipal regulations. Beijing Although sexual harassment is defined locally in Jiangsu Province's provincial regulations on the protection of women's rights, the terms "sexual harassment" have different meanings in Beijing, Shanghai, Jiangsu, Guangdong, and Shenzhen, and the laws are not always applied consistently in these areas. For the first time since the #metoo movement, China was obliged to face the fact that there were no explicit legal prohibitions against sexual harassment. Consequently, a revised draft incorporating various portions of the PRC civil code was released by the PRC national People's Congress on September 5, 2018.

It is important to remember that Article 40 forbids the sexual harassment of women. The women may now voice grievances from the comfort of their own workstation. Employers are required to prohibit and restrict any type of sexual

harassment of women on the job by State Council Order No. 619, which is Article 11 of the Special Provision on Labour Protection for Female Employees.

Criminal Law of the PRC⁹: Under Article 237 the immoral assault of a woman is held as a crime to which the punishment is Maximum fixed-term of 5 years imprisonment to the offenders.

China Women's Development Program (2011-2020): Under this program, the prevention of sexual harassment is the duty of employers in the workplace.

F. United Arab Emirates

A revolutionary move has been taken by the United Arab Emirates to protect women in the workplace. To put an end to harassment and make the workplace a safer and more enjoyable place for female employees, stricter laws and penalties have been implemented.

According to Federal Decree Law No. 33 of 2021 and Cabinet Resolution No. 1 of 2022, employers in the United Arab Emirates are now legally obligated, under Article 13(13) of the Employment Law, to provide a safe and adequate working environment for their employees. This includes defence against all forms of harassment.

The new regulations expressly prohibit managers, supervisors, and coworkers from engaging in any type of verbal, physical, or psychological abuse towards employees, including sexual harassment and bullying. According to Article 14(2) of the Employment Law and Article 413 of the UAE Penal Law, individuals found guilty of sexual harassment face harsh penalties, including a minimum one-year jail sentence and a fine of at least Dh10,000. The new law's Article 413 defines sexual harassment as any persistent activity meant to aggravate the victim by words, acts, or nonverbal cues with the intention of satisfying the sexual desires of the perpetrator or others.

There are simple ways for women to handle awkward circumstances, such as unwanted closeness from male coworkers, without creating needless commotion:

⁹ Criminal Law of the People's Republic of China, 1979.

1. **Communication:** First, one can individually let their coworker know that they are uncomfortable with their actions and that they should uphold proper boundaries. Inform them of the gravity of their behaviour and underline that it is illegal in the United Arab Emirates.
2. **Employer Complaint:** If the issue continues, the victim should bring it up with their employer and ask them to send a show-cause letter or a warning to the offending employee. Employers are required to look into these concerns in great detail.
3. **Internal Investigation:** The employer should conduct an internal investigation based on your complaint, ensuring a written record of the process. In line with Article 44(7) of the Employment Law, the employer may take disciplinary action, including termination, without prior notice, if the investigation finds inappropriate behaviour.
4. **Criminal Complaint:** One has the right to file a criminal complaint with the Dubai Police if the problem continues after your employer steps in. The pertinent sections of the UAE Penal Law to refer to under such circumstances are Articles 411, 412(1), and 413.

These extensive legislative actions show the UAE's dedication to establishing a courteous and safe workplace for all workers, including women. Women can confidently defend their rights and resist workplace harassment by being aware of these laws and their options.¹⁰

IV. Legal Protection against Sexual Harassment in India

In India it is believed that a human being is born with some rights that are unalienable. Human rights are defined by the Protection of Human Rights Act, 1993 as the rights to life, liberty, equality, and dignity of the individual that are either enshrined in the Indian Constitution or numerous international covenants that are enforceable in Indian courts. One of the fundamental human rights is the

¹⁰ UAE Strengthens Workplace Harassment Laws: Women Empowered to Speak Up, [https://legalcommunitymena.com/uae-strengthens-workplace-harassment-laws-women-empowered-to-speak-up/#:~:text=According%20to%20Article%2014\(2,of%20at%20least%20Dh10%2C000.](https://legalcommunitymena.com/uae-strengthens-workplace-harassment-laws-women-empowered-to-speak-up/#:~:text=According%20to%20Article%2014(2,of%20at%20least%20Dh10%2C000.) (Last visited: Dec. 10, 2023).

ability to live in dignity, and sexual harassment is an infringement on that ability. Nothing in the Indian Constitution's Article 15(3) prohibits a state from creating unique measures for women and children. This gives the government the authority to discriminate favourably against women and children in order to advance their cause.

The first law to protect women from sexual harassment was the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, although it only applied to the workplace. Section 2 of the legislation defines sexual harassment as any one or more of the following unwanted acts or behaviours (whether explicitly stated or implied): 1. physical contact and advances; 2. a demand or request for a sexual favour; 3. making sexually suggestive remarks; 4. displaying pornographic material; or 5. any other unwanted physical, verbal, or non-verbal conduct of a sexual nature. This Act has made significant progress in protecting women since, prior to its passage, no law had defined or addressed the problem of sexual harassment. Nonetheless, a number of legislations included clauses protecting women against different types of sexual harassment. The following is a list of legislation that address sexual harassment:

A. Indian Penal Code, 1860

Section 294:

This clause states that Anyone who, to the displeasure of others, engages in any kind of lewd behaviour in public or sings or recite any lewd song, ballad, or comments in a public setting or close to one. Such an individual will thereafter be subject to a fine, a sentence of imprisonment that may not exceed three months, or both. This section guarantees that no one will be harassed or made to feel uncomfortable in a public area by anyone, regardless of gender. This part is a breath of relief for all girls who deal with the issue of roadside harassment and eve-teasing, which takes the shape of remarks or casual remarks made in an attempt to offend females. Since this section establishes the offence as well as the penalty for it.

Section 354:

This section shields women from all forms of attacks meant to compromise their modesty. This clause states that a person faces up to two years in prison, a fine, or both if they assault or use unlawful force against a woman knowing that doing so would likely cause the woman to lose respect for herself or with the intent to violate her modesty. This clause protects all women against any form of violence or attack that would go against their sense of modesty. This section, therefore, protects the women from harassment that would go against their modesty.

Section 354 A:

This section was added to the Code through an amendment; it was not there at first. Both a definition and an offence of sexual harassment are provided in this section. According to this section, a man is deemed to have committed sexual harassment if he engages in any of the following behaviours: i) making unwelcoming and explicit sexual advances through physical contact; ii) demanding or requesting sexual favours; iii) showing pornography against a woman's will; iv) making sexually suggestive remarks. The punishment specified for the offence under clauses I, II, and III of subsection 1 of section 354 A is either a fine, a harsh term of imprisonment up to three years, or both. However, the penalty specified for the offence under section IV is either a fine, a term of imprisonment that may not exceed a year, or both. This clause protects women from sexual harassment and declares it a crime. According to this provision, a male must conduct the aforementioned activities in order for them to be considered an infraction.

Section 354 C:

This section criminalises voyeurism by declaring that anyone who watches or takes pictures of women while they are performing private acts in which they do not expect to be observed by the perpetrator or anyone else acting on their behalf, or who distributes such images, faces a minimum sentence of one year in prison and a maximum sentence of three years in prison. They may also be fined. If there is a second conviction, the sentence must not be less than three years, but it may be as long as seven years, plus a fine. This section offers the woman privacy during her private times and lays out a two-phase punishment plan for the offender.

Section 354 D:

This section defines stalking as an offence and specifies that a man is deemed to have committed stalking if he follows a woman, contacts her, tries to get in touch with her repeatedly to establish a personal relationship despite the woman's obvious signs of disinterest, or in any other way keeps an eye on her email, internet, or other communication channels. This section also lists the circumstances under which stalking may be justified if it is done to identify or stop a crime, in which case the stalker has an obligation to do so. According to this clause, stalking women is a crime that carries a maximum sentence of three years in prison as well as a fine upon first conviction. However, the clause stipulates that in the event of a future conviction, a fine and a period of imprisonment up to five years are required.

Section 503:

According to this clause, it is illegal to threaten someone with harm to their person, reputation, or property, or the person, reputation, or property of anyone they are interested in, and to commit criminal intimidation. This provision shields women from any kind of sexual approaches made by threatening to damage their body, reputation, or property. If such threats are made, the offender is guilty of criminal intimidation and faces a two-year prison sentence and a fine.

Section 499:

This section addresses defamation and makes it illegal to alter a picture of a woman with the intent to harm her reputation. Offenders risk up to two years in prison, a fine, or both. Additionally, women are shielded from harassment when their images are published online with the goal of harming their reputation.

Section 509:

According to this clause, there is a potential one-year prison sentence, a fine, or both for anybody who willfully offends a woman's modesty by words, gestures, or object exhibition with the goal of attracting attention to oneself or violating their privacy in any other way.

B. Information and Technology Act

Under the IT Act the following provisions help in curbing sexual harassment which are as follows,

Section 67: "Anyone who publishes, transmits, or causes to be published or transmitted in electronic form any material that is lascivious or appeals to the prurient interest, or if its effect is such that it tends to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see, or hear the matter contained or embodied in it, shall be punished on first conviction with imprisonment of either description for a term which may extend to three years and with fine which may amount to five lakh rupees and in the event of a second or subsequent conviction with imprisonment of either description for as long as a term which may extend to five years and also with fine which may extend to ten lakh rupees". This part guarantees that women are not taken advantage of and safeguards their morals and fundamental decency.

C. Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

Any abuse, assault, or harassment that is done overtly or covertly is considered sexual harassment. In addition, it covers the unwelcome or overly generous offer of advantages in return for sexual favours. One way that women's rights to equality, life, and liberty are violated at work is through sexual harassment. Its hostile and chaotic workplace discourages women from working and obstructs their ability to advance socially and economically. Bipolar illness and depression are among the psychological and mental health problems that arise from it. Following the Supreme Court's decision in *Vishaka v. State of Rajasthan*¹¹, the Sexual Harassment of Women at Work Act was drafted in 2013 and put into effect to protect working women from sexual harassment. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which was ratified by the Indian government in 1993, and the fundamental human rights enumerated in Articles 14, 15, 19(1)(g), and 21 of the Indian Constitution were all adopted by the Supreme Court. The Sexual Harassment of Women at the Workplace (Prevention, Prohibition and Redressal) Act of 2013 states that "no woman shall be subjected to harassment at any workplace, whether public or private, whether the aggrieved woman is employed there or not." The principal components of the law are as follows:

¹¹ AIR 1997 SC 3011.

- **Complaints Committee:** It is legally required for employers with ten or more employees to establish an Internal Complaints Committee in order to address workplace sexual harassment complaints. A first infringement could result in a fine of up to Rs. 50,000; a second offence could result in double the fine or the cancellation of the business licence. This could happen if the committee is not created or if its recommendations are not put into action. In compliance with the Indian Penal Code, the employer is required to support the aggrieved woman in her legal action and to file initial court documents against the offender. The woman may make a complaint with the District Office's Local Complaints body if there isn't currently an internal complaints body in place.
- **To file a complaint in accordance with this Act:** Within three months after the occurrence, a woman has the option to denounce sexual harassment to the internal or municipal complaints commission. Her legal successor may also file the case if the woman passes away or is incapable of doing so because of a physical or mental disability.
- **Results of the Inquiry:** After looking into the matter, the internal/local complaints committee may suggest to the employer, within sixty days, that the respondent be disciplined for sexual harassment as a violation of government regulations or service rules, or the employer may take the appropriate deductions from the respondent's pay after conducting an investigation. The affected woman may file an appeal with the government-designated court or panel. The appeal in reply to the recommendations has to be filed within ninety days.

Enacting legislation that prohibit workplace sexual harassment is crucial, and the 2013 **Justice J.S. Verma Committee Report** underlined the necessity for those laws to be sufficiently comprehensive to protect "every female member of the national workforce." The report also underlined how crucial it was to guarantee that the law still applied to and was within the purview of the informal sector. Sexual harassment of women at work is prohibited by law, and victims have legal recourse under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (sometimes referred to as the "POSH Act"). The POSH Act recognises that every woman has a right to a workplace that is secure, safe, and free from hostile

harassment and attacks, regardless of her age or employment level. The law provides protection to women who work in any capacity, whether on a permanent, temporary, ad hoc, or daily income basis.

V. Conclusion

The main goals of the laws in these nations are to stop sexual harassment and give victims' rights. Lack of accurate data about the number of victims is a problem that all countries face because many victims are reluctant to report the incidence for fear of damaging their reputation or having to pursue a case and because of this, it is extremely difficult to determine who is at fault and to make choices that will truly affect the prevention of sexual harassment. India's laws are biased towards women and do not expressly forbid sexual harassment of men, in contrast to those of China and Canada. On the other hand, there is no such bias in the current Canadian laws or the prospective legislation in China. Whereas India and Canada have stringent laws against sexual harassment, China does not have any national statutes that specifically identify the practice.

Local definitions of sexual harassment in other countries are stricter than national ones. The harsh laws in India have a significant drawback in that Indian women use them to their advantage by fabricating cases and accusing men in circumstances where men are left with no other choice and face terrible consequences as a result. Many men commit suicide in India as a result of these baseless accusations made against them, sexual harassment, and a lack of legal redress.

The sanctions for sexual harassment vary depending on the country. India provides fewer severe sanctions for this violation than other countries do. Some countries do not already have any specific rules prohibiting sexual harassment, but the proposed legislation stipulates severe punishments. One more commonality across the legal frameworks of other countries is the requirement for enterprises to establish a local compliance committee to address issues related to sexual harassment within their own establishment.

In each given scenario, it is the responsibility of the companies to increase public knowledge of these issues and the remedies that are accessible. In India, following someone around is also considered sexual harassment. Despite the various laws passed by various countries, sexual harassment is still a complex

social issue. There are challenges to face and overcome every day. There should be more movements to support victims in overcoming their concerns, sharing their stories, fighting for justice, raising awareness, and assisting us in realising how inadequate our legal and structural protections against sexual harassment are. When such movements acquire momentum, pressure is applied to the legal system and administration to take the initiative and offer a reasoned response.