

A Study on the Laws Regarding the Protection of Women at Workplaces

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ABSTRACT

With the development of industrialization in India, the cases of sexual harassment of women have also increased. There are a number of workplaces where the office environment is not appropriate for the working women. In majority of the work places, the number of working women is lower than that of men and in many work places, the report suggests that the men workers tend to tease the women workers. Hence, working women have to face physical and mental harassment in some of the work places.

According to the Article No. 14[2] and 15[3], the concept of gender equality is mention where it is depicts that any woman has the basic right to opt for any working field and nobody can physically and mentally harass them. Hence, it is the responsibility of the company owner to maintain the environment of the office, appropriate for the working women. The current paper highlights the laws made by Indian government regarding the protection of women at workplaces.

KEYWORDS:

Harassment, Workplace, Law, Women

INTRODUCTION

There are a number of laws which are made by Indian government in order to protect the rights of working women. These laws offer a hard punishment of the persons who are found guilty of harassing any working woman physically or mentally.

From past few years, due to increase in the level of modernization; the trend of doing jobs has been increased among the women. With this increasing trend, the complaints regarding the sexual or mental harassment of the working women at workplaces have also enhanced and the situation has become very serious now.

According to a report, there are many workplaces which are not capable of providing a comfort office environment to the working women. This report also suggests that most of the working women are physically and mentally tortured by their senior colleagues or members of the top management of the companies.

To rectify this situation, inclusion of Section 354A of the Indian Penal Code was performed in the Criminal Law Amendment Act of 2013 where different sections related to the sexual harassment and offences are

mention with the provision of criteria of punishment of the guilty persons.

According to the Section 354A, the sexual harassment can be described as the undesired physical relations, showing any adult image or video to the working woman. This section mentions the punishment of up to three years with some monetary fine.

According to the Section 354B, the sexual harassment is considered as the undressing a woman and in this case, the punishment of seven years with some monetary fine is mentioned. On the other hand, the Section 354C describes the woman harassment as the storage of videos or images of a woman without her permission which can cause a guilty person; the punishment of up to three years and some fine.

Section 354D mentions the harassment of a woman in terms of making contact with her forcefully which can certainly mentally disturb her. In this case, the imprisonment of up to three years is specified.

Hence, we can say that government has made a number of laws in order to protect the fundamental rights of the working women. But, we observe the situation practically then we can observe that still a number of cases of physical and mental harassment of the working women are found at the workplaces.

In some cases, it is also observed that the suffering working women are threatened not to complain to the police regarding the physical

harassment and hence, a number of cases are not come into the notice of the government authorities.

LAWS REGARDING THE PROTECTION OF WOMEN AT WORKPLACES

Today's world is accustomed to the term Sexual harassment. Sexual Harassment can be identified as a behavior. It can in general terms be defined as an unwelcome behavior of sexual nature. Sexual harassment at workplace is a universal problem in the world whether it be a developed nation or a developing nation or an underdeveloped nation, atrocities and cruelties against women is common everywhere. It is a problem giving negative effect on both men and women.

It is seen to be happening more with women gender as they are considered to be the most vulnerable section of the society these days. Sexual harassment therefore is a serious problem in the workplace and it has become one of those issues that receive a lot of negative attention. Sexual harassment has been identified as a term which is difficult to define as it involves a range of behaviors. Efforts have been made at both national and international levels to define this term effectively. often, the term is subjected to different interpretations.

Some believe that it is better not to mingle with female colleagues so that one does not get embroiled in a sexual harassment complaint. The reality of sexual harassment incidents at the workplace is that there is more to

worry about under-reporting, than people misusing the law. Sexual harassment clearly violates the fundamental rights of a women to Equality under Article 14[2] and Article 15[3], her right to life under Article 21[4], and her right to practice any profession and carry on any occupation, trade or business[5], which includes a Right to safe environment free from sexual harassment.

In 2013, substantial changes were made in the way sexual harassment was viewed within the criminal justice system in India. The Criminal Law Amendment Act of 2013, which commenced on April 3, 2013, included Section 354A of the Indian Penal Code, 1860 that defined sexual harassment. The India Penal Code, 1860 has also defined the term sexual harassment and related offences and put forth punishments for the same:

- Section 354A- Sexual harassment is: unwelcome physical contact and advances, including unwanted and explicit sexual overtures, a demand or request for sexual favors, showing someone sexual images (pornography) without their consent, and making unwelcome sexual remarks.

Sexual Harassment as we know has become a global problem which is a kind of violence against women. International community has recognized in their International treaties and documents, the protection from Sexual Harassment as a human rights of women.

All the legal instruments dealing with this matter have been laid down to protect life and liberty and these instruments have been used as a means to curb and address this issue. In India until the Vishaka's judgment was given out, there was no law to govern this matter and the guidelines which came as an outcome of this case were derived from the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW).

The Indian Constitution had grounded provisions in the form of fundamental rights. The complaint mechanism should be adequate to provide a complaints committee, a special counselor or other support service, including the maintenance of confidentiality. The complaints committee should be headed by a woman and not less than half of its member should be women.

Further, to prevent the possibility of any undue pressure or influence from senior levels, such complaints committee should involve a third party, either NGO or other body who is familiar with the issue of sexual harassment. The complaint committee must make an annual report to the government department concerned of the complaints and action taken by them.

The employers and person in charge will also report on the compliance with the aforesaid guidelines including on the reports of the complaints committee to the government department. India did not have any

legislation till the Bill for the Protection of Women from Sexual Harassment was moved in the Parliament in the year 2005.

DISCUSSION

After a 10 long years gap in 2010, the Bill was in the Lok Sabha with slight changes in the old Bill. The new Bill defined “sexual harassment” and also provided for a redressal mechanism through “Internal Complaints Committee” in the workplace or “Local Complaints Committee” at the district level. Women who are employed as well as those who enter the workplace as clients, customers or apprentices besides the students and research scholars in colleges and universities and patients in hospitals are sought to be covered under the proposed legislation.

However, domestic workers working at home are not covered. Additionally, there were problems regarding the action to be taken against false and malicious charges or complaints, subsequently to solve this issue the Parliamentary Standing Committee in June 2011, submitted recommendations to remove false and malicious charges. Then the newer version of the Bill retained the action against false and malicious charges by ICC or Local Committee against the Complaint under Section 14. According to Section 13 of the Bill there are two stages of enquiry, one is once the charges are found and proved the report of

the same must be sent to the DC (Disciplinary Committee) and it will take action as per the service rules.

This is again a time consuming process, where the victim has to produce the evidences again and go through cross examination, which is a kind of mental torture to the victim. The case may be different with a private sector regarding the second process of enquiry, these stages or traditions are acting against the value Constitution of ICC.

In relation to this, the Apex Court in case of **Medha Kotwal**[7] has clearly laid down that the report of the committee is final and the disciplinary committee is vested with the power to give punishment and to conduct second enquiry. Till the new Act of 2013, came into effect; the problem of sexual harassment was governed by the guidelines laid down by the **Vishaka's case** in the year 1997.

The main objective of the Act was to implement the guidelines and to ensure an access a safe workplace by woman.

Until the enactment of this law, vicarious liability on sexual harassment at the workplace was non-existent. However, while the Government of India has been taking steps to monitor implementation of the 2013 Act in government offices, there is an absence of mechanism to check execution in the private sector. The damage that is happening as a result of state apathy is unpardonable and irreparable.

CONCLUSION

Sexual harassment is a serious problem in the workplace and it has become one that receives a lot of negative attention. However, India is a late entrant in formalizing sexual harassment at workplace as a penal offence punishable with imprisonment and penalty.

The harsh reality of sexual harassment cases at workplace is that there is more to worry about under-reporting than people misusing the law. With the advent of the present legislation, a paradigm shift can be noticed in the way employers are made liable for the breach of law by its employees.

REFERENCES

- [1] (1997) 6 SCC 241, AIR 1997 SC 3011.
- [2] Article 14- Equality before law
- [3] Article 15- Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth
- [4] Article 21- Right to life and personal liberty
- [5] Article 19 (1)(g)
- [6] AIR 1997 SC 3011
- [7] Medha Kotwal Lele vs. Union of India and others, (2013) 1 SCC 297