



AN INTERNSHIP REPORT

PREPARED BY:

PRIYADARSHINI

Bachelor of Arts, Ramjas College
Delhi University

PREFACE

The aim of this study is to look into the issue of sexual harassment of women at workplaces in Patna specifically focusing on Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and Vishaka Judgement, 1997. The methodology adopted to carry out this study was a questionnaire prepared by me and informal conversations with the employees of different sectors.

DECLARATION

I hereby declare that the study was done during my internship from 9.6.14 to 16.7.14 at Equity Foundation under the guidance of Ms. Nina Srivastava, Director of Equity Foundation and the mentorship of Mr. Rahul Kumar, Equity Foundation.

Priyadarshini

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INTRODUCTION TO THE ISSUE OF SEXUAL HARASSMENT

“You cannot rob us of the rights we cherish, nor turn our thoughts away From the bright picture of a “Women’s Mission” Our hearts portray” - Annie Louisa Walker



As the poem rightly portrays, every woman has rights which no one can rob of her of. Article 14 of the constitution speaks of equality before the law “The state shall not deny to any person equality before the law or the equal protection of the laws within the territory of India”. Every citizen of India in spite of religion, caste, creed and gender has the right to be treated equally in front of law. But Are women treated equally in our country? Is she safe in our Workplaces? The increasing cases of rape and sexual abuses in our country are shocking. And it is the very need of the hour to have an active discussion on this topic. Sexual Harassment against women at workplaces affects the confidence, personal dignity and peaceful working environment of a woman. Generally sexual harassment is a sexually oriented conduct that may endanger the victim’s job, negatively affect the victim’s job performance or undermine the victim’s personal dignity. It may manifest itself physically or psychologically. Its milder and subtle forms may imply verbal innuendo, inappropriate affectionate gestures or propositions for dates and sexual

favours. However it may also assume blatant and ugly forms like leering, physical grabbing and sexual assault.

The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act 2013 received the assent of the President on 22nd April 2013. The Act was intended to provide protection against sexual harassment of Women at workplace and for the prevention and redressal of complaints of sexual harassment and matters connected to it. Sexual harassment results in the violation of the fundamental rights of a woman to equality under Articles 14 and 15 of the Constitution of India and the right to practice any profession or to carry on any occupation, trade or business which includes a right to a safe environment free from sexual harassment. As per the Act workplace (Sec.20) includes: (i) any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the appropriate Government or the local authority or a Government corporation or a co-operative society; (ii) any private sector organisation or a private venture, undertaking, enterprise, institution, establishment, society, trust, non-governmental organisation, unit or service provider carrying on commercial, professional, vocational, educational, entertainment, industrial, health services or financial activities including production, supply, sale, distribution or service; (iii) hospitals or nursing homes; (iv) any sports institute, stadium, sports complex or competition or games venue, whether residential or not used for training, sports or other activities relating thereto; (v) any place visited by the employee arising out of or during the course of employment including transportation provided by the employer for undertaking such journey; (vi) a dwelling place or a house. The protection against sexual harassment and the right to work with dignity are universally recognised human rights by international conventions and instruments such as the Convention on the Elimination of all forms of Discrimination against Women.

The Sexual Harassment of Women at Workplace which was brought in effect on December 9, 2013 was definitely the result of the public outrage against the Nirbhaya Case. The question regarding the safety of women at workplace came to the public front with the protests against this case.

It is mandatory that at least half of the forum's members should be women. Whenever such a committee is not functioning or the complaint is against the employer himself, a forum may be constituted by the District Magistrate consisting of members from NGO's and Social Workers. When complaint is given by a worker, the forum will enquire into the matter and submit the report to the employer or District Magistrate, who will take the decision according to the report.

When the offence is undoubtedly proved the punishment is as per the service rules of the employer and if no such rule exists, it is as per the Act. The redress ranges from apology and withholding promotion to termination. But the Act is ineffective in a situation where the employer's service rules contain less stringent provisions. Section 10 of the Sexual harassment of women at workplace Act 2013 gives possibility of conciliation. The conciliation between parties could be undertaken by the committee prior to the enquiry only at the request of the victim. This is a very unfortunate provision in the Act. When the offence is undoubtedly proved, why should there be a possibility of conciliation? In our country attacks against women are increasing day by day. And in most cases women are not ready to give complaints. Only if sufficient punishment is given to those who commit offences, we will be able to tackle these cases from our society. The possibility of conciliation will surely have a negative impact on the measures undertaken by the government to reduce attacks against women in our society. The area of mediation is developing. Many Courts in our country have their own mediation centers with lawyers trained in mediation. At first sight this may seem a good idea since it provides a solution acceptable to both sides. However mediation plays a very important role in cases relating to property, divorce etc. But the scenario changes when it comes to cases relating to sexual harassment. Some Sexual harassment cases include grave violation of a woman's body, dignity and rights and therefore it cannot be considered as an area of compromise. In fact in many cases, it is possible that the politically and economically influential accused can take advantage of the victims. In such cases, there is also a need for the co-workers to know the identity and culpability of the accused so as to safeguard themselves, such information will remain cloaked up when a conciliation is made between the accused and the victim. In fact, public naming is a societal need. The Act also gets wrong in some other aspects. Firstly, the trained conciliators have the skills to deal with emotionally distraught Sexual Harassment of women at workplace Act 2013.

It is not likely that such forums in offices may contain such trained persons and in addition to that they may think twice before giving a report against the superior even if the facts are undoubtedly proved. Secondly, due to the possibility of compensation there will be a number of women blackmailing men especially the rich ones. Thirdly there is little justification for the Act to mandate secrecy when the committee reaches a determination of guilt and recommends punishment. Fourthly, the person who have done the act may repeat it if adequate punishment is not given. These are some of the unavoidable consequences of Section 10 of the Act. The Judgement on Vishaka vs. State of Rajasthan was a landmark judgment in initiating steps to prevent sexual harassment against women at workplaces. Bhanwari Devi was a social worker at the rural level in a developmental program

initiated by the state government of Rajasthan. As a part of her work she tried to stop Ramakaran Gujjar, an upper class influential man, from conducting the marriage of his infant daughter. Although the marriage took place nevertheless, Bhanwari Devi was neither forgotten nor forgiven. On September 1997 she was subjected to social boycott and was brutally gang raped by five men including Gujjar, in front of her husband. Her bad luck did not end there; the only male doctor at the Primary Health Centre refused to treat her whereas the doctor at Jaipur only confirmed her age without even referring to rape in his medical report, further she was subjected to more brutal behavior in the police station wherein she was taunted and at way past midnight she was asked to leave her lehanga behind and return home in only her husband's blood stained dhoti. The trial court acquitted the accused, but Bhanwari Devi was adamant that she gets justice and did not stop there, her spirit and bravery inspired other social workers and they joined her in her endeavor for justice. They further launched a campaign of justice for Bhanwari. On December 1993, the high court decided that it was a case of gang rape which was committed out of vengeance. This further kindled the women's group and a number of NGO's who, under the name "Vishaka" filed a petition in the Supreme Court asking it to issue some directions that protect the women.

This resulted in the Supreme Court judgment which came out on 13 august 1997, announcing the Vishaka guidelines. The guidelines says that the employer or other responsible persons are deemed to prevent or deer from any act of sexual harassment and to provide procedures for the resolution, settlement and prosecution of acts of sexual harassment and also to make necessary steps. As per the guidelines Sexual Harassment includes Physical contact and advances, demand or request for sexual favours, sexually flavoured remarks, Showing pornography and any other physical, verbal or non-verbal conduct of sexual coloring. The guideline says that every employer or person of responsibility, in both public and private sector should prevent sexual harassment of women at work places. They are obliged to express the prohibition of sexual harassment through notices and other means and should be appropriately circulated. The rules and regulations of all private and public sector bodies should strictly include regulations which prohibits sexual harassment towards women at work places and appropriate working conditions should be provided in respect of work, leisure, health and hygiene to ensure that there is no hostile environment towards women at workplaces. As per the guidelines in case any conduct amounts to sexual harassment towards women the employer or responsible person should initiate appropriate action by complaining to the appropriate authority. If any action amounts to misconduct at workplace the appropriate authorities are supposed to employ appropriate disciplinary procedures in accordance with the rules. Appropriate complaint

mechanism should be created in an organization for redress of the complaint made by the victim. But the question that arises in our mind is that, did the Vishaka Judgement bring a historic change in the attitude of the society against women. Well, the answer would be No. But still we can't deny the fact that the Judgement for sure have brought some changes and have lead to the victory of a woman's indomitable spirit and fight for justice. It is definitely an encouragement to all the women in the country to fight against injustice. A committee was constituted on December 23, 2013 with Justice J.S.Verma as its chairman. The other two members of the three member committee were Justice Leila Seth and Gopal Subramaniam. The committee is popularly known as the J.S.Verma committee. The committee submitted its report on amendments to criminal law. The fourth chapter of the committee's report deals with the sexual harassment at workplace. In the report the committee has mentioned the judgment of Vishaka v. State of Rajasthan. In compliance to this judgment, universities like Jawaharlal Nehru University and University of Delhi have formulated policies and constituted mechanisms to prevent and redress complaints of sexual harassment. The J.S Verma committee has pointed out that the anti-sexual and committee mechanism of the universities which was up to the standard of Vishaka was exempted from the purview of the Sexual Harassment Bill, 2012. The committee also noticed that there was an anomaly in the bill that it did not include within its ambit the students of universities, colleges or schools. In its report J.S.Verma committee revisited Supreme Court's judgment in Vishaka. The committee emphasised on Article 42 which says, "The state shall make provision for just and humane conditions of work and for maternity relief." It is also said in the report that Article 42 needs to be read along with the other provisions which are contained in the fundamental rights and Preamble. The committee studied the Sexual Harassment Bill in detail. It has pointed out that the section 10(1) of the bill stipulates that on the complaint of sexual harassment, conciliation must be attempted between the complainant and the respondent. This is in violation of the mandate prescribed by Supreme Court in Vishaka, which was a direction to the state to ensure a safe workplace / educational institution for women. The attempts of conciliation cannot muscle justice. There are certain areas, such as contractual matters where there could be conciliation but in matters of harassment and humiliation of women, an attempt to compromise is yet another indignity towards women. The committee opined the deletion of section 10(1) from the bill. The section 14 of the bill penalises a woman for filing a false complaint. The committee believes this section to be abusive and against the true spirit of law. But there should be authorities to ensure that the provisions of the act are strictly followed in all workplaces. But the unfortunate reality is that most of the workplaces do not have forums to deal with sexual harassment cases against women. The recent controversial Tehelka Case and allegations against

former SC judge Swatanter Kumar reveals that women are least safe in our workplaces. In the former case the Tehelka founder and former editor TarunTejpal was charged by Goa police with rape, sexual harassment and outraging modesty of a woman journalist in a lift of a five star hotel. Investigating officer Sunita Sawant has charged Tejpal under sections 354, 354-A (sexual harassment), 341 and 342 (wrongful restrain), 376 (rape), 376(2)(f) and 376(2)(k) (takes advantage of is official position and commits rape on his custody). From this incident it is quite clear that even though much legislation has been brought forward by the government, we have not been able to effectively prevent sexual harassment against women at workplaces. Even if harassment occurs women are not ready to file complaints. Same thing happens in the case of eve teasing, rapes, and other harassment. We can't just blame them for that. If a woman files a complaint, the society often blames her. People think that it is her mistake. So, if the problem has to be tackled, this mindset has to be changed. Let's hope that such a day will come where women will be able to enjoy her rights freely, do her work safely and walk through the streets even in the stroke of midnight safely.



SEXUAL HARASSMENT- an insight

Sexual harassment laws were designed to prevent employers from permitting this form of discrimination in the workplace. Supervisors, coworkers, and even nonemployees (under certain circumstances) can commit sexual harassment. *Supervisors* include employees with sufficient authority or power that their acts are considered those of the employer. Supervisors can have direct authority over an employee or can make certain decisions about that employee. For instance, a supervisor who is responsible for making out the daily work log would qualify just as much as the one who has the power to promote employees.

Supervisors can engage in more forms of sexual harassment because of the authority given, so their acts are considered the acts of the company or employer. In these cases, it is easier to hold the company responsible. Because nonemployees and most coworkers do not have authority to make supervisory decisions, the rules to determine their responsibility for sexual harassment are somewhat different. Most often, the complaint is that the sexual harassment has caused a hostile work environment. In a suit involving coworkers and nonemployees, the employer must show that it exercised due care to prevent harassment, and corrected the problem when it became aware of the harassment. These rules give companies a strong incentive to take care to prevent sexual harassment. Employees are also encouraged to report harassment promptly when possible. Employees who are sexually harassed are also protected from retaliation for complaining about it.

High levels of sexual harassment exist when there is a low number of women in the workplace. In fact, the women in jobs that are nontraditional for women are

more likely to be sexually harassed. Indeed, high numbers of female doctors and investment bankers have reported sexual harassment.

When women do break into these fields and are successful, men may feel threatened by the entry of females. Sexual harassment is one way to *put down* a woman, to *keep her in her place*, and to increase the feeling of power by the harasser. If the woman becomes frustrated enough, she may begin to make mistakes, get sick, be absent from work, or fail to carry out the job, leaving the harasser with the satisfaction of knowing that *women just cannot make it in a man's world*.

When few female workers are present in a workplace, they are singled out for scrutiny and are the focus of attention for the rumor mill. When these workers make a mistake on the job, it typically causes extreme responses from the men who comprise the majority group. Mistakes that would be minor if a male worker committed them become perceived as much worse when one of the few female workers commits them.

In a survey of female coal miners, 17% reported having been physically attacked on the job, 53% reported propositions from their supervisors on at least one occasion, and 76% reported propositions from a coworker. A study of women employed in the male-populated occupations of engineering and management also reported a high percentage of sexual harassment. The similarity between the coal miners and the engineers and managers was that these women occupied traditionally male jobs.

Another factor that contributes to sex stereotyping is the climate of the workplace. For example, when profanities are common in the workplace, women are three times more likely to be treated as sex objects than where profanity is not tolerated. When sexual joking is common in a work environment, stereotyping of women as sex objects is three to seven times more likely to occur. These workplaces are also more dangerous for women. In one study, almost 50% of women working in nonprofessional capacities were subjected to physical acts as part of the sexual harassment.

A workplace that is full of sexist pictures, joking, or sexual slurs may contribute to the view of women as stereotypical sex objects. For example, welder Lois Robinson was one of only a handful of women who worked at Jacksonville Shipyards. Pornography was commonly displayed openly on the walls of the workplace. Even supervisors had pictures of nude women hanging on their walls.

Robinson's coworkers constantly made sexual comments and advances directed at her and other female workers. The court found that there is a connection between the presence of pictures and sexual comments, and the level of sexual preoccupation of some male workers whose conduct has sexual overtones towards female workers. The court also found that these behaviors can constitute a hostile working environment

Whatever the job environment, workers have a right not to be sexually harassed. The problem of sexual harassment in work place is increasingly coming out of the closet. The case of Tarun Tejpal, managing editor of news magazine Tehalka is a case in point. This particular case has brought this issue to the center stage and there is a need for public debate how to control such occurrence in future. After this case companies are starting to realize that the problem is real as more victims are gathering courage to complain such offences. The problem has become more complex due of its sexual dimension that adds up to personal, psychological, moral and marital implications.

Sexual harassment occurs in the workplace or in a work-related environment because of the unwelcome, unwanted, uninvited, action or behavior of a person that causes discomfort, humiliation, offence or distress to other. Majority of such cases are directed towards the opposite sex by men working high position in an organization.

Sexual harassment at a workplace is unwelcome behavior and it affects the terms conditions of employment and have huge bearing on the work environment as such. Therefore this problem has to be discussed in public for better understanding of its causes and effective measures for its remedies.

In India, sexual harassment is termed 'eve teasing' and is described as: unwelcome sexual gesture or behavior whether directly or indirectly as sexually colored remarks; physical contact and advances; showing pornography; a demand or request for sexual favors; any other unwelcome physical, verbal/non-verbal conduct being sexual in nature and/or passing sexually offensive and any other such unacceptable behavior.

Sexual harassment includes an array of things. Actual or attempted rape or sexual assault, unwanted pressure for sexual favors, unwanted deliberate touching, leaning over, cornering, or pinching, unwanted sexual looks or gestures, unwanted letters, telephone calls, or materials of a sexual nature, unwanted sexual teasing, jokes, remarks, or questions.

Referring to an adult as a girl, doll, babe, or honey, whistling at someone, cat calls, sexual comments, turning work discussions to sexual topics, sexual innuendos or stories, asking about sexual fantasies, preferences, or history. Sexual comments about a person's clothing, anatomy, or looks. Spreading rumors about personal sex life.

Touching opposite sex's clothing, hair, or body. Rubbing oneself sexually around another person's body. Standing close or brushing up against the opposite sex. Looking a person up and down with sexual desires. Making sexual gestures with hands or body movements. Sexually suggestive signals, facial expressions, winking, throwing kisses with hand, or lips locking etc.

There are many causes of sexual harassment but most important is the culture and values system and the relative power and status of the men and women in our society.

The way in which men and women are brought up in the society strongly influences their behavior in an organization. Women often lack self confidence because of the way they have been socialized and are customized to suffer in silence. Whereas men brought up with macho beliefs, consider females a mere toy to play with, easily carry these values into the workplace. Such patriarchal viewpoint creates a atmosphere that allows men the freedom of sexual harassment in the workplace.

Women are vulnerable to sexual harassment because they more often lack power, and work in insecure positions. Due to the fear factor women often resign to their fate rather than raise voice against sexual harassment. Since they do not know where to go for complain and how their complain will be treated, compel them to keep quit.

Sometimes sexual harassment is also seen as a power game, where man insists on sexual favors in exchange for benefits he can dispense with due to his position. The 'casting couch' is probably the best-known example of power game.

As recent economic and social changes have changed power relations between men and women, men are feeling a sense of insecurity. With women now being empowered, some men feel threatened by their career advancement. To overcome such insecurity, some resort to harass women in the work place.

Some men feel stressed as even after putting their best, they sometimes do not get proper recognition, where as women with little talent are preferred in an

organization. This sometimes causes frustration and such men resort to sexual harassment to overcome their stress.

It is not only men who are to be blamed all the time, some women think that the real women have to look sexy. They see sexuality as their only power base to play along. Such attitude of women sometimes invites sexual advances by men at the work place.

Many organizations don't have clear policy on such complaint and disciplinary procedures to deal with sexual harassment. Some of them, who have it, do not implement it to safeguard the organization's image.

There should be clear management policy on sexual harassment. Management must develop a clear definition of sexual harassment and a definite procedure to deal with it. This is already in place and needs to be implemented.

An effective employment policy should ensure well planned career paths based on merit to reduce the vulnerability of individuals and harassment by staffs who abuse their power and authority.

There should be awareness among the staff members about sexual harassment and the consequences of it. They should know their social responsibilities to prevent such incidents. The staff member subjected to sexual harassment must complain to the committee members constituted for such purposes in the organization, before going to the police.

Sexual harassment in a work place is a sensitive topic. Rather than solely relying on disciplinary action for the inappropriate behavior, the organization must play proactive role provide behavioral support and discuss this aspect as a part of work routine.

Merely providing staff members' information about the sexual harassment policy is insufficient, the office staff must nurture inclusive, supportive, and respectful environment efforts to build a congenial working environment. Equally important is that the organization and staff must support the victim of sexual harassment and help to overcome the negative effects of such an experience.

Finally, every working woman must know that it is high time to stand up and fight for such injustices.



FINDINGS

1. GOVERNMENT SECTOR

Sample size of this sector is five which includes three female respondents and two male respondents of three field sites.

At **Field Site A**, I interviewed two female respondents of a government office. Their office has 390 male employees and 25 female employees. They have a CASH committee at their workplace which consists of four members but no complaints have been registered regarding sexual harassment till date.

Both of them were aware of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and Vishaka Judgement of 1997. They had a brief knowledge about the Act and its guidelines and were aware of the punishments meted out to the accused according to the guidelines and whom to approach in case of any such incident.

According to them strict rules and regulations should be formed and implemented to tackle the problem of sexual harassment of women at workplace. They believe that the government of Bihar is not implementing the laws on the issue of sexual harassment effectively. They believe that the male colleagues are generally the section who makes uncomfortable sexual advances towards women irrespective of their feelings. This leads to psychological, economic and physical harassment.

Girls have been given less opportunity and freedom in this patriarchal society in addition to their feeling insecure and being always on their toes. It was perceived by them that girls have only defined social spaces that cannot be encroached or crossed. Ultimately, they find that it is the involvement of both men and women that can tackle the issue of sexual harassment and acknowledge the dignity and respect accorded to the womenfolk of the society

Staring and passing comments are the common action that leads to harassment of women. Such an act not only affects women psychologically but it also leads to financial issues. An uncomfortable environment leads to economic issues as it hampers their promotion and severe form of harassment even forces the female employees to quit their jobs.

While stating their personal experience they mentioned that they were harassed in public but nobody turned to help them and even the police didn't make efforts to help them.

At **Field Site B**, which was Women Helpline in Patna, I could only talk to one female employee. The ratio of men is to women employees in their office is one is to two. Her views on this topic are that sexual harassment can only be tackled if proper laws according to Vishaka guidelines are implemented. She thinks that the government of Bihar is making efforts to implement the centre policies in this issue. There is a CASH committee in her workplace but the members are less than 10 so it is integrated with the Mahila Vikas Committee. The procedure is followed according to the Vishaka guidelines if a case is registered in the committee. 7 to 8 cases have been registered till date. According to her, women are harassed by men belonging to age groups 17 to 22 and 35 to 45. Men belonging to age group 17 to 22 do this because of curiosity of their adolescence period, but men belonging to age group 35 to 45 do this because of their pervert and patriarchal mindset. The respondent had an understanding that in contemporary times, due to an increase in the level of education, women have become aware about such sensitive issues like sexual harassment at work places. Also due to an increase in the percentage of women in the workforce, they feel quite empowered to talk about such issues.

At **Field Site C**, I could interview only two male employees the ratio of men is to women employees is twenty is to one. They were not aware of the existence of

CASH committee and if at all it existed they were not sure about the members of the committee.

According to them, pervert mindset of men and social beliefs are some of the major causes for the sexual harassment of women at workplace. Strict action should be taken against the offenders to deter others from indulging in such activities.

Such acts traumatize women and affect their career prospects adversely. This can be solved only when proper implementation of rules and regulations takes place. But they believe that proper implementation of such laws protecting women from being sexually harassed is not done.

Such committees can only be worthwhile when they give space for the victims to share their experiences. Despite given the space if women feel silence is the best way out then it becomes very difficult to address her issue. Locating this context to her organization she felt that in consortiums employees take everything for a ride as there is no committee to look into issues of sexual harassment.

2. ACADEMIC INSTITUTION

Sample size of this sector is twenty which includes ten teachers and ten students of different educational institutions.

Field Site A was an educational institution with only junior classes up to standard seven. The ratio of male is to female employees in the school was two is to five. Teachers were aware of the CASH committee which is present in the school but they were not interested in discussing and disclosing anything about it. The school witnessed a complaint recently where a teacher was harassed by a clerk working in the school. All the other teachers and staff members of the school had complaints against the clerk and their recorded statements included that the clerk have been loud rude and offensive to them and had no respect for female teachers. He used to threaten others teachers regarding their job. He used abusive language while talking to the teachers. Even the principal complained about him being offensive and rude. His behavior mentally harassed the teachers. This case was brought before the regional director through women helpline on 6th may, 2014. The

complaint against him was filed by a female teacher. The complaint was that the clerk had physically hit (slapped) her as she did not listen to him. This case was brought in my knowledge through the Women Helpline.

The teachers of this school were ignorant about the Vishakha judgment and considered firing the accused as a justified punishment. They did not share any personal experience with me and ignored all the questions related to their personal experience.

Field Site B was a reputed educational institution. I could talk to only five teachers of that institution. The ratio of male is to female teachers in the institution is one is to four. There was no CASH committee in that school. The teachers of that school were bold about their views and considered strict and severe punishment to be appropriate for such a crime.

They even shared their personal experience about being harassed by getting whistled and stared at. According to them, sexual harassment of women in workplaces can be tackled by raising voice and promoting justice. There should be proper counseling and family oriented functions. Proper grievance cell is required to be set up and anti sexual harassment policies must be chalked out.

They had a feminist mindset. They demand equality of treatment for men and women. According to them, the reason why women are sexually harassed at workplaces is the difference of opinion of the society for men and women, their inclination towards men, their patriarchal view and their inability to think of women as an equal or a superior sex. They have jealousy issues with their women colleagues who attain success. Our social norms are one of the basic reasons for such incidents to take place.

3. STUDENTS

Field Site A consists of ten students studying in reputed educational institutions of standard twelve. There was no CASH committee in any of the schools. School students were petulant and strong opinioned. They strongly believed that harsh and severe punishment should be meted to people accused of such a charge. They should be dealt with in a ruthless way.

There should be provisions for safeguarding women against being sexually harassed. Appropriate seminars should be held at workplaces. These were some remedies suggested by the students to tackle the problem of sexual harassment.

According to the students, some basic reasons for sexual harassment at workplaces are the insecurity issues of men and that they are under the false notion of considering women as the weaker section. According to some, “men have not been taught to treat a woman”. And according to some, the reasons are “men’s frustration, desperation and lack of self control”.

Such a school of thought perceives that the proper place of women is in their homes due to which the ratio of girls sent for higher education is less as compared to boys. Such people also feel that when girls compete with the boys for their place under the sun, they deprive the boys of their due seats in colleges of higher learning and also take up many of their employment opportunities. They perceive women not as bread earners but as mere obstruction for the male of the species. Even if girls are sent for education, it is seen that they get into vocational education not by interest but to increase their demand in the marriage market. The students emphasized on the need for a suggestion box at academic institutions and other work places.

Women pay the price of psychological, economical and emotional problems due to the social norms and patriarchal society. Students were not aware of the Vishakha judgement and the 2013 Act but they were aware of this fact that they can move to a court of law to safeguard themselves from the clutches of the society.

Almost all the girls have faced eve teasing and sex based harassment. Generally, it has happened in public places and they retaliated back but they failed to get anybody’s help, not even the police cops. None of the students think that the state of Bihar is able to implement the laws into effect.

4. MEDICAL SECTOR

Sample size of this sector is three involving three female respondents in a government medical institute.

At **Field Site A**, I could interview three female doctors. The ratio of male to female employees in this institution was three to two. They did not have a CASH committee and were not even aware of the Act of 2013 and Vishakha Judgement which has made it compulsory to have a committee to address issues regarding sexual harassment of women at workplaces.

They were not very keen on sharing their personal experience regarding this issue. According to them, gender is the only reason for sexual harassment of women to take place. Cast, religion, class have no role to play in it. It was felt by a large number of respondents that sexual harassment of women is a crime but the problem being either most of the cases are not registered by the police or women themselves do not report their incidents. The respondents felt that for women to narrate their experiences, it becomes a question of their dignity.

The female doctors were unwilling to disclose the fact that they were filling up a questionnaire regarding this sensitive issue. On being asked by a male colleague, they didn't mention the topic and avoided the question. This implies the comfort level of women at workplace and the environment in which they work as they were not comfortable enough to talk about this issue. It showed the independence and confidence of women in front of men.

While discussing this topic, they brought about another side to this topic by mentioning about the misuse of this Act by women for their personal gains. They disclosed some distantly related cases where women had misused such laws. According to them it is rare but then it does happen.

5. NON GOVERNMENTAL ORGANISATION

Field Site A was a NGO. I had a conversation with one women employee. She was the only female employee in her office with ten male employees. They have a CASH committee with seven members. Every three months, the committee conducts a meeting but had been no such complaints.

According to her, not only gender, but caste and class are also important reasons for sexual harassment. She stressed on the severity of punishment for the accused to set an example for the other people who even dare to think about doing something like this.

She laid emphasis on the economic impact of this incident on women and how it leads to job insecurities and promotion issues for women. She was completely aware of the Vishakha Judgement and Act of 2013 and its guidelines and rules. She even shared her personal experience over this issue. When eve teased and harassed in a public place, she retaliated physically by hitting them.

Field Site B was another NGO where I interviewed a woman employee.

There was a CASH committee in the organization with eight members and regular meetings take place. She was not really aware of the Act but according to her, her workplace was comfortable to work in and had no such cases.

Sharing her experiences of sexual harassment, the tone of complaint about male employees was quite visible in her response at the meeting. She argued about the pathetic attitude of male employees towards the opposite sex in addition to their biased attitude. One section of the female employees generally perceive that there would be no sexual harassment if both men and women mix at the work places but within limits. Another section of female employees argue about not getting understanding male employees at all to stop sexual harassment.

6. MEDIA

Field Site A was a media organization where I could interview five employees which included two male employees and three female employees.

There was a CASH committee in the organization but it was formed recently so no complaints have been registered or brought before the committee yet. Only one member was there in the committee from the Patna office as the committee exists at the head office level with one or two members representing each office.

Some of the respondents were bold enough to share their experience which includes being teased and whistled upon in public places but they complained of never receiving any kind of help from anyone. The female employees rated their working environment as three on five. A stark difference was noticeable in the meeting as far as voicing one's opinions was concerned. Only a few women spoke in the meeting on bringing out their problems at the work places related to sexual harassment.

Field Site B was a media organization where I could interview two female employees and one male employee. There was a CASH committee which had five members but there have been no complaints yet. According to one of the employees demotion of the accused person is the appropriate punishment but for the others, harsh and strict punishment should be meted out to them.

Regarding the perception of sexual harassment of women at work places, it was argued that the Indian society is highly patriarchal wherein women have always been the victims of sexual harassment but now it is not only women who are harassed but also men. It was also seen that though men are also harassed but such cases come up very rarely. Psychologically, men have always been very harsh towards women.

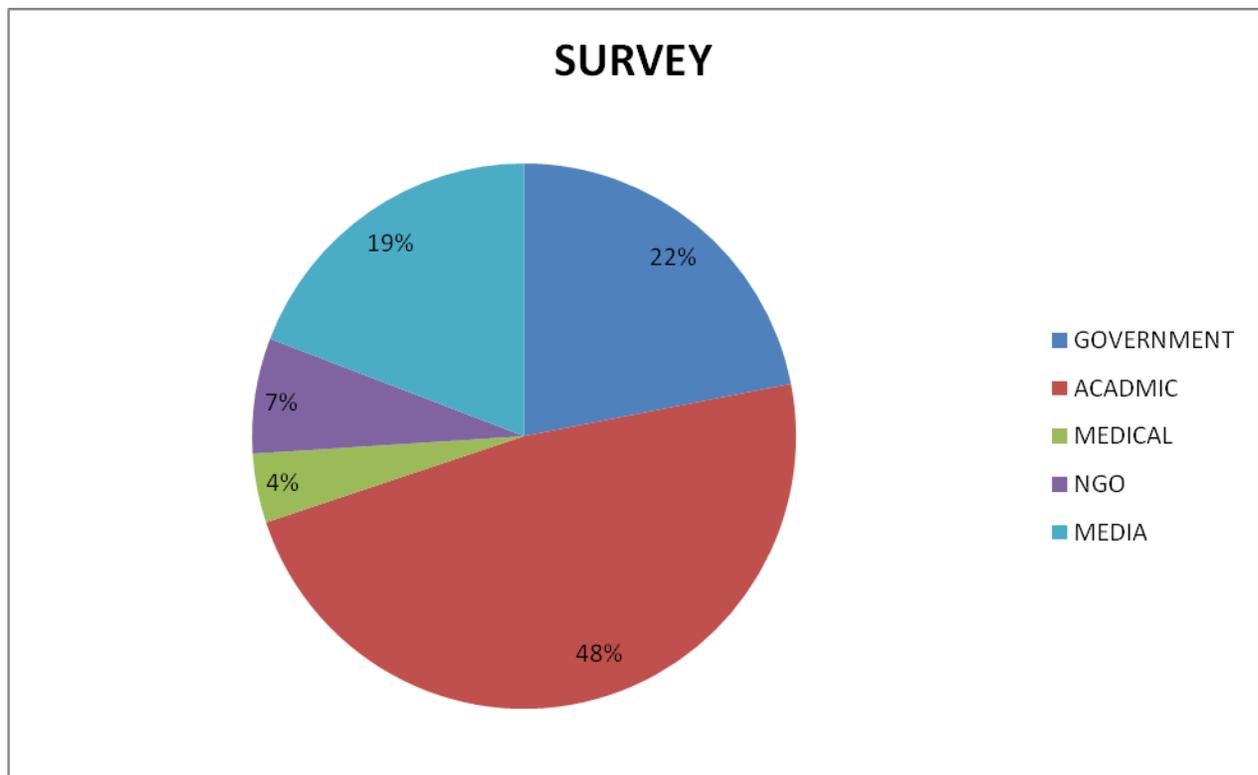
The respondents in general talked about the discrimination based on sex by giving examples like the absence of a female judge in the Verma Committee, women being asked to be dressed in a certain way, thereby curtailing their freedom, bias towards men in case of any argument involving men and women, women being treated as objects etc.

Some of them shared their personal experience and accepted that they were harassed in public places sometimes and many of them retaliated back either physically or verbally. Some even asked police for their help which was given to them.



SURVEY IN DIFFERENT SECTORS OF PATNA

TYPE	GOVERNMENT	ACADMIC	MEDICAL	NGO	MEDIA
FEMALE	10	30	3	5	10
MALE	6	5	0	0	4
TOTAL RESPONDENTS	16	35	3	5	14



CRITICAL ANALYSIS OF ALL THE SECTORS

GOVERNMENT SECTOR

The respondents of the government sector were supportive of this cause and were encouraging me to promote this issue to curb the incidents of sexual harassment. Even the male respondents were not critical of the questionnaire and they replied to all my questions without any problem.

ACADEMIC SECTOR

The teachers in the academic sector were critical of this issue and were trying to avoid the questionnaire. They were patriarchal in nature and only some of them were supportive of this cause. They were not enthusiastic about talking about this issue and were dodging it off. This implies that the condition of our society is still prevailing because of women like these who don't even stand up for their own cause.

But the students were really enthusiastic about this issue and were really strong opined. They answered each and every question and expressed their true opinions and even shared their personal views without any hesitation.

MEDICAL SECTOR

The doctors of this sector were hesitant in talking about this issue freely and were quite restricted in their views. They didn't even disclose the topic of my questionnaire when asked by a male doctor. This shows the sensitivity of this issue and restricted freedom of women in workplaces.

NON GOVERNMENTAL ORGANISATION

The respondents of this sector have been working for this cause and were really supportive. They contributed some really important views in this issue.

MEDIA

The respondents of this sector were not very comfortable sharing their views and were scared of being reported to their seniors.

CAUSES OF SEXUAL HARASSMENT

The case of a student who died Saturday after a brutal gang rape on a bus in New Delhi has seemed to snap India to attention about its endemic sexual violence problem. In recent years, New Delhi has earned the title of “rape capital” of India, with more than 560 cases of rape reported in the city, but violence against Indian women is widespread and has deep roots. Here's a look at some of the reasons behind the issue that's bringing Indians into the streets.

1. Few female police: Studies show that women are more likely to report sex crimes if female police officers are available. India has historically had a much lower percentage of female police officers than other Asian countries. In Patna, the number of women constables and police officers are very less as compared to men.

When women do report rape charges to male police, they are frequently demeaned. This makes the situation for women really difficult to face.

“The police refused to file a complaint. Instead, they asked my sister such vulgar details, it was as if she was being raped all over again,” Charanjit Kaur, the sister of another recent rape victim who committed suicide. “There was no lady police officer, they were all men. My sister cried in front of them and kept asking, ‘Would you still ask such questions if I were your daughter?’”

2. Not enough police in general: There aren't enough police dedicated to protecting ordinary citizens, rather than elites, and the officers that are available often lack basic evidence-gathering and investigative training and equipment.

Only one-third police officers are involved in any kind of actual “policing” at any given time, while the rest provide protection services to various politicians, senior bureaucrats, diplomats and other elites. Many of those who do perform police duties can be found shaking down motorists, participating in protection rackets and simply looking the other way as crimes take place.

3. Blaming provocative clothing: There's a tendency to assume the victims of sexual violence somehow brought it on themselves. In a 1996 survey of judges in India, 68 percent of the respondents said that provocative clothing is an invitation to rape. In response to the recent gang-rape incident, a legislator in Rajasthan suggested banning skirts as a uniform for girls in private schools, citing it as the reason for increased cases of sexual harassment.

4. Acceptance of domestic violence: The Reuters Trust Law group named India one of the worst countries in the world for women this year, in part because domestic violence there is often seen as deserved. A 2012 report by UNICEF found that 57 percent of Indian boys and 53 percent of girls between the ages of 15 and 19 think wife-beating is justified. A recent national family-health survey also reported that a sizable percentage of women blame themselves for beatings by their husbands.

“When a boy grows up seeing his father assault his mother, he starts to accept such a behavior and repeats it,” Anuradha Gupta, mission director for India’s National Rural Health Mission was quoted as saying.

5. A lack of public safety: Women generally aren't protected outside their homes. The gang rape occurred on a bus, and even Indian authorities say that the country's public places can be unsafe for women. Many streets are poorly lit, and there's a lack of women's toilets, a Women and Child Development Ministry report said recently.

Women who drink, smoke or go to pubs are widely seen in Indian society as morally loose, and village clan councils have blamed a rise in women talking on cell phones and going to the bazaar for an increase in the incidence of rape.

6. Stigmatizing the victim: When verbal harassment or groping do occur in public areas, bystanders frequently look the other way rather than intervene, both to avoid a conflict and because they on some level blame the victim, observers say. Male politicians contribute to the problem, making statements that make light of rape or vilify rape victims' supporters.

The son of India’s president also recently apologized after calling those protesting against the Delhi gang rape “highly dented and painted” women, who go “from discos to demonstrations,”.

7. Encouraging rape victims to compromise: In a recent separate rape case, a 17-year-old Indian girl who was allegedly gang-raped killed herself after police pressured her to drop the case and marry one of her attackers.

Rape victims are often encouraged by village elders and clan councils to "compromise" with the family of accused and drop charges or even to marry the attacker. Such compromises are aimed at keeping the peace between families or clan groups. What's more, a girl's eventual prospects of marriage are thought to be more important than bringing a rapist to justice.

8. A sluggish court system: India's court system is painfully slow, in part because of a shortage of judges. The country has about 15 judges for every 1 million people, while China has 159. A Delhi high court judge once estimated it would take 466 years to get through the backlog in the capital alone.

9. Few convictions: For rapes that do get reported, India's conviction rate is no more than 26 percent. There is also no law on the books covering routine daily sexual harassment, which is euphemistically called "eve-teasing." The passing of a proposed new sexual assault law has been delayed for seven years.

10. Low status of women: Perhaps the biggest issue, though, is women's overall lower status in Indian society. For poor families, the need to pay a marriage dowry can make daughters a burden. India has one of the lowest female to male ratio in the world because of sex-selective abortion and female infanticide. Throughout their lives, sons are fed better than their sisters, are more likely to be sent to school and have brighter career prospects.

In recent days, Indian politicians have put forward a slew of potential remedies for India's sexual violence problem. But it's worth noting that it will be hard to end discrimination against women at police stations when it starts in the crib.

IMPACT OF SEXUAL HARASSMENT ON WOMEN

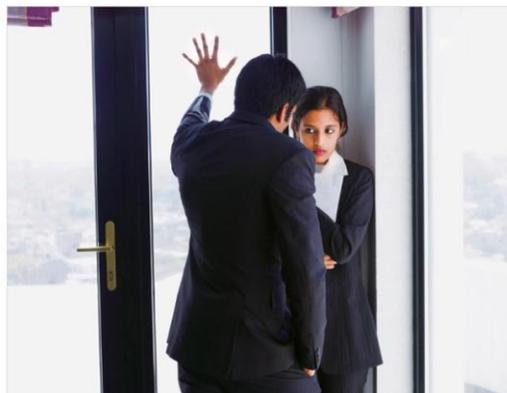
Sexual harassment can cause serious harm to its victims, their families, and other coworkers. Sexual harassment also has a destructive effect on an entire workplace. The victim's work performance decline as the stress of sexual harassment distracts her from work. Coworker friends become less productive, as they spend work time strategizing on ways to solve the problem. Employers are especially impacted, because every year hundreds of millions of dollars are lost in disrupted productivity. Ultimately, there is a turnover of tens of thousands of experienced female employees. Most victims experience stress-related conditions that can be traumatic. In one study, 96% of sexual harassment victims experienced emotional stress, about half suffered work performance stress, and over a third had physical stress problems. In fact, sexual harassment causes so many damaging physical, mental, and emotional effects on its victims that the American Psychiatric Association has recognized that it is a severe stressor that can contribute to posttraumatic stress disorder. Sexual harassment also affects the victims' relationships with their families, as well as friendships both inside and out of the workplace.

Research has documented that a sequence of changes occurs in victims of sexual harassment. Because sexual harassment is often based on a series of incidents, the victim may initially have thought that each incident was an isolated event and that the harassment would stop after each time. When it does not, the victim commonly feels confused or blames herself for not recognizing what was happening earlier. Next comes anxiety as the victim realizes that the harassment is continuing and wonders when it will stop. Anxiety impairs concentration, and her work responsibilities may suffer. She feels that she is being singled out, scrutinized, and targeted unfairly, yet feels trapped by the situation. She may avoid work or take leave to get away from the situation. Finally, the victim becomes angry. This may be due to a change in job, where she was forced to quit or was fired. Not surprisingly, research has shown that it is in the anger stage that most victims think about filing charges. But depression can also set in as the disappointment and frustration at the situation begins to make her feel that she may not achieve justice.

Sexual harassment may have severe economic effects on a victim. A woman may be denied training opportunities, a promotion, or a raise. In retaliation for complaining, she may be reassigned to a difficult position or transferred away from her family and support. When a complaint is made, it may cause a division in the workplace. Certain employees may side with one party or the other. The rumor mill may escalate the situation. Many women leave their jobs every year and face unemployment. The effects of sexual harassment may follow her from the workplace, because it may have an effect on her work record and references.

Even if the worker attempts to stay on the job, sexual harassment that is severe enough to change the conditions of the work environment may make it effectively impossible to stay on the job. In effect, she may be *constructively discharged* (forced to quit by the conditions of the job), causing even more trauma and havoc.

Recognizing the terrible impact of sexual harassment on victims can help you to protect yourself from its debilitating effects and decide on a strategy that will end the harassment.



ANALYSIS OF THE ACT

The Sexual Harassment of Women at Workplace Act, passed after the outrage over the December 2012 gang-rape case in Delhi, makes it mandatory for all offices with 10 or more employees to have an internal complaints committee to address grievances within a stipulated time or face penalty. Sexual harassment at the workplace may lead to termination of service of the accused, withholding of promotions and increments, and payment of reasonable compensation to the complainant.

1. This Act is not gender neutral as only women can file a complaint. No man can file a sexual harassment complaint.
2. As per section 2(o), the definition of “workplace” includes any place visited by the employee arising out of or during the course of employment including transportation provided by the employer for undertaking such journey. Therefore as per this definition even areas outside the control of the employer such as office of clients, taxis, hotels etc... become a workplace. Therefore, during an official tour the place of stay, travel mode and office of customers / clients are all included as workplace and the employer is liable if any incident happens with the woman employee.
3. Section 3 defines sexual harassment containing clauses such as ‘implied or explicit threat about her present or future employment status’ and ‘interferes with her work or creating an intimidating or offensive or hostile work environment for her’. Therefore bringing out quality issues with the woman’s work or providing or enforcing deadlines may be construed as threatening her future employment status or creating an offensive work environment.
4. A committee needs to be formed which will look at all sexual harassment cases. The committee needs to have “A woman Presiding officer committed to the cause of women” and minimum 2 other employees “committed to the cause of women”. Further, a member has to be from a NGO and a majority of the members of the committee must be women. By defining the constitution of the committee in such a way, at the very first step itself bias has been introduced. Having a committee which is specifically formed to promote women specific-causes is colored.
5. Section 10 discusses the complaint handling provisions. First, a settlement with the offender would be tried to be achieved. If the woman was sexually harassed, why does she need to reconcile with the offender?

6. Section 11 states that the committees shall have the same powers as vested in a civil court. A point to be noted here is that none of the members of the committee are required to have legal knowledge or be legal professionals.
7. As per section 12, during the pendency of the complaint the aggrieved woman may request for –
 - transfer to another workplace
 - a paid leave, further, this leave is over and above the ‘Privilege Leave’ granted by the organization. On the face of it, the provisions seem logical, but there are no misuse clauses mentioned in the Act.

Therefore, without a misuse clause this provision is unjust on the employer as the organization may need to give paid leave if a complaint is made.

8. As per section 13, in case sexual harassment is proved any one of the following provisions may apply –
 - Organization may take action for sexual harassment as per the service rules
 - Deduct a compensation from the salary of the accused employee and the compensation may be recovered as land revenue from the accused employee.
9. Section 14 states that in case of false complaints (which are backed by forged documents submitted by the complainant or a malicious intent, which needs to be proved) an action will be taken as per the service rules of the organization. Further, it states, if the complaint cannot be substantiated, it will not attract any action. This is an unfair provision as only such false cases which are coupled with forged documents or proving malicious intent attracts penalties. With just one complaint the whole life of the man is ruined, the woman gets immediate relief as mentioned above but no particular penalty is prescribed for false complaints. Non-proving of complaint may imply that a frivolous complaint was filed.
10. Section 15 determines the level of compensation to be paid to the woman which depends on-
 - The mental trauma, pain, suffering and emotional distress caused to her
 - The loss in the career opportunity due to the incident of sexual harassment
 - Medical expenses incurred by the victim for physical or psychiatric treatment

- The income and financial status of the respondent (Respondent is the person who supposedly commits the harassment)
- Feasibility of such payment in lump sum or in installments

11. As per section 16, the complaints handled by this Act are specifically kept outside the purview of Right to Information Act. Therefore, details of false / fabricated cases will not be available. Further, even in case of false complaints, the identity of the woman will not be disclosed but the man is open to media trials and his information may be made public. Further, in case of genuine cases, the details may be made public provided the identity of the woman is protected.

There are many issues here, keeping it out of the purview of the RTI Act will not provide information on the misuse of this Act. Further, only successful cases will be reported thus proving a 100% success rate. The identity of women, even in false cases, is kept confidential. As there are no penalties for false cases (we have discussed this in paragraph 8 above) and identity is protected, there is no disincentive to file a false case. Just an accusation by the woman will destroy a man's life with no consequences whatsoever for fabricated complaints.



CONCLUSION

State governments yet to form panels to check sexual harassment of women at workplace

Over several months after the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act of 2013 was passed, a majority of Central government departments have not constituted internal committees for handling sexual harassment cases. While the Department of Personnel and Training is concerned about all government departments not following the guidelines, the National Commission for Women (NCW) is worried about the committees not being formed in most states. The Department of Personnel and Training issued strict guidelines earlier this month for constituting an internal complaint committee for handling sexual harassment cases in each government department under the act as soon as possible.

Grim situation

"Several months have passed since the enactment of the act but there are no fully functional committees in several departments. The situation is grimmer in the states. We have been writing to the state secretaries to take the matter seriously. Last month, we asked the state secretaries to send us details at the earliest," said Dr Charu WaliKhanna, who was a member of the NCW till recently.

Bihar women's commission clueless about guidelines

Long after the apex court set the guidelines for the governments to set up internal committees for cases of sexual harassment at the workplace, the Bihar State Women's Commission does not know if such committees have been formed in all the offices. The commission has written to all the district magistrates to apprise it whether such committees exist in all the offices in the areas under their jurisdiction. Anjum Ara, chairperson of the commission, said that she had dispatched a letter to all the district magistrates two days back seeking detailed information in this regard. "I have also sought to know the reason if such a committee has not been formed at any place," she said. "Once the details come, we will seek the state government's intervention.

Sexual harassment at the workplace is a universal problem. Even though the occurrence of sexual harassment at the workplace is widespread in India and elsewhere, this is the first time it has been recognised as an infringement of the fundamental rights of a woman, under Article 19(1g) of the Constitution of India "to practice any profession or to carry out any occupation, trade or business".

Of late, the problem of sexual harassment at the workplace has assumed serious proportions, with a meteoric rise in the number of cases. Surprisingly, however, in most cases women do not report the matter to the concerned authorities.

In India, Articles 14, 15 and 21 of the Indian Constitution provide safeguards against all forms of discrimination. In recent times, the Supreme Court has given two landmark judgments *Vishakha vs State of Rajasthan*, 1997, and *Apparel Export Promotion Council vs A K Chopra*, 1999 in which it laid down certain guidelines and measures to ensure the prevention of such incidents. Despite these developments, the problem of sexual harassment is assuming alarming proportions and there is a pressing need for domestic laws on the issue.

India is rapidly advancing in its developmental goals and more and more women are joining the workforce. It is the duty of the state to provide for the wellbeing and respect of its citizens to prevent frustration, low self-esteem, insecurity and emotional disturbance, which, in turn, could affect business efficacy, leading to loss of production and loss of reputation for the organisation or the employer. In fact, the recognition of the right to protection against sexual harassment is an intrinsic component of the protection of women's human rights. It is also a step towards providing women independence, equality of opportunity and the right to work with dignity.

In the last 50 years, various international human rights organisations have been focusing on promoting and protecting women's rights. The United Nations has acknowledged that women's rights are synonymous with human rights. The same was reiterated in the Beijing Declaration.

Most international women's human rights movements have raised their voice against abuse and violence perpetrated against women in general. In 1979, the UN General Assembly adopted the Convention on the Elimination of all forms of Discrimination against Women (CEDAW). Areas where discrimination was found to be rampant include political rights, marriage, family and employment. The convention emphasised that discrimination and attacks on a woman's dignity violated the principle of equality of rights.

A Bill to Prevent Sexual Harassment at the Workplace, 2005, has already been introduced in the Indian Parliament. Women's groups have begun lobbying with parliamentarians to get it passed as an Act in the winter session of Parliament. For any sexual harassment law to be successful in India, it is important to be aware of the difficulties confronting our society and ways to overcome them. We all know

that India is a patriarchal society and most cases of sexual harassment remain unreported. Women are reluctant to complain and prefer silence due to lack of sensitivity on the part of Indian society. There is a need to gender-sensitise our society so that the victim does not feel guilty and is encouraged to report any form of harassment. The victim's privacy must be protected. The police and the judiciary, in particular, also need to be gender-sensitised. There should be speedy redressal and an increase in the conviction rate. Women themselves should be made aware of their right to a safe and harassment-free work environment. The concept and definition of sexual harassment should be clearly laid down, and the redressal mechanism made known to women in each and every sector of the economy. Structures and mechanisms should also be created for women in the unorganised/informal sector to combat SHW. Despite bold judgments by the Supreme Court, there is no sexual harassment complaints committee at most workplaces, even in the government sector. The apex court must direct the various workplaces to form sexual harassment committees within a stipulated time frame. In any civilised society, it is the fundamental right of people to be able to lead their lives with dignity, free from mental or physical torture. To ensure this, transgressors must pay for their unsolicited sexual advances. At the same time organisations such as men against Violence and Abuse, that conduct gender-sensitisation programmes and self-defense classes to combat sexual harassment at the workplace, must be encouraged. To effectively prevent SHW we need both a top-down initiative by the state and employers and civil society initiatives from citizens' groups, women's organisations and trade unions.

