

SEXUAL HARASSMENT OF WOMEN AT WORKPLACE

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Abstract:

Sexual harassment against women in professional settings is a pervasive and deeply concerning issue that transcends geographical and cultural boundaries. This summary offers an insight into the intricacies and consequences of this problem. It involves unwanted advances, comments, or behavior that create an atmosphere of fear, hostility, or discomfort for women, infringing not only on their fundamental human rights but also hindering gender equality and professional development.

This abstract explores the multifaceted nature of workplace sexual harassment, analyzing its adverse effects on the physical and psychological well-being of victims, along with its detrimental impacts on organizations, such as reduced productivity and increased legal liabilities. It underscores the importance of robust policies and preventive measures in addressing this issue, emphasizing the responsibility of employers and organizations in establishing safe, inclusive, and harassment-free work environments.

The summary also discusses the evolution of legal frameworks and increased societal awareness regarding this problem, leading to greater reporting and a better understanding of the significance of combating sexual harassment. In conclusion, this abstract emphasizes the pressing need for proactive strategies to combat workplace sexual harassment, foster respectful workplaces, and promote gender equality. The combined efforts of individuals, organizations, and governments are crucial in eradicating this issue and ensuring that all women can work in an environment free from fear, intimidation, and discrimination.

Keywords: workplace harassment, consequences, policies, preventive measures, legal framework.

Introduction

Sexual harassment is a form of misconduct characterized by unwelcome actions of a sexual nature. It is a pervasive issue worldwide, affecting individuals in both developed and developing countries, as well as in underdeveloped nations. These transgressions disproportionately target women, constituting a global problem that adversely affects both genders.

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Despite efforts to prevent and address such transgressions, they persist, particularly targeting women, frequently perceived as the most marginalized individuals in society, are subjected to a wider range of gender-based crimes, encompassing female feticide, human trafficking, stalking, sexual abuse, and the most serious of all, rape. These offenses constitute a form of harassment an individual (be it an applicant or an employee) based on their sex is a violation of the law.

Harassment encompasses various forms, including " Sexual harassment," encompassing unwelcome sexual propositions, solicitations for sexual favors, and other verbal or physical actions behaviors with a sexual connotation. Sexual harassment encompasses any undesirable sexual conduct designed to make an individual feel offended, humiliated, or intimidated.

Sexual harassment can manifest in physical, verbal, or written forms. The key element is the "unwelcome" nature of the behavior. Unpleasantness doesn't necessarily equate to "involuntary." A victim might, in some instances, consent to or tolerate certain actions, even if they find them inappropriate and disagreeable. Therefore, sexual behavior is regarded as unwanted when the individual experiencing it finds it undesirable. Whether someone embraces advances such as a date proposal, sexually suggestive comments, or jokes depends on the specific context.

Defining sexual harassment in the workplace presents a challenge because it encompasses a spectrum of behaviors, often making it difficult for victims to articulate their experiences. Diverse initiatives have been undertaken on both domestic and global scales to tackle this issue, but there's no single, universally accepted definition that comprehensively covers all prohibited behaviors.

According to international standards, sexual harassment¹ is defined as 'violence against women and discriminatory treatment,' offering a broader perspective compared to national laws, which typically address unlawful behavior more generally. A common definition states that sexual harassment encompasses 'unwanted sexual advances and other verbal or physical actions of a sexual nature that contribute to a hostile or offensive work environment.'

1 Hand Book on Sexual Harassment of Women at Workplace Prevention, Prohibition and Redressal Act, 2013, (2015), Ministry of Women & Child Development, Govt of India

Sexual Harassment of Women At Workplace (Prevention, Prohibition and Redressal) Act(the SH Act),2013, Sources from Website on Ministry of Women and Child Development, Government of India

In the case of India, the Supreme Court has defined sexual harassment as any unwelcome sexually oriented behavior, whether explicit or implied, including physical advances, requests for sexual favors, sexually suggestive remarks, the display of pornography, or any other unwelcome physical, verbal, or non-verbal actions with a sexual connotation

The crucial aspect in these definitions is the term "unwelcome." Conduct or actions that are unwanted or uninvited are what's prohibited. Although a sexual or romantic relationship between willing parties within the workplace may cause discomfort among observers or violate workplace policies, it doesn't necessarily constitute sexual harassment.

Sexual harassment of women in the workplace is a pressing issue and a significant problem affecting various aspects of women's lives. Incidents of this nature are frequently reported, emphasizing their status as "social problems." It is an escalating concern, prompting efforts to combat it through the implementation of new policies and measures. The definition of sexual harassment can vary from person to person and from one jurisdiction to another. In essence, sexual harassment can be described as any unwanted or inappropriate sexual conduct.

Sexual harassment impacts women across the spectrum in different ways. Lewd comments, physical contact, catcalls, and intrusive stares are sadly common experiences for many women, often to the extent that such behavior is dismissed as routine. Even women in the workforce are not exempt from these encounters. In particular, proactive women who challenge traditional gender roles and venture into male-dominated fields within a patriarchal society often encounter backlash. Sexual harassment in the workplace serves as an extension of the pervasive violence that exists in daily life, characterized by discrimination and exploitation. It thrives in an environment characterized by persistent threats, fear, and the potential for retaliation. Fear often assumes a central role in cases of sexual harassment, as it is not primarily rooted in physical attraction but rather the exertion of power. Many instances of sexual harassment occur in situations where one individual holds authority or control over another, particularly in cases where women pursue non-traditional roles such as police officers, factory workers, business executives, or other positions traditionally dominated by men.

A common observation is the reluctance of victims to report workplace sexual harassment. This reluctance is rooted in various fears, including the fear of retaliation from superiors or concerned authorities, the fear of social stigma and guilt, the fear of job loss or demotion, the fear of damaging

one's professional reputation, and the fear of becoming unemployable. In some cases, women may lack awareness of what constitutes sexual harassment, leading them to refrain from reporting it.

This issue is a daily concern in nearly every country, where female workers often struggle with a lack of security in their workplaces. Many countries have enacted legal measures aimed at protecting women from sexual harassment in the workplace. However, sexual harassment is not confined to workplaces; it is also a significant issue in educational institutions like schools, colleges, and universities. The incidence of such incidents is increasing. Surveys conducted on college campuses reveal that a significant percentage of respondents report experiencing sexual harassment, with estimates ranging from 40 to 70 percent. It's important to note that only a small fraction of campus harassment cases involve professors demanding sexual favors in exchange for favorable grades; instead, the majority of instances involve interactions between male and female students.

Harassment Within the Same Gender²

Sexual harassment is typically associated with making unwelcome advances towards a colleague of the same gender. In some cases, instances of sexual harassment may involve a male employee targeting a female employee or vice versa, particularly when gender differences are evident. However, it's crucial to acknowledge that sexual harassment can also occur between employees of the same gender. This implies that a male employee might engage in sexual harassment towards another male colleague, or a female employee may engage in harassment against another female employee. This particular form of harassment, known as "Same-Sex Sexual Harassment," may not be as prevalent as other forms, but it does occur and should not be disregarded. Instances of same-sex harassment must be addressed with equal seriousness and diligence.

The Supreme Judicial Court of Massachusetts, in the case of *Melnychenko v. 84 Lumber Company*, determined that state law prohibits same-sex sexual harassment, regardless of the sexual orientation of the individuals involved.

2 *DEVURPA RAKSHIT, Sexual Harassment Is Covered By POSH Act: Calcutta HC* <https://www.theswaddle.com/same-gender-sexual-harassment-is-covered-by-posh-act-calcutta-hc>, JAN 19, 2021

Additionally, the Supreme Court ruled in *Oracle v. Sundowner Offshore Services*,³ Inc that Title VII prohibits sexual harassment even when both the harasser and the victim share the same gender

Sexual harassment encompasses a wide range of behaviors, which may include:

1. Engaging in sexual self-touching or rubbing in the presence of another person.
2. Real or attempted rape or sexual assault.
3. Unwanted and deliberate physical contact, such as touching, leaning, cornering, or pinching.
4. Unwanted sexual teasing, jokes, comments, or inquiries.
5. Whistling in someone's direction.
6. Producing kissing sounds, howling, or smacking lips.
7. Inappropriate touching of an employee's clothing, hair, or body.

There's a prevalent misconception that workplace sexual harassment is confined to situations involving male superiors and female employees. In reality, sexual harassment can occur among any co-workers and in various configurations, including:

1. Subordinates may harass their superiors.
2. Women can sexually harass men.
3. Harassment within the same gender, wherein men can harass other men, and women can harass other women.
4. Perpetrators can encompass supervisors, colleagues, or individuals who are not employees, such as customers, vendors, and supplier

Industries and Areas Susceptible to Sexual Harassment: Sexual harassment is a persistent and worldwide concern that transcends various boundaries. Its prevalence is not confined to scenarios where bosses exploit their subordinates; rather, it extends to a wide range of settings.

3 *Nicholas Canaday, ONCALE v. SUNDOWNER OFFSHORE SERVICES, INC., ET AL. CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT No. 96-568. Argued December 3, 1997-Decided March 4,1998*
<https://supreme.justia.com/cases/federal/us/523/75/>

Perpetrators of sexual harassment can be found in both the private and public sectors, as well as external parties, are involved. The affected sectors include a range of organizations, such as businesses, educational institutions, healthcare facilities, universities, and other workplaces where female employees are employed .

Many instances of sexual harassment go unreported, with victims often not invoking the Vishaka Guidelines to seek redress. In several cases, the courts have absolved employers of liability, asserting that the employers cannot be held accountable for instances of sexual harassment.

The reluctance to report cases of sexual harassment stems from an inability to speak openly before employers or office superiors, resulting in many unreported incidents. Women who do come forward often experience a sense of guilt rather than anger, influenced by societal attitudes toward sexual issues and their apprehension about achieving justice.

Historical Context of the Issue

The issue of sexual harassment against women is not a recent development; it has been an enduring and persistent concern throughout history. It has consistently been a topic of societal discussion, affecting various aspects of life.

Sexual harassment has deep historical roots, reflecting the historical dominance of men in society. It has consistently discouraged women from actively participating in economic and social progress, casting a negative shadow on their lives. This distressing and offensive experience can manifest in various settings, whether in the workplace, educational institutions, or even within households.

According to reports from civil society, approximately 70% of women have encountered incidents of sexual harassment, underscoring the widespread nature of this issue.

The problem of workplace sexual harassment gained significant attention in India starting from the early 1980s. During this period, the Forum Against Oppression of Women took a strong stance against the sexual harassment of nurses in both public and private hospitals, with those responsible including doctors, patients, male relatives, and other staff members. This problem extended to educational institutions, involving teachers, colleagues, principals, and students, sparking outrage among women activists and social workers. They made collective efforts to raise awareness about these cases and address sexual harassment in various workplace settings.

An exemplar of such advocacy can be seen in Women's Voice, a non-governmental organization in Goa, which galvanized public sentiment against a Chief Minister accused of harassing his secretary. They coordinated protests and public displays, eventually prompting the Chief Minister to step down.

In 1990, as a result of this incident, the identical women's group lodged a Public Interest Litigation (PIL)⁴ seeking revisions to antiquated rape statutes, which had previously defined rape in a narrow manner.

In a ground breaking decision in 1997, the Supreme Court of India, marking a historic milestone in the nation's legal history, officially acknowledged workplace sexual harassment as a breach of human rights and a personal injury suffered by the women affected .

The landmark case of **Vishaka and others Vs. The state of Rajasthan**⁵ established directives for the prevention and resolution of complaints from women experiencing sexual harassment in the workplace. The guidelines mandated that employers ensure a safe and welcoming environment for women.

In another instance, a female employee at a Hyderabad-based company faced sexual harassment from her supervisor. Subsequently, an employee from the company's head office conducted an investigation into the case. The inquiry report substantiated the allegations. However, in the end, the complainant was stigmatized as a troublemaker and requested to resign, while the accused was allowed to retain his position. The complainant received no compensation.

From these examples, it becomes evident that women frequently reported such incidents, but the outcomes were consistently unfavorable. The lack of appropriate action, inadequately constituted committees, and biased judgments were prevalent in these cases.

4 Suresh Kumar Koushal and another, IN THE SUPREME COURT OF INDIA CIVIL APPELLATE JURISDICTION CIVIL APPEAL NO.10972 OF 2013, <https://main.sci.gov.in/jonew/judis/41070.pdf>

5 Vishakha and others v State of Rajasthan (1997) <http://articles.economictimes.indiatimes.com/keyword/sexual-harassment>

Vishaka Guidelines against Sexual Harassment at Workplace Guidelines and norms laid down by the Hon'ble Supreme Court in Vishaka and Others Vs. State of Rajasthan and Others(JT 1997 (7) SC 384), [http://www.curaj.ac.in/PDF/anti sexual harrassment cell/VishakaGuidelines.pdf](http://www.curaj.ac.in/PDF/anti%20sexual%20harrassment%20cell/VishakaGuidelines.pdf)

favor of the complainant. Nonetheless, the wrongdoer faced no severe repercussions. In essence, it is clear that the application of the guidelines for redressal lacked impartiality. The way they operated was biased, and only a limited number of women were able to successfully utilize the guidelines to create a more gender-equitable and secure workplace.

Several notable workplace sexual harassment complaints that gained national attention were submitted by

1. Rupan Deo Bajaj, an IAS officer in Chandigarh, filed a complaint against 'Super Cop' K.P.S. Gill.
2. An advocate linked with the All India Democratic Women's Association registered a grievance against the Environment Minister in Dehradun.
3. An airline stewardess submitted a complaint against her coworker, Mahesh Kumar Lala, in Mumbai.

The Scenario Before the Implementation of Vishakha Guidelines Before the introduction of the Vishakha guidelines, women were required to address workplace sexual harassment issues by filing complaints under Sections 354 and 509 of the Indian Penal Code.

Sexual harassment remains a pressing and ongoing concern that demands priority and effective measures to combat it. Governments, employers, employees, and women's organizations have all been actively engaged in eradicating this problem from society.

Preventing sexual harassment is a shared objective, as prevention serves as the primary step toward eliminating or eradicating any harmful issue from society. Legislation plays a pivotal role in enabling governments and organizations to achieve this objective to formulate strategies and policies for addressing the issue.

Sexual harassment is universally recognized as a form of violence against women. The global community has recognized in its treaties and documents that women's freedom from sexual harassment is a fundamental human right. Various legal mechanisms have been utilized to prevent and respond to this problem, with a focus on protecting life and liberty.

Before the Vishakha judgment in India, there was no dedicated legislation addressing this issue. The Vishakha judgment was a response inspired by the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW). Additionally, the Constitution of India contains fundamental provisions, including rights such as the right to life and liberty, freedom from discrimination, and the liberty to pursue any trade, profession, or occupation.

Vishaka Guidelines for Addressing Sexual Harassment in the Workplace These guidelines and regulations were established by the honorable Supreme Court in the case of Vishaka and others vs. State of Rajasthan and others.

It is essential and rational for employers within workplaces and other responsible entities or institutions to adhere to specific guidelines for the prevention of sexual harassment against women.

Responsibilities of Employers and Authorities in Workplaces and Institutions: Employers or individuals in positions of authority within workplaces or institutions have an obligation to actively prevent or discourage incidents of sexual harassment and establish procedures for the resolution, mediation, or legal pursuit of sexual harassment cases through appropriate measures..

Preventive Measures All employers or individuals overseeing workplaces, Whether operating in the public or private sector, it is imperative for organizations to implement effective measures for the prevention of sexual harassment. These measures should encompass, among others, the following actions:

- a. Clearly and explicitly notifying, publishing, and effectively disseminating a prohibition concerning workplace sexual harassment.
- b. Ensuring that government regulations and codes of conduct for public sector organizations encompass provisions that prohibit sexual harassment and stipulate appropriate penalties for violators.
- c. For private employers, taking steps to include the stated prohibitions in the standing orders regulated under the Industrial Employment (Standing Orders) Act, 1946.
- d. Creating conducive working conditions concerning tasks, leisure, health, and hygiene to eliminate any hostile environment for women in the workplace, ensuring that no female employee has legitimate cause to perceive that she is being subjected to unjust treatment in relation to her employment

Legal Proceedings

In situations where such conduct qualifies as a distinct offense under the Indian Penal Code (IPC) or any other applicable law, it is the employer's responsibility to initiate the appropriate legal actions by filing a complaint with the relevant authorities. Notably, the employer must guarantee the protection of victims and witnesses from retaliation or discrimination while addressing sexual harassment complaints..

Disciplinary Measures If such behavior qualifies as misconduct within the realm of employment, as outlined in the relevant service regulations, the employer should instigate the appropriate disciplinary actions as prescribed by those regulations.

Complaint Mechanism is irrespective of whether the conduct under consideration constitutes a legal violation or a service contract breach. In order to comply with regulations, it is of utmost importance to establish an effective grievance resolution system within the employer's organization to address complaints lodged by victims. This system should ensure the swift and timely redressal of complaints.

Internal Grievance Redressal Committee:

- The aforementioned grievance resolution system should be adequately equipped with essential components such as a dispute resolution committee, a qualified counselor, and supplementary support services, all while guaranteeing the preservation of confidentiality when necessary.
- The committee responsible for handling complaints should be led by a female chairperson, with no less than half of its members being women. Furthermore, to ensure impartiality and reduce the potential for undue influence from higher authorities, this committee should include a third party, which could be an NGO or another organization with experience in addressing sexual harassment.
- The complaints committee is mandated to submit an annual report to the relevant government department, outlining the received complaints and the actions taken in response.
- Employers and individuals in positions of authority are also obligated to provide reports on their adherence to the aforementioned guidelines, including reports from the complaints committee, to the government department.
- **Employee Engagement:** Employees should be actively encouraged to voice concerns regarding sexual harassment during workers' meetings and other appropriate forums, with these issues being proactively discussed in employer-employee meetings

Promoting Awareness To enhance awareness of female employees' rights, it is essential to prominently display the guidelines (and any pertinent legislation on the subject) suitably.

- **Addressing Third-Party Harassment:** In cases where sexual harassment results from the actions or negligence of third parties or external entities, the employer and the accountable person are required to take all essential and reasonable actions to support the affected individual and put preventive measures in place.
- Both central and state governments are encouraged to consider the adoption of suitable measures, which may involve potential legislation, to ensure that private sector employers also conform to the principles laid out in this directive.
- It is essential to emphasize that these guidelines do not compromise any rights afforded under the Protection of Human Rights Act of 1993.

Post Vishakha Scenario

India lacked any specific legislation until the Bill for safeguarding women from Sexual Harassment was introduced in Parliament in the year 2005.⁶ After a significant interval of ten years, in 2010, the Bill reemerged in the Lok Sabha with certain revisions compared to its previous version. The updated Bill introduced a specific definition of 'sexual harassment' and established a mechanism for addressing such issues through either an 'internal Complaints Committee' within the workplace or a 'Local Complaints Committee' at the district level. An intricate challenge revolved around the appropriate actions to be taken in cases of false and malicious charges or complaints. To address this concern, in June 2011, the Parliamentary Standing Committee issued recommendations regarding unfounded and harmful allegations. Consequently, the latest iteration of the Bill retained provisions for taking action against baseless and malicious accusations by the ICC or the Local Committee, as outlined in section 14.

According to section 13 of the Bill, there are two stages of inquiry. The first stage involves submitting a report to the Disciplinary Committee (DC) once the charges are established and proven. The DC then proceeds to take action in line with the service rules. This process is time-consuming, requiring the victim to present evidence again and undergo cross-examination, which can be mentally taxing. The situation may differ in the private sector concerning the second stage of the inquiry. These stages or practices are perceived as conflicting with the principles upheld by the Constitution of the Internal Complaints Committee (ICC).

6 **Kaushiki**, An overview of the Sexual Harassment Bill passed by Parliament. https://prsindia.org › sexual_harassment_bill, March 6, 2013
https://sansad.in › rsnew › Press_ReleaseFile

In this context, the Supreme Court, in the case of Medha Kotwal, clarified that the committee's report is final, and the disciplinary committee holds the authority to impose penalties and conduct a subsequent inquiry.

Prior to the enactment of the new Act in 2013, the issue of sexual harassment was governed by the guidelines set forth in the Vishakha case in 1997. The main goal of the Act was to implement policies and establish safe working environments for women.

The existing Indian Legislation on Sexual Harassment Against Women To gain a comprehensive grasp of the legal framework concerning workplace sexual harassment of women, it is imperative to revisit the groundbreaking Supreme Court judgment in the Vishakha case. This case marked the first instance where a definition of 'sexual harassment' was formalized. It also acknowledged 'sexual harassment in the workplace' as a breach of human rights and introduced comprehensive guidelines.

Despite the Vishakha judgment being in place for nearly a decade, little progress was made in implementing its guidelines. Only a handful of women were able to successfully navigate the processes aimed at creating gender-equitable and inclusive workplaces. The majority of public and private organizations failed to adhere to the guidelines, which encompassed the establishment of complaint mechanisms and the necessary adjustments to service rules.

After several controversies and delays, a significant development emerged as in 2013, the Indian legislature enacted the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act. This law is designed to protect women in the workplace from sexual harassment and create a framework for addressing such issues for addressing complaints on this issue.

Critiques and Criticisms:

Similar to many other laws, this Act has faced extensive criticism from women's rights activists and various non-governmental organizations (NGOs). The internal committee established in accordance with this Act possesses the power to levy a financial penalty based on the perpetrator's income and financial stability. This approach is seen as discriminatory and perpetuates inequality among different segments of society. For instance, an individual with a lower income would face a reduced fine compared to someone with a higher income, which is considered unfair.

Additional criticisms involve the Act's exclusion of agricultural workers and the armed forces, where men hold a dominant presence. Inquiries within the armed forces are conducted in closed environments, a practice

that should be reconsidered. Including women in the armed forces under the purview of the Act is seen as necessary since there are no interests or strategic considerations are compromised when safeguarding them from sexual harassment in the workplace .

Some argue that the Act exhibits gender bias rather than gender neutrality, categorizing it as a discriminatory legislation that offers protection exclusively to women while neglecting men as potential victims of workplace sexual harassment. Recent studies and surveys conducted over the past few years have highlighted women's involvement in sexual harassment cases in workplaces, indicating that gender dynamics in many Indian cities are shifting towards greater gender neutrality.

According to these studies, the realities of investigations in practical settings often differ from the legislators' envisioned scenarios. Additionally, the Act lacks the mechanisms required to address situations in which men are subjected to sexual harassment.

Another disputed element of this Act is the extensive possibility for false accusations. Numerous individuals exploit the Act for personal advantage, leading to baseless claims and unwarranted legal conflicts. When a case is presented to the complaint committee, it not only harms the falsely accused individual's reputation but also impacts their family. Nonetheless, it's crucial to recognize that the Act signifies a substantial advancement in the endeavor to safeguard women from sexual harassment in the workplace

Unfounded Complaints and their Ramifications

As per the provisions of the Act, if a complaint is proven to have been made with malicious intent, it will lead to consequences under Section 14.⁷ In cases of false complaints supported If forged documents are involved, the organization's service regulations will be enforced, resulting in strict action being taken. One drawback of this provision is that in some instances, there may not be sufficient evidence to substantiate the complaint. This may result in frivolous complaints, potentially leading to the imposition of penalties on women making malicious and baseless complaints, which contradicts the fundamental purpose of the Act.

7 Melissa Louise, Essay on Sexual Harrassment, Preventing Sexual Harassment (BNA Communications, Inc.) SDC IP .73 1992 manual. Aug 25, 2019, Virtual legal Assistance, <https://indiankanoon.org/doc/>

The cancellation of an organization or entity's registration results in a twofold punishment, as revoking the license can inflict additional harm on the business and innocent employees within that establishment. Hence, it would be more appropriate to impose or specify a fine in such cases.

Ultimately, if it is established that someone has filed an untrue complaint, the Internal Complaints Committee (ICC) will apply the identical penalty to the individual who made the false complaint, as specified in Rule 10 of the Regulations.

Internal Complaints Committee And Local Complaints Committee⁸

Every workplace is mandated to set up an Internal Complaints Committee (ICC) with a senior-level female employee as its leader. The committee's contact details and the names of its members should be prominently displayed within the workplace.

The committee should consist of at least two members chosen from among employees who are passionately dedicated to women's issues and have a background in social work experience or a strong legal background, must form part of the committee. Additionally, one committee member should represent an NGO or a similar association. At least half of the committee's membership should be women. In situations where organizations have fewer than ten employees and do not have a complaints committee, the respective Government is required to establish a Local Complaints Committee in each district.

Regarding Complaint Filings:

Complaints should be presented in written form within a three-month period following the incident. In cases of a series of incidents, the report should be filed within three months of the last occurrence. An extension of up to three additional months may be granted under valid circumstances.

Upon the complainant's request, the committee can explore reconciliation through mediation before initiating a formal inquiry. If the woman is physically or mentally incapable, deceased, or facing other circumstances, the legal heir is eligible to file a complaint on her behalf

⁸ Govt. Of India, **Protect your company against sexual harassment complaints**
<https://elearnposh.com/local-complaints-committee>

During the inquiry process, the complainant has the option to request a transfer, either for herself or the respondent, a three-month leave, or other forms of relief. The inquiry should be completed within a prescribed timeframe from the complaint date, and failure to do so will result in penalties.

From a worldwide standpoint

Sexual harassment of women is not limited to India or a handful of nations. It is a worldwide issue. It transcends borders, affecting developed, developing, and underdeveloped nations alike. While stringent laws and measures have been implemented to address offenders engaging in such behavior, the prevalence of sexual harassment against women shows no significant decline. Every day, new cases of women being sexually harassed come to light.

A recent survey reveals that a significant proportion of female Members of the Israeli Parliament have encountered sexual harassment. Specifically, the research indicates that at least 28 out of the 32 female members of the Israeli Parliament have experienced sexual harassment or assault, with two of the incidents occurring within the Knesset building.

A recent study conducted by the International Labor Rights Fund (ILRF) has identified that female workers employed in export processing industries in Kenya, where goods are produced for the US market, endure severe sexual abuse at the hands of their employers and supervisors."

The study findings indicate that:

1. More than 90 percent of all survey participants have encountered or witnessed incidents of sexual harassment in their workplaces. Seventy percent of the male respondents surveyed considered sexual harassment of female workers to be a customary and acceptable behavior.
2. Sixty-six percent of the female respondents believed that workplace sexual harassment significantly contributes to the transmission of HIV/AIDS.
3. Nearly 95% of women who had encountered workplace sexual harassment refrained from reporting the matter out of apprehension of potential consequences, such as losing their job or facing demotion

In China, approximately 80% of employed women encounter sexual harassment⁹ during their careers. In Germany, a 1998 survey revealed that 93% of employed women had encountered sexual harassment.¹⁰ Approximately 60% of nurses in Australia reported incidents of sexual harassment.¹¹ In Hong Kong, the Equal Opportunities Commission (EOC) has received a significant number of complaints in recent years related to sexual harassment. In the United States, over 50% of women in the workforce have experienced sexual harassment. In Canada, 51% of women have reported at least one instance of sexual violence. In Singapore, close to 50% of women have been subjected to sexual harassment.

India and the Challenge of Sexual Harassment: In India, sexual harassment infringes upon women's fundamental rights as enshrined in Articles 14 and 21 of the Indian Constitution.

India has now enacted a dedicated law to combat sexual harassment of women in the workplace, which will be further discussed. In addition to these legislative measures, other statutes aimed at preventing sexual harassment include the Indian Penal Code, along with provisions provided by Acts such as the Indecent Representation of Women (Prohibition) Act of 1987, the Industrial Disputes Act of 1947, and the Factories Act of 1948. It is imperative to recognize the Protection of Human Rights Act 1993, as it acknowledges that women's rights are indeed human rights and should be safeguarded at all costs.

9 CATHERINE LAI, **Over 80% of female journalists in China have experienced workplace sexual harassment, poll by journalist shows**, <https://hongkongfp.com/2018/03/07/80-female-journalists-china-experienced-workplace-sexual-harassment-poll-journalist-s>, 31 MARCH 2020

10 Rhitu Chatterjee, **A New Survey Finds 81 Percent Of Women Have Experienced Sexual Harassment**, https://www.google.com/search?q=In+Germany%2C+a+1998+survey+revealed+that+93%25+of+employed+women+had+encountered+sexual+harassment&rlz=1C1SQJL_enIN907IN907&oq=In+Germany%2C+a+1998+survey+revealed+that+93%25+of+employed+women+had+encountered+sexual+harassment&gs_lcrp=EgZjaHJvbWUyBggAEEUYOTIGCAEQRRhA0gEJMjY0MmowajE1qAIAAsAIA&sourceid=chrome&ie=UTF-8, FEBRUARY 21, 2018

11 J Madison , R Gates, **Australian registered nurses and sex-based harassment in the health care industry**, https://www.google.com/search?q=Approximately+60%25+of+nurses+in+Australia+reported+incidents+of+sexual+harassment.&rlz=1C1SQJL_enIN907IN907&oq=Approximately+60%25+of+nurses+in+Australia+reported+incidents+of+sexual+harassment.&gs_lcrp=EgZjaHJvbWUyBggAEEUYOdIBCTI0NDZqMGoxNagCALACAA&sourceid=chrome&ie=UTF-8, DOI: 10.1071/ah960014

Apart from these statutory remedies, victims of sexual harassment have the option to seek redress through Civil Courts for tortious actions, addressing issues such as mental distress, physical harassment, emotional distress, and loss of employment

Sexual harassment takes on various forms, which can be broadly classified into two primary categories:

1. Quid pro quo, where a woman encounters sexual harassment in exchange for work-related benefits.
2. Hostile working environment, in which a positive work environment free from sexual harassment is mandated, and employers are responsible for ensuring such an atmosphere."

Dispelling Myths and Misconceptions Surrounding Sexual Harassment

Myth: Only women can be victims of harassment, and only men can be perpetrators

Fact: Harassment can affect anyone, irrespective of their gender, as either a victim or an offender. **Myth:** Sexual harassment is incited by an individual's behavior or clothing.

Fact: Sexual harassment is not prompted by a person's actions or attire but is An exhibition of hostility and dominance rooted in gender or sexual orientation differences. No one invites sexual harassment.

Myth: Ignoring the issue of sexual harassment and stalking will make it disappear.

Fact: Typically, harassers are persistent and do not cease their actions on their own. They often have multiple targets. If the victim ignores the behavior, The harasser may misconstrue it as consent or endorsement.

Myth: The harasser might perceive it as consent or approval.

Fact: The prevalence of sexual harassment is increasing globally. It is far from being a rare event; such incidents occur every day. While some victims take decisive action against the harasser, others may go unnoticed or choose not to report it.

Conclusion and Recommendations

Addressing this issue requires collective efforts at various levels: government, organizations, and individuals. Blame should not be placed on anyone; instead, confronting the issue is crucial. At the organizational level, employers can establish a safe and harassment-free environment by enacting internal policies and regulations. This institutional commitment to safety can enhance productivity by ensuring a sense of security among

employees. Providing training programs, workshops, and educational initiatives on sexual harassment prevention can help mitigate such situations.

Organizations must demonstrate their dedication to this matter by taking all issues seriously and promptly investigating them. This sends a message to all employees that the employer is dedicated to protecting the rights of female staff members and fostering a positive work environment. Preventive measures, such as installing CCTV surveillance in the workplace, can be beneficial. Employers should hold regular meetings with employees to understand their concerns and ensure a safe working environment. From the government perspective, significant steps have been taken by enacting laws to combat the social issue of sexual harassment. The critical aspect is the effective implementation of these laws. Empowering women through education and awareness programs is essential to help them recognize and assert their fundamental rights. The government should strive for gender equality and ensure that women's interests are protected.

The media can play a pivotal role in eradicating this societal problem through the dissemination of information via movies, news, commercials, and television programs. These forms of media are available to the broader audience and have the potential to alter people's perspectives. Debates, talk shows, and media platforms can also contribute to this transformation.

If women's groups or employees become aware of if any such harassment occurs, it should be promptly reported to the complaint committee, which is bound to maintain absolute confidentiality. It is crucial for every female employee to acknowledge that it is the legal obligation of the employer to ensure a secure working environment for women. Similarly, all male employees should be aware that such incidents can have adverse effects on a woman's health, confidence, and job performance, potentially driving her to leave her employment.

Above all, there should be social acceptance of this issue. Women should not hesitate to voice their concerns and grievances. They should be encouraged to assert themselves and voice their concerns. Increased public involvement in raising awareness programs is essential, and the public should take on a more active role in governance.

Reforming the Law:

One drawback of this Act is its omission of men from its coverage, which raises concerns about fairness. The Act should be amended to include men, enabling them to bring their concerns or complaints to the Internal Complaint Committee or District Committee. This modification would foster parity between men and women in the workplace.

Recent cases of Sexual harassment

Sexual harassment of neighbours

Type of Outcome- Queensland Civil and Administrative Tribunal Decision

Contravention- Sexual Harassment

Outcome-Upheld

Compensation- Respondent ordered not to commit further contraventions of the Anti-Discrimination Act 1991

Year- 2022

Summary

Two men who were in a same-sex relationship lodged a complaint about experiencing sexual harassment from a female neighbor.

The complaint was substantially about:

- The neighbour calling out Kill the fags and then loudly playing a gangster rap song containing the words Kill that faggot; and
- The respondent played the gangster rap song loudly whenever one of the men were in the garden; and
- On another occasion when the men were on a morning walk, the respondent yelled Go away faggots and you are going to perve in the neighbourhood.

The tribunal confirmed the occurrence of these incidents and then assessed whether they met the criteria for sexual harassment. The tribunal emphasized that the prohibition against sexual harassment in the Anti-Discrimination Act 1991 (the Act) is not limited to specific domains and can encompass all aspects of life

The tribunal found that the use of the term faggot about homosexual men would obviously cause offense and that the comments and deliberate playing of lyrics repeating the term was easily found to be offensive.

The tribunal determined that the remarks and the music played carried a sexual undertone and were intended to insult and demean the men. The tribunal also stated that within the context of sexuality, the term used is derogatory, and a reasonable person would expect that such behavior would be offensive to the men.

Consequently, the tribunal concluded that the actions amounted to sexual harassment, which is proscribed by the Act.

The men did not specify, specify, or quantify any harm resulting from the sexual harassment, and the tribunal observed that the neighbor had changed her place of residence, while the men had engaged in retaliatory actions. Given the significant animosity between the parties, the tribunal found that requesting an apology would be insincere and, therefore, it was not appropriate to order either a private or public apology.¹²

Man sexually harassed in an administrative role

Type of outcome- Conciliation, Contravention- Sexual harassment, Outcome- Financial compensation Confidentiality clause, Compensation-\$70,000, Year-2020-21

Summary

The complainant commenced his employment in an administrative role and alleged that during the interview, there were comments made, including remarks like 'we've never had a male receptionist before' and 'that it would be very unusual.' After starting work, he claimed that inappropriate comments were made, such as 'My husband is jealous you are working here because you're male' and 'I'm too old for you.' On the second day of work, the individual respondent reportedly showed him a sexually explicit video on her mobile phone, and when he attempted to avert his gaze, she moved the phone in front of his face.

Throughout the following weeks of his employment, he stated that he received numerous sexualized images on his phone from the individual respondent, faced comments about his body, and was asked to choose a stripper for the individual respondent's husband's birthday party. He was also invited to attend a work function where the individual respondent hugged him and wrapped her leg around his leg. Several other invitations to events outside of working hours were extended to him, which he declined. Subsequently, after he reported the sexual harassment to his employer and took sick leave due to stress and anxiety, his employment was terminated.

¹² *Fitz-Gibbon & Park v Liu* [2022] QCAT 259 (12 July 2022)

The respondents denied sexual harassment had occurred and alleged the complainant was involved in the ongoing jokes and banter.

The complaint was settled with a compensation of \$70,000 and a confidentiality agreement.

3. Sexual harassment in work

Type of Outcome- Conciliation, Contravention- Sexual Harassment, Outcome- Compensation

Written apology, Compensation-\$15,000

4. Sexual harassment

Summary: A woman filed a complaint of enduring sexual harassment from her manager during her tenure at a club, spanning several years. Her allegations included incidents of unwarranted touching of her breasts, lewd behavior, and making sexually suggestive comments about her body. She claimed to have reported these incidents to the management on multiple occasions, but her complaints were purportedly ignored. Furthermore, she argued that despite her greater experience, she was passed over for promotions in favor of less-experienced male colleagues, which ultimately led to her resignation.

The manager and the employer contested the accusations, contending that her work performance had declined over the course of her employment. The matter was amicably resolved through conciliation, with both the employer and the manager collectively paying \$15,000 in compensation to the complainant. Additionally, both respondents issued written apologies for any discomfort or offense the complainant may have endured.

**Type of outcome- Conciliation, Contravention- Sexual harassment, Outcome- Complaint withdrawn against individual respondent
Grievance and investigation procedures reviewed**

Workplace anti-discrimination training, Compensation- Nil

Summary: A male individual filed a complaint of sexual harassment against a male supervisor and his employer, a government authority. The complainant also claimed that he faced difficulties when attempting to utilize the organization's complaint resolution mechanisms.

During a conciliation conference, the allegations were discussed, and misunderstandings were clarified, resulting in the complainant withdrawing his complaint against his supervisor. The complainant was able to share his experiences with the respondents, leading to an agreement. This agreement included the employer's commitment to

evaluate and improve their complaint and investigation procedures by introducing easily accessible quick reference summaries and flow charts for effective utilization. Furthermore, the employer pledged to enhance training and awareness regarding appropriate workplace conduct, which would encompass comprehensive anti-discrimination and sexual harassment complaint procedures.

There was no financial settlement sought.

5. Sexual harassment

Type of outcome- Conciliation, Contravention- Sexual harassment, Outcome- Warnings issued to individual respondents, Workplace anti-discrimination training ,Zero tolerance of sexual harassment, Apologies by individual respondents

Summary

A man alleged that he had experienced sexual harassment at his workplace, involving incidents such as a co-worker exposing his anus, inserting a splintered piece of timber between his legs, and running a finger down between his buttocks. This behavior was accompanied by consistent use of obscene names when he objected. The man reported that several young male colleagues had experienced similar mistreatment, leading some to resign and even one attempting suicide. When he brought the issue to the attention of his foreman, he was advised to overlook the behavior. Although management was aware of the situation, no action had been taken.

During a conference, the accused individuals acknowledged their actions, explaining that they intended it as humor to create a more relaxed work environment. Senior managers claimed they were unaware of these incidents since the foremen had not reported them. The company acknowledged the challenge of retaining young male employees but attributed it to their lack of interest in the work.

In response to these admissions, the company issued a formal and final warning to the individuals involved, committed to providing sexual harassment and discrimination training for all staff, and pledged to prevent such behavior in the future. The complaint was resolved, and the complainant expressed satisfaction with the company's commitment and the apologies extended by the individuals involved.

6. Sexual harassment in education

Type of outcome- Conciliation, Contravention-Sexual harassment, Outcome- Compensation

Written apology, Compensation-\$60,000

Summary:

A woman lodged a complaint with the Commission, accusing her boss and academic mentor of sexually harassing her. The alleged harassment had persisted for a two-year period. The accused individual held a position of authority as her academic mentor and boss, given that she was his student. In the later stages of the harassment, the woman also mentioned incidents of stalking, such as stalking her and lingering near her place of residence. The respondents denied the allegations, asserting that the relationship had been consensual and free from any sexual harassment.

Through a conciliation process, the matter was resolved with an agreement to pay \$60,000 for pain and suffering, along with a written apology from the individual respondent. One of the two respondents resolved the issue by paying \$5,000. Both parties expressed great satisfaction with the resolution of the dispute.

Recent cases of 2023

1. Supreme Court Makes Absolute Interim Anticipatory Bail Granted To Congress Leader BV Srinivas in Sexual Harassment Case.

The Supreme Court of India has, on Friday, extended anticipatory bail to BV Srinivas, the president of the Indian Youth Congress (IYC), in a sexual harassment case. The court has upheld the May 2023 order that initially granted him pre-arrest bail as a temporary measure. Srinivas had filed a special leave petition challenging the Gauhati denial of his pre-arrest bail request by the High Court. The case pertains to a First Information Report (FIR) filed in Assam based on a sexual harassment complaint made by a former party member. In May, the court had provided interim anticipatory bail to Srinivas.

2. No Sexual Flavour In Touching Student's Shoulder To Restrain Her From Copying In Exam: Calcutta HC Quashes CAT Order Dismissing School Teacher

The Circuit Bench of the Calcutta High Court in Port Blair has invalidated the decisions of the Disciplinary Authority, Appellate Authority, and the Central Administrative Tribunal (CAT) regarding the dismissal of a middle school teacher. The teacher, referred to as the "petitioner," was accused by

a Class 8 student in 2009 of outraging her modesty by physically touching her back. This incident had caused unrest among the students. The division bench, consisting of Justices Suvra Ghosh and Subhendu Samanta, determined that the teacher's actions, aimed at preventing the student from cheating during an exam, did not demonstrate any sexual intent

3. Can't Grant Anticipatory Bail To Rape Accused Merely Because He Was Aged Only 18 Yrs When Alleged Offence Was Committed: Kerala High Court

The Kerala High Court has dismissed the request for anticipatory bail made by an individual accused of raping his disabled cousin sister. The basis for seeking anticipatory bail was that he was only 18 years old at the time when the alleged offense occurred

4.Karnataka High Court Refuses To Quash Abetment Of Suicide Case Against Three For Allegedly Teasing Colleague Over Sexual Orientation

Recently, the Karnataka High Court refused to dismiss the criminal proceedings initiated against three employees of Lifestyle International Private Limited. They were accused of ridiculing their colleague about his sexual orientation, which is thought to have contributed to his decision to end his own life. The petition filed by Malathy S B, Deputy General Manager of Lifestyle International Private Limited, was rejected by Justice M Nagaprasanna, presiding as a single judge.

5. Women Lawyers Face Sexist Behaviour From Male Colleagues' : Indira Jaising Requests CJI To Frame Guidelines.

Indira Jaising, a Senior Advocate, has written a letter to Chief Justice of India DY Chandrachud, highlighting the issue of sexist behavior commonly experienced by female lawyers in the legal profession. She points out that women lawyers not only encounter micro-aggressions but have also been asked by male colleagues to maintain a low profile in court, despite assertiveness being an admired trait among prominent male lawyers in the country. She urges for the creation of a handbook addressing gender stereotyping, specifically focusing on how male colleagues should interact with their female counterparts