



SITUATING GROWING GENDER VIOLENCE AND SEXUAL HARASMENT OF WORKING WOMEN AT WORK PLACE IN INDIA

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ABSTRACT

Violence against women is the worst form of crime against humanity, and has become the most baffling and burgeoning problem in 21st Century. Sexual harassment of women at work place in India has taken the worst form of crime against women, and Odisha is no way lagging behind. The Act of insensitivity has taken the ugliest form in Odisha too. The present Paper has attempted to unfold the objective reality pertaining gender exploitation and crime against women in form of sexual harassment of Women at work place.

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INTRODUCTION

The Socially constructed differences and relations between males and females are known as gender. Gender is a learned behavior; it characterizes the various roles and responsibilities that are assigned to men and women within societies and communities. Over the years gender relations have been constructed in such a way that women as a group enjoy fewer rights, control fewer resources, work longer hours, have none or low decision-making powers and much of their work, like domestic chores, rearing children and caring for the sick and the aged, is not even considered to be in the realm of productive work, like domestic chores, rearing children and caring for the sick and the aged, is not even considered to be in the realm of productive work, and goes unpaid (Alkazi, Farrell, and Jain, 2004). It is important to recognize therefore that gender relations and the resultant discrimination, are the outcomes of a whole set of cultural, economic and political relations within a given context. It is through the process of socialization that individuals perceive and learn what society expects of them, as males and females.

Associated with these expectations of society is the implicit understanding that individuals are accountable for their appropriate "masculinity" (Wharton, 2005). These or "femininity expectations and subsequent behaviors and attitudes are reflected in all spheres of society- the family, the community and the workplace. As workplaces, both formal and informal, are a part of the larger society and embedded in the prevailing culture, women as workers also experience considerable inequalities and discriminations.

Conceptual Framework: Gender description

The work place has always been considered the domain of men and even with the entry of women there was a refusal to change norms of the workplace to recognize the different and specific needs that women came with, resulting in various forms of gender discrimination, including:

- Discriminatory question asked at a job interview.
- Not hiring prospective employee
- Denial of promotions
- Illegal termination of services
- Unequal wages for the same work

In the international context, it is believed that all human beings are vested with some absolute rights, which derive from the dignity and worth inherent in the human person. The Universal Declaration of Human Rights, 1948 (Articles 1, 2 and 7) speaks about equality in dignity, rights and freedoms and equal protection against any discrimination. The International Labour Organization (ILO) takes a pro-active stand in addressing the unequal treatment of women in the workplace. It has adopted several conventions that are ratified by its member countries to address issues related to-discrimination in the workplace, including sexual abuse, unequal wages for equal work, basic amenities and facilities. Most importantly for women, it provided maternity leave and other related benefits in formal and informal workplace settings, including part-time employment and home-based work.

Some of the key conventions are

- Equal Remuneration (ILO Convention 100) advising equal wages be given for equal work done by both men and women.
- Discrimination (Employment and Occupation) (ILO Convention 111) which stipulates that there shall be no discrimination in equality of employment or treatment on the basis of race, color, sex, religion, political opinion, national extraction or social origin.
- Maternity Protection 2000 (No. 183), which lays down norms on the entitlement of leave given to a woman after she has delivered her child, as well as to provide opportunity for a mother breast feed her baby.
- Convention on the Protection of the Rights of All Migrant Workers, which protects migrant workers by mandating same rights, wages, working conditions, opportunity the workplace at par with national labour force. It also addresses the illicit and clandestine trafficking of labour, especially of women.
- Worker's Representatives Convention (ILO Convention 135) deals with non-discrimination and abuse-physical, verbal, sexual,

However, the discrimination against women workers in both the formal and informal sectors continues in many occupations and countries. According to an ILO-ADB Report (International Labour Organization- Asian Development Bank, 2011) on Asian women and the labour force, "women continue to disproportionately face a challenges relating to access to employment, choice of work, working conditions, employment security, wage parity, discrimination, and balancing the competing burdens of work and family responsibilities".

Objective of the Paper

- To study sexual harassment as a form of violence against women.
- To identify the nature of gender discrimination at work places
- To study different working women of different age-group under sexual harassment at work places.
- To study various remedies and measures of Government taken at work place to reduce the rate of sexual harassment.

MATERIALS AND METHODS

The paper has been prepared by using secondary data which includes, literature available in the field of research,

Government records , census data, findings of various case studies, information furnished by National and State Crime Record Bureau. The methodology followed in writing this conceptual paper is historical and analytical method.

Challenges for working women in the workplace

Work constitutes an important domain Notionally an individual's means of life livelihood but it also contributes to the socio-economic climate of a community. Gender is considered a cross cutting issue in the world of work, as it plays a significant role in determining gender relations between men and women; effecting terms of employment, working conditions , social protection, representation and voice of work. I (International Labour Organization, 2007). Due to patriarchal constructs that are still embedded in the cultural and socio-economic day to day activities of society, inequalities based on gendered biases and attitudes are a reality for many women.

Workplaces as microcosms of society often mirrors narrow gendered thinking, evident in exclusive and biased practices, norms and ethics which are discriminatory for women but which have a negative impact upon men as well. Both men and women in the workplace still believe that the most important priority in a woman's life is their family and home; women are viewed as mothers, wives, sisters and daughters; accepted as subordinates, tolerated as colleagues but rarely accepted as superiors and bosses. Women's careers are seldom taken serious secondary (to men). Often, jobs seen as a means to "pass time" till kids return school and women are not viewed as economic contributors. A comment from a senior woman manager in a corporate house sums it up very aptly; " ma managers consistently refused to take me seriously , saying I was in the job for entertainment rather than to make a (Society professional for Human Resources" Management India, 2009). Gendered attitudes that are reflected in workplace dynamics pose major challenges for working women:

Stereotypical representatio in the workplace

There is a tendency for organizations to stereotype activities, tasks or jobs by assigning them to women and men based on feminine or distinctly masculine characteristics and not on their professional competencies and personal capabilities. Jobs requiring, physical strength are also often held by men, due to affiliations of masculinity with strength and femininity with physical weakness.

Jobs such as those of front office receptionists, secretaries are usually assigned to women in consideration of their being physically more attractive and therefore in a between position to be the 'face' of the organist. Women are also typically in more subordinate positions than men they are nurses, not doctors; secretaries, not managers; assistants, not engineers, and so on

Discriminations in opportunities and benefits

Women professionals are exposed to multiple forms of exploitation such as discrimination in promotions, wage or salary, as well as the personnel functions and management roles. The gender wage gap is most often expressed as a ratio of men's earnings (Wharton, 2005)Glob trends indicate that pay levels of women are also significantly lower than those of men.

Challenges in reaching top echelons

Today, though we find an increasing number of women in the formal workplace, it does not imply that women outnumber men in the workplace; more often than not, women are still a minority group within their organizations. And while women workers in formal sectors of the Indian economy, as elsewhere in Asia, are growing in number, they are still progressing at a slower pace in comparison to men. Yet, despite this growing presence of women, the workplace still reflects male standards of work ethics, which have been designed by men for themselves.

Origin and prevalence of sexual harassment at the workplace

Sexual harassment transcends occupational and professional categories and other parameters of age, educational background, race, ethnicity and income levels. In Australia, the results of a national telephone survey in 2012 (Australian Human Rights Commission, 2012) show that sexual harassment is widespread in Australian workplaces. The survey showed that "approximately one in five people aged sexually harassed in workplace in the past five years"; i.e. one in six men (16%) have been sexually harassed in the workplace in the five years. Targets of sexual harassment were found to be mostly women less than 40 years of age, with harassers' mostly male co-workers. The survey also indicated that women are at least five times more likely than men to have been harassed by a boss or employer. Men harassing women accounted for more than half of all sexual harassment, while male harassment of men accounted for nearly a quarter (Farrell, Ph.D thesis, 2013).

(UNIFEM, 2011) reports state that

Between 40 and 50 per cent of women in European Union countries experience unwanted sexual advances, physical contact or other forms of sexual harassment at work. Across Asia, studies in Japan, Malaysia, the Philippines and South Korea show that 30 to 40 percent of women suffer workplace sexual harassment. In Nairobi, 20 percent of women have been sexually harassed at work or school. A study titled, Sexual Harassment at – Workplaces 2012 was jointly India 2011 conducted by Oxfam India and the Social and Rural Research Institute. It spanned the cities of Delhi, Mumbai, Bangalore, Chennai, Kolkata, Ahmedabad, Lucknow and Durgapur, covering 400 working women. Of the 400 respondents, 66 faced a cumulative 121 incidents of sexual harassment. Of the 121 incidents, 102 were reported to be non-physical, whereas the remaining 19 incidents were physical. Of the respondents, 93 percent reported awareness of sexual harassment of women at workplace; however, a majority of the victims did not resort to any formal action against the perpetrators. The top three industries found unsafe for women were informal labour (29%), domestic help (23%) and small scale manufacturing units (16%). (Fernandes, 2012).

Sexual harassment at workplace

Sexual harassment would follow the same definition as the harassment, except that the harassment must be sexual in nature. According to the supreme court's definition, sexual harassment is any unwelcome sexually determined behavior, such as physical contact, a demand or request for sexual favours, sexually coloured remarks, showing pornography, any

other physical, verbal or nonverbal conduct of a sexual nature". In addition when the submission to such conduct is made an implicit condition of an end sexual harassment within the workplace.

Harassment at workplace

Workplace is any place where working relationship exists, where employer and employees relations exist. And if we talk about workplace violence meaning it can explain that as the exercise of physical force by a person against a worker in a workplace, that causes or could cause physical injury to the worker or a statement or behavior that it is reasonable for a worker to interpret as a threat to exercise physical force against the worker, that could cause physical injury to the worker. The workplace harassment means that "engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome. Workplace harassment may include bulging, intimidating or offensive jokes or innuendos, displaying or circulating pictures or materials, offensive or intimidating phone calls "sexual harassment at work is an extensive of violence in everyday life and in discriminatory, exploitative, thriving in atmosphere of threat, terror and reprisal. There are two types of workplace harassment as "Quid pro quo", means seeking sexual favours or advance or advance in exchange, for work benefits and it occurs when consent to sexual explicit behavior or speech is made a condition for employment or refusal to comply with a 'request' is met with retaliatory action such as dismissal, demotion, difficult work condition. 'Hostile working environment' is more pervasive form of sexual harassment involving work conditions or behavior that make the work environment hostile for the women to be in certain sexist remarks, display of pornography or sexist / obscene graffiti, physical contact / brushing against female employees are some examples of hostile work environment, which not made conditions for employment. Such type of violence which is occurring at workplace with women creates insecure, unsafe and hostile men with women treating them as a subject and subordinate person that's why such violence faced by working women. Now a days we have started to saying that we live in Gandhian era where 'Aahimsa paramo dharma' "however ever." day we find several cases of violence which occurs with women at public and private places. If we believe in everyday women inclusion and gender equality then it is fair to say that sexual harassment is a violation of women's right to gender equality as well as liberty and life as a whole.

Global overview of the origin of sexual harassment

Although the term sexual harassment is of recent origin, the phenomenon has existed as long as women and men have worked together. Constance Jones, in her book Sexual Harassment, has identified incidents of sexual harassment going back to the 1830s when increasing numbers of women began working in the textile mills in New England. She notes that printers in Boston conducted an intimidation campaign to force women out of their jobs in the industry in 1835. At this time, men feared that once women came into the workforce they would steal traditionally coveted jobs of men thereby threatening their livelihood. As more and more women entered the workforce, the discrimination became more evident and endemic. Many women's rights groups fighting for equal rights at the workplace, the issue of sexual harassment came to the forefront. While the behaviours related to the term sexual

harassment are known to have existed for centuries, the term sexual harassment itself is only said to have emerged in the mid-1970s in Ithaca, North America. The origin of this term is attributed to the group, Working Women United, formed under the leadership of a Human Affairs Program at Cornell University. The concern for this group at that time was the case of Carmita Wood, who was an administrator at the University. Wood was forced to leave her position at the University because of sexual harassment committed by a senior employee. She was also denied unemployment benefits due to the incident. Working Women United conducted a survey of women workers, and conducted the first "out" speak on sexual harassment, and helped Wood appeal her case. The first recorded use of the term was in a survey developed by the research branch of this group in May 1975 (Thomas, 1997). The term was subsequently adopted in the United Kingdom in the 1980s and very soon public bodies and institutions in the UK and USA began to view sexual harassment as a serious cause for concern and to formulate specific codes and grievance procedures to deal with it. It was soon viewed as a trade union issue, a civil liberties issue, as an equal opportunities issue and in Canada as a human rights issue.

International frame works for sexual harassment at the workplace

International standards on discrimination at the workplace have been set in the six basic rights as formulated by the ILO, including the standards on wages, working hours, leave, overtime hours and wages and weekly rest and holidays. However, the most relevant of these in the prevention and redressal of Sexual Harassment at the workplace are:

- The Right to Equal Treatment (ILO Convention No.111 Discrimination
- [Employment and Occupation] 1958 which was ratified by India in 1960)
- The Right to Safe and Healthy Work Environment Free from Sexual Harassment (Resolution on Equal Opportunity and Equal Treatment for men and women in Employment, 1985)
- ILO Convention No.169 which specifically prohibits sexual harassment of indigenous and tribal women. As do ILO Occupational Safety and Health Convention (No. 155) and Recommendation 164
- The International Covenant on Economic, Social and Cultural Rights.
- 1966 enjoins all state party to the Covenant to guarantee rights enunciated in it without discrimination of any kind. It also means that states will ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights established in the Covenant. The right to condition of work is also enshrined in Article 7 of the Covenant.
- Article 11 of the United Nations Convention on the Elimination of All forms of Discrimination against Women (CEDAW) (1979), states that equality in employment can be seriously impaired when women are subjected to gender specific violence, such as sexual harassment in the work place. Recommendation No. 19 on Violence against Women, 1992 called on States to take measures to protect women from sexual harassment, which was recognized as a form of violence at the workplace.

- United Nations (UN) Declaration on Violence against Women, 1993 recognizes that sexual harassment and intimidation at the workplace as an egregious form of violence against women requiring state action.

Cognisable and non-cognizable defense

Offences are essentially of two types. The essential difference between "cognizable" and "non-cognizable" offence is that in the case of a cognizable offence, a police officer of a special rank shall have the power to arrest an offender without warrant. Cognizable offences are generally offences of a serious nature and which affect the whole society- such as murder, rape, theft, dowry death, cruelty to married women, kidnapping, etc. Non-cognizable offences are generally offences which relate to the personal harm caused to an individual, such as defamation, bigamy, etc. In case of a non-cognizable offence, a police officer has no authority to arrest an offender without warrant issued by a Magistrate. In cognizable offences, the police will record a "First Information non cognizable offences, the police will cognizable record" Non FIR (NCR). The division of offences into cognizable and non-cognizable, under the Indian Penal Code is stated in the Criminal Procedure Code, 1973 (Cr, PC) called The First Schedule. "Schedule II".

Scenario of sexual harassment at workplace in India

In the Indian context, sexual harassment at the workplace has been one of the central concerns of the women's movement since the 1980s, when milita the Forum Against Oppression of Women (Mumbai) against the sexual harassment of nurses in public and private hospitals by patients and their male relatives, ward-boys and other hospital staff; of air-hostesses by their colleagues and passenger; of teachers by their colleagues, principals and management representatives; of Ph.D. students by the guides; the list is endless. However, the received a lukewarm response from the trade unions and adverse publicity in the media (Patel, 2005). The issue of sexual harassment in the workplace gained precedence with the pivotal case of Vishaka and others vs. The state of Rajasthan. 1992. This was the much publicized case of the gang-rape of a government community worker (Bhanwari Devi) for carrying out her duties and the subsequent denial of justice. A Writ Petition filed in the Supreme Court directives which were to serve as guidelines on prevention of sexual harassment of women. These directives, termed the Vishaka Guidelines were part of the historic judgement passed on August 13 1997. They held that sexual harassment of working women amounts to violation of the rights of gender equality; violation of the right to practice any profession, occupation, and trade and states that "such conduct can be humiliating and may constitute of these Directives were considered as the law until the Sexual Harassment at Workplace (Prevention, Prohibition and Redressal) Act was enacted on 23rd April 2013. This new Act is a comprehensive legislation that takes cognizance of the fact that one of the factors that adversely affect the right of women, including the Right to Work, is that of sexual harassment in the workplace. This new law focuses on the prevention of sexual harassment of women at the workplace, as well as provides a redressal mechanism in the event of such incidents taking place. Constitution and Legal Framework for Sexual harassment in India's participation in the various international forums and the verification of the international

realties is testimony of its commitment to ensure dignity and equality of women in all spheres of life as clearly envisaged in the Constitution.

fine of up to Rs.50,000 with the possibility of having one's license revoked.

Fundamental Rights vested by the Constitution of India	
Article 14	Equity before the law and the equal protection of the law. Includes gender equality, universally recognized basic human right.
Article 15	Prohibits discrimination on grounds of religion, race, caste, sex or place of birth

Indian laws that address sexual harassment at the workplace

Article 19 (i) (g)	All citizens shall have the right to practice any profession, or to carry on any occupation, trade or business constitutional provisions of the Constitution of India.
Article 51	Prohibits discrimination on grounds of religion, race, caste, sex or place of birth.
Article 253	The parliament has the power to give effect to international agreement of decisions made at International Conferences
Sections 292, 293 and 294	Deals with obscenity
Section 354	Assaulting or using criminal force on any woman, intending to outrage her modesty, shall be punished with imprisonment for a term, which may extend to two years, fine, or both.
Section 354 A	This section was added to the IPC upon the presidential approval of the Sexual Harassment of Women at the Workplace (Prevention, Prohibition and Redressal) Act 2013. The Amended Criminal Law Act, 2013 recognises and provides a clear definition of sexual harassment and punishment for it in the form of Rigorous Imprisonment for up to 3 years.
Section 354 C IPC	Deals with voyeurism
Section 354 D IPC	Deals with stalking
Section 375	Deals with offence of rape

Other Indian laws that address sexual harassment of women

Indecent Representation of Women (Prohibition) Act (1986)	Those found guilty of Indecent representation of women are liable for a minimum sentence of two years.
Section 7 (Offenses by Companies)	

Protection of Children from Sexual Offences Act, 2012	Section 11 of the Act deals with Sexual Harassment	Provides protection to all children under the age of 18 years from the offences of sexual assault, sexual harassment and pornography, all of which have been clearly defined in this law.
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The core objective of the Constitution of India is to secure to all its citizens: justice, liberty, equality, fraternity and dignity as is clearly laid down in the Preamble to the Constitution of India. In India, the redress and prevention of sexual harassment is a central concern for ensuring that women are working in conditions and spaces conducive for their equal and safe growth and optimal productivity. Sexual harassment of women at the workplace is a violation of the Right to life and personal liberty enshrined in Article 21 of the Constitution.

Sexual harassment of women at workplace (prevention, prohibition and redressal) act

This Act was enacted on 23rd April 2013 after it received presidential assent. It was passed by the Lok Sabha on 3rd September 2012 and by the Rajya Sabha on February 26, 2013. The Act recognises that with India's ratification of CEDAW, recognizing women's protection. Sexual harassment again and the right to work with dignity as a human rights issue as laid down by CEDAW. It also recognizes that sexual harassment results in the violation fundamental rights to equality under Articles 14, 15 and 21 which speaks of equality before law, prohibition of discrimination on grounds, of religion, race, caste, sex or place of birth and protection of life and personal liberty. It also established that the actions resulting in a violation of one's rights to Gender Equality violation of the victims fundamental right under Article 19. The recently enacted Act deems it the duty of the employer, as well as other responsible persons to work places or institutions to prohibit acts of sexual harassment from taking place within a workplace. It also makes it mandatory for organizations to implement a sexual harassment prevention redress mechanism as prescribed by the law, Non-compliance of the same will be punishable by the law and can result in a large

- No court shall take cognizance of any offense punishable under this Act, or its rules unless it is a complaint that is made by the aggrieved woman, or any other person authorized by the Complaints Committee.
- No court inferior to that of a Metropolitan Magistrate or Judicial Magistrate of the first class, shall try any offense punishable under this Act.

Scenario of sexual harassment in odisha

In Odisha and also in India lore through women have been eulogized as goddess, Saraswat, Laxmi and Durga (the goddess of learning wealth and power/defence), but their condition in reality is a sad reflection violence against women includes physical, sexual, Psychological and economic abuse. Sexual harassment in the workplace is an extremely sensitive area. It infringes the fundamental rights of women to gender equality as guaranteed under Article 14 of the Indian constitution which includes a right to a safe environment. Officially, sexual harassment in the workplace is illegal. Yet women are persistently harassed at their work group, by employers, co-employees and third parties despite the fact that the supreme court in Vishakhav's state of Rajasthan [1997 (7) SCC323] has formulated guidelines to address Sexual harassment until a suitable legislation is enacted in this respect. Sexual Harassment is a type of sexual assault and victims of severe or chronic sexual harassment can suffer the same Psychological effect as rape victims. In India there are some cases registered (July 2 2014) (outlook Express newspaper) Odisha crime branch police arrested a police inspector who was accused of sexually abusing a lady police officer for 13 long year (June 6-2014 Monday) (The Telegraph newspaper) sexual harassment slur on Red Cross Boss 3 women employees of the organization Odisha chapter

filled complaint against Mangal Prasad Mohanty with Kharavelanagar Police.

Conclusion

To conclude, the plethora of enactments and provisions to deter sexual harassment at workplace needs implementation in letter and spirit. For effective implementation of all such acts and provisions, there should be complain committee at all administrative units or offices. One of the major bottlenecks of the law which allows the employer to initiate action against the complainant in case of false or malicious complaint. This provision well protects the interests of the employer but often discourages the victim to report such incidents and filing complainants. This poses major challenge for implementation of the law. For effective implementation of the law there is urgent need of multi stakeholder approach. Effective implementation of the policies can reduce manifestation and mutilation of the sexual harassment to the minimum. Above all each establishment should strictly follow zero-tolerance policy towards all forms of violence against women at work place then only the act of insensitivity could be minimized.

REFERENCES

- Alkazi, F., Farrell, M. and Jain, P. 2004. Gender on the agenda: a training manual. New Delhi, India: Society for participatory Research in Asia (PRIA).
- Australian Human Rights Commission. 2012. Working without fear: results of the sexual harassment national telephone survey 2012. Sydney: Australian Human Rights Commission. Farrell, M. (2010) Minor research report.
- Barik, P. Kumar and Sarode, U. Gender and human rights-narratives of macro-micro Realities (pp. 67-80), Jaipur: Rawat Publications.
- Fernades, D. 2012. November 28). 17% women sexually harassed at workplace. Bangalore, India: Times of India
- International Labour Organisation –Asian Development Bank 2011. Women and labour markets in Asia rebalancing for gender equality. Bangkok: International Labour Organization – Asian Development Bank.
- International Labour Organisation, 2007. ABC of women workers right to gender equality. Geneva: International Labour Organisation.
- International Labour Organization, 2007. A manual for gender audit facilitators: the ILO participatory gender audit methodology. Geneva: International Labour Organisation.
- Jones, C. 1966. Sexual harassment. Facts on File, Incorporated.
- Mukadam, R. and Patwardhan, P. 2010. Sexual harassment at workplace. In B.
- Planning Commission, 2002. National human development report 2001. New Delhi: Government of India.
- Society for Human Resource Management India (2009). Perspectives of women in India.2009: Society for Human Resource Management India.
- UNIFEM, 2011, Violence against women and millennium development goals, UNIFEM, Weisberg, K. (1996). Sexual harassment. In K.Weisberg, Application of feminist legal theory to women's lives- sex, violence, work and reproduction (pp.725000845). Philadelphia: Temple University Press.
- Wharton, A.S. 2005. The sociology of gender- an introduction to theory and research Malden, USA: Blackwell Publishing.
