

A Critical appraisal of Compliant Procedure of Sexual harassment of women at workplace, 2013: Indian Act

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Abstract:

Sexual harassment of women at their workplace is commonly observed. Some women take initiative either for them or for their known and some do not do this. This paper is an attempt to research about the platform and system with which a women can complaint regarding such abuse. The paper depicts various sections and procedure with which they can file complaint.

Introduction:

Sexual harassment is an ongoing topic which is related to all professions and is applicable for organised as well as unorganised sector of India. The word sexual signifies that any behaviour which is unwanted. It may a physical touch, a word, or a gesture, may be a way of seeing which makes a woman uncomfortable. Indian act is related to sexual harassment of women at workplace that means any act done by any male member of the organisation where a female member is working, which makes her uncomfortable will be registered under this act. India has announced this act at last of year 2013. This paper examines some critical facts and figures regarding applicability and appropriateness of law for filing case to complaint committee.

Keywords- Sexual harassment, workplace, Local complaint committee.

Literature review:

Majorly, women are harassed in society out of population and if it is about men to men it is considered as an origin due to masculinity: like male behaviour is connected with term aggressiveness and crimes related to men are generally dealing with this behaviour of males in society(**Messerschmidt, 1993**).If any workplace has equal gender ratio as an working staff members, male dominated rules are still dominating and are clearly visible(**Hearn and**

Parkin, 2005). There are also assumptions about what is good management; historically 'strong', 'masculine' environments were seen as positive and desirable (**Collinson, 1988; Einarsen and Raknes, 1997**) although this has changed considerably in recent years. However, the gender of a management team may be less relevant than its style.

The Saheli survey (1998) surveyed almost sixty five women and analysed that inspite of the fact of increasing cases of sexual harassment of women at their workplaces, this problem is not recognised by workplaces seriously and dismissed this on the grounds of treating it as a case of eve teasing or any other as they think it to be fit. **Abraham (1999)** told the meaning of womanhood and manhood within South Asian region as a necessary understanding while researching about problems on sexual relations among both the genders because there are cases where, traditional South Asian communities says that an ideal womanhood lies in terms of sexual purity whereas, South Asians in the U.S. often perceive women's sexual engagement to be a western or U.S. conflicting norm. South Asian traditional manhood is defined by "men's power, virility, and ability to control women's morality and sexuality".

Pryor et al. (1993) suggest that personal and situational factors contribute in combination to the repeated behaviour of sexually harassing, for example, that men who are likely to harass someone sexually usually only behave in that way when the circumstances and social norms actually permit that form of behaviour. **Gutek (1985)** suggests that sexual harassment is more vigilant in highly sexualised settings and working environments i.e., where sexual behaviour is common.

Objective:

The objective of this paper is to critically evaluate the guidelines dealing with the complaint mechanism of sexual harassment of women at workplace, 2013, with respect to practical situations of India.

Methodology

For the present study secondary data is mainly collected from below mentioned sources:

- Sexual harassment of women at workplace- Prevention, Prohibition and Redressal Act-2013.

Overview of Sexual harassment of women at workplace, 2013

As per Indian census 2011, 25.51% females are working against 53.26% of males. Rural sector has 30.02% female workforce participation rate as compared to 53.03% of male whereas in urban sector, 14.70% females and 54.60% males are working. Earlier in India, there was no Act which was dealing with issues of sexual harassment at workplace. The entire credit of formation of Sexual harassment of women at workplace Act goes to the struggles of one brave woman, Bhanwari Devi, who hails from a non-descript village in Rajasthan. In the year 1992, she dared to speak out against upper caste community who allegedly gang-raped her at workplace while she was performing her official duty to stop child marriage. In year 1997, the Supreme Court recognised concept sexual harassment at the workplace, proposed preventive, prohibitors and redressal measurements in the judgment of **Vishaka and others vs. State of Rajasthan**. It further asked for mandating a legislative against guidelines proposed. These provisions and measures were made out of Convention on the Elimination of all forms of Discrimination Against Women (CEDAW). Prior to this, the women of country were countering this problem by registering themselves against Section 354 and 509 of Indian Penal Code. This is a problem which is recognised all around the world and is regarded as a bad behaviour against women of world and is given space in treaties and various other related file for protection of them. If any woman of private or public sector organisation is facing such problem in the office premises, such woman must get support from employer and whosoever is in charge for such matters. Also, the government must mandate implementation of these preventive rules in every organisation irrespective of public or private sector.

Indian government authorities have passed a legislature for dealing with these matters in the form of 'The sexual Harassment of women at workplace (Prevention, Prohibition and Redressal) Act, 2013' after sixteen years of Vishaka judgement of supreme court. The primary concern of enacting this was to provide safe and protected working environment to women in terms of sexual harassment. This problem also hinders the fundamental constitutional right of them of right to equality.

Indian Sexual harassment act has provided two dimensional protections from sexual harassment cases which are inside the workplace by employer, named as internal committee and outside the workplace by government, named as local complaint committee.

| Basis | Internal Committee (Chapter II-Section-4) | Local Complaints Committee (LCC) CHAPTER-III(Sec-5-8) |
|------------------------------|--|--|
| Constitution | An employer is required to form this if he has more than ten workers in his premises. | District Officers should form this committee for his concerned area. |
| Where it will be constituted | In all offices. | In every District |
| Composition | <p>This committee must consist of;</p> <p>A woman Presiding officer who is working at senior management level</p> <p>Minimum two members among employees who have legal knowledge and are working on some social work</p> <p>One member either from any group who is working for these issues or indulged in social works or from non- governmental organisation</p> <p>Fifty percent of this committee must be females.</p> | <p>This committee must consist;</p> <p>One well known woman who is known for her contribution in women related issues and social work</p> <p>One working member from that area</p> <p>Two members, one must be woman who must have knowledge of sexual harassment</p> <p>At least one member having expertise in legal background</p> <p>Additionally, at least one member must be women representative of SC,ST,OBC or minority group of society</p> <p>One nodal officer will be appointed who will receive such complaints and forward the same to the local complaint committee.</p> |
| Time framework | <p>The tenure of members is not more than three years.</p> <p>The NGO members as per the employers' guidelines.</p> | The tenure of members is not Exceeding three years. |

Harassment of any women at her workplace restricts her from settling her on professional grounds which is violation of her liberty or freedom. Section 3(1) of the act clearly states that no woman should face such harassment at her workplace.

Complaint & Inquiry into Complaint (Section 9 to 18) (Chapter IV & V)

The provision of this act states that if any woman who faced such harassment at her workplace, she should write a written complaint to the internal committee within three months period from this happening. If this cannot be presented in written the, she must get assistance from workplace for turning it to be in written and if the woman is not capable of writing it due to her physical or mental health, her legal representative is allowed to do so. Conciliation process does not allow any monetary compensation provisions for settlement of this case.

As per the research of Chaitanya(2017), In India, as per records of the year 2017 highest cases were reported in Uttar Pradesh State (141 cases), followed by Delhi (71 cases), Maharashtra (40 cases) and the lowest cases reported in Tripura, Sikkim, Goa, Chandigarh and Zero case were reported in A & N Islands, D&N Haveli, Manipur, Meghalaya and Nagaland.

Conclusion:

Although Act prevalent in India is comprehensive yet needs improvement. It has been observed that theoretical upgradation of Act need to be supplemented along with practical implementation to attain fruitful results. In the present study, mechanism discussed related with complaint procedure suffers with long gestation period. The time lag between filing complaint and justice given to the complainant should be minimised at organisational level. As per secondary data sources, the number of cases reported in year 2017, in the domain of sexual harassment against women are insignificant. It is irony that unreported cases are in huge number. Among all states, Uttar Pradesh is on top as far registered cases are concerned. As per latest study of ILO (International Labour Organization) the main reason for women

leaving jobs is because of hostile work environment in Uttar Pradesh. The working conditions play a significant role for employees to work. If a nation desires to tap women resource potential than congenial work environment is important and desirable. It is also suggested to monitor working of internal committee of every organization biannually. The strict provision in law needs to be inserted to have check on working of internal committee. It should be mandatory for employers to organize workshops on gender sensitization and legal awareness for employees. Annual reports regarding workshop conducted, cases reported and anti-sexual harassment policy of organization is to be filed at local level.

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