

**REFORMATION OF SEXUAL HARASSMENT LAWS IN CONTEMPORARY
TIMES**

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ABSTRACT

Crimes against women is increasing day by day. Such crimes against women are prevalent in the society and are dated post- independence. When India got independence the framers of the constitution provided safeguards and measures in order to give and provide special laws for protection of women. The goal propounded by the Preamble of the Constitution of India majorly constitutes to the factor of equal opportunity and status to all.

Pre-Independence women were not provided with opportunities to indulge in various spheres of work place. But upon the drastic change after the independence women were given equal rights and opportunities.

With drastic change came drastic measures. With the growing society growing concerns emerge which lead to enunciation of harassment laws towards women in workplace leading the government to propound laws to tackle workplace harassment.

Before 1997 India did not have any dedicated laws for workplace harassment Cases of workplace harassment were lodged under section 354 of Indian penal code under criminal assault and outraging the modesty of women and section 509 of Indian penal code under outraging the modesty of women by words. But after the 1990s in landmark judgement of Vishaka v The State Of Rajasthan, 1997 the apex court issued guidelines called the Vishaka guidelines which was the first set of rules to tackle the problem of workplace harassment The Vishaka guidelines acted as a framework of later statutory laws made by the parliament like the Sexual harassment Of Women At Workplace Act (Prevention , Prohibition And Redressal) Act 2013 Which Was the first statutory law dedicated to tackle the problem of workplace harassment and

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provide a statutory recognition to the guidelines of the apex court set on 1997.

In order to curtail the problem of such crime arising against women lead to implementation of laws the issue faltered upon action of implementation. The need for satisfactory laws relating to sexual harassment are to be seek upon.

This paper aims to establish and present the ongoing issues relating to sexual harassment and answering the questions with the real need in safety of women in work place.

Introduction

It is an accepted fact that early women got very limited attention of traditional historical writings. One of the biggest reasons for this is lack of representation of women in historical writings, largely because of the fact that it focused on areas of human activity where men were at the centre and dominated such activities such as politics, war, and diplomacy, economic and commercial activities. This was a period of a male dominant society where women were overshadowed by men both inside and outside the house .Drastic changes are seen in the contemporary times where women are scene competing neck to neck with men in all sections of the society . This transition from a male dominant society to a society where women are equitably dominant was not easy and did not come overnight. The architects of the constitution were well aware of the history of oppression of women in India, thus while framing the constitution of India they made sure that provisions were included to uplift the status of women and safeguard their interests in India . The preamble of the constitution pledge the equality of status and opportunity to all its citizens, thus special provisions were incorporated in the constitution to stop all kinds of oppression and uplift the status of weaker and discriminated sections of the society.

Emerging Issues In Contemporary Times

In the Vedic period women were given a lot of reverence in the society .The ancient holy text of Rig Veda portrayed women as a queen of husbands household even in such other pious texts like dharamshastras, women were considered very important in the man's life in order to perform numerous religious ceremonies like the Saptapadi (The Seven Pheras In A Hindu Marriage) The post Vedic period witnessed drastic decline in the status of Women primarily due to emergence of new texts like the

Manusmriti by Manu which gained a lot of popular acceptance of the people leaving women's in a forlorn condition without basic freedoms like right to education and work . The work of the women was limited to their households and this point in the history can be regarded as the time when the evil of male dominance first emerged in the Indian societies. Further decline in the status of women was seen in the medieval period with the invasion of alexander and emanation of new social evils like sathi , child marriage , polygamy etc. In the 19th century India was under the British Monarch and the British Monarch wanted to abrogate many social evils that have emerged in India since the Post Vedic Era. This was the beginning of the long awaited restoration of the rights and status of women in India. There were further attempt to revamp the status of women through the Nationalist Movement in 20th century. All this became the cogitation when our constitution and there was an attempt in the constitution to establish the doctrine of equity which our constitution delineates through its provisions. Article 14 of the Indian Constitution promises equality before law and equal protection by law this provision make sure that the law of the land does not discriminate any citizen on India and does not favour the interest of one person over other . Article 15 prohibits discrimination on the basis of race, caste, sex etc. Article 15(3) lays down the principle of substantive equality in fallout of women in recognition of the historical disadvantages faced by them and therefore confers state with the power to make special provisions to protect the interest of women. Article 16 states that no one can be discriminated in matters of public employment on the basis of race, caste, sex etc. Article 16(4) empowers the state to make reservation in matters of public employment for women, schedule caste, schedule tribe to make sure each class of population is adequately represented in public services .The constitutional safeguards are enforced by (DPSP) Directive Principles of State Policy which are used by the Supreme Court to expand the substance of fundamental rights. Article 39 directs the state to provide equal and adequate means of livelihood to all its citizens. .Article directs the state to provide humane working condition and maternity leaves to women. India has therefore pledged itself to gender equality through several articles in the constitution. With this equal status and opportunity women started competing with men in every sphere of the society which portrayed women as independent individuals after long time since the post Vedic period .Education and work has

empowered women to earn their living and so they are no longer largely depended on men for their living .

As women started to work thus emerged a new social evil of workplace harassment of women. In the later part of the 19th century there was a drastic increase in the cases of sexual harassment and to tackle it India didn't have a separate statute. Earlier all cases of sexual harassment at workplace were filed under Section 354 (outraging the modesty of women) Section 354A (sexual harassment), Section 509 (outraging the modesty of women by word or gesture) of the Indian Penal Code. Like in the case of *Rupan Deol Bajaj v Kanwar Pal Singh Gill (1995)* where the court saw sexual harassment of women as part of outraging the modesty of the women for the first time .and in case of *Saudi Arabian Airlines v Shehnaz* where the court found dismissal of case of sexual harassment by employer a unfair trade practice and considered it illegal.

All this changed with the 1992 Vishaka V/S the State of Rajasthan case where the court found workplace harassment not only a violation of fundamental right but also the violation of the international progressive law. So the Supreme Court established Vishaka Guidelines by the means of which it laid down certain obligations on the employer to make certain reforms in the workplace to tackle the problem of workplace harassment. The judgment however can only be considered inchoate and although the law developed further is a number of judicial precedents that followed but still there was uncertainty in the public sector on the role of the internal committee established under the guidelines of the court and resistance of its application in the private sector. These precedents made a significant advance but on the other hand left-out many women in workplace outside the protective cover of the law. This included women's in domestic, rural areas, small enterprises etc. so need of a statute became increasingly acute. This came with the enactment of the act of 2013 on sexual harassment of women which provided the Supreme Court guidelines of Vishaka a statutory framework.

Sexual Harassment Of Women At Workplace Act 2013

The first enforceable remedy created for private sector employees was under the 2013 act which places an obligation on every employer to take steps under the provisions of the 2013 act to tackle the problem of sexual harassment at workplace to create a good working environment for women. For this the act incorporates many provisions like Section 4 of the act creates an obligation on each and every employer to constitute an internal complaint committee which shall be headed by a female officer of the workplace, along with her there shall be two other members from the workplace who are committed to the cause. This committee shall work alongside a member of an NGO which works for the cause of workplace harassment. Apart from this Section 5 of the act establishes a local complaints committee presided by a woman in the field of social work for women, a member from each district who works alongside and 2 members of NGO working for the cause of workplace harassment of women. Section 9 empowers the women the power to file a complaint of workplace harassment to the internal complaint committee or the local complaint committee within the period of 3 months of the incident and creates an obligation on the employer to take appropriate steps required. A district officer is appointed by the state in each district to monitor the compliance of the provisions of the act. Actions for the complaints under the act are taken under Section 354, Section 354A and Section 509 of the Indian Penal Code with punishments extending up to 3 years and fine.

Limited Application Of The 2013 Act

There were a few major reasons why the act was not fully successful in tackling the issue of sexual harassment at workplace -

- (1). The statutory period on limitation for filing a complaint was 3 months which can only be extended for further 3 months by providing valid reasons in writing.
- (2). The statute appears to lose steam when it comes to the issue of providing compensation to women who were victims of workplace harassment.
- (3). The act broadly focuses on the employer-employee relationship rather than the complete working environment.
- (4). It was not possible to establish and monitor internal committees in rural areas and other small establishments.
- (5). One of the major issues was lack of proper implementation of the provisions of the act and poor check on compliance of the provisions of the act.

A New Perspective

In India women were entering into the formal labour workforce in an unprecedented number, such social evils are emerging as a barrier to the capabilities of women to explore themselves in various fields of work. From where i see India is equipped with much of the laws that are required for tackling such issues but where the actual problem lies is the lack of proper implementation of the provisions of the statute , another problem is lack of effective role of the state in controlling the affairs and functioning of the internal committee and the fact that the state has failed miserably to make the employers comply with section 9 of the 2013 act as a result to which the complaints are not registered properly . One another place where the statute of 2013 lacks is the absence of provision for proper and adequate compensation for the aggrieved women. It is in this context that we must view the emerging challenges that working women face. In light of these developments there is more than ever before a pressing need for rights of women to be respected, protected and fulfilled specially in workplace.