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BREAKING THE SILENCE: ADDRESSING SEXUAL HARASSMENT OF WOMEN AT WORKPLACE AROUND THE WORLD

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ABSTRACT

From a very early age, women have been facing lots of problems like education problems, healthcare facilities, and many other societal problems. Out of all these problems, sexual harassment remains one of the serious problems faced by women. Women have been treated as a commodity for sexual pleasure. This gave rise to ill practices of eve-teasing, molestation, and rape. Women are facing this problem all around the globe no matter what their caste, ethnicity, class, or religion is. Sexual harassment can be of various types like verbal sexual harassment, non-verbal sexual harassment, and physical sexual harassment.

This article talks about the different types of sexual harassment, guidelines, and laws. This article showcases the different legal frameworks found in countries like CHINA, INDIA, USA, and RUSSIA. It talks about some famous case laws and, the way forward.

Furthermore, this article talks about the famous Vishaka guidelines and how it shaped the legal status to create POSH ACT, 2013 in INDIA.

KEYWORDS- educational problems, healthcare facilities, sexual harassment, eve-teasing, molestation, rape, caste, ethnicity, class, religion, guidelines, legal frameworks, way forward

INTRODUCTION

Each time a woman stands up for herself, she stands up for the all-women – **MAYA ANGELOU**

Sexual harassment in the workplace remains a pervasive issue, affecting women across industries and professional levels. Despite growing awareness, many incidents go unreported, leaving victims feeling isolated and powerless. The silence surrounding this problem perpetuates a toxic work

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culture, where fear of retaliation, stigmatization, or career setbacks often outweigh the courage to speak up. In this article, "Breaking the Silence: Addressing the Sexual Harassment of Women at the Workplace," we explore the kinds of sexual harassment faced by women, and emphasize the urgent need for proactive measures to create safer, more inclusive work environments. It's time to foster a culture where every woman can work without fear of harassment or discrimination.

WHAT IS SEXUAL HARASSMENT AT WORKPLACE?

Sexual harassment at the workplace refers to any unwelcome or inappropriate behavior of a sexual nature that creates a hostile or uncomfortable working environment. It can be verbal, physical, or visual and can occur between co-workers, supervisors and employees, or even clients and employees. Sexual harassment is illegal and can be harmful to the victim, affecting their mental health, productivity, and career.

KINDS OF SEXUAL HARASSMENT

VERBAL SEXUAL HARASSMENT

It involves saying something of a sexual nature to someone who is an unwilling recipient. If someone else says something to anyone which is sexually suggestive and that makes the recipient uncomfortable then we can say that the recipient is a victim of verbal sexual harassment.

Verbal sexual harassment includes:

- a. Asking for sexual favours
- b. Expressing desire for sexual conduct
- c. Telling sexual jokes
- d. Commenting on the body parts etc.

NON-VERBAL SEXUAL HARASSMENT

It involves any form of unwanted sexual conduct not verbally but which fall short of physical conduct. This includes sending text messages or emails that are sexually explicit or otherwise sexual in nature. It involves act such as:

- a. Exposing oneself
- b. Blowing kisses or winks
- c. Showing pornographic video

PHYSICAL SEXUAL CONDUCT

Unwanted physical conduct is either considered sexual harassment or sexual assault, depending on the severity of the encounter. It involves acts such as:

- a. Any form of unwanted touching
- b. Patting, grabbing, rubbing, or pinching
- c. Hugging or kissing

SECTION 354 INDIAN PENAL CODE, 1860

Section 354 of the Indian Penal Code deals with the punishment for assaulting or using criminal force against a woman with the intent to outrage her modesty.

The punishment for this offense is imprisonment for a term of at least one year and up to five years and a fine. In serious cases, the punishment may extend up to seven years.

The purpose of this section is to protect women from indecent assault and to safeguard public morality and decent behavior.

Thus section 354 of IPC says: Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to five years, and shall also be liable to fine.

An offense under section 354 is a cognizable and non-bailable offence that is triable by a magistrate of any class.

LEGAL FRAMEWORK IN DIFFERENT COUNTRIES

CHINA

In China, the legal framework addressing sexual harassment includes several key laws and regulations:

- a. **Constitution of the People's Republic of China:** It provides a broad foundation for individuals's rights, though not specifically address sexual harassment.
- b. **Labour law of the People's Republic of China:** It provides the general provisions for the workplace rights and employers's responsibilities which can be applied to sexual harassment.

- c. **Law on the Protection of Women's Rights and Interests:** Specifically addresses issues related to gender equality and the protection of women's rights , including provisions relevant to sexual harassment.
- d. **Anti- Domestic Violence Law:** Although primarily focused on domestic violence, it also contains provisions that can be related to harassment.
- e. **Civil Code:** It contains provisions on personal rights and dignity ,which can be used to address sexual harassment cases, particularly under its sections related to personal rights and compensation for damages.

In practice, sexual harassment complaints are typically handled through workplace grievance procedures ,civil lawsuits,or administrative complaints. Enforcement can vary, and there are ongoing efforts to improve legal protections and remedies for victims of sexual harassment in China.

INDIA

India has a comprehensive legal framework aimed at preventing, addressing, and providing redress for sexual harassment, particularly in workplaces and public spaces. Here's an overview of key legal provisions and frameworks governing sexual harassment in India:

1. Constitutional Provisions

- a. **Article 14:** Guarantees equality before the law and equal protection of the laws.
- b. **Article 15:** Prohibits discrimination on grounds of religion, race, caste, sex, or place of birth.
- c. **Article 19(1)(g):** Grants the right to practice any profession or to carry on any occupation, trade, or business.
- d. **Article 21:** Guarantees the right to life and personal liberty, which includes the right to a dignified life.

2. The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 (POSH Act)

The POSH Act is a key piece of legislation aimed at ensuring the safety and dignity of women at the workplace. It provides mechanisms for addressing complaints related to sexual harassment. Important provisions include:

Definition of Sexual Harassment: Includes physical contact and advances, a demand or request for sexual favors, sexually colored remarks, showing pornography, and any other unwelcome physical, verbal, or non-verbal conduct of a sexual nature.

a. Internal Complaints Committee (ICC): Employers are required to constitute an ICC at every workplace to handle complaints.

b. Local Complaints Committee (LCC): To be set up by the District Officer in districts where there are fewer than 10 employees or if the complaint is against the employer.

c. Procedure for Complaint: A complaint must be filed within 3 months of the incident, and the ICC/LCC must complete the inquiry within 90 days.

d. Relief to Victim: Interim relief (such as transfer, leave, or work-from-home options) can be granted during the inquiry, and compensation can be awarded to the victim.

3. Indian Penal Code (IPC) Provisions

Sexual harassment is also covered under various sections of the IPC:

a. Section 354: Deals with "Assault or criminal force to woman with intent to outrage her modesty."

b. Section 354A: Specifically defines and penalizes sexual harassment, including:

- Physical contact and advances involving unwelcome and explicit sexual overtures.
- A demand or request for sexual favors.
- Showing pornography against the will of a woman.
- Making sexually colored remarks (punishable with imprisonment for up to 3 years or fine).

c. Section 509: Punishes anyone who intends to insult the modesty of a woman by uttering any word, making any sound or gesture, or exhibiting any object with such intention.

d. Section 376: Addresses the crime of rape.

e. Section 354D: Criminalizes stalking, both physical and online.

4. The Vishaka Guidelines (1997)

Before the POSH Act, the Vishaka Guidelines laid down by the Supreme Court in the case of Vishaka vs. State of Rajasthan (1997) formed the basis for dealing with workplace sexual harassment. These guidelines mandated:

- a. The need for a complaint mechanism at the workplace.
- b. The responsibility of employers to ensure that sexual harassment does not occur.
- c. Sensitization and awareness-raising measures.

The guidelines were instrumental in paving the way for the enactment of the POSH Act in 2013.

5. The Criminal Law (Amendment) Act, 2013

This amendment came in response to the 2012 Delhi gang-rape case (Nirbhaya case). It strengthened provisions related to crimes against women, including sexual harassment, stalking, voyeurism, and rape, enhancing penalties and creating more accountability for such offenses.

6. Child Sexual Harassment Laws

For the protection of minors, the Protection of Children from Sexual Offenses Act (POCSO), 2012 deals with child sexual abuse. This act includes:

- a. A broad definition of sexual offenses against children.
- b. Special provisions for conducting child-friendly legal proceedings.
- c. Mandatory reporting of child sexual abuse incidents.

7. Workplace Responsibility

The POSH Act places responsibility on employers to:

- a. Create a safe work environment.
- b. Organize regular awareness programs for sensitizing employees.
- c. Display the consequences of sexual harassment at the workplace.
- d. Implement a grievance mechanism as per the law.

8. Judicial Remedies

Victims of sexual harassment can seek various remedies through courts, including:

- a. Filing a criminal case under relevant sections of the IPC.
- b. Approaching the appropriate forums established under the POSH Act.
- c. Seeking damages and compensation for emotional distress and loss of employment opportunities.

9. Role of NGOs and Social Organizations

Non-governmental organizations (NGOs) play a key role in assisting victims of sexual harassment, raising awareness, conducting educational campaigns, and providing legal aid.

10. Supreme Court Guidelines on Compensation

The Supreme Court of India has emphasized the need for granting compensation in sexual harassment cases, recognizing the severe emotional and psychological harm caused by such incidents.

India's legal framework for sexual harassment is comprehensive, combining constitutional safeguards, penal provisions, and dedicated laws like the POSH Act. These measures aim to provide redress, ensure a safe workplace, and protect the dignity and rights of individuals, particularly women. Despite these protections, challenges remain in terms of awareness, enforcement, and social attitudes.

RUSSIA

In Russia, there is no specific, standalone law addressing sexual harassment in the workplace. However, several legal provisions offer indirect protection against such misconduct through the country's broader labor and criminal laws.

KEY LAWS AND PROVISIONS

1. LABOR CODE OF THE RUSSIAN FEDERATION:

Article 21: Guarantees the right of workers to be treated with dignity and respect, which can be interpreted to include protection from sexual harassment.

Article 3: Prohibits discrimination in labor relations, including based on sex, which could be interpreted as including harassment.

Article 237: Allows employees to claim compensation for moral damage if they can prove that their rights were violated, which could apply in cases of sexual harassment.

2. CRIMINAL CODE OF THE RUSSIAN FEDERATION:

Article 133: Criminalizes "compulsion to perform sexual acts" through coercion, blackmail, or by taking advantage of a person's dependency on the perpetrator. This could cover some forms of sexual harassment, particularly where there is an element of pressure or coercion.

Article 136: Punishes discrimination, including gender-based discrimination, which might be relevant in cases where harassment is part of broader discriminatory practices.

3. ADMINISTRATIVE OFFENSES CODE:

The code contains general provisions on offenses against public order and morality but does not explicitly cover sexual harassment in the workplace.

CHALLENGES

Lack of specific legislation: There are no detailed laws defining or directly addressing sexual harassment in Russia. This often makes it difficult for victims to seek legal recourse.

Cultural and social barriers: Reporting sexual harassment is often stigmatized, and victims may face societal or institutional resistance when attempting to file complaints.

Enforcement:

Most cases of sexual harassment in the workplace are handled through civil courts or internal workplace policies, but successful claims are rare due to the absence of clear legal frameworks.

In summary, while there are legal tools available to address sexual harassment in the workplace in Russia, they are not as robust or specific as in many other countries. Many victims face challenges in proving harassment and obtaining justice.

UNITED STATES OF AMERICA

In the United States, sexual harassment in the workplace is explicitly prohibited under federal law. The key legislation that addresses this issue is **Title VII of the Civil Rights Act of 1964**. Over time, courts and regulatory bodies have further clarified and expanded protections against workplace sexual harassment.

KEY LAWS AND PROVISIONS:

1. Title VII of the Civil Rights Act of 1964:

Prohibits discrimination based on sex: Title VII makes it illegal for employers to discriminate against employees or applicants on the basis of sex. This includes sexual harassment.

Sexual harassment as sex discrimination: Under Title VII, sexual harassment is recognized as a form of sex discrimination. The U.S. Equal Employment Opportunity Commission (EEOC) has further defined and regulated sexual harassment within this framework.

2. Types of Sexual Harassment:

Quid Pro Quo: This occurs when employment decisions (such as hiring, promotion, or retention) are contingent upon submission to unwelcome sexual advances or conduct. In other words, an employee is forced to accept sexual advances to avoid negative consequences or gain benefits.

Hostile Work Environment: This type of harassment occurs when unwelcome sexual behavior or conduct is so pervasive or severe that it creates an intimidating, hostile, or offensive working environment for the employee. A single incident, if severe enough, can qualify as a hostile work environment.

3. Equal Employment Opportunity Commission (EEOC):

The **EEOC** is the federal agency responsible for enforcing Title VII and handling claims of workplace discrimination, including sexual harassment.

Employees who believe they have been harassed must first file a complaint (called a "charge") with the EEOC or a state-level equivalent before pursuing a lawsuit.

The EEOC investigates the claims and may issue a "right to sue" letter, allowing the individual to take the case to federal court.

4. Employer Responsibilities:

Employers are required to take reasonable steps to prevent and correct sexual harassment in the workplace. This includes having clear policies, training, and procedures for employees to report harassment.

Employers can be held vicariously liable for harassment by supervisors. However, they may escape liability if they can prove that they took reasonable steps to prevent harassment and that the employee unreasonably failed to report the behavior.

5. **Remedies for Victims:** Victims of sexual harassment in the workplace can seek:
Compensatory damages: for emotional distress, lost wages, or other harms suffered.
Punitive damages: in cases where the employer's behavior was particularly egregious.
Injunctive relief: such as requiring the employer to change its policies or take specific corrective actions.

6. **State Laws:**

In addition to federal law, many states have their own laws addressing sexual harassment in the workplace. These laws often provide additional protections, such as covering employers with fewer than 15 employees (the threshold under Title VII), extending the statute of limitations for filing a claim, or requiring mandatory harassment training.

CASE LAWS AROUND THE WORLD

Meritor Savings Bank v. Vinson (1986): This landmark U.S. Supreme Court case established that sexual harassment could be considered a violation of Title VII, even if no tangible economic loss occurred.

Oncale v. Sundowner Offshore Services (1998): The Supreme Court of US ruled that sexual harassment can occur even between individuals of the same sex, broadening the scope of Title VII protections.

Asociatia ACCEPT v. Consiliul Național pentru Combaterea Discriminării (2013): The European Court of Justice (ECJ) held that an employer can be liable for discriminatory remarks made by someone associated with the employer (e.g., business partner) if the employer does not distance itself from such remarks.

Maria v. UNHCR (2009): A case in Italy where the court upheld that continuous unwelcome behavior, including verbal advances and physical contact, constituted sexual harassment.

Al-Azzawi V Haringey Council [2001] : the complainant (Al-Azzawi) in the matter was of Iraqi-Arabic origin and claimed to be the victim of racial discrimination in the workplace. The Council (the employer) argued that they had taken all reasonable steps to prevent racial discrimination. It had policies in place; those policies were not just for show; employees were (when the breach was provable) disciplined under them. The Tribunal concluded that the question was not about general prevention; instead, it was about the specific measures that were to be undertaken. So, it was held

that if the employer has reasonable suspicion that an employee might commit an act of sexual harassment, then the reasonable steps, in this case, would include taking specific steps such as issuing a warning, regular supervision, notifying other managers of the possible conduct, etc.

Vishaka v. State of Rajasthan (1997): A landmark judgment where the Supreme Court of India laid down guidelines for preventing sexual harassment in the workplace. This case was instrumental in shaping workplace policies before formal legislation in 2013.

WAY FORWARD

Addressing sexual harassment in the workplace on a global scale requires a comprehensive, multi-faceted approach that tackles the root causes while ensuring protection and accountability. The way forward includes the following key strategies:

1. STRENGTHENING LEGAL FRAMEWORKS

Governments must implement and enforce robust laws that define and prohibit sexual harassment in the workplace. Countries with weak or non-existent protections need to establish comprehensive legal frameworks that clearly define harassment, mandate reporting mechanisms, and ensure swift legal recourse for victims. International organizations like the ILO (International Labour Organization) can help set global standards.

2. PROMOTING GENDER EQUALITY

Gender inequality and power imbalances are central to workplace harassment. Fostering gender equality in leadership roles, decision-making processes, and wage parity can reduce power dynamics that facilitate harassment. This requires cultural shifts, education, and targeted policies that promote gender equity in all sectors.

3. ORGANIZATIONAL ACCOUNTABILITY

Companies and organizations must take responsibility for creating safe work environments. This includes establishing zero-tolerance policies, conducting regular training programs, and

implementing confidential reporting systems. Leadership should be held accountable for enforcing these policies, with independent bodies monitoring their effectiveness.

4. VICTIM SUPPORT AND EMPOWERMENT

Providing resources such as counseling, legal aid, and protection from retaliation is essential. Support systems encourage more victims to report incidents. Clear channels for reporting, coupled with guaranteed confidentiality, can help break the culture of silence.

5. GLOBAL COLLABORATION AND AWARENESS

The global MeToo movement demonstrated the power of collective voices in breaking the stigma around harassment. Continued awareness campaigns and international collaboration are necessary to keep the issue at the forefront, pushing for cultural shifts and systemic changes worldwide.

6. CULTURAL AND EDUCATIONAL REFORMS

Long-term prevention requires changing societal attitudes towards harassment. Educational institutions and workplaces should incorporate anti-harassment training, emphasizing respect, consent, and equality from an early age.

By combining legal reforms, organizational responsibility, and cultural change, the global community can make significant strides in combating workplace sexual harassment.

CONCLUSION

Women are the backbone of our society. In our country, we worship goddess, we call our country mother. So it is our responsibility to safeguard the interest of women and protect them from all forms of discrimination. There should be strict laws in every country regarding security of women. At workplace there should be strict security and there should be complaints committee. There should not be any ill practices going on at the workplace. Before recruiting any person, the board recruiting them should check that if the person has got criminal record or not. A simple negligence

can bring a devastating result as we can see in the case of recent rape and murder of a 31 year junior doctor ABHAYA in RG KAR Medical college, KOLKATA while she was in her duty The case is pending in Supreme court of India. Large number of people all over the world are coming out to the street for protesting. Thus, there should not only be strict laws, but effective guidelines should be there. Whenever, wherever this type of things happen , the responsible country should set an example of how to treat this type of offenders. There should be fear in the minds of people who even try to commit such heinous acts.