

BURNISHED LAW JOURNAL*Jatin Bakshi**B.A.LL.B (Sem VIII)***SEXUAL HARASSMENT OF MEN- THE CONTRASTING REALITY OF THE
SOCIETY****ABSTRACT**

It seems that the term 'sexual harassment' came to be used in public media only from the year 1975 onwards. Till then no term existed to describe what is now universally called 'sexual harassment', though the phenomenon itself was well known to women. Sexual harassment was first formally defined in the case of Vishaka v. State of Rajasthan. 'Sexual Harassment' may take diverse varied forms. It is not limited to particular gender i.e. female. Acts like harassment directly attacks the soul and it is totally illogical to question whether the soul is of a male or of a female as harassment kills the soul and pushes a person into a state where he or she begin to believe that they have lost their human existence and if this statement would be critically examined then it's directly a violation of Right to Life. The word "justice" which is also used in our preamble is one of the aims of Indian Constitution and the whole story is about justice. As very correctly said by Sardar Vallabhbhai Patel that "work of nation never ends" and it is the duty of the state to do justice to each and every sector of society. So in this course why men should be left apart.

**SEXUAL HARASSMENT OF MEN- THE CONTRASTING REALITY OF THE
SOCIETY**

INTRODUCTION

Sexual harassment legislation in its present form makes all men unequal to all women

Warren Farrell

It seems that the term ‘**sexual harassment**’ came to be used in public media only from the year 1975 onwards.¹ Till then no term existed to describe what is now universally called ‘sexual harassment’, though the phenomenon itself was well known to women.² The term sexual harassment “in a legal sense” seems to have been first coined in the United States of America and subsequently “exported” from there to other industrialized countries including Australia, Canada, New Zealand, Japan and a number of western countries.³ These other countries had their first brush with the term sexual harassment in a “formal legal sense” only in the 1980s or at the beginning of the 1990s. The term sexual harassment “as legal concept” gained meaningful application in the United States only in the mid 1970s when the US courts held it to be a form of **sexual discrimination** prohibited under Title VII of the Civil

¹ International Labour Organization (ILO), Conditions of Work Digest, Vol. 11, 1/1992, “Combating Sexual Harassment at Work”, p.160.

² Foster and Woolworths Limited, (2000) NSWIRC 208, New South Wales Industrial Relations Commission. The Commission was referring to Professor Cynthia Bowman’s article titled “Sexual Harassment and the Informal Ghettoization of Women” in the January 1993 edition of Harvard Law Review, Vol. 106, p. 517

³ ILO, Conditions of Work Digest, Vol. 11

Rights Act of 1964. In India, the term sexual harassment was first formally defined in the case of *Vishaka v. State of Rajasthan*⁴. Other terms used to describe this malady are ‘**unwanted intimacy**’ in a formal in the Netherlands, ‘**sexual molestation**’ in Italy, ‘**sexual blackmail**’ in France and ‘**sexual solicitation**’ in some states of Canada. In Malay, words like ‘gatal’ or ‘miang’ (literally means itchy) are employed to describe the phenomenon.

‘Sexual Harassment’ may take diverse varied forms. It is not limited to demands for sexual favors made under threat of adverse job consequences should be receipt refuse to comply with such demands. The form of harassment, in which the victim suffers concrete economic loss for failing to submit sexual demands, is simply one manifestation of sexual harassment, albeit a particularly blatant and ugly one. Sexual harassment also encompasses situations in which sexual demands are foisted upon unwilling employees or in which employees must endure sexual groping, propositions, and inappropriate comments, but where no tangible economic rewards are attached to involvement in the behavior”⁵. Sexual harassment may be subtle and may even involve what would otherwise constitute normal sexual or social activity. Conduct constituting sexual harassment include verbal innuendos and affectionate gestures that are inappropriate in circumstances, repeated social invitations for dinner or drinks, or unwelcome flirting where the implicit message is that sexual favors are anticipated or expected. Normal sexual or social activity may become sexual harassment where the power differential exists between the parties. In most cases of sexual harassment the perpetrator is a person in a position of authority who abuses that power, both economically and sexually.⁶

Speaking generally, sexual harassment is a “*behavior with a sexual connotation that is abusive, injurious and unwelcome*”. For the victim, sexual harassment has direct consequences for the maintenance or improvement of his or her living conditions and/or places him or her in an atmosphere of intimidation, humiliation or hostility.⁷

⁴ (1997) 6 SCC 241: AIR 1997 SC 3011: (1997) 77 FLR 297 SC per J.S. Verma, CJ

⁵ Janzen v. Platy Enterprises Ltd.,(1989) 1 SCR 1252

⁶ Dutton v. British Columbia Human Rights Tribunal, 2001 BCSC 1256

⁷ Quebec(Commission des droitss de la personne) v. Habachi

Sexual harassment is both sexual and unwelcome. “It may be constituted by many or single act and, broadly speaking, the intention of the harasser is not relevant.”⁸



Based on the sensitivity and understanding of the topic, the researcher has framed three objectives which would be dealt by researcher in this paper

- The first objective which needs analyse the gravity of this issue
- The second objective is to understand how these acts lead to violation of rights of men at a large scale.
- The third objective is to understand the reason behind gross disapproval of society towards men in these kind of cases.
- The fourth objective is to understand the reason why the sexual harassment laws in India are not enough to do justice with men unlike women.

⁸ Jones v. Armas Nominees(P) Ltd., 59 IR 61

METHODOLOGY

This research is a complex journey to embark upon due to sensitive nature of the subject so the researcher will be opting Doctrinal/analytical Method of Research. It is entirely based on the secondary sources collected from text-books on sexual harassment, journals, articles, adjudicated cases (Indian and foreign both), and websites, surveys etc. The collected sources have been presented in past form in order to make the study more informative, analytical and useful for the readers. The researcher would like to point that he has restricted his area of research to **harassment of men by women in India only.**



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DEFINING SEXUAL HARASSMENT- A BROAD APPROACH

Sexual harassment is any sexually- oriented conduct that may endanger the victim's job, negatively affect the victim's job performance or undermine the victim's personal dignity. It may manifest itself physically or psychologically. Its milder and subtle forms may imply **verbal innuendo, inappropriate affectionate gestures or propositions for dates and sexual favours.** However, it may also assume blatant and ugly forms like **leering, physical grabbing and sexual assaults.**⁹

⁹ <http://lawdominion.blogspot.com/2012/03/sexual-harassment-at-workplace.html> visited at 26th July 2019 at 11:13 AM

As noted by Dickson, CJ of Supreme Court of Canada in *Janzen v. Platy Enterprises Ltd*¹⁰, in most cases of sexual harassment, the perpetrator misuses a position of power to impact sexual requirements into the workplace thereby negatively altering the working conditions of employees who are forced to contend with sexual demands”. Sexual harassment involves “*the unwanted imposition of sexual requirements in the context of a relationship of unequal power*”.¹¹

The following passage from the decision of the arbitrator in the Canadian case of *Canadian Pacific Ltd. And B...M.W.E.(Parker),Re*, depicts graphically the wide range of sexual harassment.

*“While physical touching and the making of sexual demands may be the crudest form of sexual harassment, giving rise to earliest complaints and court or tribunal decisions, experience has shown the concept of sexual harassment can be broader. Innuendo by words or by gestures, unwelcome staring, sexually-abusive jokes or other languages, the unwelcome displaying of pornography and the writing of graffiti on workplace walls which singles out demands individual employees are all now generally recognized as forms of sexual harassment, even though they may not involve an abusive power or making of sexual demands by the member of one sex upon a member of other sex.”*¹²

In India, in the absence of any statutory definition of the term “sexual harassment”, it was left to the Supreme Court to do the needful. Relying upon the international conventions and norms, particularly General Recommendation No. 19 (January) 1992 of the committee **on Elimination of Discrimination against Women (CEDAW)** constituted by United Nations, the Supreme Court defined the term sexual harassment for the first time in the year 1997 in *Vishaka v. State of Rajasthan*.¹³ The definition is almost in *pari material* with the one proposed by CEDAW, United Nations and reads:

Sexual harassment includes such unwelcome sexually-determined behavior (whether directly or by implication) as: (a) physical contact and advances, (b) a demand or request for sexual favors, (c)

¹⁰ (1989) 1 SCR 1252

¹¹ Dickson, CJ was quoting, inter alia, Professors Constance Backhouse and Leah Cohen in *The Secret Oppression: Sexual Harassment of Working Women*, 1978

¹² *David Dotchin v. Saskatchewan*, 2002 SKQB 279 (CanLII)

¹³ (1997) 6 SCC 241

sexually-colored remarks, (d) showing pornography, (e) any other unwelcome physical, verbal or non verbal conduct of sexual nature.

Where any of these acts is committed in circumstances where under the victim of such conduct has a reasonable apprehension that in relation to the victim's employment or work whether he is drawing salary, honorarium or voluntary, whether in government, public or private enterprise such conduct can be humiliating and may constitute a health and safety problem. It is discriminatory for instance when the man has reasonable grounds to believe that his objection would disadvantage him in connection with his employment or work including recruiting or promotion or when it creates a hostile work environment. Adverse consequences might be visited if the victim does not consented to the conduct in question or raises any objection thereto.

The above definition of 'sexual harassment' as provided by Indian Supreme Court, thus, recognizes both forms of sexual harassment, viz, *quid pro quo* sexual harassment and hostile environment sexual harassment. "An analysis of above definition," said Dr A.S. Anand, CJ in ***Apparel Export Promotion Council v. A.K. Chopra***¹⁴ "shows that sexual harassment is a form of sex discrimination projected through unwelcome sexual advances, request for sexual favors and other verbal or physical conduct with sexual overtones, whether directly or by implication."

THE INDIAN CONSTITUTION

¹⁴ (1994) 1 SCC 759 AIR 1999 SC 625

Our Constitution **guarantees all the basic and fundamental human rights set out in the Universal Declaration of Human Rights, 1948** to its citizens and other persons. The chapter dealing with fundamental rights is contained in Part III of the constitution; Fundamental rights are available to all “**citizens**” of the country. However, a few of them are also available to “**persons**”. While **Article 14** which guarantees *equality before law or equal protection of laws* within the territory of India, is applicable to a person which would also include the ‘citizen’ of the country and the ‘non-citizen’, both **Article 15** speaks only of ‘**citizen**’ and it is specifically provided therein that there shall be ‘**no discrimination against any citizen**’ on the ground only of *religion, race, caste, sex, place of birth or any of them*. So also Article 16 which guarantees equality of opportunity in matters of public employment is applicable only to ‘citizens’. The fundamental rights contained in **Article 19**, which contains the right to ‘basic freedoms’ which are available only to the citizens of country.¹⁵

The word “**LIFE**” has been used promptly in the Universal Declaration of Human Rights 1948. The fundamental rights guaranteed by the Indian Constitution “are almost in consonance with the rights contained in the Universal Declaration of Human Rights as also the Declaration and the Covenants of Civil and Political Rights and the Covenants of Economic, Social and Cultural Rights to which India is a part, having ratified them.”¹⁶ Since “LIFE” is recognized as a basic human rights both in the Indian Constitution and the Universal Declaration of Human Rights, 1948 our Supreme Court has assigned the word as used in the Declaration the same meaning and interpretation as placed on that word by the court in its various decision relating to Article 21 of the Indian Constitution.¹⁷

In *Kharak Singh v. State of UP*¹⁸ the Supreme Court held that the term ‘life’ indicates something more than mere animal existence. In *State of Maharashtra v. Chandrabhan Tale*¹⁹ Supreme Court held that the inhibitions contained in Article 21 against deprivation of right of life would extend even to those

¹⁵ Ibid

¹⁶ Ibid

¹⁷ Ibid

¹⁸ AIR 1963 SC 1295

¹⁹ (1998) 3 SCC 387

faculties by which life is enjoyed. In *Bandhan Mukti Morcha v. Union of India*²⁰ the Apex Court held that the right to life under Article 21 means right to live with dignity, free from exploitation.²¹

‘Gender equality’ said J.S Verma, CJ for our Supreme Court in a very landmark judgment in *Vishaka v. State of Rajasthan*²² **“includes protection from sexual harassment and right to work with dignity, which is universally recognized as basic human right. The common minimum requirement of this right has received global acceptance”**.²³

The meaning and content of fundamental rights guaranteed in the Constitution on India are sufficient amplitude to encompass all the facets of gender equality including prevention of sexual harassment or abuse (Vishaka case). The court is under a constitutional obligation to protect and preserve those fundamental rights. That sexual harassment of a male at the place of work is incompatible with the dignity and honour of a male and needs to be eliminated and that there can be no compromise with such violations. Gender equality includes protection from sexual harassment and right to work with dignity, which is a universally recognized basic human right. The common minimum requirement of this right has received global acceptance.²⁴

Referring to the incidents of sexual assault on working women, the Supreme Court said in Vishaka case. **“Each such incident results in violation of the fundamental rights of ‘Gender Equality’ and the ‘Right to Life and Liberty’**. It is a clear violation of the rights under **Article 14, 15 and 21** of the Constitution. One of the logical consequences of such an incident is also the violation of the victim’s fundamental right under **Article 19(1) (g)** ‘to practice any profession or to carry out any occupation, trade or business.’ The fundamental right to carry on any occupation, trade or profession depends the availability of a ‘safe’ working environment. Right to life means life with dignity.” Unwanted conduct affects the dignity of women and men at work. For men and women as regards access to employment, vocational training and promotions, and working conditions,” Each such incident, our Supreme Court

²⁰ (1984) 3 SCC 161

²¹ Maneka Gandhi v. Union of India (1978) 1 SCC 248

²² Supra 13

²³ Apparel Export Promotion Council v. A.K. Chopra, (1999) 1 SCC 759

²⁴ Ibid

has observed, results in violation of the fundamental rights of “Gender Equality” and “Right to Life and Liberty”. Right to life means life with dignity.²⁵

THE SHACKLES OF EQUALITY, GENDER AND SOCIAL JUSTICE IN INDIA **AND THE RISE OF WOMEN CENTRIC APPROACH**

The reason behind this being a problem is because of gender biased laws in India. The egalitarian social order mandates that social justice and equality be the two major components for achieving such social order in the society. This order was cherished and upheld even at the time of the formation of the states after the independence in the post-colonial era in India. According to the American philosopher John Rawls “social justice is the first virtue of social institution²⁶ . In the Indian context, social prejudice has taken the front seat owing to the practices in India wherein a few people or class of people were being favored over the others. A balance of social justice and equality needed to be struck in order to truly establish an egalitarian social order. Post Colonial India needed to see social transformation so as to establish social justice but such transformation even after seventy years of independence in India has and still remains a major challenge before the government and the law makers. And the question that rings in our mind is if we were able to successfully socially transform the country. The Indian society is the perfect example of how social prejudices such as practices of caste, class biasness, gender inequality and ethnic conflicts are deeply grounded and therefore a social transformation based on these above mentioned aspects is the only way to see India as a progressive and forward society that achieves social justice and equality in its truest sense.²⁷

Gender divisions are an anecdote to egalitarian social order which will be an ideal society where no individual of the society would rank higher than the other in terms of gender or sex cast or religion. But social inequality will exist in all kinds of society and India being no different relates to one of the most

²⁵ Ibid

²⁶ John Rawls, The Theory of Justice(1971)

²⁷ Dr. Tapan Biswal, Human Rights, Gender and Environment, Viva Books Private Limited, (2006)

dominant forms of inequality between genders. Gender inequality is therefore a socially manufactured inequality.²⁸

Laws were enacted to eradicate this kind of inequality that existed in the society dominated by patriarchy which saw women always taking their position on a lower pedestal and subjected to inequalities and subordination due to the male dominance. To voice such injustice and throw light into these inequalities, feminist movements and women activists sprouted and grew stronger so as to wrestle for their equal rights as men. Such struggle against injustice led to the legislators opening doors to framing laws that were pro women so as to curb the unequal treatment given to women over men and also to curb the atrocities that women faced.²⁹

While the reality focuses on the increasing rate of crimes against women such as assaults, rape, domestic violence, sexual harassment etc. there is another blatant truth and reality that is often overshadowed by these pro women legislations and crimes and that is the crimes against men. Women has been considered to be as “cow” in Indian context and there has always been a presumption that only women can be victims not men. This scenario of male domination and crimes against women that once existed has now changed over the years and we are at a point in time where such legislations are no longer serving the purpose but rather neglecting and harming the other gender against whom false allegations and false cases are being framed simply because the laws that are in place today protect only the women against such crimes and does not equally protect the men against such crimes bringing in the question of the violation of the principle of equal protection of all persons under law.³⁰

We have to take a step back to see if the law which is framed to take the society forward towards a progressively developing country that achieves the full essence of equality between the persons of the country or the law remains in a condition where the society itself is made to think that equality among the persons is merely reduced just to words because the actual implementation of the law serves only either of the persons and not both equally. It is in the light of these fundamental aspects of law and the

²⁸ Tila Kumar and Hemanta Kumar Bhattu ,Caste, Class, Gender and Ethnicity as Distinct categories and their inter connections, , Human Rights, Gender and Environment, pg 03-09

²⁹ Ibid

³⁰ Jaishankar K., & Ronel, N., Proceedings- Third International Conference of the South Asian Society and Victimology (SASCV) Tirunelveli, India: SASCV & Department of Criminology and Criminal Justice, Manonmaniam Sundaranar University

consequences or results of such a law being in force we must look at law from the perspective of gender neutrality.

Introducing Gender Neutrality in laws

It describes the idea that policies, language, and other social institutions should avoid distinguishing roles according to people's sex or gender, and emphasizes on the equal treatment of men and women legally with no discrimination.³¹ Gender neutral laws redefine the definition of gender specific laws wherein the law is framed and broadened to include all persons equally to protect them without any difference. With the ever increasing crime rates of various types and nature increasing and men and women of the society being equally victimized, it is only fair that an all encompassing law that recognizes the crime and the person irrespective of the gender comes into existence. There has been strong objections raised against gender neutral laws coming into force by women movements on the ground that it will suddenly take away the focus lens off the women who are victims and that a gender neutral law will only do harm and not serve the purpose of protecting the victims.³²

According to Flavia Agnes, *“gender neutrality lies on the presumption that by neutralizing the law to be victim and perpetrator neutral the offence of rape will be desexualized and the stigma attached to the offence will vanish and if the reforms take place they will be injurious to women and that the basic and primary problems will not be highlighted.”*³³

But this principle is argued on the ground that the feminists do acknowledge that there is a stigma to the offence attached and that making it gender neutral will not take it away but will normalize the fact that even men go through the same stigma just as women and that both men and women equally should be able to seek protection under the law. The taboos and stereotypical beliefs have to be broken so as to consider male victimization as equal to women victimization and that the crimes have to be fought against together by bridging the gap of inequality. Only by normalizing rape or sexual assault or harassment of males into the law can help men to come forward with complaints. To bring in such reforms in the law, a committee was constituted in December 2012 that was chaired by the Ex Chief Justice of India, Justice J.S. Verma. The committee had two other members who were retired Justice

³¹ “Gender Neutrality” Oxford Dictionary

³² Ibid

³³ Rebecca Rajan, “Gender equality and gender neutral laws: The future of social justice in India”2017

Leila Seth and Ex Solicitor General Sri. Gopal Subramaniam. A report that culminated various suggestions was made in a month and thus the 172nd Law Commission report presented its recommendations. This report came in as ray of hope into a society that was under the shackles of violence and dominance. The Commission report while stating its conclusions and recommendations stated that, *“Since the possibility of sexual assault on men, as well as homosexual, transgender and transsexual rape, is a reality, the provisions have to be cognizant of the same.”*³⁴

The Committee **for the first time, acknowledged that sexual assault of men is a reality and that there has to be provisions of the law that give protection to them against such offences.** The committee took a big leap into seeing India as progressing and forward looking country wherein it realized that not only women but men too need to be afforded equal protection under the law. It further suggested for the offence of rape and sexual assault be gender neutral and not gender specific confined to only women being the victims. Gender neutrality in protection laws and criminal laws were for the first time recognized. But this hope of reforming the criminal justice system did not last for long until feminist groups who opposed to the recommendation came forward with futile reasons so as to not bring about such a law into the country and the Criminal Law (Amendment) Act 2013 was finally passed not taking into considerations these recommendations and also adding a few more sections to the Indian Penal Code, 1860 such as Section **354A**,³⁵**354B**,³⁶**354C**,³⁷**354D**³⁸ to protect only women along with **Sections 326A and 326B** which envisages acid attack and attempt of the same to be gender neutral. Sexual assault and violence against men is not sufficiently understood and thereby not given the importance it needs to get. There is a wide spread belief that a real man cannot be sexually harassed and because of this, such instances are rarely reported. Offence that take place against men sexually cannot be sidelined in the name of protecting women. Statutes that are enacted in India currently penalize only the male gender and not the female for crimes such as sexual assault, stalking, adultery, voyeurism, rape, domestic violence, dowry death, harassment at workplace etc. None of these pro women legislations are

³⁴ Justice J.S.Verma, Justice Leila Seth and Gopal Subramanian, REPORT OF THE COMMITTEE ON AMENDMENTS TO CRIMINAL LAW 2013, 416.

³⁵ Section 354A Of the Indian Penal Code,1860

³⁶ Id at Section 354B

³⁷ Id at Section 354C

³⁸ Id at Section 354D

framed on the basis of scientific results as to why they are tilted to favour only a single gender. These came into force because of the socio legal environment and the inequality between the people who lived in the society during those times, but now the times have changed. There has been a shift in the way people think and how men and women have equally today gained accesses to everything as a measure of empowerment and upliftment.³⁹



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SEXUAL HARASSMENT OF MEN IN INDIA

Elucidating sexual harassment is a multiplex job owing to the fact that there are differences in opinions, ideas, knowledge and the social environments of individuals and groups. An individual's interpretation of sexual harassment is framed by various kinds of societal factors like religion, education and past experiences with sexual harassment. It is also very awkward to investigate the malleability of how an individual expresses sexual harassment acts. Specific genres of sexual harassment, such as sexual harassment at workplace, rape at workplace, personal questions of sexual nature, vulgarities and other offensive language, any unwelcome sexual advance can be major elements in public definition of sexual harassment. The prime thing to be noted down is that in sexual harassment victim and perpetrator can be of any gender and the place of harassment can be any school, office, home, university, coaching centers

³⁹ <https://lawcorner.in/gender-neutrality-of-laws-the-future-of-social-justice-in-india/> visited on 26th July at 6:14 PM

or any other. Also, with the advent of the Internet, sexual harassment has increased by occurring online.⁴⁰

The first ever reported case of male sexual harassment was in the United States in 1995, when a female supervisor at Dominoes pinched the male manager's butt. The manager was paid \$237,000 in damages. The biggest reason why such cases are usually not reported is "social ridicule" and because male victim feels that he would not be believed due to India's social beliefs.⁴¹

According to the *PEW research statistics*⁴² 2014, 25% of women and 13% of men between the ages of 18 to 24 have experienced sexual harassment online. One cannot ignore the statistic of harassment with men. For sexual harassment against women, there are many legislations and statutes prevailing in India. But, we can't ignore the sexual harassment against men also. In India, under **Article 14** of the Indian Constitution, there is a "**right to equality**". If legislation does not take into account the men related issues too and will only stresses upon the women related issues, then this right is in violation. As it provides equality before law and equal treatment before law. So, there must be '**equal access to justice**' in case of both men and women.

Sexual violence can happen to any soul, no matter what your age is, your sexual attitude, or your gender identity. We usually perceive and see harassment or rape cases related to females only and this is the reason that legislations are made only for the women victims. But, this doesn't mean that men are away from the evil of sexual harassment or rape. Men and boys who have been sexually pestered may have many of the identical feelings as other survivors of sexual assault⁴³, but they face many additional challenges because of 'social ridicule' and 'stereotypes' about men masculinity. In 2007, Ministry of Women and Child Welfare, supported by United Nations Children's Fund, Save the Children and Prayas, conducted a study to understand the magnitude of child abuse in India, they found that **53.22% children**

⁴⁰ Prashanti, Sexual Harassment of Men, visited on (July 27, 2019 at 7:34 AM)

<http://www.legalservicesindia.com/article/2039/Sexual-Harassment-of-Men.html>

⁴¹ <http://timesofindia.indiatimes.com/life-style/relationships/man-woman/Men-too-are-victims-of-sexual-harassment/articleshow/16336627.cms> visited on 27th July 2019 at 7:51 AM

⁴² Maeve Duggan. PEW Research Centre. 2014."Online Harassment" visited on (July 27 2019 at 9:10 AM)

"<http://www.pewinternet.org>

⁴³ Tanya Rajan, Male child sexual Abuse remains ignored in India (visited on July 27, 2019 at 8:11 PM)

<https://www.thecitizen.in/index.php/en/newsdetail/index/7/13906/male-child-sexual-abuse-remains-ignored-in-india>

faced one or more forms of sexual abuse; among them, the number of boys abused was 52.94%. This is an appalling statistic for a country that does not consider male rape and sexual abuse, child or otherwise, as an actual crime. The Indian Legislation, although, still does not recognize the fact that males can be victims of sexual abuse and rape too. The IPC Sections **354A⁴⁴, 354B⁴⁵, 354C⁴⁶ and 354D⁴⁷**, dealing with sexual harassment, disrobing, stalking and voyeurism, fail to recognize men as a victim but only as perpetrators. In fact, Section 375 of the IPC, which deals with the definition of rape, does not acknowledge male rape either. The definition itself starts with, “*when a man commits rape*” and goes on to define rape, in this case, of a woman. Even when it comes to sexual harassment in the workplace, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, disregards males being a victim to this. While the sexual harassment of females has consistently declined in the past few years as government has made some very efficacious legislations in India.⁴⁸ But, sexual harassment of men is increasing at a very lofty rate.⁴⁹

Today, the main area where males are facing this evil is at their workplaces. Out of all wars, this is one of the darkest one. At workplaces, sometimes the female bosses asked the male colleagues to lift their shirts and show their muscles as well as shout at them and humiliate them in front of co-workers. These kinds of executions push the male colleagues to become the victims of sexual assault and harassment. According to Roberta Chinsky Matuson “*Many people mistakenly believe that harassment is limited to females,*” Also the perpetrators against the victims are using physical force, psychological force or many other emotional coercion tactics. At workplaces, males sometimes are mentally tortured for the sake of their job. If a male needs a job and he is not having any other substitute then he although unwilling to accept sexual advances, have to accept from females colleagues. But, these kinds of brutal incident not

⁴⁴ Ibid 42

⁴⁵ Ibid 43

⁴⁶ Ibid 44

⁴⁷ Ibid 45

⁴⁸ Mugdha Variar, Zero reporting of sexual harassment cases in internet cos a worrying sign: Experts, Economic Times (visited on July 27, 2019 at 9:01 PM) <https://economictimes.indiatimes.com/news/company/corporate-trends/zero-reporting-of-sexual-harassment-cases-in-internet-cos-a-worrying-sign-experts/articleshow/66518960.cms?from=mdr>

⁴⁹ Id 46

only physically ruin the body of the victim but also destroy his soul. Sexual harassment at workplaces also consists of rape⁵⁰, which can either be female-on- male rape or male-on- male rape. But, due to the lack of any legislation or statute these rape cases remain unreported. According to Justice Krishna Iyer, ***“A murderer kills the body but a rapist kills the soul.”***⁵¹

In India, the legislations talks only about sexual harassment of women. There is no law, no statute to shield males from the bloodthirsty act of harassment. We can say that there is unfair access to justice. When we talk about India, we pick out that much importance is given to rights of the people but why there is violation of ‘Right to equality’? Our Indian Judiciary, society and legislations all talks about equal rights and equal treatment of men and women. But, these sorts of loopholes and misfiring to make any laws for sexual harassment, sexual assault or rape shows uncut violation of ‘Right to equality’.⁵²

Sexual harassment of men requires more intentness than any other climbing crime or issue because male suicides at workplaces are 4 times more than the female suicides at workplaces in India.⁵³ Gender neutral laws have found accepted in approximately 77 countries around the world including, the U.K., Denmark, Australia, the U.S. But, disturbingly, the Indian Parliament has repeatedly rebuffed to make laws against sexual harassment gender neutral in India.⁵⁴

So, without any requirement of further discussion or doubts, it is very authoritative to make the sexual harassment as well as rape laws gender neutral in India. So that, there must be equal ‘access to justice’ in India. Also, the people of our society needs to alter and adapt their minds and must come out the beliefs that men are strong and cannot be raped or that they can shield themselves in case something wrong will happen to them.⁵⁵

⁵⁰ Prakash Dutta, Sexual Harassment at workplace explained, India Today, (visited on July 30, 2019 at 7:51 AM) <https://www.indiatoday.in/india/story/sexual-harassment-at-workplace-1368055-2018-10-15>

⁵¹ Supra note 40

⁵² Ibid

⁵³ Devanik Saha, Reporter’s Diary: Looking at Male Suicides in India, THE WIRE (visited on July 30, 2019 at 9:03 AM) <https://thewire.in/culture/reporters-diary-male-suicides-india>

⁵⁴ Supra note 40

⁵⁵ Ibid

Even men aren't safe from sexual harassment at workplace: Survey

ET-Synovate survey conducted in seven cities to find out how India Inc was dealing with an issue, that has recently seen heads rolling at two top global firms in a span of a month. What's surprising is that in the same city, half of who agreed that they have been sexually harassed at their workplace said they have been harassed by their female colleagues.

Only 32% said they were harassed by male colleagues at their workplaces. Again in the south, in Hyderabad, 29% of said they have been sexually harassed by their female bosses while 48% accused their male bosses.⁵⁶

The scene is different up north. In Delhi, the numbers are even, with 43% pointing a finger at their female colleagues and an equal number accusing their male colleagues of sexual harassment.⁵⁷

Of the 527 people queried in the survey across seven cities in the country—Bangalore, Chennai, Delhi, Hyderabad, Kolkata, Mumbai and Pune—19% said they have personally faced some kind of sexual harassment at office.⁵⁸

In Bangalore, 51% of the respondents said they have been sexually harassed. Delhi and Hyderabad were the two other cities where a considerable percentage of the respondents said they have been sexually harassed—31% and 28% respectively. In Chennai, Kolkata, Mumbai and Pune, the figure was 3%, 11%, 5% and 5% respectively.⁵⁹

While in most cities, more respondents said they had been verbally abused, in Bangalore, 66% said they have been physically abused. Delhi had the highest percentage (40%) of respondents saying they had

⁵⁶ ET Bureau, Even Men aren't safe from Sexual Harassment at workplace: Survey, Economic Times (visited on August 1, 2019 at 10:03 AM) <https://economictimes.indiatimes.com/special-report/even-men-arent-safe-from-sexual-harassment-at-workplace-survey/articleshow/6389438.cms>

⁵⁷ Id

⁵⁸ Id

⁵⁹ Id

been approached by their boss—male or female—for sexual favours. In Bangalore the figure stood at a close 32%.⁶⁰

About 18% of the respondents said sexual harassment usually comes with an offer for a favour—promotion, salary hike, etc. The figure was the highest again in Delhi (43%), followed by Bangalore (31%).⁶¹

In an interesting new trend, a substantial 38% of the respondents agreed that in today's workplaces, even men are as vulnerable to sexual harassment as women. In Hyderabad and Mumbai, 55% of the respondents agreed to this point.⁶²

Many of the corporate and PSUs ET spoke to agree to this new trend and point out that many male employees do not come out in the open and file complaints because they feel they will not be believed, considering India's social beliefs. They usually seek a transfer to get out of the situation or find a new job.

A considerable percentage of respondents in Bangalore (73%) were aware that their company had a sexual harassment policy in place. In a shocker, 68% of the executives polled said they were unaware of any such policy in their company.⁶³

When it came to how sexual harassment should be dealt with, 56% said it should be a punishable crime, while 26% said such cases of sexual harassment should be suppressed or it would otherwise lead to humiliation of the individual. Interestingly, 18% agreed that the offender should be suspended from the job to send a strong message to other employees, be it men or women, that the company will not tolerate such behaviour. Mumbai saw the most number of respondents (29%) supporting this point. 51% in both Bangalore and Hyderabad felt such cases should be suppressed.⁶⁴

⁶⁰ Id

⁶¹ Id

⁶² Id

⁶³ Id

⁶⁴ Id

CONCLUSION

The men should be engulfed in the 'Sexual Harassment at Workplace Bill, 2012' as soon as possible. Acts like harassment directly attacks the soul and it is totally illogical to question whether the soul is of a male or of a female as harassment kills the soul and pushes a person into a state where he or she begin to believe that they have lost their human existence and if this statement would be critically examined then it's directly a violation of Right to Life. But the saddest reality of Indian legislation is that these provisions can be used by a female in these type of cases but as the law clearly neglects men, they cant even seek help in similar cases. The most important point which must be considered is that harassment with any human being is wrong as we are all humans first then males and females and therefore it is important that both the male as well as female perpetrators must be punished equally under law. For this reason, the question whether harassment of females need more attention or of males is immaterial. So, the reason behind why the researcher is elevating this issue is only to give equal rights to the male victims as of female as we live in a society where the concept of welfare state is being implemented at a larger scale and the major aspect of this story is that the application of International Conventions like UDHR which is considered to be as a magna carta of Human Rights which also talks about the equality among men and women in all aspect. Moreover the word "justice" which is also used in our preamble is one of the aims of Indian Constitution and the whole story is about justice. As very correctly said by Sardar Vallabhbai Patel that "*work of nation never ends*" and it is the duty of the state to do justice to each and every sector of society. So in this course why men should be left apart. Also it is not always necessary that for any social change to occur there must be a revolution behind it. Further, the common concern of today's population is that the society is a male dominating one but the researcher thinks that

we live in a society which has women dominating legislation over men. At last the researcher would conclude by saying that humanity has two wings, the male and the female and these wings need to be equivalent in strength in order to fly. The fight has always been for “**WHAT IS RIGHT AND WHAT IS WRONG**” and “**GENDER EQUALITY IS A HUMAN FIGHT NOT A FEMALE FIGHT**” and the fight must be seen from both the aspect rather than neglecting the other.

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