FACTORS AFFECTING WOMAN’S DECISION FOR FILING A COMPLAINT AGAINST SEXUAL HARASSMENT AT WORKPLACE

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Abstract

Violence against women is a broad word that refers to a variety of acts of violence, abuse, and torture directed towards women. Sexual harassment is a personal attack on a woman's mind and body that instills fear while also infringing her right to bodily integrity and freedom of movement. Women's sexual harassment and assault is a very serious issue in today's society. There are a plethora of incidents that we have come across in our daily lives. Such occurrences are frequently reported in the news media. This is a problem that affects the entire society, and the workplace is one of the worst examples. After experiencing sexual harassment, the first thought that arises in a woman's mind is what should be done in the situation. It was difficult to keep track of everything that was going on in her head. Before taking any action, she needs to re-evaluate the matter a hundred times more than once. Sexual harassment is a severe threat to the well-being of employees in the workplace. Despite the fact that it has been practiced since the beginning of waged labor, it has only been in recent years that women have been given a term for their experiences with it. Sexual harassment is not a new occurrence, but the fast-changing workplace dynamics have brought this dark underground reality to the surface of the public consciousness.

Keywords: woman, filing, complaint, sexual, workplace, harassment, etc.

1. INTRODUCTION

Violence against women is a broad word that refers to a variety of acts of violence, abuse, and torture directed towards women. Economic agony, verbal abuse, economic hardship, and social disdain are all examples of violence that a woman must endure. Any form of violence directed at a woman constitutes a direct violation of her human rights [16]. Sexual violence is a worldwide problem that is largely unnoticed. Apart from causing bodily injury, sexual abuse creates permanent scars in the victim's memory, destroying her emotionally. Women [12] have played just as vital a role in the history of human development as males have [15, 16]. Higher status for women in terms of employment and societal work is an important indicator of a country's overall growth. Without active engagement of women in national activities, a country's social, economic, and political advancement will be hampered and stagnant [13, 14]. Women employees, on the other hand, are paradoxically and tragically taken for granted by their supervisors, coworkers, and society at general. Gender discrimination against working women is often believed to begin at the time of appointment. The majority of low-mentality Indian males refuse to think that women are capable of working alongside men in all fields, whether private or public. Men have a tendency to underestimate women's abilities. This does not imply that they are incapable of fulfilling their many tasks in both their personal and professional lives; rather, they are the greatest at balancing their personal and professional lives.
2. CATEGORIES OF SEXUAL HARASSMENT

Sexual harassment is a personal attack on a woman's mind and body that instills fear while also infringing her right to bodily integrity and freedom of movement. Sexual harassment is common in all aspects of life, including the street, public transit, educational institutions, and the workplace. Sexual harassment, according to the United Nations Declaration on the Elimination of Violence against Women of 1993, is a glaring example of violence against women that not only violates women's rights to life, liberty, and equality, but also completely negates women's right to equal employment opportunities, resulting in severe negative consequences in terms of economic independence and security. Sexual harassment is defined as aggressive, harmful, and unpleasant behaviour that has a sexual connotation. It puts the victim in a position of fear, shame, and animosity. It might be made up of multiple or single acts, and the harasser's act is irrelevant. Sexual harassment in the workplace can be divided into two categories. There are no such distinctions established in India. The US Supreme Court, on the other hand, has stated that, while the distinction is of limited utility, it is not completely immaterial. The following is the classification:

- **Quid Pro Quo:** The phrase "this for that" literally means "this for that." It refers to instances in which an employer or superior at work makes real job-related repercussions contingent on gaining sexual favours from an employee, such as promises of promotion, greater salary, academic development, and so on [18]. This sort of sexual harassment keeps the woman hostage because refusing to comply with a request can result in retaliation such as dismissal, demotion, or unpleasant working conditions, among other things. The demand for sexual favours and the potential of negative career consequences if the demand is ignored are the fundamental features of quid pro quo sexual harassment.

- **Harsh Working Conditions:** The more common type of sexual harassment is the hostile working environment. It refers to work conditions or behaviour that makes the workplace hostile to female employees [18]. The United States Supreme Court declared in Harris V. Forklift Systems that when the workplace is unduly pervaded with discriminatory intimidation, mockery, and insult, which are serious enough to modify the victim’s, employment conditions and produce an oppressive working environment. “Only by considering the totality of the circumstances can one concludes if an atmosphere is ‘hostile’ or ‘abusive.’ These factors could include the frequency of the discriminatory behavior, its severity, whether it is physically threatening or just offensive, and whether it interferes unreasonably with an employee's work performance.” [18]

2.1 Forms of Sexual Harassment

The Sexual Harassment of Women at Workplace Act of 2013 does not define the phrase "Sexual Harassment" in any way. It can take several forms, including physical, verbal, and nonverbal. Direct, indirect, overt, and covert harassment are all possibilities. Sexual harassment can take many forms, ranging from minor to severe [17]. Physical activities such as touching; verbal acts such as sexual innuendos, inappropriate sexual queries, and so on; and non-verbal forms such as sexual gestures and so on are all examples. To be honest, enumerating any inappropriate conduct that might fall under the Act's definition of ''Sexual Harassment'' could be tough. There are a number of unpleasant behaviours that may be considered sexual harassment:

- Sexual advances and propositions.
Repeated invitations to go for a date after prior refusal.
Demanding hugs or kisses.
Commenting on personal appearances especially about parts of the body.
Cracking obscene jokes, singing obscene songs.
Calling to the cabin unnecessarily (e.g. pretending to need a file)
Teasing and using names such as ‘darling’, ‘honey’, ‘sweetheart’ etc
Asking personal questions on one’s sexual life etc
Deliberately blocking one’s movements.

i. **Online sexual harassment:**

Sexual Harassment has been a prevalent issue in our society for over fifty years. The advent of internet has also become a medium of this offence. It is not an avoidable fact that internet has provided an array of benefits and advantages for today’s society, but simultaneously it has also its darker side; the users of internet are being subjected to online discrimination, sexual harassment, identity theft, cyber stalking and cyber bullying on a daily basis.

3. **VARIOUS FACTORS OF SEXUAL HARASSMENT AT WORKPLACE**

Women's sexual harassment and assault is a very serious issue in today’s society [12]. There are a plethora of incidents that we have come across in our daily lives. Such occurrences are frequently reported in the news media. This is a problem that affects the entire society, and the workplace is one of the worst examples. There are a plethora of reasons that contribute to the prevalence of sexual harassment in today's culture. Creating a hostile work environment or harassing a female, according to the study, is a highly disgusting act that might result in legal consequences. There are two subheadings under which the researcher categorises the factors that contribute to sexual harassment being such a significant problem:

i. **Social Factors**

ii. **Other Factors**

a. **Social factors:**

There are a variety of reasons contributing to this issue. The first and most important factor is the status of second-class human being accorded to women by a society that is dominated by men [15, 16]. Since ages, there has been a widespread belief that women are only meant to be enjoyed by men and that they were intended to serve them. In our society, does this represent the position of women? Rape, sexual assault, and sexual harassment are just a few of the crimes that are done against women every year. The social approach toward female problems has always been passive; rather, it has been claimed that crimes against women should be hidden for the sake of the status of women as well as their families [15]. One of the most serious issues that exist in this country is that women themselves are partly to blame for the situation since they do not band together and assist the female perpetrator.
The lowering of moral standards, the deterioration of law and order, the unwillingness to be a witness against such an act, the encouragement to the victim to remain silent in the face of harassment, all of these things make the victim's life extremely difficult. In the end, the reported cases, if any victims had the bravery to fight the struggle, are compromised as a result of pressure from political, social and bureaucratic authorities as well as family members, resulting in the eventual demise of a glimmer of hope [14].

b. Other factors:

Sexual harassment is a problem that affects everyone who works in a workplace setting. Women who have been subjected to sexual harassment suffer both physically and psychologically as a result of their experiences. They are compelled to resign their jobs, apply for transfers, or simply endure the threat of sexual harassment in silence. The number of recorded occurrences of sexual harassment represents a significant portion of the difficulties since it exposes the victim to society pressure, family pressure, social stigma, and the accusation that women are to blame for this evil. Many women are afraid of reprisal and the other factors listed above, which prevent them from reporting such incidents. To put it another way, the reasons for the increase in this threat are numerous and vary from person to person and scenario to situation. Some of these will be covered in greater detail below:

- **Patriarchal Structure:** Men who were brought up with macho ideas such as "real men pinch bottoms," "girls were made to embrace and kiss," and "the more the merrier" are more likely to transfer these social norms into the workplace and treat their female coworkers in the same manner. Such men frequently believe that the harassment they are subjecting women to is praise.

- If they refuse advances or raise concerns, many women who are breadwinners for their families are at risk of being victimised or possibly losing their jobs as a result of their refusal or complaint. This indirect assertion will also make individuals more susceptible to these situations occurring more frequently and easily.

- **Jealousy at workplace:** It can also play a factor in the incidence of sexual harassment. Some men are envious of women's development in the workplace, while others are uncomfortable with women's self-reliance at home and in the workplace. As a result, when these men attain positions of authority, they may attempt to demonstrate their legitimacy by harassing women. The individual who tries and fails who does not tolerate rejection of unwelcome attempts, views the unwilling colleague as a challenge and easily becomes a harasser and victimizes the unwilling colleague, is known as a challenger.

- In addition, people's social and moral standards are rapidly deteriorating.

4. FACTORS AFFECTING WOMAN'S DECISION FOR FILING A COMPLAINT

After experiencing sexual harassment, the first thought that arises in a woman's mind is what should be done in the situation. It was difficult to keep track of everything that was going on in her head. Before taking any action, she needs to re-evaluate the matter a hundred times more than once. Despite the fact that there are numerous justifiable causes, the majority of women in first instance prefer to remain silent. The following are some of the reasons that contribute to a low level of reporting of sexual harassment complaints:
(i) Family Pressure, concealment from the family.
(ii) Fear of defamation, publication and stigmatization.
(iii) Fear in mind that complaint will not be taken seriously and no relief will be granted.
(iv) Fear of revenge by the abuser.
(v) Fear of losing job opportunities.
(vi) Fear of adverse entries in confidential records like ACR etc if they complaint.
(vii) Fear of further harassment.

According to the researcher, these variables are just obstacles in the victim's path, causing her to remain silent and not fight for her rights as a result of them. First and foremost, the victim must assert her legal rights; only then will she be able to obtain justice by overcoming such obstacles.

NCW has taken the following initiatives:

In 1998, the National Commission for Women develops a Code of Conduct for the Workplace, which is based on the Vishaka recommendations. The code of conduct, which laid out the Supreme Court's standards in a straightforward and understandable manner, was distributed widely among all ministers and government departments, allowing it to filter down to the lowest level of government functionaries. The National Council on Women and other organisations began hosting conferences and implementing a variety of programmes and actions to raise awareness and educate people about the issue. NCW created a number of draught bills, each of which was changed and modified in response to the feedback received. These draught bills were as follows:

✓ Bill to prevent sexual harassment against women at work (Prevention Bill), draught legislation from the year 2000.
✓ In 2003, the Government of Canada released a draught bill titled the Sexual Harassment of Women at workplace (Prevention) bill.
✓ The Sexual Harassment of Women at the Workplace (Prevention and Redress) Bill, 2004, is a draught bill that was introduced in 2004.
✓ In 2006, the Government of India published a draught Bill on the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Bill.
✓ In the workplace, women must be protected from sexual harassment and protection. 2010 is the year of Bill.

The National Coalition for Women (NCW) drafted the legislation listed above. Several meetings were held, and representatives from more than 707 organisations were in attendance. According to NCW’s interactions with feminist organisations, attorneys, journalists, employers, and employees of various organisations, it seeks to ensure successful implementation of Vishaka recommendations, as well as the passage of appropriate legislation to address the issue at hand.
5. PRIOR POSITION: PROVISIONS OF THE INDIAN PENAL CODE TO DEAL WITH SEXUAL OFFENSES PRIORITIES

Ahead of the adoption of the Criminal Law Amendment Act 2013, no specific sections of the Indian Penal Code were addressed in relation to the threat of sexual harassment. Previously, this region had to be covered by Sections 509, 354 and 294 of the Indian Penal Code, among other provisions. There is no explicit legislation in place to address the issue of sexual harassment in the workplace. As a result, the researcher would want to take a brief glance at these regulations. Fine and up to three years' imprisonment for a first offence, with the possibility of an extension, are the penalties for the offender. Prior to the establishment of Sections 354 A, 354 B, 354 C, and 354 D of the Indian Penal Code, accusations of sexual harassment were primarily filed under Section 509 of the Indian Penal Code, which was enacted in 1860. When it comes to women, modesty can be defined as "womanly appropriateness of behavior; rigorous chastity of thought, speech, and action" (Modesty is the attribute of being modest). The term "modesty" refers to a concern with femininity or the attributes that go along with it in a straightforward manner. According to the court in the case of State of Punjab v. Major Singh110, any act done to or in the presence of a woman that is plainly indicative of sex, according to the common concepts of mankind, shall fall under the purview of Section 354 of the Indian Penal Code. In another case, Sau. Anuradha R. Kshirsagar v. State of Maharashtra111, the court found that mere aggressive behaviour without any insult to a woman's feminity may not be sufficient to prove an offence under this clause, according to the ruling.

6. CONCLUSION

Sexual harassment is a severe threat to the well-being of employees in the workplace. Despite the fact that it has been practiced since the beginning of waged labor [19], it has only been in recent years that women have been given a term for their experiences with it. Sexual harassment is not a new occurrence, but the fast-changing workplace dynamics have brought this dark underground reality to the surface of the public consciousness. India is not an exception to this trend, but the problem has spread around the world and is now prevalent in every region. In order to achieve the goal of prevention and effective resolution of sexual harassment at the workplace, all spheres of society, but particularly senior managerial authority, must assess, understand, and commit to the issue of sexual harassment. Only through their commitment and action can the goal of a gender neutral, discrimination-free workplace, which allows employees to perform their work efficiently, be achieved [18].

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