



## **RAGING SEXUAL HARASSMENT AT WORKPLACE IN INDIA: A MYTH V. REALITY**

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### **Abstract**

Sexual harassment at the workplace is a critical issue affecting societies globally, including India. This research paper aims to examine the prevailing beliefs regarding sexual harassment in Indian workplaces and contrast them with the actual reality. By analyzing existing literature, reports, and legal frameworks, this study provides evidence-based insights into the prevalence, nature, and consequences of sexual harassment in India. The findings of this study debunk the myth that sexual harassment at the workplace is an exaggerated problem in India. It reveals alarming statistics on its prevalence and explores the various forms it takes. The research also examines the legal framework and policies in place to address sexual harassment and identifies challenges in their implementation. In conclusion, this research highlights the urgent need for creating safe and inclusive work environments in India by challenging misconceptions and promoting evidence-based understanding. By shedding light on the reality of sexual harassment at the workplace, this study contributes to the ongoing discourse and calls for proactive measures to prevent and address this pervasive issue.

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## 1. INTRODUCTION

Sexual harassment at the workplace is a pressing issue that affects individuals and organizations worldwide, posing significant challenges to equality, safety, and well-being. In the context of India, a nation undergoing rapid socio-economic transformations, sexual harassment remains a deeply rooted concern that requires thorough examination. Despite progress made in promoting gender equality and women's empowerment, reports of sexual harassment in Indian workplaces persist, prompting a need to explore the myth versus reality surrounding this issue.

The primary objective of this research paper is to critically analyze the prevailing beliefs and perceptions regarding sexual harassment at the workplace in India and contrast them with the actual reality. By conducting a comprehensive examination of existing literature, reports, and legal frameworks, this study aims to provide evidence-based insights into the prevalence, nature, and consequences of sexual harassment in Indian workplaces. It also seeks to identify the contributing factors that perpetuate such behaviour and explore the effectiveness of existing legal frameworks and organizational responses in addressing this pervasive issue.

This research holds immense significance due to the need to foster a better understanding of sexual harassment at the workplace in India. By shedding light on the real experiences and challenges faced by survivors, this research endeavours to give voice to the affected individuals and encourage a more empathetic and supportive society.

### Definition and Conceptual Framework of Sexual Harassment

Sexual harassment refers to unwelcome sexual advances, requests for sexual favours, or other verbal, non-verbal, or physical conduct of a sexual nature that creates a hostile, intimidating, or offensive work environment. It involves behaviours that are unwanted, non-consensual, and infringe upon an individual's dignity, autonomy, and right to work in a safe and respectful environment. It can occur between individuals of the same or different genders and involves power imbalances and abuses of authority.

Sexual harassment at work is defined by the "Equal Employment Opportunity Commission (EEOC)" of the United States as "*unwelcome sexual advances, requests for sexual favours, or other conduct of a sexual nature that: explicitly or implicitly are a condition of employment, or are used to make a hiring or other employment decision, or unreasonably interfere with a person's performance or create an intimidating, hostile, or offensive work environment.*"

According to the "Convention on the Elimination of All Forms of Discrimination Against Women" (CEDAW), "*Sexual harassment includes such unwelcome sexually determined behaviour as physical contacts and advance, sexually coloured remarks, showing pornography and sexual demands, whether by words or actions. Such conduct can be humiliating and may constitute a health and safety problem; it is discriminatory when the woman has reasonable grounds to believe that her objection would disadvantage her in connection with her employment, including recruiting or promotion, or when it creates a hostile working environment. Effective complaints procedures and remedies, including compensation, should be provided.*"

The conceptual framework of sexual harassment recognizes the power dynamics inherent in the employer-employee relationship and acknowledges that harassment can manifest in various forms. These forms include but are not limited to:

- **Verbal Sexual Harassment:** This includes explicit or implicit sexual comments, sexual jokes, innuendos, sexual propositions, or persistent requests for sexual favours.
- **Non-Verbal Sexual Harassment:** Non-verbal forms of harassment involve unwelcome gestures, leering, obscene gestures or images, displaying sexually explicit materials, or intrusive staring.
- **Physical Sexual Harassment:** Physical sexual harassment comprises unwelcome physical contact, such as touching, pinching, groping, or assault.
- **Hostile Work Environment:** A hostile work environment refers to an atmosphere in which the prevalence of sexual comments, images, or behaviour is so pervasive that it creates an intimidating, hostile, or offensive workplace environment.

### Prevalence and Forms of Sexual Harassment in Indian Workplaces

#### A. Statistics and Data on Sexual Harassment Incidents:

Understanding the prevalence of sexual harassment is crucial in dispelling the myth that it is an exaggerated problem in Indian workplaces. Various studies and reports provide alarming statistics that highlight the pervasive nature of this issue. For instance, a survey revealed that 50% of women across different sectors experienced sexual harassment at their workplaces but only 55.2% of these reported the same. Additionally, the survey indicated that a significant number of cases go unreported due to fear of retaliation or lack of confidence in the grievance redressal mechanisms.

### **B. Verbal Sexual Harassment:**

Verbal sexual harassment is a common form of misconduct reported in Indian workplaces. It includes unwelcome sexual comments, sexually explicit jokes, persistent advances, or the use of derogatory language related to a person's gender or sexuality. Such behavior not only creates a hostile work environment but also undermines the dignity and self-esteem of the individuals subjected to it.

### **C. Non-Verbal Sexual Harassment:**

Non-verbal forms of sexual harassment also prevail in Indian workplaces. These may include leering, making obscene gestures or facial expressions, displaying sexually explicit images or materials, or intrusive staring that creates a sense of discomfort, objectification, and intimidation for the victim.

### **D. Physical Sexual Harassment:**

Physical sexual harassment involves unwelcome physical contact of a sexual nature, ranging from inappropriate touching, pinching, or groping to more severe forms of assault. These actions violate personal boundaries, cause significant distress, and often result in a hostile and unsafe work environment.

The prevalence of sexual harassment in Indian workplaces has prompted the enactment of laws to provide protection and recourse for victims. One landmark case that significantly influenced the legal framework is the *Vishaka v. State of Rajasthan* (1997) case. In this case, the Supreme Court of India laid down guidelines and norms for preventing and redressing sexual harassment at the workplace until legislation was enacted.

Following the *Vishaka* case, the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 was enacted. This Act provides a comprehensive legal framework for preventing and addressing sexual harassment in Indian workplaces. It mandates the establishment of internal complaint committees, defines the procedure for filing complaints, and sets out the obligations of employers in creating a safe and conducive work environment.

The prevalence of sexual harassment in Indian workplaces cannot be dismissed as a myth. The statistics, coupled with the existence of legal protections, attest to the urgent need for addressing this issue. By recognizing the various forms of sexual harassment, including verbal, non-verbal, and physical, this research underscores the importance of comprehensive strategies for prevention, intervention, and creating safe and respectful work environments.

## **IV. Factors Contributing to Sexual Harassment**

### **A. Gender Inequality and Power Imbalance:**

One of the primary factors contributing to sexual harassment at the workplace in India is gender inequality. Deep-rooted patriarchal norms and attitudes perpetuate unequal power dynamics between genders, with women often occupying subordinate positions. This power imbalance creates an environment where perpetrators feel entitled to exert control and engage in acts of harassment.

### **B. Cultural Norms and Socialization:**

Cultural norms and socialization play a significant role in shaping attitudes towards gender roles and sexual harassment. Traditional beliefs that reinforce male dominance and female submissiveness contribute to a culture of harassment. The normalization of certain behaviors, victim-blaming, and societal stigma surrounding reporting further deter individuals from speaking out against harassment.

### **C. Lack of Awareness and Sensitization:**

A lack of awareness and sensitization about sexual harassment perpetuates its occurrence in Indian workplaces. Many individuals may not fully understand what constitutes harassment or be unaware of the legal protections available to them. Insufficient training and education on the topic further contribute to a culture of ignorance and tolerance.

### **D. Organizational Culture and Practices:**

The organizational culture and practices within workplaces can either discourage or enable sexual harassment. A lack of robust policies, inadequate complaint mechanisms, and a failure to address reports effectively create an environment that fosters harassment. In some cases, organizational hierarchies and power structures may protect perpetrators and discourage victims from coming forward.

### **E. Male-Dominated Workforce and Leadership:**

Certain industries and sectors in India have a predominantly male-dominated workforce and leadership. This gender imbalance can contribute to an environment where sexual harassment thrives, as power imbalances and male privilege may be reinforced. The underrepresentation of women in decision-making positions hinders the implementation of inclusive policies and accountability measures.

### **F. Economic Dependence and Fear of Retaliation:**

Economic dependence on the workplace and fear of retaliation are significant factors that contribute to underreporting of sexual harassment incidents. Victims may fear losing their jobs, facing professional consequences, or being ostracized if they speak out against harassment. This fear of

reprisal reinforces a culture of silence and perpetuates the cycle of abuse.

Understanding these contributing factors is crucial for developing effective strategies to prevent and address sexual harassment. By challenging gender inequality, promoting awareness and sensitization, fostering inclusive organizational cultures, and ensuring legal protections, efforts can be made to create safer and more equitable work environments in India.

## Legal Framework and Policies

### A. Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013

The legal framework in India provides a comprehensive foundation for addressing sexual harassment at the workplace and protecting the rights of victims. The key legislation in this regard is the “*Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013*.” This Act defines sexual harassment, outlines the obligations of employers, and establishes mechanisms for filing complaints and conducting investigations. It mandates the formation of Internal Complaints Committees (ICCs) in workplaces with more than ten employees, and Local Complaints Committees (LCCs) at the district level for organizations with fewer than ten employees.

#### Provisions of the Law:

The Sexual Harassment Act lays down several important provisions to ensure the prevention and redressal of sexual harassment. These provisions include:

- **Definition of Sexual Harassment:** The Act provides a clear definition of sexual harassment, encompassing a range of unwelcome sexual behaviors, advances, or conduct that creates a hostile or intimidating work environment.
- **Obligations of Employers:** The law places the responsibility on employers to prevent sexual harassment by adopting measures such as implementing an anti-harassment policy, organizing awareness programs, and establishing ICCs/LCCs to receive and investigate complaints.
- **Internal Complaints Committee (ICC):** Organizations are required to set up ICCs comprising members from various departments and with at least one external member. The ICC is responsible for receiving complaints, conducting inquiries, and recommending action against perpetrators.
- According to Section 6 of the Act, the District officer shall create a Local Complaints Committee (LCC) to handle complaints of sexual harassment from enterprises when an Internal Complaints Committee cannot be

established because there are less than ten employees or if the complaint is against the employer. The District in which they are appointed is the committee's area of jurisdiction.

- **Confidentiality and Non-Retaliation:** The law emphasizes the importance of maintaining confidentiality throughout the complaint process and prohibits any form of retaliation against complainants or witnesses.

### Case Laws

Several notable case laws have played a significant role in shaping the legal framework and interpretation of sexual harassment laws in India. Some prominent cases include:

- **Vishaka v. State of Rajasthan (1997):** This landmark Supreme Court case laid down guidelines and norms for preventing and redressing sexual harassment at the workplace before the enactment of the Sexual Harassment Act. It emphasized the fundamental right of women to work in a safe and harassment-free environment.
- **Apparel Export Promotion Council v. A.K. Chopra (1999):** In this case, the Supreme Court held that employers have an obligation to provide a safe work environment and are vicariously liable for the acts of their employees. It established the liability of organizations in cases of sexual harassment.
- **Medha Kotwal Lele v. Union of India (2013):** This case highlighted the importance of providing effective remedies to victims of sexual harassment. The Supreme Court emphasized the need for a fair and impartial inquiry and timely action against the perpetrators.

### B. Analysis of the Effectiveness and Implementation Challenges

An analysis of the effectiveness and implementation challenges of the Sexual Harassment Act reveals both positive developments and areas that require attention. While the Act has provided a legal foundation for addressing sexual harassment, challenges persist in its implementation. Some common challenges include:

- **Lack of Awareness:** Many employees and employers remain unaware of their rights and obligations under the Act, leading to a lack of proactive measures and reporting.
- **Inadequate Implementation:** Some organizations may not have established ICCs or LCCs, or they may not be functioning effectively. This can hinder the redressal process and discourage victims from reporting incidents.
- **Insufficient Training and Sensitization:** Inadequate training and sensitization programs

on sexual harassment prevention and response contribute to a lack of understanding and preparedness among employees and employers.

- **Fear of Retaliation:** Fear of retaliation or negative consequences acts as a significant barrier for victims in reporting incidents of sexual harassment. This fear often stems from a lack of confidence in the effectiveness of the redressal mechanisms.
- In conclusion, the Sexual Harassment of Women at Workplace Act, 2013 forms the core legal framework in India for addressing sexual harassment. However, challenges remain in its effective implementation, including awareness, training, and fear of retaliation. A comparative analysis of international laws and standards can provide insights for improving the legal framework and policies to ensure a safer and more inclusive workplace environment in India.

### **Organizational Response and Prevention Strategies**

#### **A. Importance of Organizational Response:**

Organizations play a crucial role in addressing and preventing sexual harassment in the workplace. It is essential for organizations to foster a culture of respect, equality, and zero tolerance towards harassment. An effective organizational response demonstrates a commitment to ensuring a safe and inclusive work environment for all employees.

#### **B. Establishing Policies and Procedures:**

Organizations should develop comprehensive policies and procedures specifically addressing sexual harassment. These policies should clearly define what constitutes sexual harassment, outline reporting mechanisms, and describe the steps for investigation and redressal. They should be communicated to all employees and made easily accessible.

#### **C. Creating Awareness and Training Programs:**

Raising awareness about sexual harassment is crucial in creating a supportive environment. Organizations should conduct regular training programs to educate employees about what constitutes sexual harassment, its impact, and the available recourse options. These programs should focus on prevention strategies, bystander intervention, and fostering respectful workplace relationships.

#### **D. Setting up Internal Complaints Committee (ICC):**

Establishing an Internal Complaints Committee (ICC) is a legal requirement under the Sexual Harassment of Women at Workplace Act, 2013. The ICC should consist of trained members, including both internal and external representatives. It should be accessible, impartial, and confidential.

Employees should be encouraged to report incidents of sexual harassment to the ICC.

#### **E. Prompt and Fair Investigation Process:**

Organizations should ensure a prompt and fair investigation process for complaints of sexual harassment. This includes appointing competent and unbiased individuals to conduct the investigation, maintaining confidentiality, and providing a supportive environment for complainants and witnesses. Timely action should be taken based on the findings of the investigation.

#### **F. Support and Remedial Measures:**

Organizations should provide support and remedial measures to victims of sexual harassment. This may include counseling services, legal assistance, and ensuring that the victim does not face any retaliation. Supportive measures should be taken even if the complaint is yet to be substantiated, as this helps create a safe and trusting environment for reporting.

#### **G. Regular Review and Evaluation:**

Organizations should regularly review and evaluate their policies and procedures to ensure their effectiveness. Feedback from employees, analysis of complaint trends, and external audits can help identify areas for improvement. It is essential to make necessary adjustments to policies and procedures based on the evolving needs and changing dynamics within the organization.

#### **H. Encouraging a Respectful Work Culture:**

Organizations should actively promote a respectful work culture through leadership commitment, inclusive practices, and diversity initiatives. Emphasizing mutual respect, empathy, and equality helps in preventing harassment and creating an environment where all employees feel valued and safe.

#### **I. External Collaboration and Reporting:**

Organizations should collaborate with external stakeholders, such as local authorities and non-governmental organizations, to address and prevent sexual harassment. Reporting incidents to the appropriate authorities when necessary demonstrates accountability and supports the legal framework for combating harassment.

By implementing these organizational response and prevention strategies, workplaces can foster a culture of respect, prevent incidents of sexual harassment, and ensure a safe and inclusive environment for all employees.

## **2. CONCLUSIONS AND RECOMMENDATIONS**

### **A. Conclusions:**

The issue of sexual harassment in Indian workplaces is a complex and significant problem that requires attention and action. Through an examination of the legal framework, prevalence of sexual harassment, case laws, and organizational response, several conclusions can be drawn:

- Sexual harassment remains a pervasive problem in Indian workplaces, affecting individuals across various industries and sectors.
- The Sexual Harassment of Women at Workplace Act, 2013 provides a strong legal framework for addressing sexual harassment; however, challenges persist in its implementation and effectiveness.
- Case laws and survivor experiences highlight the need for fair and impartial investigations, timely action against perpetrators, and support for victims.
- Organizational response plays a crucial role in addressing and preventing sexual harassment, including the establishment of policies, awareness and training programs, and the creation of supportive environments.

#### B. Recommendations:

To address the issue of sexual harassment at Indian workplaces effectively, the following recommendations are proposed:

- **Strengthen Implementation:** Efforts should be made to improve the implementation of the Sexual Harassment Act, including raising awareness about the legal provisions among employers and employees and ensuring the establishment and effective functioning of Internal Complaints Committees (ICCs) and Local Complaints Committees (LCCs).
- **Enhanced Training and Sensitization:** Organizations should prioritize regular and comprehensive training programs for employees at all levels. These programs should focus on awareness, prevention strategies, bystander intervention, and creating a respectful work culture. Sensitization programs should also include managers and supervisors to ensure they understand their role in preventing and addressing sexual harassment.
- **Support Systems:** Organizations should establish support systems for victims of sexual harassment, such as counseling services, legal assistance, and employee assistance programs. These resources should be readily available and easily accessible to provide the necessary support and guidance to individuals who have experienced harassment.
- **Regular Evaluation and Monitoring:** Organizations should conduct regular evaluations of their policies, procedures, and training programs to identify areas for improvement. External audits or assessments

can provide an independent perspective on the effectiveness of the organization's measures. It is crucial to continuously adapt and update policies based on evolving needs and emerging trends.

- **Collaboration and Reporting:** Organizations should collaborate with external stakeholders, such as NGOs, to share best practices, seek guidance, and contribute to the broader efforts of combating sexual harassment. Reporting incidents to relevant authorities is crucial for ensuring accountability and promoting a culture of zero tolerance towards harassment.
- **Gender Equality and Inclusion:** Organizations should prioritize gender equality and inclusion in their overall strategy. By promoting diversity, equality, and creating an inclusive work environment, organizations can contribute to the prevention of sexual harassment and the overall well-being of their employees.
- By implementing these recommendations, organizations and policymakers can work towards creating safe and harassment-free workplaces in India. It requires a collective effort involving employers, employees, government agencies, and civil society organizations to address this issue comprehensively and ensure the protection and dignity of individuals in the workplace.

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