

SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013 – A WELCOME CHANGE IN A WORLD OF UNWELCOME ADVANCES.

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Abstract

The development of sexual harassment law is much needed in a state where most men are steeped in male-supremacist values but remain unaware of their biases. Till now, this development has been almost entirely through case laws and the Indian Penal Code has also been significant in this course by expanding the application of sexual harassment laws beyond the workplace and acting as a brake on the level of damages to be awarded. The consequences of sexual harassment at workplace are so tragic that these leave deep scars on women. It is considered as a violation of fundamental rights of a woman to equality and her right to live with dignity. While India now has the beginning of a legal mechanism which can redress sexual harassment, “the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013” has been enacted with the objective of providing women protection against unwelcome behavior of males at the workplace.

This article will explore the act in its entirety and provides the obstacles in the implementation of laws to prevent sexual harassment of women at workplace as well as attempt to discuss solutions to remove these hurdles.

This new structure and process is welcome, but it needs much alteration since the victims will shy away from the publicity, the procedures, the delay and the harshness in the criminal justice system. There is still much to be done in this way to treat women with equality and dignity, turning it into a meaningful reality.

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Introduction

Women as a component of human species has somehow remain an endangered species all over the world and more so in India were they even idealized as “devis”. India is a country where goddesses are worshipped and yet ironically disgraceful victimization against women like child rape, molestation, eve teasing and sexual harassment are increasing day by day. Victimization of women is a part of our existing social life. The problem of sexual harassment at workplace is not a new phenomenon and thus is not surprising anymore. But until two decades ago sexual harassment at workplace was just about a buried happening in the entire world over. It reflects the disparity in the power of perpetrator and the victim, more often then not, mirrors the power differential between the men and women in the society.²

The consequences of sexual harassment at workplace are so tragic and everlasting that these are deep scars on a woman because of barbaric act by a human in animal form, a victim woman has to suffer without the least of her fault for lifetime. Many women, who are not able to bear the stigma for trauma as commit suicide and leave this cruel world forever.³

Such instances are a very poor reflection of our society that we are not able to protect the nobility and safety of a woman for which she is entitled from national and international laws. Every occurrence of sexual harassment of women at workplace results in violation of “gender equality”. The “gender quality” includes protection from sexual harassment or abuse and right to work with dignity, which is a universally recognized basic human right. A number of countries like U.S., U.K., Japan, Canada, Australia, India and several European nations have laws that prohibit sexual harassment at workplace.⁴

Sexual harassment is a form of sex discrimination projected through unwelcome sexual advances, request for sexual favours and other verbal or physical conduct with sexual overtones

² International Labour Organisation: Technical Report for Discussion. ILO Japan Regional Tripartite Seminar on Action against Sexual Harassment at Work in Asia and the Pacific, 2001. P6. 9From hereon referred to as ILO Technical Report)

³ Lalita Dhar Parihar, women and Law from Impoverishment to Empowerment- A Critique, Easter Book Company, Lucknow, First Edition, p237.

⁴. Chorine, Christine, Mihir Desai, Colin Gonsalves (1999), Women and Law, Vol I and II, Socio-legal Information Centre, Mumbai, p33

whether directly or by implication, particularly when submission to or rejection of such a conduct by the female employee was capable of being used for effecting the employment of the female employee and unreasonably interfering with her work performance and had the effect of creating an intimidating or hostile working environment for her. In this way sexual harassment perpetrates inequality between women and men.⁵

Types of Sexual Harassment

Studies on Sexual harassment cases and experiences of women have shown two dominant categories: one where sexual favours are demanded for employment benefits: (quid pro quo) and other which involves constant abuse of power, unrelated to favours (Hostile working environment).

- a. ***Quid pro quo sexual harassment⁶:*** This occurs when an individual's submission to or rejection of sexual advances or conduct of a sexual nature is used as the basis for employment decisions affecting the individual or the individual's submission to such conduct is made a term of employment.

It is sufficient to show a threat of economic loss to prove quid pro quo sexual harassment. A single sexual advance may constitute harassment if it is linked to the granting or denial of employment benefits. Courts have held employers strictly liable for quid pro quo sexual harassment initiated by supervisory employees.⁷ A subordinate who submits and then changes her or his mind and refuses can still bring quid pro quo sexual harassment charges.

- b. ***Hostile environment sexual harassment⁸:*** This occurs when unwelcome sexual conduct unreasonably interferes with an individual's job performance or creates a hostile, intimidating or offensive work environment even though the harassment may not result in tangible or economic job consequences, that is, the person may not lose pay or a promotion. Employers, supervisors, coworkers, customers, or clients can create a hostile work environment⁹. Hostile environment sexual harassment might include:

⁵ Petrocelli, William and Repa, Barbara Kate. 1992. Sexual Harassment on the Job, Nolo Press. P1/9

⁶http://www.dikseo.teimes.gr/spoudastirio/E-NOTES/S/Sexual_Harassment_Vie

⁷ Teresa Harris v. forklift systems Inc. 510 US 17 (1993); 114 s. Ct. 367

⁸ Ibid.

⁹ The standard for evaluating a hostile environment is from the perspective of a 'reasonable person'.

- (i) repeated requests for sexual favors,
- (ii) demeaning sexual inquiries and vulgarities,
- (iii) offensive language,
- (iv) other verbal or physical conduct of sexual or degrading nature,
- (v) sexually offensive, explicit or sexist signs, cartoons, calendars, literature or photographs displayed in plain view, or
- (vi) offensive and vulgar graffiti.¹⁰

Effects of Sexual harassment

Victims: Victims of Sexual harassment may suffer from serious physiological, psychological and socio- economic effects. As the Commission of the European Union states, "sexual harassment pollutes the working environment and can have a devastating effect upon the health, confidence, morale and performance of those affected by it. The anxiety and stress produced by sexual harassment commonly leads to those subjected to it taking time off work due to sickness, being less efficient at work, or leaving their job to seek work elsewhere. Employees often suffer the adverse consequences of the harassment itself and short- and long-term damage to their employment prospects if they are forced to change jobs. Sexual harassment may also have a damaging impact on employees not themselves the object of unwanted behaviour but who are witnesses to it or have knowledge of the unwanted behavior."¹¹

Employers: There are also adverse consequences arising from sexual harassment for employers. It has a direct impact on the profitability of the enterprise where staff take sick leave or resign their posts because of sexual harassment, and on the economic efficiency of the enterprise where employees' productivity is reduced by having to work in a climate in which individuals' integrity is not respected. In general terms, sexual harassment is an obstacle to the proper integration of women into the labour market.¹²

Societies: Sexual harassment also produces negative effects on the entire society. Tolerance of such behavior impedes the achievement of equality between men and women. It condones sexual violence and it is wasteful from economic, social and human resource development points of

¹⁰ Ibid.

¹¹ Mathew, Mini (2002), Sexual Harassment at Workplace, India Centre for Human Rights and Law, Mumbai

¹² Ibid

view to invest only in selected parts of the population as a result of discrimination based on sex.¹³

Legal Framework against Sexual Harassment

Constitutional Perspective

The Constitution of India guaranteed fundamental rights to its citizens. When we compare provisions of the Constitution of India to that of Universal Declaration of Human Rights, we find many Articles have the same spirit. Article 14, 15 and 21 of Constitution of India mentions key words on Equality before law, prohibition of discrimination on grounds of religion, race, caste, sex or place of birth and protection of life and personal liberty.

The Indian Penal Code:

Sec. 294: Whoever, To the annoyance of others, does any obscene act in any public place or signs, recites and utters any obscene songs, ballads or words, in or near any public place, shall be punished with imprisonment of either description for a term that may extend upto to three months, or with fine, or with both.

Sections 354 and 509 of Indian Penal Code, 1860 deals with assault or criminal force to woman with intent to outrage her modesty and the word, gesture or act intended to insult the modesty of a woman. If there is any violation on women with regard to her modesty, the above sections will strictly apply and criminal proceedings will follow immediately on a complaint made to a nearest police station. The offences under section 509 are cognizable and are non-bailable.

Sec.354: Assault or criminal force to woman with intent to outrage her modesty. – 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 may be extend to two years or with fine, or with both.

¹³ Samhita (2001), *The Politics of Silence*, Kolkata

Sec. 509: Word, gesture or act intended to insult the modesty of a woman. – Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year; or with fine, or with both.

Other legislations

There are some other important legislations which deals with the sexual harassment of women at workplace. A law on ‘Indecent Representation of Women (Prohibition) Act 1986’ was passed to combat this evil, but women continued to be exploited for economic gain. This Act is also applicable on the companies. If any company or manufacturing establishment used any indecent label and make any indecent representation or advertisement, then such company etc. can be held liable under this Act. The Information Technology (Amendment) Act 2008 has reformed the law of obscenity in India to a greater extent. The combined effect of Sections 66-E, 67, 67-A and 67-B are that online obscenity has been brought within the legal regime. Information Technology Act 2000 contains certain provisions for preventing the Sexual harassment against women. Section 66-E of the Act provides the punishment for the violation of privacy. Section 66-E of the Information Technology Act, 2000 provides punishment for capturing, Publishing or transmitting the image of private area or the image of naked person. If any woman feels that her image was captured or transmitted by any person of her workplace, she can take an action under Section 66-E of Information Technology Act, 2000. It is an Act which provides protection to her from sexual harassment at workplace. Thus, Information Technology Act, 2000 enlarges the area of obscenity and includes within, depiction of sex activities. Similarly this Act provides the protection to women from ‘Stalking.’ Stalking is a form of sexual harassment of women as it contains the element of monitoring the women through Internet, e-mails and computer technology.

Highlighting retrospectively, keeping in view the desirability of a Commission for Women at the national level, the National Commission for Women Act, 1990, was passed. The Protection of Human Rights Act, 1993 also provides the protection to the women from sexual harassment at workplace. The ‘Sexual Harassment of Women (Protection, Prohibition and Redressal) Act,

2013 was passed taking in view and the protection of human rights and the dignity of women. Even, Immoral Traffic (Prevention) Act, 1956 provides the punishment for the sexual exploitation and harassment of women. If a girl or woman forcibly keeping in the work of prostitution or flesh market by any person, such person can be punished under Immoral Traffic (Prevention) Act 1956.

Sexual Harassment under Human Rights Purview

Sexual harassment and sex discrimination are considered to be violation of Human Rights. All human rights derive from the dignity and worth inherent in the human person and the human person is the cultural subject of Human Rights and Fundamental Freedoms. The United Nations Organization (UNO), keeping with its character to promote and encourage respect of Human Rights and Fundamental Freedoms for all without distinction, came out with an International Bill of Human Rights consisting of:

- (a) Universal Declaration of Human Rights, 1948
- (b) The International covenant on civil and Political Rights, 1966
- (c) The International covenant of Economic, Social and Cultural Rights, 1966 and
- (d) The Optional protocol, 1966 providing for the right of the individual to petition International agencies.

The U.N.O. held that all human rights and fundamental freedoms are indivisible and interdependent; equal attention and urgent consideration should be given to the implementation, promotion and protection all human rights. The following are the principles on which the above charters were introduced:

- 1) All Human beings, without distinction, have been brought within the scope of human rights instruments.
- 2) Equality of application without distinction of race, sex, language or religion: and
- 3) Emphasis on international co-operation for implementation.

Article 1, 2 and 7 of Universal Declaration of Human Rights, 1948 deals with equal in dignity, rights & freedoms and equal protection against any discrimination.

Article 1: All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2: Everyone is entitled to all the rights and freedoms set forth in this declaration, without distinction of any kind such as race, colour, sex language, religion, political or other opinion, national or social origin, property, birth or other status (first part of Art.2)

Article 7: All are entitled to equal protection against any discrimination in violation of this Declaration against any incitement to such discrimination (Second sentence of Art.7).¹⁴

Part II of Article 2 (2) and 3 of International covenant on Economic, Social and Cultural Rights, 1966 also deals with discrimination of any kind and equal right of men and women.

Article 2 (2) : The States Parties to the present covenant undertake to guarantee that rights enunciated in the present covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 3: The States parties to the present covenant undertake to ensure the equal right of men and women to the enjoyment of all Economic, Social and Cultural Rights set forth in the present covenant.¹⁵

Role of Indian Judiciary

A Public Interest Litigation (PIL) filed before Supreme Court of India, seeking gender justice for protection and enforcement of fundamental and human rights of working women. The PIL was mainly filed for the enforcement of fundamental rights of working women under Articles 14, 19 and 21 of the Constitution of India. It was a class action by certain social activists and NGOs with the aim of assisting in finding suitable methods for realization of the true concept of gender equality and to prevent sexual harassment of working women in all workplaces through judicial process and to fill vacuum in existing legislation. The Supreme Court of India in 1997 held that the working women have rights to gender equality, to work with dignity and to a working environment safe and protected from sexual harassment or abuse. Accordingly, the Supreme Court issued guidelines and norms for protection and enforcement of rights of the women at their

¹⁴ Universal Declaration of Human Rights, 1948

¹⁵ International covenant on Economic, Social and Cultural Rights, 1966

workplaces. Further, the Supreme Court held that these guidelines and norms must be strictly observed in all working places by treating them as law declared under Article 141 of Constitution of India.¹⁶

The Supreme Court of India for the first time in *Vishakha and others Vs. State of Rajasthan and others*¹⁷ dealt with sexual harassment on women. The Supreme Court made the definition of sexual harassment and laid down certain guidelines. It also specified the duties of the employer, preventive steps, awareness of the rights of female employees and workers initiative to curb, sexual harassment at workplace.

The Supreme Court said that, it shall be the duty of the employer or other responsible persons in workplaces or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, settlement or prosecution of acts of sexual harassment by taking all steps required. For the purpose of definition of sexual harassment the Supreme Court said that, the sexual harassment includes such unwelcome sexually determined behavior (whether directly or by implication) as :

It includes within its ambit “any unwelcome acts or behaviour (whether directly or by implication) such as physical contact and advances, demand or request for sexual favours, making sexually coloured remarks, showing pornography, or any other unwelcome physical, verbal or non verbal conduct of sexual nature¹⁸.

The Supreme Court of India rendered yet another Judgment on sexual harassment in *AEPCL vs. A.K. Chopra*¹⁹, held that:

¹⁶ Article 141 of the Indian Constitution- The law declared by the Supreme Court shall be binding on all courts within the territory of India

¹⁷ 1997 (6) Supreme Court Cases 241

¹⁸ Section 2(n) of The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act,2013

¹⁹ 1999 (1) Supreme Court Cases 759999. The case is about a woman employee of Apparel Export Promotion Council, who worked as the private secretary to A.K.Chopra, the Chairman of the company. She complained to the personnel Director that the chairman was sexually harassing her. Despite her repeated protests, he was making sexual advances by ‘trying to touch her’ and ‘sit close to her’. The company immediately suspended him and ordered a departmental enquiry. The enquiry confirmed female employee’s position that the chairman tried to touch her with a sexual motive and the chairman was dismissed from service.

"The above mentioned Vishaka Case was quoted with approval by the Supreme Court in Apparel Export Promotion Council v. A.K. Chopra and pointed out the inadequacies of Indian Civil and Criminal Law. It was opined that 'sexual harassment is a form of 'sex discrimination' and it creates an intimidating or hostile working environment for female employees. Thus, it results in violation of The Fundamental Right of gender equality and right to life. The fundamental rights in the Constitution cover all facets of gender equality including prevention of sexual harassment and abuse. The courts are under a constitutional obligation to protect and preserve those rights. International instruments like Convention on Prevention of All forms of Discrimination against Women, Beijing Declaration on Women and International Covenant on Economic, Social and Cultural Rights cast an obligation on the Indian Government to sensitize its laws."

Other Remedies

Apart from all this, if a woman faces any kind of sexual harassment at workplace can directly make a complaint to the State Women Commissions or National Commission for Women. The Women Commission will follow-up the complaints, informs to concerned police stations to initiate criminal proceedings and directs the employer to conduct an enquiry and recommend to suspend the concerned harasser with an immediate effect pending enquiry.

The victim of sexual harassment can claim damages/compensation on concerned harasser by way of filing a civil suit under civil jurisdiction.

Salient Features of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

Following the horrendous Delhi gang-rape in December 2012, the Indian Government was besieged with protests and demands to enact far reaching legislation to protect women. It was forced to expedite the long-awaited enactment of the Protection of Women from Sexual Harassment Bill of 2010, which had taken over 13 years to be drafted and to reach Parliament,

and a further three years to be enacted. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013 eventually came into force on 23 April 2013.

The salient features of the Act are as follows:

- ***Definition:*** It defines “sexual harassment at the workplace” in a comprehensive manner, in keeping with the definition laid down in the *Vishaka* judgment, and broadening it further to cover circumstances of implied or explicit promise or threat to a woman’s employment prospects or creation of hostile work environment or humiliating treatment, which can affect her health or safety.
- ***Scope:*** The ambit of this act is very wide. The expression “aggrieved woman”, under the Act is extremely wide to cover all women, irrespective of her age or employment status. In defining “workplace” the Act goes much further to include organisations, department, office, branch unit etc in the public and private sector, organized and unorganized, and any place visited by the employee during the course of employment including the transportation. Employee covers regular/temporary/ad hoc/daily wage employees, whether for remuneration or not and can also include volunteers. The definition of employer includes the head of the Government department/organisation/institution/office/branch/unit, manager or any person discharging contractual obligations for his employees.
- ***Committees for Complaints:*** The redressal mechanism provided in the Act is in the form of Internal Complaints Committee (ICC) and Local Complaints Committee (LCC)²⁰. All workplaces employing 10 or more than 10 workers are mandated under the Act to constitute an ICC. The ICC will be a 4 member committee under the Chairpersonship of a senior woman employee and will include 2 members from amongst the employees preferably committed to the cause of women or has experience in social work/legal knowledge and includes a third party member (NGO etc.) as well²¹.

Complaints from workplaces employing less than 10 workers or when the complaint is against the employer will be looked into by the LCC. A District Officer notified under the Act will

²⁰Section 6 of the Prevention of Workplace Sexual Harassment Act

²¹Section 4(2) of the Prevention of Workplace Sexual Harassment Act

constitute the LCC at the district level. LCC will also look into complaints from domestic workers.²²

LCC will be a five member committee comprising of a chairperson to be nominated from amongst eminent women in the field of social work or committed to the cause of women, one member from amongst women working in block/taluka/tehsil/municipality in the district, two members of whom at least one shall be a woman to be nominated from NGOs committed to the cause of women or a person familiar with the issues related to sexual harassment provided that at least one of the nominees should preferably have a background in law or legal knowledge. The concerned officer dealing with the social welfare or women and child development shall be an ex officio member²³.

- ***The Process for filing of Complaints:*** A complaint of sexual harassment can be filed within a time limit of 3 months. This may be extended to another 3 months if the woman can prove that grave circumstances prevented her from doing the same.²⁴

The Act has a provision for conciliation. The ICC/LCC can take steps to settle the matter between the aggrieved woman and the respondent, however this option will be used only at the request of the woman. The Act also provides that monetary settlement shall not be made a basis of conciliation. Further, if any of the conditions of the settlement is not complied with by the respondent, the complainant can go back to the Committee who will proceed to make an inquiry.²⁵

The Committee is required to complete the inquiry within a time period of 90 days²⁶. On completion of the inquiry, the report will be sent to the employer or the District Officer, as the case may be, they are mandated to take action on the report within 60 days.

In case the complaint has been found proved, then the Committee can recommend action in accordance with the provision of service rules applicable to the respondent or as per the rules which will be prescribed, where such service rules do not exist. In case the allegation against the

²²Section 6(1) of the Prevention of Workplace Sexual Harassment Act

²³Section 7(1) of the Prevention of Workplace Sexual Harassment Act

²⁴Section 11(3) of the Prevention of Workplace Sexual Harassment Act

²⁵Section 10 of the Prevention of Workplace Sexual Harassment Act

²⁶Section 9 of the Prevention of Workplace Sexual Harassment Act

respondent has not been proved then the Committee can write to the employer/district officer that no action needs to be taken in the matter.

- **Action against Frivolous Complaints:** In case of malicious or false complaint then the Act provides for a penalty according to the Service Rules. However, this clause has a safeguard in the form of an enquiry prior to establishing the malicious intent. Also, mere inability to prove the case will not attract penalty under this provision.²⁷
- **Interim Reliefs:** The Act has provisions for providing reliefs to the aggrieved woman in the interim period including leave and transfer during the pendency of the inquiry.²⁸
- **Non-disclosure of Identity of Victims:** The Act prohibits disclosure of the identity and addresses of the aggrieved woman, respondent and witnesses. However, information regarding the justice secured to any victim of sexual harassment under this Act without disclosing the identity can be disseminated.²⁹
- **Employer's Obligations:** The Act casts a responsibility on every employer to create an environment which is free from sexual harassment. Employers are required to organize workshops and awareness programmes at regular intervals for sensitizing the employees about the provision of this legislation and display notices regarding the constitution of Internal Committee, penal consequences of sexual harassment etc.

An employer will be liable to a fine of Rs 50,000 in case of violation of his duties under the Act and in case of subsequent violations the amount of fine will be double together with penalty in the form of cancellation of his licence, withdrawal or non-withdrawal of the registration required for carrying out his activity.³⁰

Amendments to the Indian Penal Code: As a result of growing importance of this issue sec. 354A was added to the IPC through the way of Criminal Law (Amendment) Act, 2013³¹ which enlists the acts which constitutes the offence of sexual harassment and further envisages punishment for such acts. The offender will be punishable with imprisonment ranging between

²⁷ Section 14(1) of the Prevention of Workplace Sexual Harassment Act

²⁸ Section 12(1) of the Prevention of Workplace Sexual Harassment Act

²⁹ Section 16 of the Prevention of Workplace Sexual Harassment Act

³⁰ www.pib.nic.in

³¹ Published in the Official Gazette on April 2, 2013

1-3 years or fine or both. Since the amendment criminalizes all the sexual harassment, employers shall be required to report any offences of sexual harassment to the appropriate authorities.

Analysis of Sexual Harassment Act, 2013:

The Sexual Harassment Act is a much awaited development and a significant step towards ensuring women a safe and healthy work environment. However there are some issues in relation to this new legislation.

- The Sexual Harassment Act only addresses the issue of protection of women employees and is not gender neutral. Male employees, if subjected to sexual harassment, cannot claim protection or relief under the law.
- The definition of 'aggrieved woman' does not make a reference to victimization (on the part of the employer) of the employee who has made the complaint of harassment, which would be fairly common in such situations. This was in fact an important recommendation of the Standing Committee. The definition of the 'sexual harassment', the words 'verbal, textual, physical, graphic or electronic actions' should have been added in order for the purposes of clarity, as it would cover some of the technological developments.
- It may become a challenge for employers to constitute an ICC at "all administrative units or offices". It may also become necessary for the employer to spend more time and efforts in training members of the ICC who are to be replaced every 3 years. There is also a lack of clarity as to who shall be a chairperson of the ICC in absence of a senior level female employee. Also, in such cases, the composition of the committee members should ideally have been an odd number in order for the committee to arrive at a decision based on majority.
- The ICC also needs to involve a member from "amongst non-governmental organisations or associations committed to the cause of women or who have had experience in social work or have legal knowledge." Employers may not be comfortable with such an external representation, considering the sensitivities surrounding this issue and the need to maintain strict confidentiality.
- The law casts an obligation upon the employer to address the grievances in respect of sexual harassment at workplace in a time bound manner, which in several cases may not be practically possible as the employees or witnesses involved may not easily or readily co-operate.

- The law allows the employer to initiate action against the complainant in case of a false or malicious complaint. This provision, although meant to protect the employer's interests, is likely to deter victims from reporting such incidents and filing complaints, which may in turn defeat the purpose for which the law was enacted.
- In case the allegation has been proved, the Sexual Harassment Act allows the ICC to recommend to the employer to deduct from the respondent's salary such sums it may consider appropriate to be paid to the aggrieved woman. However, there may need to be made certain corresponding changes to the Payment of Wages Act, 1936 of India, which restricts the nature of deductions that may be made from an employee's salary.
- The Sexual Harassment Act does not stipulate any monetary liability on the employer in case of harassment on the part of an employee against another female employee. Infact, in developed countries like the US, although there is no codified law on sexual harassment or workplace harassment, based on case law that prohibit workplace discrimination, there is vicarious liability cast upon the employer in certain cases.
- Considering that India has a diverse set of religions, cultures, castes, languages, etc. the government also needs to start focusing on providing protection for some of the other forms of harassment, which is fairly common in several of the developed countries.

Conclusion

India is rapidly advancing in its developmental goals and more and more women are joining the work force. It is the duty of the state to provide for the well-being and respect of its citizens to prevent frustration, low self esteem, insecurity and emotional disturbance, which, in turn, could affect business efficacy, leading to loss of production and loss of reputation for the organization or the employer. In fact, the recognition of the right to protection against sexual harassment is an intrinsic component of the protection of the women's human rights. It is all a step towards providing women independence, equality of opportunity and the right at work with dignity.

In India, gender notions combined with cultural particularities complicate resistance to the problem. For instance issues surrounding sexuality are largely taboo and result in denial of problem and silencing victims. Often cultural pride contributes to the dismissal of sexual harassment as a phenomenon particular to westernized and urban work environments, and by

implications, alien to India. All the semi conceptions, explicitly or implicitly, influence the recognition of the wrong, of addressing or attacking the problem.

Legal recourse, however, comes with its risk and limitations. Its outreach and enforcement in the context of poverty, illiteracy and unorganized labour in many parts of the India is a challenge for post colonial legal systems which is distant and inaccessible to the poor generally, and women at particular. In case of women's issues, the law, more often than not, reproduces and reinforces dominant gender stereotypes of the 'good' and 'bad' woman, shifting scrutiny upon the victim, her behavior, morality, dress and so on, rather than the harasser, the workplace code of conduct, and employer responsibility. It further causes harassment of the harassed/ victim.

These contested issues and barriers highlight the limited nature of relief that law provides. The crafting of comprehensive law like the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 itself would offer a normative respite but one must remain mindful of public education and training inputs that would help the gendered interpretation and implementation of the law. It serves to emphasize that law cannot play a central role in addressing women's discrimination issues and that other intervention through policy, programmes and public education at the family, community and institutional levels are equally important, as is the participation of all these sectors in such initiatives. Much has been done, but much more has to be done in this regard.