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Sexual harassment of women in India at workplaces: Strategies for preventing it

Abstract:

Today's world is accustomed to the term sexual harassment. Sexual harassment can be identified as behavior. It can in general terms be defined as an unwelcome behavior of sexual nature. Sexual harassment at workplace is a universal problem in the world whether it be a developed nation or a developing nation or an underdeveloped nation, atrocities and cruelties against women is common everywhere. It is a problem giving negative effect on both men and women. It is seen to be happening more with women gender as they are considered to be the most vulnerable section of the society these days. Every second and every minute, they are being harassed. Especially women in India are considered as the second grade citizens. They are violated, exploited, subjugated and harassed mostly at workplaces. Sexual harassment therefore is a serious problem in the workplace and it has become one of those issues that receive a lot of negative attention. The study analyzes the sexual harassment of women in general and in India in particular. The study also enhances the strategies for the protection of women from sexual harassment at the workplaces.

Keywords: women, sexual harassment, sexual harassment at workplaces and strategies.

Introduction:-

Although women constitute half of the world population, but still they have always been subjected to various injustices. Even though women perform two third of world's work, yet they receive only one tenth of the income and own less than one hundredth of the property. A significant percentage of world's population is constantly subjected to crimes, such as torture, eve teasing, molestation, rape, female feticide and the sexual harassment of women at the workplaces. Sexual harassment in any form is an unacceptable behavior and will not be tolerated. It is a demeaning, degrading and illegal act. It affects an individual self esteem and can have a negative impact on individual work or academic performance.

Sexual harassment at work place is a form of systematized violence against women. Most of the working women at sometime or the other faces this kind of violence from their colleagues, bosses or employers. Though sexual harassment at work place is an age-old problem, women have been left to deal with it on their own or sometimes with the support of women's organizations. Increasing participation of women in all fields of work, changes in social attitudes towards women have not shown much progress. There have been no effective legal

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measures to counter it. But there are some strategies and also some constitutional provisions to reduce the risk of sexual harassment of women at the workplaces.

Objectives:-

1. To explore the sexual harassment of women at the workplaces in general and in India particular.
2. To enlighten the causes and consequences of the sexual harassment of women at the workplaces.
3. To analyze the strategies and the role of constitution on sexual harassment of women.

Methodology:-

The study is mainly based on secondary sources. The main sources of data are the research work, research journals and websites etc.

Sexual harassment:-

Sexual harassment is unwelcome sexual behavior that's offensive, humiliating or intimidating. It can be written, verbal or physical, and can happen in person or online. Both men and women can be the victims of sexual harassment. When it happens at work, school or unit, it may amount to sex discrimination.

Sexual harassment includes these things:

1. Touching, grabbing or making other physical contact with you without your consent
2. Making comments to you that have a sexual meaning
3. Asking you for sex or sexual favors
4. Leering and staring at you
5. Displaying rude and offensive material so that you or others can see it
6. Making sexual gestures or suggestive body movements towards you
7. Cracking sexual jokes and comments around or to you
8. Questioning you about your sex life
9. Insulting you with sexual comments
10. Committing a criminal offence against you, such as making an obscene phone call, indecently exposing themselves or sexually assaulting you.

Types of Sexual Harassment

Generally speaking, there are two types of sexual harassment, “quid pro quo” and hostile environment.

Quid pro quo (meaning “this for that”) sexual harassment occurs when it is stated or implied that an academic or employment decision about a student or employee depends upon whether the student or employee submits to [conduct of a sexual nature](#). Quid pro quo sexual harassment also occurs when it is stated or implied that an individual must submit to conduct of a Sexual nature in order to participate in a [University program or activity](#). So, for example, if an employee is made to believe that a promotion is likely if the employee goes on a date with the employee's supervisor, the employee is possibly being subjected to “quid pro quo” sexual harassment.

Hostile environment sexual harassment occurs when unwelcome conduct of a sexual nature creates an intimidating, threatening or abusive working or learning environment or is so severe, persistent or pervasive that it affects a person's ability to participate in or benefit from a University program or activity. While a person engaging in harassing behavior most often has some form of power or authority over the person being harassed, that is not always the case. The harasser can be a peer of the person being harassed. Sometimes the harasser is harassing a person who has power over them.

Causes of Sexual Harassment

The reasons behind what has been called "son mania" are both multifaceted and deeply imbedded in Indian culture. They are also against daughters. A son's birth is likened to "a sunrise in the abode of gods" and "to have a son is as essential as taking food at least once a day," whereas a daughter's birth is cause for great sadness and disappointment. "Indian society is patrilineal, patriarchal and patrilocal. Sons carry on the family name. They are also entrusted with the task of supporting their parents in old age. Parents live as extended families with their sons, daughters-in-laws, and grandchildren. Daughters, on the other hand, become part of their husband's family after marriage and do not make any further contributions to their parents. Indian sayings such as, "Bringing up a girl is like watering a neighbor's plant", exemplify the feeling of wasted expenditure on raising a daughter. Indian men are responsible for the funeral rites of their parents and are the only ones who can light the funeral pyre. Some feel that they will only be able to achieve moksha, through their sons. The importance of having sons continues beyond mortal life in Indian tradition. Thus this discriminative attitude is responsible for violence against women.

Social and Cultural Factors:-

Patriarchal structure was culturally designed and gender behavior is socially constructed. Sex-roles are cultural directives. It is the cultural system in terms of its social values, norms, customs and institutional arrangements, which directly affects women. Patterned regularity of role relations including gender relations comes to comprise social structure. The socially established pattern of thought provides a basic reality knit with the cognitive and normative tools to build a coherent universe to live in. Traditionally specific vested interests of the male were legitimated by such taken-for-granted patterns, which enabled them to shape the social structure to their advantage. The dominant ideologies of dominant sex were accepted as social reality. Patriarchy came to dominate and began to determine what part women shall and shall not play.

Culture includes learned patterns of behavior, socially acquired traditions, repetitive ways of thinking and acting, attitudes, values and morals. Cultural programming specifies rules for acquiring and transferring information. It standardizes perceptions. It also defines attitudes for intra-group relationships and for dealing with nonmembers. And it sets the institutional parameters that conditions human behavior and stabilizes social system.

Culture of the society casts profound impact on gender roles as they are learnt through observation, initiation, reinforcement, social participation, modeling and

conditioning. A female child observes her mother and imitates her impulsively. She is rewarded for her 'appropriate' and punished for inappropriate behavior and thus she is conditioned to acquire attitudes and habits of feminine ways of behaving. Thus, "The cultural refinement of any society is vastly determined by the status that a woman enjoys in it"

In a patriarchal civilization, every institution which is expected to uphold and protect women's rights and interests, whom they took hopefully for their well being, operates in discriminatory and very often in oppressive fashion. These institutions are the family, society, culture, and religion. Indian society is based on the family unit and larger kinship grouping. Most women are directly dependent upon their men folk for support and dare not risk alienating them. They are guided by traditional concepts of proper feminine behavior and aware that their actions are inextricably linked to family honour, prestige and ultimately material rewards. Women typically carry out their roles as chaste daughters and dutiful wives. These time-honoured roles require women of much self-sacrifice.

Being weaker in terms of physical force, a woman can be subjected to physical and sexual assault of man. In India, the vulnerability of the girl to sexual assault and harassment results in a number of restrictions on her in both the space and time dimension. Violence against women has its origin in the historically unequal power relations between men and women. The skewed power relations in which men have an upper hand almost invariably, lead them to dominate over their counterparts, commit violence against them throughout their life cycle, derives essentially from cultural patterns, in particular the disastrous effects of certain traditional practices and all acts perpetuate the lower status accorded to them in the family, at work place or in the community or society women.

Economic Inequality:-

Economic inequality between men and women is a contributory factor to violence against women. In our society, majority of women being economically inactive, are dependent upon their husbands for financial support in whatsoever manner they are treated. It is observed that more women are beaten by their husbands because of their economic dependency than they are hurt in other ways. In our economic system men control the whole economic institutions, own most property, direct economic activity, both within and outside family, and also determine the nature of different productive activities. In contrast, most household work done by women is neither recognized nor paid for. If their productive activities are hired by private employer or contractors, they are poorly paid. Most of the women who have paid work tend to be concentrated in the poor service jobs men are located typically in an immediate supervisory and physically proximate position that provides them an opportunity to exploit their subordinate women both physically and sexually.

Illiteracy and Poverty:-

Low social status of illiterate women and poverty makes them more vulnerable to all sorts of discrimination and exploitation. It aggravates and prolongs their dependence and subordination by cutting them off from participation in change. Illiteracy is the main reason for economic dependency of women.

Evolution of Concept of Sexual Harassment in India:-

In Indian criminal law, sexual harassment of women has not been enunciated as a juridical category of crime. It was only in 1997 that, in the realm of juridical interpretation, sexual harassment of working women was named and defined.

This does not imply that there are no related laws in the Indian Penal Code that may be evoked when a woman is sexually harassed. However, related laws are framed as offences that either amount to obscenity in public or act that are seen to violate the modesty of women under sections 294, 354 and 509 of IPC. An analysis of the crime in India reports reveals that up to 1991 the classification of offences such as murder, homicide and cheating did not document specific crimes against women apart from rape and kidnapping. The laws related to sexual harassment, sections 354 and 509 were subsumed under the category of 'other IPC crimes'. Hence the statistics were not produced separately in the absence of such a classificatory grid, there by indicating that harassment of women was not yet viewed as a serious crime.

In 1992, however, a chapter on 'Crimes against Women' was added to the Crime in India report to cope with the continuous demand for data on the burning issue of crimes against women. The report further stated: crimes against women have become a matter of growing concern. We are in the process of recognizing women's rights increasingly and ensuring their due status. The evidence is everywhere. The voices of women are increasingly being heard in the parliament and in the public. Thus in 1992 the semantic category of crimes against women was coined and a new set of classificatory practices operationalised to generate data to cope with the demands thrown up by challenges from the women's status discourses. This shift was significant in that it distinguished general criminality from crimes specifically against women that violate their rights. This new category was now to act as an index of the status of women.

The report listed the following crimes against women as enunciated in the IPC. Rape (376 IPC): kidnapping or abduction for different purposes (363-373) homicide for dowry, dowry deaths or their Attempts (302/304-B. IPC) torture, both mental and physical (498.A IPC): molestation (354, IPC): and eve teasing (509.IPC). The report classified 354 as molestation and section 509 as eve teasing. Molestation then was read against those offences that use force or assault to outrage the modesty of women. Eve teasing was recognized as a popular form of harassment of women in public places. 1994 Crimes in India Report continued to classify 354 as molestation, it categorized 354 as molestation, and it categorized section 509 as sexual harassment. It is significant that this category was foot noted to explicitly say: 'referred in the past as eve teasing.' Thus the social contestations are read into the legal categories making eve teasing a matter of the past (see table). Table make

Year	Molestation section-354	Eve teasing/ sexual harassment section-509
1991	20,611	10,283
1992	20,385	10,751
1993	20,985	12,009
1994	24,117	10,496
1995	28,475	4,756
1996	28,939	5,671
1997	30,764	5,796
1998	30,959	8,034
1999	32,311	8,858

Source: crime in India, Ncrb, 1995, 1999.

This semantic shift is significant in its acknowledgment of the contestation over women's presence in public spaces and the discourse on women's status. The replacement of eve teasing with sexual harassment marks a discursive break with the past. Sexual harassment at workplace is a widespread problem in the world whether it be a developed nation or a developing nation or an underdeveloped nation, atrocities against women is common everywhere. It is a universal problem giving negative impact on both men and women. It is happening more with women gender in particular. How much ever one try to protect, prohibit, prevent and give remedies such violation will always take place. It is a crime against women, who are considered to be the most vulnerable section of the society. That is why they have to suffer all these immunes starting from female feticide, human trafficking, stalking, sexual abuse, sexual harassment, to the most heinous crime Rape. It is unlawful to harass a person (an applicant or an employee) because of that person's sex. There have been efforts from both national and international level: like the Indian constitution framed various laws for the protection of women from the sexual harassment at the work places

Indian constitution on sexual harassment:-

Sexual harassment clearly violates the fundamental rights of a women to equality under Article 14[2] and article 15[3], her right to life under Article 21[4], and her right to practice any profession and carry on any occupation, trade or business [5], which includes a Right to safe environment freedom sexual harassment. IPC on Sexual Harassment-In 2013, substantial changes were made in the way sexual harassment was viewed within the criminal justice system in India. The Criminal Law Amendment Act of 2013, which commenced on April 3, 2013, included Section 354A of the Indian Penal Code, 1860 that defined sexual harassment. The India Penal Code, 1860 has also defined the term sexual harassment and related offences and put forth punishments for the same: Section 354 A- Sexual harassment is: unwelcome physical contact and advances, including unwanted and explicit sexual overtures, a demand or request for sexual favors, showing someone sexual images (pornography) without their consent, and making un welcome sexual remarks Punishment: Up to three years in prison, and a fine. Section 354B- Forcing a woman to undress. Punishment: From three to seven years in prison, and a fine Section 354C- Watching or capturing images of a woman without her consent (voyeurism). Punishment: First conviction – one to three years in prison

and a fine. More than conviction—three to seven years in prison and a fine. Section 354 D- Following a woman and contacting her or trying to contact her despite her saying she does not want contact. Monitoring a woman using the internet or any other form of electronic communication (stalking) Punishment: First conviction – up to three years in prison and a fine. More than one conviction—up to five years in prison and a fine. The same definition is given in the law enacted specifically for Sexual Harassment of Women at Workplace (Prevention Prohibition and Redressal) Act 2013.

Pre-Vishaka Scenario-Before the Vishaka guidelines came into picture, the women had to take matter of Sexual Harassment at Workplace through lodging a complaint under Sec 354 and 509 of IPC. Sexual Harassment as we know has become a global problem which is a kind of violence against women. International community has recognized in their International treaties and documents, the protection from Sexual Harassment as a human rights of women. All the legal instruments dealing with this matter have been laid down to protect life and liberty and these instruments have been used as a means to curb and address this issue. In India until the Vishaka's judgment was given out, there was no law to govern this matter and the guidelines which came as an outcome of this case were derived from the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW). The Indian Constitution had grounded provisions in the form of fundamental rights. Vishaka and Others V. State of Rajasthan- In the case of [Vishaka and Ors v. State of Rajasthan and Ors](#) [6], the Hon'ble Supreme Court has laid down guidelines And norms to be observed to prevent sexual harassment of working women.

Strategies:

Apart from this, there are a number of strategies that you can take to reduce the risk of Sexual harassment of women at the workplaces.

The following are the steps to protect yourself from being sexually harassed:

1. Be informed about the definition of sexual harassment.
2. be knowledgeable about institutional policies regarding sexual harassment.
3. Take an active role in fostering a work environment free from sexual harassment.
4. Attend sexual harassment prevention courses or training.
5. Report the harassment to your supervisor immediately or to a higher authority if your supervisor is the harasser. Consult with your human resources office and government agency if necessary. Never be afraid to report a comment, action, or gesture by somebody that made you feel uncomfortable.
6. If possible, speak with the individual directly and inform him or her that you feel the behavior is inappropriate.
7. Seek support from family members, friends, colleagues, or your state nurses' association.
8. Document the harassment in writing as soon as possible.

Conclusion:-

The study concludes that, In India, women are entering the work force in unprecedented numbers in the recent time. In the light of this development, there is a pressing need for the rights of women to be respected, protected and fulfilled, particularly in the workplace. The “right to work” encompasses the right to work, free from sexual harassment. Sexual harassment at work place is a multidimensional problem. The issue of sexual harassment at work place extends far beyond individual woman and her happiness to, work force productivity, economic development, social and family relations and much more. The problem needs the multidimensional solution too. In spite of Supreme Court guidelines, voluntary organizations reports, statutory commission’s reports and commissions advice, the legislature has not done much to curb the sexual harassment at work place and to protect women against sexual harassment at workplace. “It is impossible to think about the welfare of the society unless the condition of women is improved. It is impossible for a bird to fly on only one wing”. Since law is an effective weapon for bringing about justice and the constitution has been devised so as to achieve this objective, Parliament can enact a comprehensive law to prevent sexual harassment of women at work place incorporating the Supreme Court guidelines. Law alone is not enough to root out this social evil. A holistic approach and social movement are also necessary to solve this problem. Society has to change its attitude so women can come out and participate in public life without feeling threatened. What needs to be inculcated is a sense of mutual respect between men and women. The task of the protection of women against sexual harassment and promotion of safe work place are complex and requires the co-operation of all sections of the society, legislature, judiciary, lawyers, NGOs, Public Servants, organizations, teachers, police, media persons and others.

References:-

Sheetal (12529), online legal service India, Law Layers And legal Resources, *Protection of women from sexual harassment at work place*, pp 1-2

Rajni, K.Rajni (2005), *Sexual Harassment of women at work places a socio legal study*, pp4-8.

Desai, Netash (2018), *India's Law on Prevention of Sexual Harassment at the Workplace*, pp34

Saghal Punam, Dang Aastha (2017) Economic and Political weekly, *Sexual Harassment at Workplace Experiences of Women Managers and Organizations* pp 49-51

<https://au.reachout.com/articles/what-is-sexual-harassment>

www.legalservicesindia.com