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SEXUAL HARASSMENT OF WOMEN AT WORKPLACE WITH SPECIAL REFERENCE TO EDUCATIONAL INSTITUTIONS OF SAMBALPUR DISTRICT: A CRITICAL ANALYSIS

By Nirja Agrawal

Abstract

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, asserted rights of women to a safe working environment. However, it was observed that there was severe non-compliance of the Act in most of the workplaces particularly in the educational institutions. Even after the University Grant Commission (Prevention, Prohibition and Redressal of Sexual harassment of women employees and students in higher educational institutions) Regulations 2015, employers failed to comply it. Need for present research therefore came from the poor implementation of the Act in the educational institutions. Objective of the research was to understand the nature of implementation of the Act across the educational institutions of the Sambalpur District of Odisha. Data collection was done by using questionnaire. RTI was also used as an instrument of collecting data from the institutions about the implementation the Act.

Key words

Sexual harassment, Educational Institutions, Internal Complaint Committee, Implementation of Act, Sambalpur District

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Introduction

Sexual Harassment is one of the evils of modern society which is deeply rooted in society. This evil is taking place in every workplace starting from schools, colleges, and universities to offices of work.

In India, as per the National Crime Record Bureau, the cases of Sexual harassment of women at the workplace show a declining trend. Despite the decreasing trend in India, the problem of sexual harassment is still showing an increasing trend in Odisha. A study on this evil particularly in Odisha is not being done.

To cover entire workplaces of Odisha in single research is quite difficult for the Researcher, so the Researcher has decided to study the phenomena of sexual harassment in the educational institutions of Sambalpur District in the Western part of the State of Odisha as there is a need to check these crimes at the grass root level so that after completing the education a person may not indulge in such types of crime in their job life.

The present study adopted the descriptive survey design to investigate what constitutes sexual harassment among selected university/college students in Sambalpur District, Odisha. Specifically the study was conducted using a total of hundred respondents, randomly selected from the students of Sambalpur University (hereinafter called SUNIV), Gangadhar Meher University (hereinafter called GMU), Veer Surendra Sai University of Technology (hereinafter called VSSUT) and Veer Surendra Sai Institute of Medical Sciences and Research (hereinafter called VIMSAR), all are situated in Sambalpur District. The sample consisted of 60 students, 20 teaching staffs and 20 non-teaching staffs. Simple Random Technique is used.

The researcher had used various sources to collect data like Library, Internet, Newspaper, Journals, Articles, Right To information (hereinafter called RTI) mechanism, etc. The primary data collected from questionnaire distributed among 100 working women including students, teaching staff and non- teaching staffs. Data was also collected through RTI mechanism. The researcher filed RTI in the four educational institution of Sambalpur District, namely, SUNIV,

VSSUT, GMU, VIMSAR. The data received through RTI was used in this paper. The researcher also appealed to the first appellate authority.

The secondary data was collected from different Government reports and Acts. So far as secondary sources are concerned they were accumulated from number of research papers, articles and books. This study was conducted as a qualitative literature review, to explore the existing research found on sexual harassment towards teaching staffs, non-teaching staffs and students.

The study is confined to Educational institutions of Sambalpur District. Thus the results of the study are applicable only to similar kind of situation analysis. Further research can be carried out in other institutions of Odisha as well as in any other state.

The researcher to find possible solutions to the problem has gone through various legal frameworks and works of literature. Further to address the research problem effectively the researcher carries out some objectives which are as follows:

- To study the various factors responsible for sexual harassment of women at workplace.
- To study and analyze the effects of sexual harassment on the victim, the harasser and the institution.
- To find out possible solutions for problems faced by working women and to suggest remedial measures to curb workplace sexual harassment.
- To create awareness among the stakeholders of the society about the importance of laws pertaining to sexual harassment of women at workplace.

Looking at the present scenario of the rising cases of sexual harassment in Odisha the Researcher carried out the research to answer the following research questions:

- i. To check whether the Sexual Harassment of Women at the Workplace (Prevention, Prohibition and Redressal) Act, 2013 is effectively implemented in the educational institution of Sambalpur District.
- ii. To study whether social and economic factors play any role in sexual harassment of women at workplace.

To answer the above questions the researcher in the next segment will discuss the present legal framework related to sexual harassment, judicial pronouncements, data related to educational institutions of Sambalpur District has been collected and analyzed followed by conclusion and suggestions.

Legal framework

International position:

The need to recognise and address the problem of sexual harassment of women at the work place is an obligation of the Government of India under International law. This segment discusses the international conventions, instruments and reports that directly address or are relevant to sexual harassment in the workplace. At the International level various efforts under the auspices of the United Nations have been made to eliminate sex based discrimination and exploitation¹.

The preamble of the Sexual Harassment Act recognises India's commitment to protect two universal human rights- protection against sexual harassment and the right to work with dignity². This obligation stems from India's ratification of the Convention on the Elimination of All Forms of Discrimination Against Women, (hereinafter called CEDAW) in 1993³. CEDAW is the leading international document that binds state parties (countries who ratify the document) to prevent and prohibit sexual harassment of woman at workplace. It came into force in the year 1981. It does not categorically mentioned about the violence against women or sexual harassment. However, it does prohibit any kind of discrimination in employment and also guarantees the right to protection of health and safety in working conditions⁴.

Apart from CEDAW, the Beijing Declaration of the Fourth World Conference on Women, 1995⁵, ("Beijing Declaration") recognises sexual harassment of women at the workplace as an affront to a worker's dignity. It requires governments to legislate against sexual

¹Nanda Sukanta , Law Relating to Women & Children, First Edition 2004, Orissa Law Reviews Publications, Cuttack, P. 136.

² Paragraph 2, the Sexual Harassment Act.

³ CEDAW, Available at <http://www.un.org/womenwatch/daw/cedaw/>Last Accessed on 19th June, 2022, 11:29am.

⁴ Article 11(1)(f) of the Convention on the Elimination of all forms of Discrimination Against women (CEDAW).

⁵ Section 161, Fourth World Conference on Women, Beijing Declaration, Available at <http://www.un.org/womenwatch/daw/beijing/platform/declar.htm> Last Accessed at 19th June, 2022, 11:42am.

harassment of women at the workplace. Further, the Beijing Declaration requires the private sector and all other forms of employers to prevent and prohibit sexual harassment of women at the workplace.⁶ Though India is not a party to it, the Beijing Declaration indicates that internationally, the need to fight sexual harassment of women at the workplace is now a well-known and accepted concept.

Sexual harassment is violation human rights. Although in the International Bill of Human Rights, which consists of the Universal Declaration of Human Rights (hereinafter called UDHR), the International Covenant on Civil and Political Rights (hereinafter called ICCPR), and the International Covenant on Economic, Social and Cultural Rights (hereinafter called ICESCR), the word sexual harassment has not been explicitly mentioned, but it does contain provisions that apply to sexually harassing conduct.

Sexual harassment is a form of discrimination that violates the right to equality. The International Bill of Human Rights protects rights "without discrimination of any kind as to race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." Sexual harassment also violates the right to "just and favorable conditions of work." In addition, the failure to provide an effective remedy to the sexual harassment victims violates the right to constitutional remedy for the violation of fundamental human rights.

Article 7 of ICESCR, 1996 recognises women's right to fair conditions of work⁷ which reflects that women shall not be subjected to sexual harassment at the place of work which may vitiate the working environment⁸.

There are various other international documents and organisations that also recognise the need to prevent and prohibit sexual harassment of women at the workplace.

National position:

As we can see, sexual harassment of women at the workplace is now a globally recognised problem and the prohibition against it is almost universal in nature. Let us now take a

⁶ Section 178, the Beijing Declaration.

⁷ Available at <http://hrlibrary.umn.edu/edumat/hreduseries/tb1b/Section3/covenant.html> Last Accessed on 17th June, 12:05pm, 2022.

⁸ As Reported in Apparel Export v. A.K. Chopra, AIR 1999 SC 625 at P. 634.

look at the development of the legal framework that governs the prohibition of sexual harassment in India.

In the beginning the courts treated sexual harassment as either a criminal violation such as assault or as a civil violation such as violation of privacy. The legal framework that governs the prohibition of sexual harassment in India are as follows:

Indian Constitution:

Earlier there were no specific laws in India to deal with the matter of sexual harassment. Therefore, in the absence of any such law, various provisions of the Constitution are interpreted while dealing with sexual harassment cases. In the instances of sexual harassment, it is treated that each such incident results in violation of the Right to equality and the Right to life and personal liberty. As such it is a clear violation of the Article 14, 15 and 21 of the Constitution. Apart from this, Articles 19(1) (g), 42 and 51A (e) are also coming to the rescue of women in such instances. Above all recourse to the Supreme Court can be taken under Article 32 and to the High Court under Article 226 by anyone who has experienced sexual harassment.

Indian Penal Code 1860:

Besides constitutional provisions, on the legislative front, in most instances, Section 354 and 509 of the Indian Penal Code are being relied upon.

There are provisions under sections 509, 294, 354 and 354A of the Indian Penal Code for dealing with sexual harassment.

Section 354 of the Indian Penal Code provides “whoever assaults or uses criminal force to any woman intending to outrage or knowing it to be likely that he shall thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to 2 years or fine or with both.

Proving the guilt u/s 354 IPC:

A prosecution for sexual harassment u/s 354 IPC requires two factors to be proved.

- (i) that the accused or used criminal force to a woman.

(ii) that such assault was with an intention or knowledge that it may or is likely to outrage the modesty of the woman. Mere proof of assault is not enough and the intention must be proved which is to outrage the modesty of a woman⁹. An offence of indecent assault on a woman cannot be complete unless there is the intention or the knowledge that the woman's modesty will be outraged¹⁰.

The criminal law amendment Act, 2013 has introduced Section 354 A in the Indian Penal Code, 1860 which defines sexual harassment and prescribes penalty and punishments for such offence.

Section 354-A of the Indian Penal Code provides- (1) A man committing any of the following acts-

- (i) physical contact and advances involving unwelcome and explicit sexual overtures; or
- (ii) a demand or request for sexual favours; or
- (iii) showing pornography against the will of a woman; or
- (iv) making sexually coloured remarks; shall be guilty of the offence of sexual harassment.

(2) Any man who commits the offence specified in clause (i) or clause (ii) or clause (iii) of subsection 1 shall be punished with rigorous imprisonment for a term which may extend to three years, or with fine, or with both¹¹.

(3) Any man who commits the offence specified in clause (iv) of sub-section (1) shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Section 509 makes intention to insult the modesty of a woman the essential ingredient of the offence. If a man intending to outrage the modesty of a woman exposes his person indecently to her or uses obscene drawing, he commits this offence.¹²

9 Ramdas v. State of MP.P., 1982 Cr. L.R.

10 AIR 1928 Pat. 326.

11 Ratanlal&Dhirajlal, The Indian Penal Code, 35th Edition 2017, LexisNexis, Gurgaon, Haryana, P.833.

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

The Supreme Court of India vide its judgment in 1997 (known as the Vishaka Guidelines), which was in response to a writ petition. “Vishaka and others vs. State of Rajasthan”, brought the first ever comprehensive judgment to address sexual harassment at workplace. It was decreed that these Supreme Court directives would have the effect of law, till a specific legislation is enacted.

On 23rd April 2013, the legislature finally brought into force a comprehensive legislation dealing with the protection of women against sexual harassment at workplace by enacting “The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013”.

The Act recognises that sexual harassment results in the violation of a woman’s fundamental right to equality under Articles 14, 15 and 21 of the Constitution. It hold employer responsible to provide protection against sexual harassment of women at workplace. It also requires them to provide employees with procedures for the resolution, settlement or prosecution of acts of sexual harassment by taking all required steps.

University Grant Commission (Prevention, Prohibition and Redressal of Sexual harassment of women employees and students in higher educational institutions) Regulations, 2015(published in the Gazette of India dated 2nd, May, 2016):

University Grant Commission has notified on 5th July, 2016 University Grant Commission (Prevention, Prohibition and Redressal of Sexual harassment of women employees and students in higher educational institutions) Regulations, 2015 in the Gazette of India which are available on UGC website i.e., www.ugc.ac.in. These regulations clearly describes responsibilities of the higher educational institutions, grievance redressal mechanism, process for making complaint and conducting Inquiry, Interim redressal, punishment and compensation, consequences of noncompliance etc. UGC Regulations being statutory in nature are binding for Universities and Colleges.¹³

12 Chawla Dr. Monica, Women and Protective Laws, Edition 2013, Regal Publications, New Delhi, P.108.

13 Available at [https://www.ugc.ac.in/pdfnews/1984034_UGC-letter-Rajpatra0001-\(2\).pdf](https://www.ugc.ac.in/pdfnews/1984034_UGC-letter-Rajpatra0001-(2).pdf) Last accessed on 13th Mar, 2022, 4:08pm.

After discussing all the laws related to sexual harassment in India it is observed that laws are adequate to protect the dignity of women. Starting from India Penal Code 1860 to Sexual Harassment Act 2013 there are provisions for sexual harassment of women, so no doubt law is there for the protection of women but problem lies with the implementation of such laws. Judiciary has also intervene time to time to implement these laws so, in the next part the researcher will discuss the judicial interventions.

Judicial pronouncements

In this segment, the researcher has studied certain case laws in the pursuance of this research. These cases are discussed below in details.

In *Rupan Deol Bajaj v. Kanvar Pal Singh Gill*¹⁴ case, Mrs. Rupan Deol Bajaj, an I.A.S. Officer lodged a complaint against Mr. K.P.S Gill, the Director-General of Police alleging commission of offences under sections 341, 342, 352, 354 and 509, IPC. Treating that complaint as the First Information Report (FIR) a case was registered and investigation was taken up. Her husband, senior IAS officer of PB Cadre, lodged complaint in the Court of CJM for same offences, alleging that respondent being high ranking Police Officer, Police neither arrested him nor conducted investigation in fair and impartial manner, in connection with case registered by police on his wife's complaint. He filed complaint apprehending that Police would conclude investigation by treating the case as untraced. In the meantime respondent accused approached the High Court by filing petition under section 482 Cr.PC. for quashing of FIR and complaint. This was allowed by the High Court and FIR and Complaint were quashed. Then the matter went to Supreme Court. A two-judge bench of Supreme Court namely A.S. Anand and M.K. Mukherjee, JJ. on 12th October 1995 held that if allegations made are so absurd and inherently improbable that no prudent person can ever reach a just conclusion, that there is sufficient ground for proceeding against accused. FIR or complaint may be quashed. Chief Judicial Magistrate (hereinafter called CJM) directed to take cognizance upon police report in respect of offences under sections 354, 409 IPC and try the case himself in accordance with law. CJM convicted Gill and sentenced to three months rigorous imprisonment for “outraging the modesty

¹⁴AIR 1996 SC 309:1996Cri.LJ. 381.

Available at <https://indiankanoon.org/doc/579822/> Last accessed on 13th Mar, 2022, 7:33pm

of women” and two months rigorous imprisonment for engaging in speech and gestures intended to “insult the modesty of a woman”. Both the sentences will run concurrently.

An Appeal was filed before the Session Court and the court upheld the judgment but modified the sentence and directs him to enter into a bond for Rs. 20,000 and would remain on probation as an alternative to serving a sentence of imprisonment. Gill appealed to the High Court. The Punjab and Haryana High Court also confirmed the Conviction of Gill, but further modified the conditions imposed by the Session Court. Then the appeal was filed before the Supreme Court. On 27th July 2005, the Supreme Court confirmed the conviction of K.P.S. Gill for slapping Mrs. Rupan Deol Bajaj on the bottom at a party in 1988. Final judgment was delivered by Justices Balakrishnan and Srikrishna. The High court’s decision stood. It took 17 years and 9 days to get justice for senior civil servant. If this is the situation of higher official then what will be the situation of common man? How long it will take to get justice for common man?

Next in the landmark case of Vishakha v State Of Rajasthan¹⁵, a Writ Petition (hereinafter called WP) in the Supreme Court filed by social activists and NGOs for enforcement of Fundamental Rights of working women under Article 14, 19 and 21 of Constitution in view of prevailing climate in which violation of these rights is not uncommon. In this case a social worker Bhanwari Devi who raised her voice against a child marriage was gang raped by five men and this is the immediate cause for filing of WP by a women’s rights group known as “Vishaka”. A three-judge bench of Supreme Court namely J.S. Verma, C.J. and Mrs. Sujata V. Manohar and B.N. Kirpal, JJ on 13th August, 1997 gives the following judgement:

Sexual harassment of women at workplace results in violation of Fundamental Rights of 'Gender Equality' and 'Right to Life and Liberty of victim. It is clear violation of rights under Articles 14, 15, 19(1)(g) and 21 of Constitution and attract remedy under Article 32 of Constitution for enforcement of these Fundamental Rights of working women. All employers or persons in charge of work place, whether in public or private sector should take appropriate steps to prevent sexual harassment. Express prohibition of sexual harassment should be notified, published and

¹⁵ AIR 1997 SC 3011; 1997 (5) SCALE 453; (1997) 6 SCC 241; (1997) Supp 3 SCR 404 Available at <https://indiankanoon.org/doc/1031794/> Last accessed on 18th Mar, 2022, 10:45 am.

circulated in appropriate ways. Appropriate work condition should be provided in respect of work, leisure, health and hygiene to ensure no hostile environment towards women at workplaces. Employees should be allowed to raise issues of sexual harassment at workers meeting and in other appropriate forum. Appropriate criminal proceedings or disciplinary action should be initiated by employer where conduct amounts to offence under IPC or any other law or misconduct in employment.

In the absence of enacted law, certain guidelines and norms specified are laid down for due observance at all work places or other institutions, until a legislation is enacted for the purpose. This is done in exercise of the power available under article 32 of the Constitution and this would be treated as the law declared by the Supreme Court under article 141 of the Constitution.

It is mandatory for employers or other responsible persons in work places and other institutions to observe certain guidelines to ensure the prevention of sexual harassment of women:

- i. Duty of the Employer as well as other responsible persons in work places or other institutions:

It is the duty of the employer or other responsible persons 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 in work places or other institutions.

- ii. Definition of sexual harassment

“Sexual harassment includes such unwelcome physical sexually determined behavior (whether directly or by implication) as:-

- (a) Physical contact and advances; or
- (b) a demand or request for sexual favors; or
- (c) sexually colored remarks;
- (d) showing pornography
- (e) any other unwelcome physical, verbal or non-verbal conduct of sexual nature.”

Where any of the act is committed in circumstances where under the victim of such act has a reasonable apprehension that in relation to the victim's employment or work, whether in Government, public or private enterprise such act can be humiliating and may constitute a health and safety problem. It is discriminatory. Adverse consequences might be visited if the victim does not consent to the conduct in question or raises any objection thereto.

iii. Preventive Steps:

All employers of work place whether in the public or private sector should take the following steps to prevent sexual harassment:

- (a) Express prohibition of sexual harassment as defined above at the workplace should be notified, published and circulated in appropriate ways.
- (b) The Rules/ Regulations of Government and Public Sector bodies relating to conduct and discipline should include rules/ regulations prohibiting sexual harassment and provide for appropriate penalties in such rules against the offender.
- (c) Private employers should include the aforesaid prohibitions in the Standing Orders under the Industrial Employment (Standing Orders) Act, 1946.
- (d) Appropriate work conditions should be provided in respect of work, leisure, health and hygiene to further ensure that there is no hostile environment towards women at work places.

iv. Criminal Proceedings:

Where such conduct amounts to a specific offence under the India Penal Code or under any other law, the employer shall take action against that conduct in accordance with law by making a complaint with the appropriate authority.

v. Disciplinary Action:

Where any act or conduct amounts to misconduct in employment, appropriate disciplinary action should be initiated by the employer in accordance with those rules.

vi. Complaint Mechanism:

An appropriate complaint mechanism should be created in the employer's organisation for redress of the complaint made by the victim. Such complaint mechanism should ensure time bound treatment of complaints.

vii. **Complaints Committee:**

The Complaints Committee should be headed by a woman and not less than half of its members should be women. Such Complaints Committee should involve a third party, either NGO or other body who is concerned with the issue of sexual harassment. The Complaint Committee must make an annual report which contains the number of cases reported, actions taken by them and status of the reported cases. The report shall be submitted to the Government department concerned.

The employers will also report on the compliance with the aforesaid guidelines including on the reports of the Complaints Committee to the Government department.

viii. **Worker's Initiative:**

All the employees should be allowed to raise issues of sexual harassment at workers' meeting and in other appropriate forum and it should be affirmatively discussed in Employer-Employee Meetings.

ix. **Awareness:**

Awareness of the rights of women employees in relation to sexual harassment cases should be created, in particular by notifying the guidelines and appropriate legislation in a suitable manner.

x. **Third Party Harassment:**

Where sexual harassment occurs as a result of an act or omission by any third party or stranger, the employer should take all necessary steps and assist the affected person in terms of support and preventive action.

- xi. The Central/ State Governments are requested to consider adopting suitable measures and legislation to ensure that the guidelines laid down by this order are also observed by the employers in Private Sector.

These guidelines shall not prejudice any rights available under the Protection of Human Rights Act, 1993.

And finally held that, sexual harassment of women at workplaces results in violation of the fundamental rights of 'Gender Equality' and the 'Right to Life and Liberty' of the victim. It is a clear violation of the rights under articles 14, 15, 19(1)(g) and 21 of the Constitution. Such violations attract the remedy under article 32 for the enforcement of these fundamental rights of working women.

Again in *Apparel Export Promotion Council v. A.K. Chopra*¹⁶ case, Respondent working as Private Secretary to appellant, Chairman of Apparel Export Promotion Council. Appellant alleged to have molested woman employee X of council, clerk cum typist. A two-judge bench of Supreme Court namely Dr. A.S. Anand and V.N. Khare, JJ on 20th January, 1999 held that each incident of sexual harassment at place of work results in violation of Fundamental Rights to gender equalities and right to life and personal liberty. Courts are required to examine broader probabilities of case and not get or swayed by insignificant discrepancies or narrow technicalities or dictionary meaning of expression "molestation", in a case involving charge of sexual harassment or attempt to sexually molest. Mere want of actual assault or touch by delinquent did not cease to be outrageous. It amounts to sexual harassment and court is not to normally interfere with either factual findings regarding guilt or with penalty or punishment imposed by departmental authorities.

In *Medha Kotwal Lele v. Union of India*¹⁷ case, A letter written by Dr. Medha Kotwal of Alochana (an NGO), highlighted a number of individual cases of sexual harassment, stating that the Vishaka guidelines were not being effectively implemented. Converting the letter into a writ petition the Supreme Court took cognizance and undertook monitoring the implementation of Vishaka guidelines across the country by directing all the state governments to file affidavits

¹⁶ AIR 1999 SC 625: 1999 AIR SCW 274: 1999 Lab IC 918

¹⁷ (2013) 1 SCC 297

stating the steps taken by them to implement Vishaka. This Public Interest Litigation raises the grievance that women continue to be victims of sexual harassment at workplace even after the directions issued by the Supreme Court in Vishaka v. State of Rajasthan¹⁸. A two-judge bench of Supreme Court namely K.S. Radha krishnan and Dipak Mishra, JJ on 19th October, 2012 held that the guidelines in Vishakha should not remain symbolic. Implementation has to be not only in form but substance and spirit to make available safe and secure environment to women at workplace in every aspect and enabling working women to work with dignity, decency and due respect. Until appropriate legislation on subject is in place further directions are necessary.

(i) States and Union Territories which have not yet carried out adequate and appropriate amendments in their respective Civil Services Conduct Rules, shall do so within 2 months by providing that report of complaints committee shall be deemed to be enquiry report in disciplinary action under such Civil Services Conduct Rules.

(ii) States and Union Territories which have not carried out amendments in Industrial Employment (Standing orders) rules shall carry out amendments on same lines.

(iii) States and Union Territories shall form adequate number of complaints committee to ensure they function at Taluk level, District level and State level. Complaints committee formed by state and Union Territories shall be headed by women and independent member be associated as far as possible.

(iv) BCI shall ensure that all bar associations in country and persons registered with State Bar Councils follow Vishakha guidelines. So also, MCI Council of Architecture, Institute of Chartered Accountants, Institute of Company Secretaries and other statutory institutions shall ensure that organisations, bodies, associations, investigations and persons registered/affiliated with them follow guidelines laid down by Vishakha Complaints of sexual harassment at any places referred, shall be dealt with by statutory bodies in accordance with Vishakha guidelines and guidelines in this order.

In Afshan Pracha v. Union of India¹⁹ case, the Supreme Court on 11th May, 2018 fixed a two-month deadline for all courts in the country to set up anti-sexual harassment committees to

¹⁸ (1997) 6 SCC 241.

¹⁹ WRIT PETITION(CRIMINAL) Diary No(s). 18239/2018

examine complaints of women facing sexual harassment at workplace. The Court requested all High Courts in the country to ensure that its order is complied with by all district courts.

The order was passed by a bench headed by Chief Justice of India (CJI) Dipak Misra while dealing with a petition filed by a woman lawyer alleging sexual harassment by her male colleagues at Tis Hazari courts. The bench, also comprising Justices AM Khawnwilkar and DY Chandrachud, requested Justice Gita Mittal, Acting Chief Justice of Delhi HC to constitute such committees in the Delhi HC and all district courts in the Capital.

The woman lawyer represented by senior advocate Indira Jaising claimed that during a protest at the Tis Hazari courts some lawyers had assaulted following which she filed a FIR. But soon cross-FIRs were registered against her by the accused lawyers. The bench directed the woman lawyer and the Bar leaders to amicably settle their disputes and directed that advocates from both sides should not be arrested in connection with the FIRs registered.

After discussing important judgments given by the Supreme Court of India, the researcher finds that judiciary is very much concerned about the cases of sexual harassment of women at workplace and held that these cases violates the fundamental rights under Article 14, 15 and 19 of Constitution of India. In the next segment, researcher analyzed the collected data from various sources.

Data analysis

In the previous segment, judicial pronouncements have discussed. This segment analyzed the data by using simple percentage tool.

In this segment there are four tables which are prepared on the basis of responses given by the respondents. Firstly, the demographic profile of the respondents are tabulated then their experiences of sexual harassment, then the researcher tried to find out how many of respondents were aware of the Act, then the causes of sexual harassment are tabulated and lastly the solutions to curb sexual harassment.

Demographic Profile:

The demographic profile of the respondent includes information about their age, caste, religion, occupation and marital status. To get a better understanding of the fact that which aged group people are most targeted prey of harassers. That is why the researcher had divided the respondents on the basis of their age. In order to know whether caste or marital status or religion is the factor affecting the number of sexual harassment cases, the researcher classified the respondents on the basis of religion, caste and marital status. Simple percentage was the main tool of data analysis.

The data are illustrated in the table is shown in the next page.

TABLE-1. Respondent's demographics

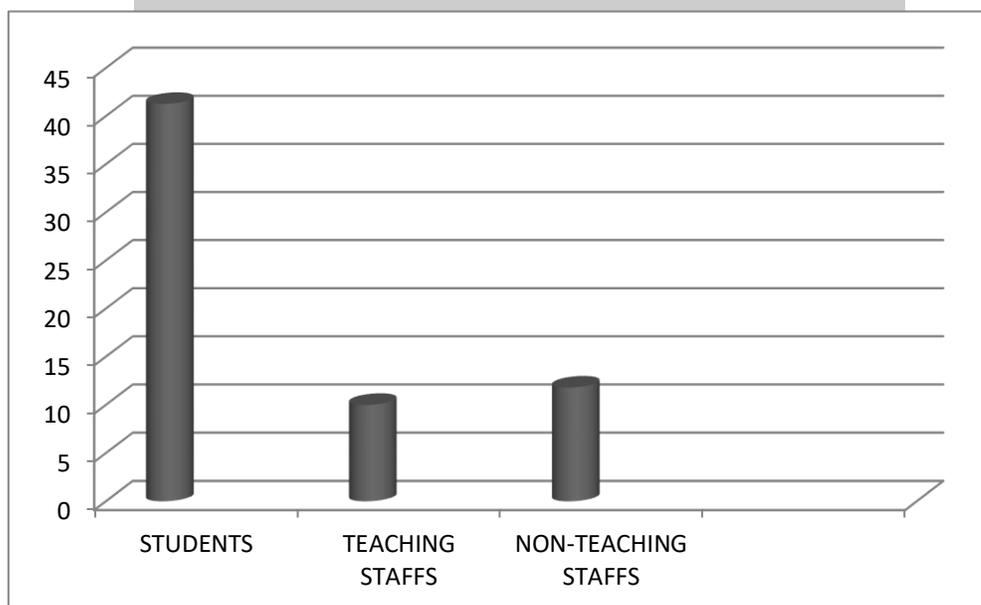
Demographics		Number of Respondents	Number of victims	Percentage of victims
Age	Below 20	20	9	45
	Between 20-30	48	17	35.42
	Above 30	32	4	12.5
Marital Status	Single	64	25	39.06
	Married	36	5	13.88
Caste	General	61	21	34.43
	SC	11	4	36.36
	ST	12	3	25
	OBC	16	2	12.5
Religion	Hindu	82	29	35.36
	Muslim	10	1	10
	Christian	6	0	0
	Sikh	2	0	0

Occupation	Student	63	26	41.27
	Teaching Staff	20	2	10
	Non Teaching Staff	17	2	11.76
College/ University	SUNIV	25	5	20
	VSSUT	25	9	36
	GMU	25	10	40
	VIMSAR	25	6	24

Source- Questionnaire

According to the data presented in Table 1, it is evident that the majority of victims are below 20 years of age. 13.88% of the respondents who are married and are victims of sexual harassment. Religion and caste are not the factors responsible for sexual harassment of women at workplace as it is clear from the data above. Students face more sexual harassment than teaching and non-teaching staffs as per the table. Out of 63 students 26 students are the victims of sexual harassment. GMU has highest number of victims as compared to other institutions of Sambalpur District. 10 victims out of 25 respondents are there from GMU.

Figure 1- Percentage of victims



Source- Questionnaire

From the above figure it is clear that majority of victims are students. Students are the future of every nation, so they need extra care and protection. But the above data shows something else. If students didn't feel safe in their educational institutions then it may lead to increase in absenteeism which decelerates the productivity. Therefore, there is an urgent need to implement the Act in all educational institutions in order to provide safety to the future of our nation.

The researcher also attempts to classify the forms of sexual harassment faced by the victims. For ease of analysis respondents' definitions were categorised into six, listing examples of the specific behaviour that was deemed sexually harassing by respondents. The data are illustrated in the table 2 shown in next page.

TABLE-2. Respondents' Experience of Sexual Harassment

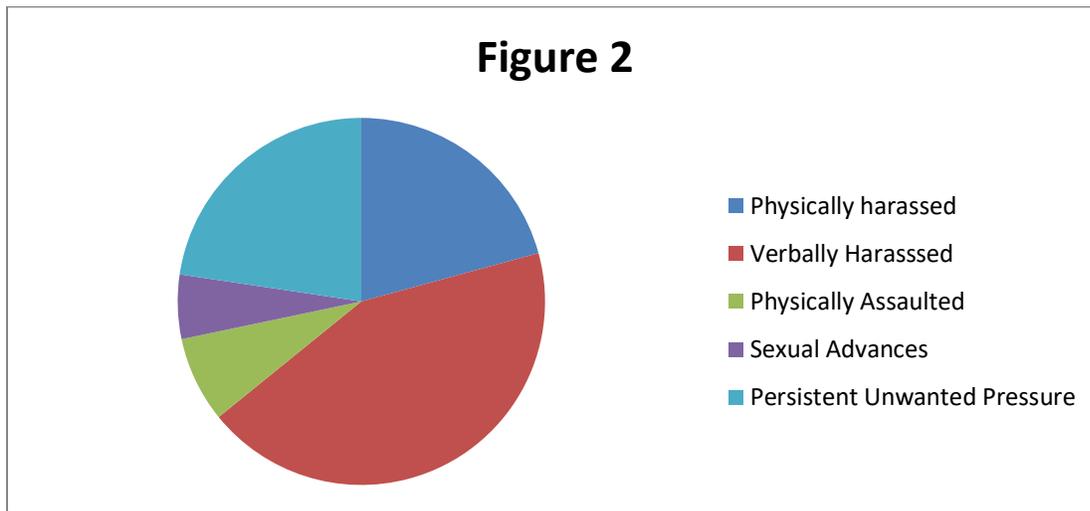
Incidence of Sexual Harassment	Students	Teaching Staffs	Non Teaching Staffs
Physically harassed (touching, pinching, cornering, brushing up against grabbed, cornered, etc.)	10	0	1
Persistent unwanted pressure (letters, phone calls, materials, pornographic/offensive sexual display.	10	1	1
Sexual advances that become a condition for grades/employment.	2	1	0
Verbally harassed (whistling, teasing, sexually derogatory statements/remarks.)	20	2	1
Physically assaulted (Rape, attempted rape, molestation).	4	0	0

Source- Questionnaire

From the above table it is clear that mostly students are the victims of sexual harassment. They are harassed in many ways; it may be physically, or verbally or in any other forms of sexual harassment.

To achieve a better understanding the researcher had prepared a pie chart to explain which form of sexual harassment is most prevalent in the educational institutions. The above table is better explained in the form of pie chart.

The types of harassment ranged from verbal harassment to physical assault.



Source- Questionnaire

From the above figure it can easily be seen that sexual harassment in the verbal form is mostly occurred in the educational institutions. Verbal forms include whistling, teasing, sexually derogatory statements/remarks. Victims also faced other forms of sexual harassment too.

The researcher then tried to tabulate the responds of the respondents about the awareness of the Act and also grievance redressal mechanisms.

TABLE-3. Awareness & Grievance Redressal

Awareness & Grievance	Students	Teaching Staffs	Non Teaching Staffs

Redressal	Total	Affirmative responds	%	Total	Affirmative responds	%	Total	Affirmative responds	%
Aware of Sexual Harassment of Women at the Workplace Act.	63	26	41.27	20	14	70	17	6	35.3
Aware of internal mechanism for handling sexual harassment of women at workplace.	63	14	22.22	20	8	40	17	6	35.3
ICC for sexual harassment in their college.	63	7	11.11	20	14	70	17	5	29.41

Source- Questionnaire

From the above table it is proved that very few people are aware of the Act. Only 46% of the respondents were aware of the Sexual Harassment Act in respect of sexual harassment of women at workplace. Out of these 100 respondents only 26 stated that a Complaint Committee was constituted in their college as per the Act. 28% of respondents are aware of internal mechanism for handling sexual harassment of women at workplace. These data clearly depicts that, still people are not aware of the Act. It has been more than five years, the Sexual harassment Act was passed, but till now many people are not aware of this Act.

The researcher also tries to tabulate the causes of sexual harassment as per the views of the respondents. Table 4 represents the causes of sexual harassment and is shown in next page of this study.

TABLE-4 Causes of Sexual Harassment

Causes of Sexual	Students			Teaching Staffs			Non Teaching Staffs		
	Total	Affirmative	%	Total	Affirmative	%	Total	Affirmative	%

Harassment	1	e responds			ve responds		1	responds	
Educated women face more sexual harassment than uneducated women	63	22	34.9 2	20	5	2	17	5	29.4 1
Economic necessity of women leads to sexual Harassment of women at work place	63	22	34.9 2	20	11	5	17	5	29.4 1
Male dominating society is responsible for greater sexual harassment of women at workplace	63	34	53.9 7	20	14	7	17	6	42.8 5
Lack of grievance handling mechanisms leads to more sexual harassment of women at	63	32	50.7 9	20	17	8	17	7	41.1 8

Solutions	to	Students	Teaching Staffs	Non Teaching Staffs
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workplace									
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Source- Questionnaire



From the above table one can easily know that education has not played an important role in the increase in sexual harassment cases, only 32% respondents said that educated women face more sexual harassment than uneducated women. Similarly economic necessity has also not important role in the increase in sexual harassment cases, only 38% respondents said that economic necessity of women leads to sexual harassment of women at work place.

It is clear from the above table that male dominating society is responsible for greater sexual harassment of women at workplace, 54% of respondents affirmed it. Lack of grievance handling mechanisms leads to more sexual harassment of women at workplace, 56% respondents said that due to lack of grievance handling mechanisms sexual harassment is increasing.

TABLE-5. Solutions to Control Sexual Harassment at Work Place

	Total	Affirmative responses	Percentage	Total	Affirmative responses	Percentage	Total	Affirmative responses	Percentage
Need of Internal Complaint Committee	63	43	68.25	20	14	70	17	10	58.82
Creation of awareness/public anti- harassment campaign.	63	45	71.43	20	20	100	17	16	94.12
Universities should formulate appropriate policy and grievances procedures to deal with cases of harassment.	63	48	76.19	20	20	100	17	16	94.12
Students should comport themselves decently and respectably.	63	29	46.03	20	14	70	17	6	35.29
Changing mindset of people towards women will reduce the incidence of	63	49	77.77	20	20	100	17	14	82.35

sexual harassment.									
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Source- Questionnaire

From the above table it is clear that there is need of proper implementation of the Act. 74% of the total respondents feel that there is a need of Internal Complaint Committee in every institutions, it is the best solution to curb sexual harassment. 81% respondents responded affirmatively that creation of awareness/public anti- harassment campaign will reduce sexual harassment cases. 100% of the responding teachers said that to reduce sexual harassment in the Universities it is necessary that Universities should formulate appropriate policy and grievances procedures to deal with cases of harassment. These data clearly proves that there is urgent need of the implementation of the Act. Less than 50% respondents said that Students should comport themselves decently and respectably in order to reduce sexual harassment. This means decency is not the reason of sexual harassment. 86% respondents feel that changing mindset of people towards women will reduce the incidence of sexual harassment; it means it is only mindset of people which accelerates the crime of sexual harassment.



Conclusion and suggestions

Conclusion:

Sexual harassment of women is a universal problem and its gravity is felt by all concerned around the world. Nations have gone for various legal approaches to curb harassment issues. In India Sexual harassment at the workplace is still very much in existence today more than ever. With the legislations, UGC guidelines and other guidelines in India relating to safety of women in workplace including educational institutions with all stringent provisions for awareness and preventive measures, every woman at work place including educational institutions, including its, teaching and non- teaching staff and students should be protected from sexual harassment, while they are associated with the institution.

It is concluded that the sexual harassment of women at workplace is not good for the organisation or workplace; it hinders the country’s economy. It may be treated as

an obstruction in their right to freedom of employment. In education institutions if students are facing sexual harassment then it will obstruct their right to education. Therefore it must be eradicated from every workplace whether it may be office area or educational institutions in order to provide pace to the women's progress and improve their competencies and work efficiencies.

The research study was conducted by taking samples from the educational institutions. The teachers are the backbone of any nation due to their connection with students which are treated as face of tomorrow. Likewise, the place of education must be free from all sorts of sexual harassment. The incidents of Sexual harassment should be checked at the grass root level so that after completing the education students will not indulge in such type of acts in their workplaces. It should be controlled and regulated by whatever means and tools. This study depicts the picture of unsafe working environment for women and reveals the poor implementation of the Sexual Harassment Act, 2013.

This study confirms that students, teaching staffs and non-teaching staffs of the education institutes of Sambalpur District have experienced sexual harassment in career which gives a negative implication towards victims as well as the organisation. A strict mechanism should be installed at every workplace including the educational institution for dealing with sexual harassment cases to prevent these evil. The formation of Internal Complaint Committee by the employer will help to check these evil. In addition, the universities should follow the UGC guidelines and also display the penalty provisions of sexual harassment in their campuses. Also spell out clearly the procedure of investigation of the victim and the harasser, the consequent disciplinary action that could be taken, as well as any remedial action for the victim such as counseling for either or both the individuals involved.

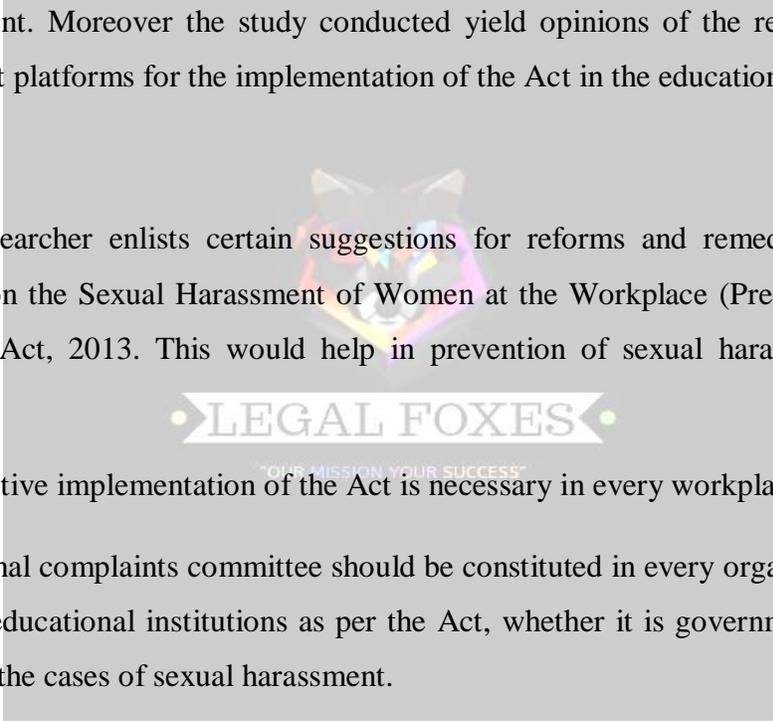
The present study also lays down the causes of increase in the sexual harassment cases in India. Dominance of men at workplace should be put under stack by giving women privileged and an extra edge for promotions and it surely bring down the number of sexual harassment cases reported each year. Besides this the other cause for sexual harassment is higher educational profile of women who are being betrayed and offered sexual advances by the employers. These need to be addressed very strictly.

Sexual Harassment of Women at the Workplace (Prevention, Prohibition and Redressal) Act, 2013 (“Legislation”) was certainly one of the biggest step for not only providing protection to women at work but also towards employment laws. This Act can be regarded as a first successful effort towards building a safe and dignified working atmosphere for the women in our Indian Society.

The outputs of this research will be helpful for the employers, Deans of educational institutions, management committees and specifically the members of the Internal Complaint Committee constituted for the sexual harassment cases to know the attitude of the working women working in colleges and universities. It also helps to understand various factors causing sexual harassment. Moreover the study conducted yield opinions of the respondents that will make convenient platforms for the implementation of the Act in the educational sectors.

Suggestions:

The present researcher enlists certain suggestions for reforms and remedial changes in the prevailing law on the Sexual Harassment of Women at the Workplace (Prevention, Prohibition and Redressal) Act, 2013. This would help in prevention of sexual harassment incidents at workplace:

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1. Effective implementation of the Act is necessary in every workplace.
 2. Internal complaints committee should be constituted in every organisation, workplace and educational institutions as per the Act, whether it is governmental or private, to curb the cases of sexual harassment.
 3. All the employers should train their employees about sexual harassment and its legal implications where it is suitable.
 4. Seminars, workshops and mock drills should be organised by the employer about sexual harassment in each and every educational institution to make the students, teaching staffs and non- teaching staffs aware about this term.

5. Legal awareness programmes should be arranged and organised by each department under government and private sectors which will familiar the women employees about their rights and privileges.
6. Proper implementation of University Grant Commission (Prevention, Prohibition and Redressal of Sexual harassment of women employees and students in higher educational institutions) Regulations, 2015 in all Universities and Colleges.
7. The employers must be accountable towards their duty to provide safe working environment at workplaces.
8. A chapter related to the laws related to sexual harassment of women at workplace should be added to the existing syllabus, so that students will be aware about the existing laws.
9. Zero tolerance policy toward sexual harassment should be followed in every institutions.
10. One segment related to sexual harassment should be added in the syllabus of every educational institution.

Sexual harassment is a serious problem and the Sexual Harassment Act marks an important step in recognizing a concern that affects most women. But there is a need for courts as well as right advocates to ensure that women's rights to equality in the workplace are not secured, and it is to be protected at any cost.

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