

## Review Research Paper

# Sexual Harassment at Workplace in India Medico-Legal Aspects

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### Abstract

Sometimes people in authority misuse their power to harass women. There are many women who have faced sexual harassment at some point of time, maybe in the office or on her way to work. They're forced to keep quiet because if they make a noise about it they are subject to worse crimes like assault (grievous, indecent, etc.) and rape, acid attack, etc especially in India. Thus it's the employers' foremost responsibility and ours too, to develop absolute intolerance against sexual harassment at workplace and elsewhere respectively. We all know the wonderful & important role a woman plays in a traditional Indian family. She is a responsible homemaker and a soft hearted hard worker. She is also the 21<sup>st</sup> Century woman; independent, confident & making successful forward strides in many fields. But when there are so many crimes against women happening daily, so much gender inequality, sexual harassment and hostile environment at her workplace, does India really want to give her the freedom of equality & safeguard her fundamental rights? Or just expect her to compromise, stay down & back up like a woman is expected of in India?

**Key Words:** Sexual Harassment at Workplace, Gender Inequality, Fundamental rights

### Introduction:

The devaluation of women and social domination of men still prevails in India. Women are viewed as dowry burdens, the weaker gender and worthy of a lower Social status as compared to man. Because of these factors besides myriad others, India has a very poor Gender Inequality Index apart from overall poor Human Development Index in 2013 UN Human Development Report.

India ranks 132 out of the 148 countries polled in Gender Inequality Index and 136 in HDI. [1-3] The Gender Inequality Index (GII) is a composite measure which captures the loss of achievement, within a country, due to gender inequality, and uses three dimensions to do so: reproductive health, empowerment, and labour market participation.

According to a 1998 report by U.S. Department of Commerce, the chief barrier to female education in India are Inadequate school facilities (such as sanitary facilities), Shortage of female teachers and most importantly Gender bias in curriculum.

In curriculum women being depicted as weak, helpless and gullible versus strong, adventurous, and intelligent men with high prestige jobs. [4] Thus women are discriminated socially, economically and even legally in today's India.

### Crimes against Women:

Even though women may be victims of general crimes such as robbery, murder, etc. only the crimes directed specifically against women are characterized as '**Crimes Against Women**' against which several laws in the IPC (IPC 376, 363-373, 304 B, 498-A, 354, etc.) and special and local laws( ITPA 1956, DPA 1961, SHW (PPR)2013) are laid down.

According to NCRB (National Crime Record Bureau) in 2012(5), around 2.4lakh women had reported crimes against them i.e. at a national average of 41 per lakh population of women with the highest incidence in Assam of almost 90.

Cruelty by husband and relatives formed nearly half of cases of crimes against women, whereas Sexual harassment in 2012 showed an increase of 7% since 2011 and accounted for 3.8% of total crimes against women.

Reasons for vulnerability are shown here:

- Social & work pressures
- Due to lack of awareness of legislation.
- Economic vulnerability (some women are sole earners of their family, hence are

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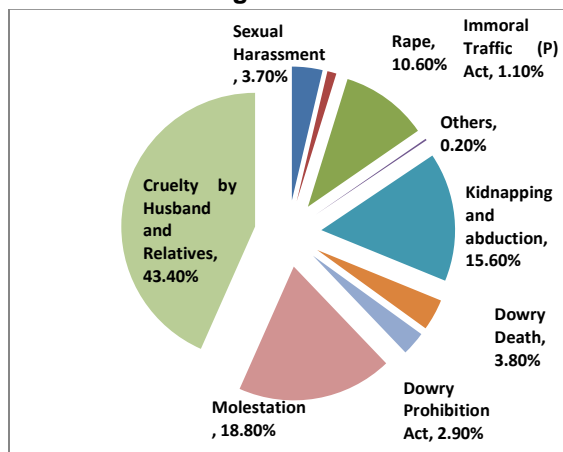
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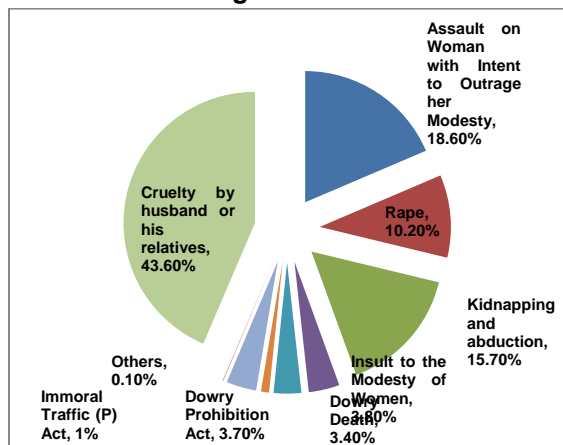
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subject to more harassment as their bosses know the reason of her silence)

**Fig 3: Crime against Women– Percent Distribution during 2011**

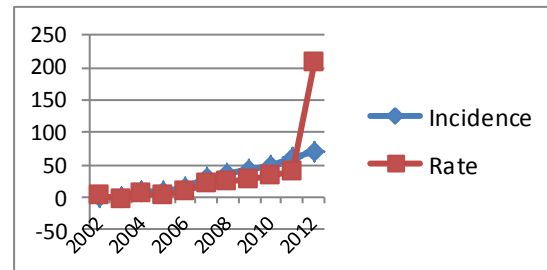


**Fig. 2: Crime against Women –Percent Distribution during 2012**



**Fig. 4: Incidence and Rate of crime Against Women – Percentage Change from 2002**

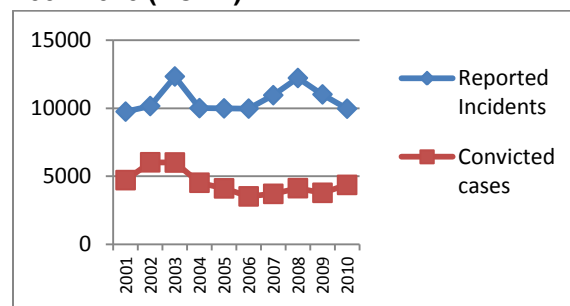
(The Graph predicting the variation in crime rate in 2012 over 2002 has shown a sharp incline due to use of only women population in 2012. Whereas in previous years, total population was used for calculation of crime rate)



**Sexual Harassment at Workplace:**

Sexual harassment at workplace hampers women’s constitutional and fundamental rights to equality, justice and dignity.

**Fig. 5: Sexual Harassment Incidents in India 2001-2010 (NCRB)**



It sabotages a woman’s work performance & progress, affects working environments, results in frustrations & absenteeism.

**Table 1: Incidents of Crimes against Women during 2007-2012 and percentage variation in 2012 over 2011**

S. N.	Crime Head	Year						Percent_variation in 2012 over 2011
		2007	2008	2009	2010	2011	2012	
1.	Rape (Sec.376 IPC)	20737	21467	21397	22172	24206	24923	3.0
2.	Kidnapping & Abduction (Sec.363 to 373IPC)	20,416	22939	25741	29795	35565	38262	7.6
3.	Dowry Death (Sec.302/304 IPC)	8093	8172	8383	8391	8618	8233	-4.5
4.	Cruelty by Husband and Relatives (Sec. 498-A IPC)	75930	81344	89546	94041	99135	106527	7.5
5.	Molestation (Sec. 354 IPC)	38734	40413	38711	40613	42968	45351	5.5
6.	Sexual Harassment (Sec. 509 IPC)	10950	12214	11009	9961	8,570	9173	7.0
7.	Importation of Girls (Sec.366-B IPC)	61	67	48	36	80	59	-26.3
8.	Sati Prevention Act, 1987	0	1	0	0	1	-	-100
9.	Immoral Traffic (Prevention) Act, 1956	3568	2659	2474	2499	2435	2563	5.3
10.	Indecent Representation of Women (Prohibition) Act, 1986	1200	1025	845	895	453	141	-68.9
11.	Dowry Prohibition Act, 1961	5623	5555	5650	5182	6619	9038	36.5
	<b>Total</b>	<b>185312</b>	<b>195856</b>	<b>203804</b>	<b>213585</b>	<b>228650</b>	<b>244270</b>	<b>6.8%</b>

These are some prominent cases, including the famous Bhanwari Devi Case which brought word Sexual Harassment into the Indian Legal scenario providing us with landmark Vishaka Guidelines.

1. Bhanwari Devi case
2. Rina Mukherjee vs. The Statesman
3. Rupan Deol Bajaj (IAS officer) vs. Super Cop K P S Gill

**Bhanwari Case: [6]**

Sexual harassment hit the Indian legal map when Bhanwari, a saathin in Rajasthan, prevented the child marriage within an upper caste community. In doing so she was subjected to unwelcome sexual harassment through words and gestures from men of that community.

When she reported the harassment, the local authority did nothing. That omission was at great cost to Bhanwari.

The feudal patriarchs who were enraged by her (in their words: "a lowly woman from a poor and potter community") 'guts' decided to teach her a lesson and gang raped her repeatedly. After an extremely humiliating legal battle in the Rajasthan High Court the rape survivor did not get justice and the rapists -- "educated and upper caste affluent men" – citing ridiculous reasons i.e. how can a uncle have sex in front of his nephew, etc.- were allowed to go scot free.

This enraged a women's rights group called Vishakha that filed public interest litigation in the Supreme Court of India leading to her victory & a landmark & visionary judgement in today's times by Late CJI J.S. Verma. [7]

Only after Sixteen years after this landmark Supreme Court judgement, the Government awoke from its slumber and introduced a defective Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act. [8]

The reason it took so long could be because representation of women at the decision making centre is as follows: Women representation in Parliament (both houses) in India averages only 11.4% while Pakistan has a better women representation of 20.4%. Best women representation is in the parliament of Rwanda with 63.8% followed by Andorra with 50%. [10]

The Sexual Harassment at Workplace (PPR) Act 2013 has a total of VIII chapters which could be assessed at its official website and in brief is summarized:

- Chapter I deal with the preliminaries and definitions.
- Chapter 2 deals with complaint made

- Chap 3 & 4 describes constitution of the committee
- Chap 5 deals with inquiry. Chap 6 & 7 with duties of the employer and district officer and the last chap deals with misc sections of the act.

**Conclusion:**

Whenever any law is drafted its always in its infancy, prone to many flaws and loopholes. These are some suggestions offered by the First author by her own personal experiences to counteract the loopholes.

1. Extensive research and debating on the issue to fill the legal loopholes.
2. Awareness on Sexual harassment has to be raised through Campaigns and presentations all over the country. Special days must be allocated.
3. Fast track courts should be set up to try such cases faster to avoid further harassment to family members especially the woman s children who face discrimination and insults later in life.
4. Strict laws for anonymity of the complaint and proceedings should be enforced.
5. Explicit protection of the victim and witnesses
6. Possibly do away with the concept of the Internal complaints committee as the harasser if in a higher position and power could easily influence the members of his own institution who form the internal complaints committee, which results in further harassment, mental torture and defamation to the victim. Local committees and police maybe a better option.
7. If Complaint committee is formed it should be of the comfort and possibly choosing of the victim so as to protect her from further suffering.
8. Legal counsel should be provided to the victim so as to see that the proceedings/ statements of the victim should not be misconstrued, manipulated and jumbled up to suit themselves or concerned parties due to corrupt practices to save repute of the Institution.
9. Media and persons attached to the media should be given strictest punishments if found guilty of leaking false information or the proceedings and more so if especially involved in the harassment.
10. Malicious statements made by those found guilty of harassment or aiding such people should be subject to strict and severe disciplinary action.

11. Students in educational institutions, especially postgraduate students, should be well protected by universities & higher institutions. These students frequently suffer sexual harassment from their thesis guides and bosses who know very well that if she complains, her thesis, educational growth and career prospects can be thrown down the drain.

These guides and bosses indulge in derogatory and cheap practices of providing false information about the victim to the examiners and other officials so as to lessen her chances of passing from the institution and thereby further subjecting her to FAILURE, humiliation, torture and ridicule resulting in several stress disorders and mental agony.

12. Ladies should also know that repetition creates a life pattern. So if you endure workplace conduct which sexually demeans, intimidates, offends, excludes and limits women, it's not only about the patterns of sexist behaviour, it is also about the repetitive nature of our own complacency.

We have all become extremely immune to the pervasive harm of sexual harassment and its unconstitutional character. But this only revs up & encourages the harassment from men in different quarters towards our own sisters & possibly future generation of women.

Let's stand up and fight. It's in a woman's nature to be loving, caring and passionate, why not use these qualities to empower our other sisters. We have to muster courage and build up confidence to stand up & speak against harassment and for women empowerment and better overall treatment of women as shown by great legendary personalities like Justice K.S. Verma, Bhanwari Devi, Rina Mukherjee [10] and other countless brave men and women, our true heroes and role models.

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