

SEXUAL HARASSMENT OF MEN AT WORKPLACE- THE REASON BEHIND THE UNTOLD SUFFERINGS

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Abstract

Any person irrespective of one's gender, position, race and caste can be a victim of sexual harassment. Moreover, sexual harassment is no more limited to four walls of the house but has also extended to workplace and other such similar work forces. However, in India laws of sexual harassment only talk about protection of women against any form of Sexual harassment. Through this research article, the author tries to justify it's not only women, but men too are equally subjected to sexual harassments at work places and the number is constantly rising. But unfortunately, no specific law to protect men against any act of sexual harassment is there in India till date. The researcher here aims to highlight the different kinds of harassment a man faces particularly at workplace every day and the reason for his silence in bringing the same into fore in most of the cases.

Keywords: Men, Misuse, Sexual Harassment, Victim, Workplace.

1) INTRODUCTION

Whenever a case of sexual harassment of a woman at workplace comes to the limelight, everybody including the media, the members of different political parties, the social activists, the law enforcement agencies become very active in highlighting the issue & even coming to the conclusion in convicting the accused much before the commencement of his actual trial in the court of law. Indian society is always sympathetic towards a woman & considers it to be a gospel truth once a woman levels a harassment charge against her male colleague. It is, in fact, a mindset of every Indian that a woman can never level a false sexual harassment allegation against another person at the cost of her own dignity. But it is not true always. Sexual harassment now becomes a global concern both in developed and developing nations. The world today cries for gender equality, protection of human rights and perseverance of human dignity, making it emerge as a worldwide problem.

Society, today, still believes that harassment is limited to women only. Few people feel offended to accept that men can also be subjected to harassment, as it is logically and politically incorrect to understand in a society where everyone is concerned about crime against women, children and now the transgender. Justice is equal for every single individual irrespective of gender, caste, faith, belief and race. The men in our society have once considered being the saviour in many respects like the saviour of their family, their property and most importantly the saviour of their motherland. But by efflux of time, their position is somehow made equal with women

in all respects. That's indeed a great trend, but when one gender taking advantage of certain flaws of the law tries to overpower the opposite sex, it leads to tyranny^[1]

From time immemorial the society has always projected men as the most powerful and dominant persons. It is believed men are not supposed to have emotional breakdowns nor can they be subjected to any form of harassment, abuse or cruelty. The legal fraternity believed in this notion too, until the judiciary noticed a flung of false accusations and charges of sexual harassment in the workforce started to pile up against men by women. Apart from accepting the fact that men are being victims of domestic violence and cruelty within four walls of their house, the fact that men are also equally subjected to Sexual Harassment at the workplace, ^[2] very much like women, giving out a new dimension to look into the sufferings of men. As we discuss about sexual harassment at the workplace, every 12minute a male is being sexually harassed at his workplace in any corner of the world, as revealed by the survey made by Equal Employment Opportunity Commission, United States^[3]. Despite knowing the rising number of incidents of sexual harassment against men at the workplace, the reporting of their incidents is near to nil as men fear of having the loss of personal & professional reputation and livelihood owing to the social pressure that is built around men of being the most powerful, unbeatable creation of God. Moreover, the law is silent upon matters when it is about sexual harassment of men at the workplace, unlike in cases of women. The '#Me too movement' and 'Time's Up Movement' not only gave voice to women victims to speak up about their suffering of being a sexual act victim but also provided a platform to many men sexual harassment victims to bring forward their stories of sufferings at the workplace as well and to made the world believe that, 'yes, men can also be harassed.'^[4]

Now the greatest question arises that whether men are actually harassed at the workplace or there appears to be any hypothetical situation created by a few anti-feminist movement supporters.

2) HYPOTHEISIS

1. Sexual harassment at workplace laws in India are women-centric and women-favouring only.
2. Few working women are misusing the sexual harassment laws against their male colleagues at workplace.
3. A male employee is equally vulnerable to sexual harassment by an opposite gender employee within a workforce.

3) METHODOLOGY

Research methods: The researcher has adopted both quantitative and qualitative method in this research article. **Data collection** method opted is both case study and questionnaire technique to make a thorough study on the discussed area and to reach out for the end result to conclude this study. A set of questions was carefully drafted and was circulated among the selected sample size to obtain the view of the people. The sample size is 67. For case study

method, cases from 2015-2022 are taken into study to find the best possible outcome.

Sampling Technique: The researcher opted for Stratified Random Sampling where the subjects are categorised according to their gender, age, area of work and place of residence (urban).

Participants: Recorded respondents fulfilled the below stated criteria: (1) aged between 18-60; (2) neither employed or professionals or otherwise occupied; (3) educated, knows the use of internet and understands Standard English language; (4) able to complete online questionnaires. Moreover, participants voluntarily completed the questionnaires without any undue interferences.

Measures:

Background information sheet

It includes items on gender, age, place and sector of work, awareness on their legal rights and incidents of sexual harassment against male employees (if any).

4) CAN A MEN BE SEXUALLY HARASSED AT WORKPLACE?

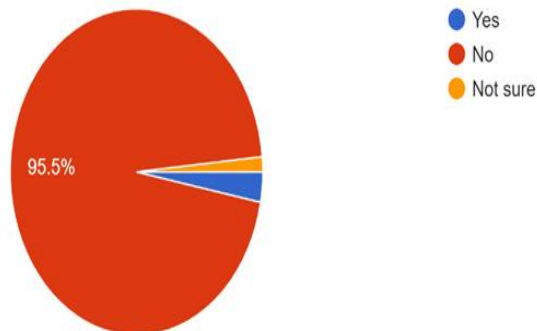
It is imperative to notice that sexual harassment is not just restricted to the actions of a person sitting in an authoritative position or power, such as an administrator or manager. It can also occur between co-workers or even from a subordinate to a supervisor, irrespective of their gender. While it is true that women are more commonly targeted for sexual harassment, but the possibility of men harassment cannot be ruled out.^[5] Sexual harassment against women is more widely recognized and discussed as women due to their physical structure are more vulnerable towards such acts.

But in recent times men complaining of being sexually harassed at workplace are the greatest concern of social security. There are many reasons why male employees may experience sexual harassment at the workplaces. Some possible factors include a culture that normalizes sexual harassment, power imbalances between employees, and an organizational culture that allows or even encourages such behaviour.^[6] When an overview of the study conducted is analysed, it is found that maximum of the respondents disagree with the notion that only women are the sufferers of sexual harassment at work place.

That otherwise implies, men are also the sufferers of this atrocious acts at professional sphere. (Fig-I). Any person irrespective any sex, positioned at a superior position can sexually harass its subordinates again irrespective of their race, gender, caste or sexual orientations. Changing societal dynamics is insisting the legislatures to make laws in favour of men too for securing their safety, security and dignity.

FIG-I

Do you think sexual harassment can be caused to women workers only?
67 responses

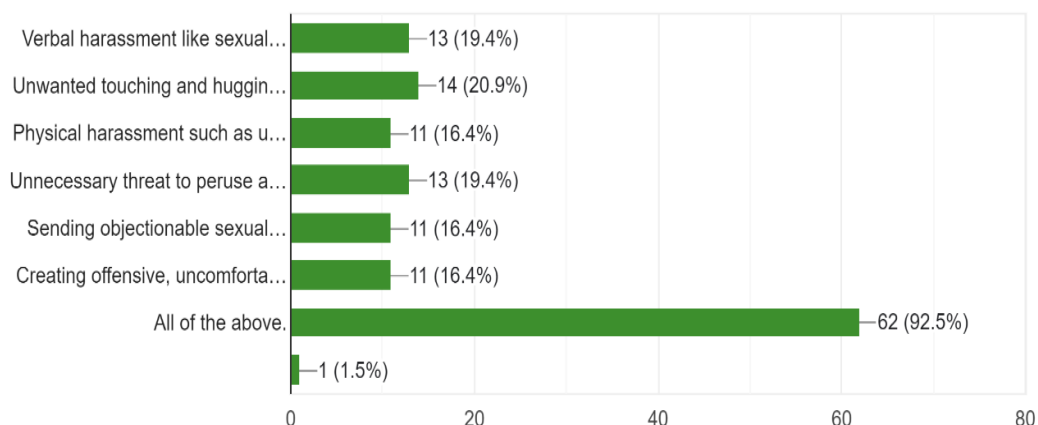


The figure is based on the data collected from a pilot study conducted with a view to point out the sufferings of male workers, who are being the victims of various forms of sexual harassment at workplace.

To understand 'why men are also being the victims', it is also important to know 'how they are sexually harassed?' (Fig-II)

FIG-II

Do you consider any of the followings as different forms of sexual harassments at workplace?
67 responses



Sexual harassment at the workplace can take many forms, including:

1. Unwanted sexual advances: This can include unwanted touching, hugging, or kissing.
2. Verbal harassment: This can include sexual comments, jokes, or innuendos that make an individual uncomfortable.
3. Physical harassment: This can include unwanted physical contact, such as groping or grabbing.
4. Sexual coercion: This can include pressuring an employee to engage in sexual activity or making threats if he doesn't comply.
5. Cyber harassment: This can include sending unwanted sexual messages or images via email or social media.
6. Unpleasant work atmosphere: setting up a work atmosphere that is uncomfortable, offensive, or intimidating due to sexual comments, jokes, or behaviour.
7. Retaliation: Bulling an employee who has reported sexual harassment, such as by denying promotions or assigning undesirable tasks.

Based on the study of various forms of sexual harassment at the place of work, here are some examples of sexual harassment against men at the workplace:

- A female co-worker repeatedly making sexual jokes and comments to a male employee, despite being asked to stop.
- A female boss repeatedly making unwanted physical contact with a male employee, such as touching his arm or back, despite the employee's discomfort and conscious behaviour.
- A female colleague making repeated sexual advances toward another male co-worker, even after being told the advances are unwelcomed.
- A male employee being threatened to lose his job if he didn't engage in sexual activity with his female employer. Further, a lady employee subordinate in professional position, trying to take involuntary sexual favours through coercion.
- A male employee receiving sexually explicit messages or images from a female co-worker via email or social media.

Such types of sexual harassments are given a new terminology known as 'Quid Pro Quo Harassment'.^[7] 'Quid Pro Quo' is a Latin phrase that points to 'something in return of anything' or 'this for that'. From the perspective of sexual harassment, quid pro quo indicates to a circumstance where a person in an authoritative position of power like a supervisor or employer, demands sexual favours in exchange for some form of employment benefit, such as a promotion or a raise.

For instance, a boss asking an employee to accompany him or her on a date in exchange for a promotion, would amount to quid pro quo sexual harassment. Similarly, if an employer threatens to take the job of an employee if he or she does not engage in sexual activity, this would also be considered as quid pro quo sexual harassment.

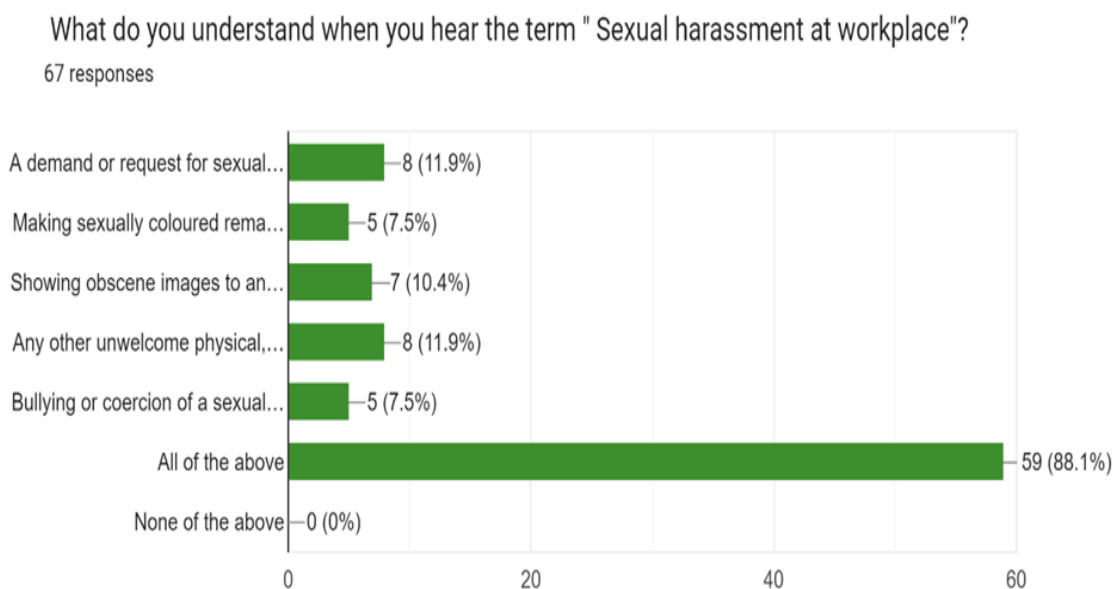
It's important to note that sexual harassment can occur in various forms, and these are just a few examples.

5) WHAT IS SEXUAL HARASSMENT?^[8]

Sexual harassment is a kind of activity that includes unwanted sexual advances, appeals for sexual favours, or other oral or physical behaviour indicating sexual appeal giving rise to a unfavourable, intimidating, or unpleasant work or educational surroundings. Sexual harassment can be caused in any setting, including the workplace, educational institutions, and social situations.

Sexual harassment at workplace is not regarded as a gender- based problem anymore. India has its own sexual harassment law that considers sexual harassment at the workplace as any unwelcome, involuntary sexual behaviour made or demanded against women at workplace by any men. Sexual harassment is not only limited to physical conduct but any verbal or non-verbal conducts are also categorised under Sexual harassment (Fig- III). For better clarification, several recorded acts of Sexual harassment at workplace have been further classified.

FIG-III



1. Physical conduct
 - a. Unwanted physical contact
 - b. Unwelcomed & explicit sexual prelude
 - c. A demand of unwelcomed sexual favours
2. Verbal conduct
 - a. Making offensive comments and jokes
 - b. Sending sexually explicit contents
 - c. Making otherwise interpreted statements hinting towards Sexual favours
 - d. Repeated social invitations
 - e. Threatening to the co-workers for sexual favours
 - f. Commenting upon employee's appearance, age, private life, sexual preferences, etc
3. Non- Verbal conduct
 - a. Showing obscene content against the will of that particular individual
 - b. Sexually suggested gesture.

6) WHY ARE MEN SILENTLY SUFFERING SEXUAL HARASSMENT AT WORKPLACE?

Men are expected to stand tall and strong against any odds that intended to break them. The male ego to stand up to the societal expectations has created several unreasonable taboos in the society. Sexual harassment against men is one such taboo created by our own society, portraying men to be emotionless.

Moreover, sexual harassment can be a highly sensitive and difficult topic for anyone to talk about, regardless of gender. However, men may face additional barriers to reporting sexual harassment at the workplace due to societal and cultural attitudes towards masculinity as well as the way sexual harassment is typically portrayed in media and popular discourse.

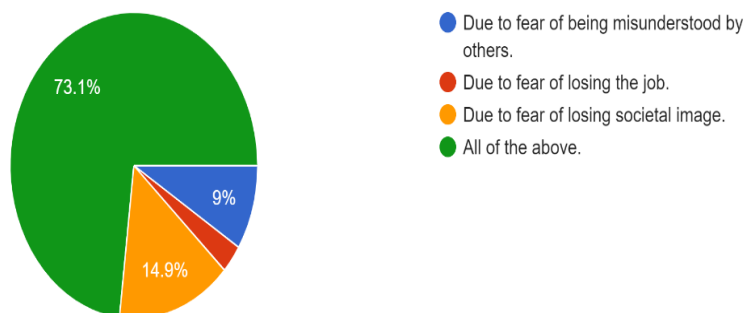
Men may also fear that reporting sexual harassment could make them appear weak before others, which can be a significant concern for those who believe that they could be capable of handling any situation on their own. As the data & study suggests both men and women can experience sexual harassment at the workplace and that it can be a deeply troubling and traumatic experience for anyone who goes through it. However, it is more troubling when there are no laws to protect the male victims of sexual harassment at the workplace.

Study reveals that some other factors are also there those make it more difficult for men to come forward and report the incidents of sexual harassment caused to them. (Fig- IV)

FIG-IV

What do you feel is the cause of non-reporting of more number of cases on sexual harassment of male employees at the workplace?

67 responses



1. Social stigma and shame: Male victims of sexual harassment may feel ashamed or stigmatized because they believe that being a victim of sexual harassment goes against gender norms and expectations. This can make it difficult for them to come forward and report the harassment.
2. Fear of being seen as weak or less masculine: Men may feel that reporting sexual harassment will make them appear weak or less masculine, and may worry that it will harm their career, reputation and good faith in society.
3. Lack of support from others: Men employees feel that they don't have anyone to turn to for support, or may worry that their friends or colleagues will not take their experiences seriously.
4. Fear of retaliation: Men may worry that if they report sexual harassment, they will face retaliation from the person who has harassed them or from their employer which ultimately end up with the victim getting bullied, fired or more harassment.
5. Apprehension that Nothing Will Change: Some male employees apprehend that reporting sexual harassment complaints will not lead to any meaningful result, particularly if they have heard about other similar cases those were not addressed or resolved properly.

Apart from fear of being not accepted by the society, the legal frameworks towards such sexual harassment incidents against men at workplaces are nearly absent. Whenever, any man has shown courage and reported about any such incident, his voice is left unheard due to lack of legal protection to men at workplace against any act of sexual harassment. Whereas when a case of sexual harassment is filed by a woman, all concerned become highly active to help her out. Sometimes women employees taking advantage of such situations, emotionally & sexually

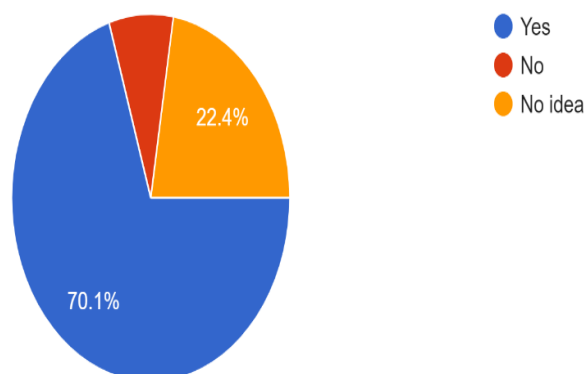
exploit men (Fig-V). The callousness on part of the legislature for not making the Act gender neutral is another demotivating factor for men to report occurrence of such incidents. Sexual harassment in any form and towards any gender is never acceptable as it can lead to a range of negative consequences, including anxiety, depression, and efficiency in job performance. Furthermore, reporting sexual harassment by men may not gain the same level of support and empathy from colleagues as it gets in case of women, which can make the experience even more isolating.

Another reason might be the differences in perception of looking at the cases of sexual harassment of a man with that of a woman. What is deemed to be sexual harassment for a woman might not be considered as such against a man. Certain behaviour, deemed as sexual harassment for women may be considered as less threatening or serious for a man (this is because of the absence of definition in the Act regarding male sexual harassment).

FIG-V

Do you think women employees are taking undue advantage of the law made for their protection?

67 responses



7) INTERNATIONAL LAWS AND POLICIES FOR ADDRESSING SEXUAL HARASSMENT AT WORKPLACE

Workplace harassment against women has been an age-old concern which involves any conduct, act or omission of sexual nature. However, the cry of women was let unheard until few American women demanded for recognition Sexual Harassment at workplace by the legislature. Past few years, the honourable court decisions, legislatures, initiative programmes to raise awareness regarding sexual harassment at workplace has acknowledged the raising issue.^[9] The International Labour Organization (ILO),^[10] the specialised agency of the United Nations (UN) dedicated to upgrade social justice and modest work culture for all. The ILO considers sexual harassment to be a kind of gender-based violent behaviour that can occur in

any workplace, irrespective of the gender of the victim or perpetrator. The ILO has developed international labour standards that specifically address sexual harassment at work, including the Violence and Harassment Convention (No. 190), 2019 and the supplementary Recommendation (No. 206).^[11] These standards define sexual harassment broadly as ‘unwelcome conduct of a sexual nature, whether verbal, non-verbal, or physical’ that has the purpose or effect of creating a hostile, intimidating, or offensive work environment.

While the standards recognize that women to be more vulnerable to experience sexual harassment at the workplaces, they too acknowledge that men can be victims of sexual harassment as well. The standards require the employers to take measures to prevent and address sexual harassment cases without giving regard to the gender of the victim or perpetrator.

The ILO also recognizes that men may face unique barriers to reporting sexual harassment, such as social stigma or fear of retaliation. As such, the standards call for measures to ensure that victims can report sexual harassment without fear of being targeted and that the employers should take steps to investigate and address complaints in a timely and effective manner.

In summary, the ILO standards on sexual harassment at workplace apply equally to men and women, and direct the employers to take adequate measures for preventing and addressing sexual harassment cases, regardless of the gender of the victim or perpetrator.

Evidently, the issue necessitates a comprehensive check. And this is what legislation intended to stop sexual harassment at work actually seek to accomplish. It is the most certain shot remedy one could ever find. A concept can only spread to another area once it has gained public acceptance.^[12]

With many people coming open up with their sexualities and sexual orientations, just focusing on gender biased laws is not a solution to the problem anymore. In light of this, a comparative study on the development of sexual harassment laws in workplace across different countries has been done to understand the concept and protection given to male workers at work in different countries.

1. Europe

Sexual harassment laws in Europe are applicable to both men and women. The laws generally classify sexual harassment as any unsolicited behaviour of a sexual nature or some other sexual act that is unwanted and has the effect of infringing the self-esteem of a person, particularly by the creation of a frightening, unpleasant, undignified, humiliating or abusive environment.

Each country in Europe has its own precise laws on sexual harassment that may vary in their definition and the level of protection they endow with. In many European countries, sexual harassment is regarded as a kind of discrimination and is forbidden under anti-discrimination laws. In general, however, sexual harassment is illegal and can result in civil or criminal penalties.

The European Union (EU) has also taken several initiatives to tackle sexual harassment through directives such as the EU Gender Equality Strategy 2020-2025, which aims to prevent and

combat gender-based violence, including sexual harassment, in all forms. The EU explains sexual harassment as harm to one's dignity. Considering the fact that sexual harassment can largely damage the reputation and sanity of the organisation, there are several directives and regulations that prohibit sexual harassment in EU, such as the Directive 2006/54/EC^[13] regarding carrying out of the principle of equal opportunities and equal treatment of men and women in subjects concerning employment and occupation. This directive describes sexual harassment to be an unwelcome behaviour indicative of sexual nature or any behaviour based on sex having an effect on the dignity of women and men at workplace.

Each country in Europe has its own laws and regulations regarding sexual harassment. In some countries, such as France, Germany, and the UK, sexual harassment is a criminal offense, and individuals can be punished with imprisonment or fines. Other countries, such as Italy and Spain, have civil laws that allow individuals to file lawsuits against the harasser and seek damages. The EU has issued a directive that states men and women shall be treated equally in workplace irrespective of if they are employees or trainees.

Overall, sexual harassment laws in Europe protect both men and women from unwanted sexual behaviour and provide legal recourse for those who experience it.

2. Brazil

The work culture in Brazil is believed to be informal as compared to work environment in US and Europe. Flirting, hugging their co-workers, kissing on cheek are termed as normal and healthy. So, the legislature recognises sexual harassment at workplace could take place by any person positioned at a superior position irrespective of their sex, race, and caste against any subordinates.

In Brazil, sexual harassment laws apply to both men and women. The country has several legal frameworks that address sexual harassment, including the Brazilian Penal Code, the Brazilian Labour Code, and the Civil Code. The Brazilian Constitution guarantees the right to dignity that comprises the right to be free from any type of violence or harassment, including sexual harassment.

The Brazilian Penal Code describes sexual harassment as any unwanted, repeated and persistent behaviour that aims to constrain someone's sexuality, which can be verbal, nonverbal, or physical. This can include unwanted advances, sexual comments or jokes, unwanted touching or groping, and any other behaviour that creates a hostile environment.

If someone is found guilty of sexual harassment in Brazil, they may face criminal charges and penalties, including fines and imprisonment which may go up to two years in prison.^[14] The victim can also pursue civil actions for damages which shall including moral damages and lost wages in its civil lawsuit.

3. France

France is said to be a country free of all kinds of harassment. Sexual harassment in France is treated as a heinous crime against any individual. The very first law of sexual harassment in France was brought into force on the recommendations of Law Commission in 1991 regarding the protection of both men and women in the workplace. Sexual Harassment at workplace is considered at public concern in France.^[15] Though the definition of sexual harassment is narrower in France as compared to United State laws, but it protects both men and women against the act of sexual harassment at workplace.

The French Penal Code defines sexual harassment as an act of imposing on a person, in a repeated and persistent manner, words or behaviour of a sexual kind that either harm his or her self-esteem due to their undignified or humiliating nature or create a frightening, hostile or unpleasant situation.

Sexual harassment is considered a criminal offense in France, and those found guilty can face up to three years imprisonment and a fine extending to €45,000. The victim can also seek compensation for any damages they have suffered.

In addition to criminal penalties, French law also seeks the employers to adopt all necessary preventive measures to deal with sexual harassment in the workplace. French laws also direct the employers to take steps in preventing sexual harassment cases by providing training and support to employees, and addressing their complaints in timely and appropriate manner. Further, it suggests employers must inform and make their employees conscious of their rights and obligations related to sexual harassment and take appropriate action if an incident is reported.

4. Japan

In Japan, sexual harassment laws also apply to both men and women. The country has specific laws that prohibit sexual harassments at the workplaces and laws that address sexual crimes in general. “Kintoho”, the Japanese Equal Employment Opportunity Law, that regulates the harassment of workers at the workplace, was modified in 1999 requiring the employers to take action against harassment of female employees. Japan's Anti-Sexual Harassment Act of 1999 considers sexual harassment to be any behaviour that makes an individual feel uncomfortable, intimidated, or humiliated, and that relates to their gender or sexual identity. This can include physical or verbal harassment, sexual advances or comments, or any other behaviour that produces an unfavourable work environment. The legislature governing sexual harassment in Japan was revised in 2007, which included male workers into the purview of this Act. Further, in 2014, homosexual employees were also added into the scope of the Act.^[16] If someone is found guilty of sexual harassment in Japan, they may face criminal charges and penalties, including fines and imprisonment. The victim can also pursue civil actions for damages.

It is noteworthy from the perspective of labour law that if the sexual harasser is an employee, the Equal Employment Opportunity Law considers the employer to be legally responsible for all of the harasser's acts.^[17]

For example, when an employee is indulged in any improper conduct, the law considers the employer to be liable for prima facie letting it to happen rather than putting the blame altogether upon the wrongdoer. It's worth noting, however, that Japan has been criticized for having a culture that is slow to acknowledge and address sexual harassment, and for having a low rate of reporting and conviction of sexual harassment cases. Nevertheless, the Japanese government has taken steps in recent years to improve workplace protections and encourage reporting of sexual harassment, including the enactment of a law in 2020 that requires the employers to act for preventing sexual harassment and responding to the complaints in timely and appropriate manner.

5. India

In India, the laws related to sexual violence is covered under three different acts:

1. Industrial Employment (Standing Orders) Act, 1946,^[18]
2. Indian Penal Code, 1860,
3. Sexual Harassment at Workplace (Prevention, Prohibition and Redressal) Act, 2013

The rules to prevent sexual harassment at workplace was introduced with the line of very famous and landmark 'Vishaka case'^[19] which fuelled enactment of specific Act particularly dealing with sexual harassment against women at workplace in the year 2013 also known as the 'POSH Act'. The motto behind this legislation is to extend a favourable working environment for women by preventing sexual harassment at workplace both in organised & unorganised sectors and public & private organisations. The POSH envisions unwanted sexual behaviour as civil wrongs while Sec- 354, Sec-376 & Sec-509 of IPC recognise sexual harassment at workplace but it has skipped certain situations arising prior to working environment specifically about institutional hierarchies.

Further, "POSH" promises only for the protection of women at workforce and is completely silent towards male workers, leaving them vulnerable to sexual harassment at workplace.

8) CONSTITUTIONAL SAFEGUARD AGAINST SEXUAL HARASSMENT AT WORKPLACE

In India, there are constitutional safeguards against sexual harassment at the workplace too. Though not mentioned expressly, but impliedly it is covered under Article-21 of the Indian Constitution guaranteeing 'Right to life & personal liberty'.^[20] The broader connotation of the article imbibes the right to live with dignity that ensures to live being free from all sorts of discrimination anywhere within the territory of the country. Not limiting to that, Indian Constitution being the largest drafted constitution provides several other fundamental rights to its citizens including 'Equality of status and opportunity' engraved within Article 14 to 18 of the Constitution.^[21] Also, at the same time a special provision for women and children are included under clause-3 of Article-15 of the Indian Constitution that permits states to makes special laws for women and children as they are considered under the category of weaker sections of the society.

The past recent years has envisioned a spike in cases of abuse of women that gave a platform for several women-centric laws to be brought into force. The 'Visakha case' was the turning point for judiciary to act upon the rising number of complaints of sexual harassments at workplaces.^[22] In 2013, the aftermath of the Vishakha verdict witnessed the enactment of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act (POSH), which provides a legal framework to prevent and provide redressal to women against sexual harassment in the workplace.^[23] The Act defines sexual harassment broadly, including unwelcome physical contact, sexually coloured remarks or gestures, showing pornography, and making sexual advances.

9) DISCUSSIONS

The main aim of the concerned study is to test the fact that women are not only exposed to sexual harassment at workplace and similar related vulnerability. Currently India judiciary is facing a threat of rampant filling of false sexual harassment complaints against male workers by their female co-workers. Indian laws are more women-centric which gives women an opportunity to misutilise the law as per their malice motive. Three hypotheses drawn are majorly supported by the findings. According to hypothesis 1, sexual harassment at workplace only concentrates on protection of women against any forms of sexual harassment at workplace. Significantly, men are also the victims of sexually harassment at workplace.

10) FINDINGS

Sexual harassment against male employees specially by women colleagues has evoked a wide range of social insecurity among working men. Lack of legal framework to protect male workers against being sexually harassed or for being maliciously booked under anti-sexual harassment laws reflected the sense of helplessness among men working within the jurisdiction of Indian Territory. Constant fear of being asked of sexual advances from a female co-worker and the harsh consequences they might face, on refusal as the later takes it as a sign of disrespect. Several countries have recognised sexual harassment against male employees at workplace by a female colleague and has adopted gender-neutral laws at workplace. Protection of sexual harassment at workplace laws in India are mostly women-favouring. India is witnessing increasing number of false sexual harassment complaints against males and is yet to adopt gender-neutral anti- sexual harassment laws at workplace. As per the hypothesis 1, the result can be positively supported by the study presented in the figure- 1, that significantly shows that majority of the respondents do agree that sexual harassment is not limited to any specific gender. However, disproving the myth, 'men cannot be harassed'. Thus, proving the hypothesis 1 as true. Similarly, for the second hypothesis, the misuse of women centric laws by women against male workers would also be correlated (figure-V). Women employees do take advantages of the laws made in favour of them for their own protection and betterment.

11) SUGGESTIONS

Gender-neutral Sexual harassment laws shall be brought into force.

1. Every organisation should establish an “anti- harassment redressal cell” at workplace which should address all the grievances made by both male and female employees.
2. Employers should make sure the working environment is reasonably favourable for all employees to work comfortably irrespective of any gender.
3. Immediate actions is taken when a male employee complaints of Sexual harassment at workplace by female co-worker.

12) CONCLUSION

The context of this research article so far given us the strong reasons to believe that sexual harassment is not gender specific. But most people follow the stream in its direction, which means as the Indian laws regarding sexual harassment are generally women-centric, it is difficult of people to understand that men can also be harassed. It's important to note that sexual harassment is a serious issue that can have long-lasting impacts on the victim's physical and mental health, as well as their ability to work and function in society. However, it can be challenging to prove sexual harassment in some cases, and many victims do not report due to fear of retaliation or social stigma. It's essential to recognize that sexual harassment is never acceptable, regardless of gender, and that anyone who experiences it deserves to be heard and supported. With numerous voices calling out for help against such insensitive act of women, it is high time for legislature to consider amending the “POSH” Act and providing protective provisions against misuse of women-centric laws. Though, the laws are more women favouring, somewhere, the “POSH” Act is violating the fundamental principle of Article-14 as it protects the rights and interest of women only, completely ignoring the men. Article-14 of the Indian Constitution provides equal access to justice by everyone regardless of any gender or sexual orientations. In respect of that, POSH Act must include men in its scope of protections.

Indian Penal Code (IPC) has a single section related to sodomy that protects men against any sexual actions against them. Again, that section under IPC protects men under a particular circumstance, apart from that men cannot be protected against any sexual harassment under current Indian laws. There is no such law protecting men from sexual harassment at workplace has been enacted in India till date. Many precedents are there to prove unfair use of POSH Act by the women against men. Only making amendments to the laws will not suffice to check the inappropriate sexual behaviour towards the men at workplace, it is also incumbent upon the employers to create a safe and respectful work environment for everyone as well as to create such an atmosphere so that all the employees can speak up and seek support when they experience sexual harassment in any form. It is also important for the employers and colleagues to be supportive and non-judgmental when anyone who experiences sexual harassment comes forward and reports it. Creation of awareness amongst the employees by providing education and training on what constitutes sexual harassment, and ensuring that all employees know how

to report incidents if they occur, is another responsibility of the employer. Further, the employers should also have clear policies for addressing sexual harassment and should take all reports of harassment seriously and investigate them thoroughly irrespective of any gender-bias.

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References

- 1) Berdahl, J-L; Magley, V-J; and Waldo, C-R., 1996, "The sexual harassment of men?: Exploring the concept with theory and data," *Psychology of Women Quarterly*, 20(4) Page No. 527-547
- 2) Johnson, J-N; and Cates, S., 2016, "The new age of sexual harassment: are men the new victims of sexual harassment?," *International Journal of Management and Human Resources*, 4(1) Page No. 23-35
- 3) Hersch, J., 2015, "Sexual harassment in the workplace," *IZA World of Labor*
- 4) Pedersen, N; and Cross, C., 2021, "#MeToo and the Courts: An Analysis of the Movement's Effect on Workplace Sexual Harassment Law," *U. Tol. L. Rev* Page No.53, 71
- 5) Jha, S., 2015, "Mentor as Tormentor: A Case of Sexual Harassment at a Media company," *Review of Management – December 2013reports*
- 6) Kapoor, K., 2019, "Men too are victims of sexual harassment", *Times of India – December 2022*
- 7) Gupta, D; and Garg, J., 2020, "Sexual harassment at workplace," *International Journal of Legal Science and Innovation*
- 8) Dickinson, L-T., 1995, "Quid pro quo sexual harassment: A new standard," *Wm. & Mary J. Women & L* Page No. 2, 107
- 9) MacKinnon, C-A., 1979, "The sexual harassment of working women," *New Haven, Yale University Press*
- 10) Rubenstein, M., 1992, "Dealing with sexual harassment at work: The experience of industrialized countries," in *Conditions of Work Digest: Combating sexual harassment at work*, Vol. 11, No. 1, Page No. 11
- 11) Boris, E., 2022, "From sexual harassment to gender violence at work: the ILO's road to convention" *190. Labor*, 19(1), Page No. 109-131
- 12) Atwater, L-E; Tringale, A-M; Sturm, R-E; Taylor, S-N; and Braddy, P-W., 2019, "Looking ahead: How what we know about sexual harassment now informs us of the future *Organizational Dynamics*,"
- 13) Boris, E., 2022, "From sexual harassment to gender violence at work: the ILO's road to convention," *Paper No. 19(1)*, Page No. 109-131
- 14) McCann, D., 2005, "Sexual harassment at work: national and international responses (No. 2)," *International Labour Organization*
- 15) Cochran III, A-B., 2012, "Legal design and reporting harassment: preliminary considerations on the comparative efficacy of us and Brazilian sexual harassment law," *Revista de Direito Econômico e Socioambiental*, Paper No. 3(2), Page No. 401-446
- 16) Zippel, K., "The European Union 2002 Directive on Sexual Harassment: A Feminist Success?," *Comp Eur Polit* 7, 139–157 (2009). Patel, V. (2005). "A brief history of the battle against sexual harassment at the workplace," *Infochange News & Features*

- 17) Huen, Y-W., 2007, "Workplace sexual harassment in Japan: A review of combating measures taken," Asian Survey, Paper No. 47(5), Page No. 811-827
- 18) Shimoda, G-T., 2002, "Japan's new equal employment opportunity law: Combating sexual harassment in the workplace," Transnat'l Law., Paper No. 16, 215
- 19) Goel, S., 2019, "The Industrial Employment (Standing Orders) Act, 1946: Key Aspects." SSRN 3379562
- 20) Hannelais, J; and Gillot, T., 2005, "Sexual harassment law in France. International Journal of Discrimination and the Law," Paper No. 7(1-4), Page No. 187-198
- 21) Bakshi, P-M; and Kashyap, S-C., 1982, "The constitution of India," Universal Law Publishing
- 22) Singh, P., 1976), "Equal Opportunity and Compensatory Discrimination: Constitutional Policy and Judicial Control," Journal of the Indian Law Institute, Paper No. 18(2), Page No. 300-319
- 23) Pathak, N; and Vyas, A., 2018, Case Comment on Vishaka vs State of Rajasthan. Supremo Amicus, 3, Page No. 320
- 24) Pathak, H; and Pandey, A., 2021, "A Case Commentary on Vishakha Guidelines," Supremo Amicus, 23, Page No. 445