CHAPTER - 1
INTRODUCTION

“Country and Nation which do not respect women have never become great nor will ever be in Future”

- Swamy Vivekananda

All nations have attained greatness by paying proper respect to women. Nation which does not respect women has never become great, nor will ever be in future. Manu says, “Where women are respected, there the gods delight; and where they are not, there all works and efforts come to naught”. There is no hope of rise for that family or country where there is no estimation of women, where they live in sadness. Vivekananda favoured gender equality.

Vivekananda firmly believed in the equal rights and opportunities for women in perfect consonance with the Indian view. As a matter of fact, it is one of the strongest phenomena in the history of the mankind, that India, which, since time immemorial had honored woman as Shakti incarnate, the living embodiments of the Universal Supreme Mother, could even think it fit, to deprive them of their legitimate birth rights to education, freedom, property and what not, as bracketed with Shudras (Nari-Sudra). But such a strange thing really happened in India and that is why Swami Vivekananda linked the downfall of India with the degradation of condition of woman. However, at that time, there was no feminist movement, but Vivekananda supported their cause declaring that though outwardly there may be difference between men and women, in the real nature, there is none.

Women constitute one half of the global population, but at the workplace they are placed at various disadvantageous positions due to gender differences or biasness. Keeping in view the modern set-up of our Industries, our constitution has made certain safeguarding rights and directions for protection against Sexual Harassment at workplace. Sexual Harassment is a heinous crimes which not only hampers physically and mentally, but has a great impact socially, physiologically on a Human Being.

2 Swami Abhedananda, India and Her People: A Study in The Social, Political, Educational, Cultural and Religious Conditions of India, Ramakrishna Vedanta Math, Calcutta, 2000, p. 143.
4 Ibid.,p. 224
In the modern legal society, where men and women are treated equally in front of law, the act of sexual pestering is in itself treated as a shame, a crime which is against the law and criminal. It is prohibited to harass a person may be a male or a female who is an employer or an applicant or an employee or a workmen in an institution which may be a industrial unit or an establishment or any department or organization or any undertaking etc. run by any Government or Private agency.

“Violations of women’s human rights are often linked to their sexuality and reproductive role. Women are frequently treated as property; they are sold into marriage, into trafficking, into sexual slavery. Violence against women frequently takes the form of sexual violence. Victims of such violence are often accused of promiscuity and held responsible for their fate, while infertile women are rejected by husbands, families and communities. In many countries, married women may not refuse to have sexual relations with their husbands, and often have no say in whether they use contraception.”

“Harassment can include ‘sexual harassment’ or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature. Any harassment which may be direct or indirect in forms of gestures, remarks behavior physical contacts etc. and is caused to any employee arising out of or during the course of employment including transportation provided by the employer for undertaking such journey for any official assignment shall be deemed as Sexual Harassment at Workplace.”

Violence against women is a technical term used to collectively refer to violent acts that are primarily or exclusively committed against women. This type of violence is gender-based, meaning that the acts of violence are committed against women expressly because they are women, or as a result of patriarchal gender constructs. The UN statement on the Elimination of violence against women defines VAW as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life” and states that:

“Violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men
and to the prevention of the full advancement of women, and that violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men.\(^6\)

Forms of VAW include sexual violence (including war rape, marital rape and child sexual abuse, the latter often in the context of child marriage), domestic violence, forced marriage, female genital mutilation, forced prostitution, sex trafficking, honor killings, dowry killings, acid attacks, stoning, flogging, forced sterilization, forced abortion, violence related to accusations of witchcraft, mistreatment of widows. Fighting against VAW is considered key issues for achieving gender equality.

Gender equality, also known as sex equality, gender egalitarianism, sexual equality or equality of the genders, refers to the view that men and women should receive equal treatment, and should not be discriminated against each other based on the gender, unless there is a sound biological or educational reasoning for such different treatment. This is the objective of the United Nations Universal Declaration of Human Rights, which seeks to create equality in law and in social situations, such as in democratic activities and securing equal pay for equal work.

Sexual Harassment at workplace can be defined as

“Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that tends to create a hostile or offensive work environment”

“Sexual Harassment”\(^7\) includes “any unwelcome, sexually determined behavior, and includes any physical contact, colored remarks and showing pornography”. This includes, but is not limited to, the following types of offensive behavior:

1. Unwanted or verbal sexual advances or proposition.
2. Offering employment benefits in exchange for sexual favors. Making or threatening reprisals (revenge) after a negative response to sexual advances.
3. Image conduct, including leering, making sexual signs, displaying of sexually suggestive objects or pictures, cartoons, or posters.
4. Oral conduct, including making or using insulting comments, epithets (nickname/appellation), slurs, and jokes.

\(^6\) 48/104. Declaration on the Elimination of Violence against Women on 20 Dec 1993

\(^7\) Vishaka vs. State of Rajasthan (1997) 6 SCC 241
5. Verbal mistreatment of a sexual character, unambiguous verbal commentaries about an individual’s body, sexually degrading words used to describe an individual, suggestive or obscene correspondence, notes, or invitations.

6. Physical conduct, including touching, assault, impeding or blocking movements, standing at a close distance that would make the other person uncomfortable.

According to Britannica Dictionary

“Sexual harassment, unsolicited verbal or physical behavior of a sexual nature. Sexual harassment may embrace any sexually motivated behavior considered offensive by the recipient. Legal recourse is available in cases that occur in the workplace, though it is very difficult to obtain convictions. In 1994 the Supreme Court of the United States ruled that behavior can be considered sexual harassment and an abridgment of an individual’s civil rights if it creates a hostile and abusive working environment.”

The United Nations General assembly defines sexual harassment as “such unwelcome sexually determined behavior as physical contact and advances, sexually colored remarks, showing pornography and sexual demands, whether by words or actions. Such conduct can be humiliating and may constitute a health and safety problem it is discriminatory when the woman has reasonable ground to believe that her objection would disadvantage her in connection with her employment, including recruitment or promotion, or when it creates a hostile working environment.”

The European Union and the Council of Europe defines sexual harassment as illegal behavior. The European Commission of the EU defines sexual harassment as:

“Unwanted conduct of a sexual nature, or other conduct based on sex affecting the dignity of women and men at work. This includes unwelcome physical, verbal or nonverbal conduct”

At the national level, the United States was one of the first countries to define sexual harassment, as an illegal form of sex discrimination. The U.S. government body, the Equal Employment Opportunity Commission defines sexual harassment as

“Unwelcome sexual advances, requests for sexual favours, and other verbal or physical conduct of a sexual nature,” when Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment; Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile or offensive working environment.”
The **Canadian Human Rights Act** does not precisely define sexual harassment, but the **Canadian Labour Code** defines it explicitly as

> “any conduct, comment, gesture or contact of a sexual nature that (a) is likely to cause offence or humiliation to any employee; and (b) that might, on reasonable grounds, be perceived by that employee as placing a condition of a sexual nature on employment or on a opportunity for training or promotion.”

Regardless of a universal definition of sexual pestering, there is general consent about what constitutes barred conduct. For an act to be considered as sexual harassment it must meet these criteria:

- **the act is related to sex or sexual behaviour**;
- **the behaviour is unwelcome, not returned, not mutual**; and
- **the behaviour affects the terms or conditions of service, in some cases including the work environment itself.**

Sexual pestering and rape are two sides of identical coin. Each showcases the ability of man to dominate that of ladies. Each has one victim - ‘women’. Each are barbaric in nature; however many of us justify harassment to rape; simply because the victims don’t seem to be physically injured.

But in rape, the victim is ravished like associate animal for the fulfillment of want and lust of another man. Each have identical object- to undermine the integrity of the victim, physically likewise as mentally. As observed by Justice Arjit Pasayat:

> “While a murderer destroys the physical frame of the victim, a rapist degrades and defiles the soul of a helpless female.”

Sexual harassment is nothing but the showcasing of male dominance. Given a chance, such men would attempt fulfilling their want. However, it additionally not true that each one cases of harassment are such- wherever the defendant is guilty of conceiving the intention of a sexual activity. However it additionally depends on every individual case and circumstances, as a result of it should somewhat be the case that the women may in addition be guilty.

The question isn’t whether or not girls have the right to bodily integrity, as this right is already adumbrated underneath Article 21 of the Constitution. Article 21, that guarantees the right to life and liberty to men and women each alike however whether or not it’s very imperative to require a decisive step towards extirpating this evil and creating the modern and future society a secure haven for ladies.
When it involves harassment, the Indian Supreme Court has solely deal with the problem directly in one PIL case, which has termed as the landmark case. Popularly cited as the Vishaka case, Vishaka & Others v. State of Rajasthan\(^8\) became the very first case in India in which the Supreme Court declared sexual harassment in the workplace to be unconstitutional. The Vishaka case was brought to the Supreme Court in the form of a writ petition filed by several social activists and NGOs spurred on by the brutal gang rape of a female social worker in a Rajasthan village. Chief Justice Verma delivered the court’s judgment. The specific complaint on the gang rape was turned over to a criminal court. However, his opinion did hold that “sexual harassment in the workplace is a violation of the fundamental rights of ‘gender equality’ and ‘the right to life and liberty’ under articles 14, 15, and 21 of the constitution. In addition, he found that article 19 (1) (g), which protects the right to ‘practice any profession or to carry out any occupation, trade or business,’ is also violated when there is an incident of sexual harassment. Justice Verma states that the fundamental right guaranteed in article 19 depends on the assumption of a ‘safe’ working environment.”

He also goes on to explain that the:

“Primary responsibility for ensuring such safety and dignity through suitable legislation, and the creation of a mechanism for its enforcement, is of the legislature and the executive.”

The Apex Court in Vishaka v. State of Rajasthan\(^9\) for the first time recognized, acknowledged and explicitly defined sexual harassment as an “unwelcome sexual gesture or behaviour aimed or having a tendency to outrage the modesty of woman directly or indirectly”.

Further defined sexual harassment as an act aimed towards gender based discrimination that affects women’s right to life and livelihood, the Apex Court developed extensive guidelines for employers. These mandatory guidelines bring in its ambit all employers in public and private sectors by holding them accountable for providing safe work environment for women. “The Vishaka guidelines apply to all women whether students, working part time or full time, on contract or in voluntary/honorary capacity. The guideline also includes the following as acts of sexual harassment: Physical contact and advances, Showing pornography, a demand or request for sexual favors, any other unwelcome physical, verbal/non-verbal – such as whistling, obscene jokes, comments about physical appearances, threats, innuendos, gender based derogatory remarks, etc.”

\(^8\) Ibid
\(^9\) Ibid
Some of the important guidelines are:

- “The onus to provide a harassment free work environment has been laid down on the employers who are required to take the following steps:
  - Employers must form a Complaints Committee;
  - Express prohibition of sexual harassment in any form and make the employees aware of the implications through in house communication system / posters / meetings;
  - Must include prohibition of sexual harassment with appropriate penalties against the offender in Conduct rules;
  - Prohibition of sexual harassment in the standing orders under the Industrial Employment (Standing Orders) Act, 1946 to be included by private employers;
  - Provision of appropriate work conditions in respect of work, leisure, health, hygiene to further ensure that there is no hostile environment towards women;
  - No woman employee should have reasonable grounds to believe that she is disadvantaged in connection with her employment;
  - Victims of sexual harassment to be given an option to seek transfer of the perpetrator or their own transfer.”

Thus the Vishaka guidelines stipulated that all organizations would form a complaints committee to look into any such allegation. It would be headed by a woman employee and not less than half of its members would be women. All complaints of sexual harassment by any woman employee would be directed to this committee. The committee would advise the victim on further course of action and recommend to the management the course of action against the person accused of harassment.

However in Medha Kotwal Lele v Union of India\(^{10}\) coordinator of Aalochana, a centre for documentation and research on women and other women’s rights groups, together with others, petitioned the Apex Court stressing on number of cases of sexual pestering and contended that the Vishaka Guidelines were not being efficiently implemented. Meticulously, the petitioner argued that, in spite of the guidelines, women continuously harassed at workplace because the Vishaka Guidelines were being breached in both substance and spirit by state functionaries who annoy women workers via legal and extra legal means, making them suffer and by insulting their self-respect.

The Court stated that “the Vishaka Guidelines had to be implemented in form, substance and spirit in order to help bring gender parity by ensuring women can work with dignity, decency

\(^{10}\) Medha Kotwal Lele v Union of India (2013) 1 SCC 311,255
and due respect. It noted that the Vishaka Guidelines require both employers and other responsible persons or institutions to observe them and to help prevent sexual harassment of women.”

India finally enacted almost 16 years after the Apex Court Judgment, its law on prevention of sexual harassment against female employees at the workplace. **The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013** is a legislative act in India that seeks to protect women from sexual harassment at work. The Bill got the consent of the President on 23 April 2013. The Act came into force from 9 December 2013.

**Analysis of the provisions of the Act in detail -**

1. This Act is **not gender neutral** as only women can file a complaint. No man can file a sexual harassment complaint. Are men not harassed sexually?

2. As per section 2(o), the definition of “workplace” includes any place visited by the employee arising out of or during the course of employment including transportation provided by the employer for undertaking such journey. Therefore as per this definition even areas outside the control of the employer such as office of clients, taxis, hotels etc… become a workplace. Therefore, during an official tour the place of stay (ie hotel), travel mode (ie. taxi) and office of customers / clients are all included as workplace and the employer is liable if any incident happens with the woman employee.

3. Section 3 defines sexual harassment containing clauses such as ‘implied or explicit threat about her present or future employment status’ and ‘interferes with her work or creating an intimidating or offensive or hostile work environment for her’. Therefore bringing out quality issues with the woman’s work or providing / enforcing deadlines may be construed as threatening her future employment status or creating an offensive work environment.

4. A committee needs to be formed which will look at all sexual harassment cases. The committee needs to have “A woman Presiding officer committed to the cause of women and minimum 2 other employees “committed to the cause of women”. **What does it mean by “committed to the cause of women”**. Further, a member has to be from a women NGO and a majority of the members of the committee must be women. By defining the constitution of the committee in such a way, at the very first step itself bias has been introduced. Having a committee which is specifically formed to promote women specific-causes is coloured. How do we expect justice to be served by such a committee?
There are many issues here, keeping it out of the purview of the RTI Act will not provide information on the misuse of this Act. The identity of women, even in false cases, is kept confidential. As there are no penalties for false cases and identity is protected, there is no disincentive to file a false case. Just an accusation by the woman will destroy a man’s life with no consequences whatsoever for fabricated complaints.

1.1 Historical Background: Women participation in Indian Economy:

Pre 1947, though there had been undercurrents within the Indian sub-continent, defining nationhood and citizenship, but also highly prickly, with evolvement of strong players having stakes and claims on very different and intricate acuities of uniqueness and metaphors. There were a variety of actions against the conflict-ridden expressions of caste, religion and class.\textsuperscript{11} Common to all the fiber of political expression, however, was Nation as Mother: though opinions of what was the feature of this Motherhood, and of women within that notion, varied widely. Women’s rights and location in these major sites of difference of opinion and unease, was also tossed about with varied and often conflicting metaphors. Women spoke from within these movements, from within the anti-Brahmin faction of Periyar, or the Marxist radical armed struggles, the INA, the Gandhian organizations, the Congress, and the Socialist parties.\textsuperscript{12}

Though it appear that there seemed to be a harmony amongst these women in their expression, challenging the different locations and images that the men were creating for them. They were able to recognize and have room for a variety of identities and roles for themselves, they flourished in fluid and flexible contexts of social relations - challenging the mono typing and strictness that was and is so much a part of male wisdom.\textsuperscript{13}

Gandhi’s technique of connecting radical action, which is a onetime public act oppose, with useful work, a ordinary down to earth sustained public and development work, providing living and cleanliness for example through Khadi, gave a continuity. Further, his approach that working with organizations, institutions outside of the state, what in today’s language is called self-help groups, is more important than being in government, enabled men and women to move smoothly from struggle work to development work but outside and often against the state. Thus many men and women, notably women, did not join administration, even when posts were offered to them as and chose to put up their work into national rebuilding and


\textsuperscript{13} Ref. Vina Majumdar’s Key Note Address presented at the Baroda Conference August 9/11/1997 Seminar Organised by IAWS, “The Early Years of Indian Independence: Women’s Perspectives”.
rehabilitation. They made their locations in substitute power but financially supported by the state. Many all India organizations were created by women whose pace and effectiveness claimed the attention of those in power.

“The changeover of India from colony to a free country was Partition was the most dramatic and traumatic interventions the division of India into Pakistan and India and the holocaust of bloodshed, violence, and the displacement of people that it generated. It had been a practice that the women were specially ill-treated; raped, abducted, recovered, suffered separation and loss of children, citizenship, even legitimacy. This event and its aftermath was the most vivid, urgent social and political presence in the country in the period from 1947 to 1956, and cried for attention. The women on both sides suffered so much” says Sheila Sen Gupta, a social worker of that time.

“We talk about all the property lost. Nobody talks about the plight of the women”.

The best statistics available put forward that about 100,000 women were abducted, mainly in Punjab. How many more were raped and murdered, or casually cast aside, deity only knows, and what befell such women? “Many of them were raped,” says Urvashi Butalia.

“When we talk about all the property lost. Nobody talks about the plight of the women”. Some were killed. Some were sold into prostitution. Some were sold hand-to-hand. Some were taken as wives and married after conversion, and some just disappeared.”

It is worth noting that once again it was women who both challenged the actions taken by the male leadership on the abduction recovery issue, as well as plunged into refugee relief and rehabilitation work, which in a sense became the experience that directed their further contributions to Indian political economy.

In 1949, Rameshwari Nehru, honorary advisor to the government in the Ministry of Relief and Rehabilitation, quit in protest against a policy that she thought worked against women. In a memorandum to the Ministry of Relief and Rehabilitation, she said,

“It is well known that a very large proportion of the women recovered in India were unwilling to go to Pakistan. Many of them, even after months of detention in our transit homes, had relations among whom they appeared to be happy and well settled. but I regret to say that their protests, their hunger strikes, their pathetic and heart-rending cries of distress, widely witnessed by both workers and outsiders, were of avail, for they were eventually sent away to Pakistan. we must admit that we have sent away these unwilling and helpless women to a future they can neither control nor choose.”

14 Andrew Whitehead : “ Brutalised and Humiliated”
She recommended that “recoveries be discontinued altogether because she was convinced that we have not achieved our purpose, by sending women away, we have brought about grief and dislocation of their accepted family life without in the least promoting human happiness.”

The earliest political demand of women by great contributors namely Annie Besant, Margaret Cousins, Marie Stopes etc. was for willpower, their right to election as well as the right to access birth control, in that women wanted to have their sovereignty, have power over their bodies, they want to have political rights and they want to have a say in the decision making whether about themselves or the economy of the country as a whole.

In the mid years from 1975 to 1995 the United Nations fortunately or unfortunately professed the messages of parity between “men and women” and an orientation to making women “objects” of progress: to drawing them through present growth engines, and through main points in administration, countrywide machineries and other such necessities of global governance.

The Legislature, Executives and Judiciary being the three main pillars for forming, implementation and review of the progress of economy. All the three have taken equivalent measures towards the safety and empowerment of Female in India.

Whereas the Planning Commission was set up in March, 1950 by a Resolution of the Government of India. The economy of India is based on planning through its five-year plans, developed, implemented and monitored by the Planning Commission. With the Prime Minister as the ex-official Chairman, the commission has a nominated Deputy Chairman, who has rank of a Cabinet minister.

**The First Five-Year Plan (1951-1956):** Set up the Central Social Welfare Board Welfare work through voluntary organizations and charitable trusts

The Second Plan (1956-1961): Supported the development of Mahila Mandals to work at the grassroots Rural Development

**The Third & fourth and interim plans (1961-1974):** Provisions for women’s education, prenatal and child health services, supplementary feeding for children, nursing and expectant mothers Women as “targets” of family planning and social sector “beneficiaries”

**The Fifth Plan (1974-1978):** Programmes and schemes for women in development Shift in the approach from welfare to development

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15 Ref. Reproducing the Legitimate Community Secularity, Sexuality and the State in Post-Partition India. Ritu Menon & Kamla Bhasin
The Sixth Plan (1980-1985): Separate Chapter on Women in the Plan Accepted women’s development as a separate economic agenda; took a multidisciplinary approach with a three pronged thrust on health, education and employment


The Eighth Plan (1992-1997): The core sectors of education, health and employment outlay for women rose from Rs. 4 crores in the first plan to Rs. 2,000 crores in the eighth Paradigm shift from development to empowerment and benefits to women

The Ninth Plan (1997-2002): Concept of a women’s component plan to assure that at least 30% of funds/benefits from all development sectors flow to women Empowerment of women as its strategic objective

The Tenth Plan (2002-2007): Self help groups Suggests specific strategies, policies and programmes for the empowerment of women

The Eleventh Plan (2007 to 2012): Focus on social sector, including agriculture and rural development and Preparation of District Action Health Plans by March 2007; major emphasis to be on mother and child care.


The Planning Commission has been abolished by the Current Prime Minister Sh. Narendra Modi and in place of that The NITI Commission was formed where heads of all the states in India come together and discusses future actions.

The Indian Constitution was constituted on 26th January 1950 whereby the architect of Constitution are very determined to provide equal constitutional rights to both genders. The Constitution of India is one of the most excellent drafted documents in the world. It provides provisions to secure parity in general and gender parity in particular. Various articles in the Constitution uphold women’s rights by putting them at par with men socially, politically and economically.

Fundamental Rights under the Indian Constitution Doesn’t differentiate man and women. It also provides certain special rights to women in order to provide them same platform, so they can come par with men and compete with them in every field. The Article which provide equality to women are as follows

- Article 14 of Indian Constitution ensures women right to equality in every sphere of life.
- Article 15(1) specifically forbid discrimination on the basis of gender.
• Article 15(3) empowers the nation to take affirmative actions in support of women.
• Article 16 provides for equal opportunity for all citizens in matters relating to service or appointment to any office.

These rights being fundamental rights are justifiable in court and the state is obliged to follow the same.

**Directive Principles of State Policy:**

Directive principles of State Policy also include significant provisions regarding women empowerment and it is the responsibility of the government to apply these doctrines while making laws or preparing any strategy. Though these are not justifiable in the Court but these are crucial for governance nonetheless. Some of them are:

• “Article 39 (a) provides that the State to direct its policy towards securing for men and women equally the right to an adequate means of livelihood.”
• “Article 39 (d) mandates equal pay for equal work for both men and women.”
• “Article 42 provides that the State to make provision for securing just and humane conditions of work and for maternity relief.”

**Fundamental Duties:** Fundamental duties are enshrined in the Constitution of India and are affirmative duties for the people of India to pursue. It contains duties related to women’s rights:

> “Article 51 (A) (e) expects from the citizen of the country to promote harmony and the spirit of common brotherhood amongst all the people of India and to renounce practices derogatory to the dignity of women.”

**Other Constitutional Provisions:**

In 73rd & 74th Amendment of Constitution, a very significant political right has been given to a woman which is a milestone in the direction of women empowerment in the country. The amendment provides women 33.33 percent reservation in seats at different levels of elections in local governance i.e. at Panchayat, Block and Municipality elections. Therefore these Constitutional provisions are very empowering for women.

**Laws Related to Women Empowerment** The specific laws were enacted by the Parliament in order to fulfil Constitutional obligation of women empowerment:

• The Equal Remuneration Act, 1976.
• The Dowry Prohibition Act, 1961.
• The Immoral Traffic (Prevention) Act, 1956.
• The Maternity Benefit Act, 1961.
• The Medical termination of Pregnancy Act, 1971.
- The Sexual Harassment of Women at Work Place (Prevention, Protection and) Act, 2013.

Above mentioned laws are not only providing specific legal rights to women but also gives them a sense of protection.

1.2 International obligation of India to Provide Equal Rights to women

India is a part to various International conventions and treaties which are devoted to provide equal rights to women. The Convention on Elimination of All Forms of Discrimination against Women (CEDAW) is the important step in the elimination of gender parity.

The Mexico Plan of Action, the Nairobi Forward Looking Strategies, the Beijing Declaration, and the Platform for Action and the Outcome Document adopted by the UN General Assembly Session on Gender parity for the 21st century, titled “Further actions and initiatives to implement the Beijing Declaration and the Platform for Action”. All these have been whole-heartedly endorsed by India for appropriate follow up.

Despite various national and International commitments, laws and policies women’s situation on the ground has not improved the way the state wanted. Wide-ranging problems associated with the women are still subsisting; female infanticide is growing, dowry is still common, domestic violence against women is practised; sexual harassment at workplace and other shocking sex crimes against women are on the rise.

Although, economic and social condition of women has improved in a significant way but the change is mainly able to be seen only in metro cities or in urban areas; the condition is not much improved in semi-urban areas and villages. This inequality is due to lack of education and job opportunities and Patriarchal mind set of the society which does not approve girls’ education even in 21st century.

1.3 Government Policies and Schemes for Women Empowerment

Whatever development and empowerment women have received is mainly due to their own hard work and effort they put in into their work, although governmental policy are also there to help them in their endeavour.

In 2001, the Government of India initiated a National Policy for Empowerment of Women. The precise aim of the policy is as follows:

- “Creation of an environment through positive economic and social policies for full development of women to enable them to realize their full potential.
- Creation of an environment for enjoyments of all human rights and fundamental freedom by women on equal basis with men in all political, economic, social, cultural and civil spheres.
- Providing equal access to participation and decision making of women in social political and economic life of the nation.
- Providing equal access to women to health care, quality education at all levels, career and vocational guidance, employment, equal remuneration, occupational health and safety, social security and public life etc.
- Strengthening legal systems aimed at elimination of all forms of discrimination against women.
- Changing societal attitudes and community practices by active participation and involvement of both men and women.
- Mainstreaming a gender perspective in the development process.
- Elimination of discrimination and all forms of violence against women and the girl child.
- Building and strengthening partnerships with civil society, particularly women’s organizations.

The Ministry of Women and Child Development is the nodal agency for all matters pertaining to safety, development and empowerment of women. It has developed schemes and programmes for their promotion. These schemes are widened across a very wide spectrum such as women’s need for refuge, safety, legal aid, integrity, justice information, maternal health, food, nourishment etc., at the same time their need for economic sustenance through skill development, education and access to credit and marketing.

2. OBJECTIVES OF THE STUDY

The objectives of this research work are to trace all the important aspects of “The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013” in an all-inclusive way and to achieve new insights into it.

- To study the nature, Incidence and extent of sexual harassment of women at Work place.
- To identify the correlates and discuss comprehensively the concept of sexual harassment used against women.
- To examine the physical and psychological effects of sexual harassment on the personal and family life of the victims.
- To study the impact of sexual harassment on the work, productively and Morale of the working women.
To examine the sufficiency or otherwise of the existing laws to provide safely and protection to women at workplace.

To trace the origin and development of the Act on Sexual Harassment.

To examine critically the position of the Sexual Harassment at workplace in India.

To analyze the principles laid down in the landmark Vishaka Judgment related to sexual harassment at workplace.

To find out the comparative analysis of the concept of Sexual Harassment with International Perspective.

To point out the possible defects and loopholes in the existing laws related to Sexual Harassment at Workplace.

To find out the grounds on why the sexually harassed women continue to work in hostile work.

To suggest socio-economic measures to prevent, control and minimize the incidence of sexual pestering at workplace. To understand the basic concepts of the cyber world.

To suggest the reforms and remedial measures for the control of crimes of sexual Harassment at workplace.

3. Research Methodology

This study is practical in nature and in fact is basically applied case study based. It is an attempt to study the pros and cons of the latest enactment which had come into existence after 16 years of the regress attempts by the great intellectuals in India. An attempt has been made to understand the concept of Sexual Harassment at Workplace and its comparative analysis with the laws of various other countries.

Present article is a mission in the direction of getting a wider view of Sexual Harassment laws for protection of women in India and its effects. The material has been gathered from the highlights of the various Indian enactments and the journey of step by step different Landmark Judgments & case laws decided by the different Courts including the Supreme Court of India.

4. Research Questions

Following is a non-exhaustive list of the research questions. The questions are viewed as an essential tool to provide the proper approach to the Sexual Harassment of women at workplace programmes:

- What is the meaning of Sexual Harassment of women at workplace?
• What is the importance and relevance to study the concept of Sexual Harassment of women at workplace?
• What are the impediments which results in Sexual Harassment of women at workplace?
• What are the areas related to Sexual Harassment of women at workplace which need to be addressed by an organization in order to enhance its effectiveness?
• What are the duties of the management’s while drafting certain guidelines for prevention of Sexual Harassment of women at workplace in an organization?
• What are the benefits of the various preventive exercises for prevention of Sexual Harassment of women at workplace?
• What are the roles and duties of the employer in an organization?
• What are the rights which are available to a female who has suffered the heinous crime in her organization where she has been working?
• What are the various activities, duties & powers exercised by the Government and Courts for the protection of a female employee from Sexual Harassment of women at workplace?
• What is the scope of Vishakha Judgment in modern organizations and its scope in future? And what are the lasting effects it is hoped to have?
• What is the impact of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.
• Has the 16 year of long delay really brought a fruitful enactment in light in protection from Sexual Harassment of Women at Workplace?
• What is the difference in Indian Laws as compare to the laws of other nations?

5. SCHEME OF CHAPTERS
The present research work has been divided into nine chapters.

1. Chapter I – ‘Introductory’ articulates the problem of Sexual Harassment at workplace for study in the area of Labour Laws. It describes the meaning of the term “Sexual Harassment”, what results in sexual harassment and gives an overview of literature.

2. Chapter II – ‘Principles laid down in the landmark Vishaka Judgment:-Examines various Sexual Harassments at workplace- Guidelines for prevention of sexual harassment at organized and un-organized sectors in India,. It also enumerates the modes of infringement of a female victims rights- remedies available for females- compulsory provisions required by the organization to protect the female rights. ‘Evolution of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 in India’ throws light on
development, evolution of the Sexual Harassment rights against women at workplace after 16 years struggle by great scholars and activists in India. Its new strategies- formation of internal committees- duties of employers- penalties- audit reports etc.

3. Chapter III – ‘Sexual Harassment: Meaning, Definition, Nature, Scope, Elements, Characteristics and Classification’ analyses the definition of Sexual Harassment crimes as given by renowned authors and jurists. It also incorporates an analytical and evaluative study of some important Harassment crimes like sexual crimes, Gender discrimination, retaliation, Sexual fraud, Sexual pornography, sexual defamation, Sexual terrorism etc. and also the international, UK’s, USA’s, Asia, and Indian initiatives to prevent and control these Sexual crimes. “Duties of employer”:- The certain duties to each employer. These include (a) providing a safe working environment; (b) constituting an Internal Complaints Committee and conspicuously displaying the order constituting the Committee; (c) undertaking workshops and training programmes at regular intervals for sensitizing employees; (d) providing assistance during an inquiry; and (e) initiating action against the perpetrator.

4. Chapter IV- ‘Basic Concepts of the Sexual Harassment in workplace: An Overview’ gives an account of some general aspects of the Sexual Harassment in workplace such as meaning and salient features of Sexual Harassment in workplace, Industrial, Labour and criminal law; meaning, types, characteristics and major components of Sexual Harassment, evolution and history of Sexual Harassment at workplace in India, etc.


6. Chapter VI – “Analysis of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. The concepts like admissibility of Sexual Harassment Act, burden of proof, rule against hearsay, best evidence rule, primary versus secondary evidence, public versus private documents etc. have been dealt with extensively in the context of electronic evidence.
8. Chapter VII – ‘Conclusions and Suggestions’ addresses the conclusions and suggestions arrived at as a result of the discussions in the previous chapters. An attempt has been made to point out the shortcomings and lacunae in the Labour Laws and to suggest remedial measures to ensure effective legal control of the crimes against women at workplace. Social Reforms & their Implementations required to be adopted to abolish or set norms for control over harassment crimes

6. Magnitude of Sexual Harassment of Women at Workplace Cases in India: In recent times

While the official figures for women’s work participation are low, much of the work that women do is not captured in official data accounts. It is argued1 that where this is to be captured, women’s overall work participation would be 86.2 per cent. While the official data2 shows that women’s work participation rate is around 25.3 per cent in rural areas and 14.7 per cent in the urban areas, estimates indicate that there is a huge workforce of women, therefore there is a need to secure their workplace and entitlements. Given, that 93 per cent of women workers are employed in the informal sector, they remain unprotected by laws. With no laws or mechanisms to protect them, proactive measures are required to make their workplaces safe.

A great deal of cynicism exists regarding police action. Women said that even when they have gone ahead to complain to the police nothing has been done about it. In our survey 20.2% women hostellers said that they have faced sexual harassment from policemen, this includes staring, winking and lewd comments. The problem of harassment can be sorted out only if the hostel and university authorities and the police work together in tackling it. It is a matter of concern that 91.7% of the women hosteller respondents reported having faced harassment on the campus. This report came out in 1996; however nothing concrete has still been done to tackle this problem.

In another wake of the mishandling of the Pachauri case16 and Arun Jaitley’s revealing remarks to Maneka Gandhi’s request for greater transparency, the Sexual Harassment of Women at Workplace Act 2013 has recently come under close scrutiny. In the sixteen years since the passing down of the Vishakha Guidelines and the two years since the enactment of SHWW, little meaningful progress has been made in making workplaces safer and less hostile towards women.

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16 Pachauri Case (Teri Case) (May 2016)
While some companies and districts in Kerala, Delhi, Haryana, Karnataka, Maharashtra etc have formed ICCs and LCCs, there has been much confusion in jurisdictions, procedures, and distinctions between ICCs and LCCs, arising particularly with the question of how to deal with the unorganised sector. While ICCs have direct jurisdiction over offenders and can easily implement corrective action, LCCs have a much harder time as the ‘workplace’ for unorganised workers is often more nebulous than the four walls of an office or the inside of an official car. Attendees at the session reported that all LCCs in the state of Kerala, and much of India, are non-functioning, a problem that rests on the perceived lack of urgency and that serves as a signal of the problematic structure of LCCs themselves.