CHAPTER I

INTRODUCTION

1.1 GENERAL INTRODUCTION

The Constitution of India guarantees that (i) the State shall not discriminate against any citizen on grounds of sex [Article 15(1)], (ii) there shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State [Article 16(1)] and (iii) no citizen shall, on grounds only .......sex....... be ineligible for, or discriminated against, in respect of, any employment or office under the State [Article 16(2)].

Today even after over six decades of existence of the fundamental rights guaranteed in the Constitution of India, the majority of women in India is still deprived of social, economic and political justice as well as equality of status and of opportunity. Discrimination on the basis of sex still continues to prevail in Indian society. More specifically, the sexual harassment at workplace is a form of discrimination and a reflection of inequality at work. Gupta and Hajra (2007) articulated that sexual harassment (S.H) violates the rights and opportunities of working women to seek, obtain and hold employment without discrimination. Coomaraswamy (2003) reported that the sexual harassment in the workplace must be understood to exist on the continuum of sexual violence against women. It is a personal attack on women’s minds, bodies and their integrity. It is utilized as a powerful mechanism of control, intimidation, through which women’s subordinate social status is maintained. Women are nine times more likely than men to leave their job as a result of sexual harassment.
1.1.1 Women and Work

The status of women is directly dependent on the world of work. Work is currently defined as the “expending labour in return for its value”. In the world of work, women are holding only a secondary position compared to men. The society is a male-dominated one. The secondary or subordinate position being held by women in the world of work is marked by several features such as low participation rate, low wages, crowding in low-paid occupations, lack of access to means of production (including credit), unfavourable climate for career advancement and the like (Stockyard & Johnson, 1992).

The male domination or subordination of women in real life situations takes various forms like preference for sons, male control over women and girls, discrimination of women and girls in households in access to food, education, personal freedom of expression, dressing, mobility, etc., sexual harassment at work, male control over women sexuality and decision on pregnancies, low wages for women – dominated jobs, low upward mobility of women, inflicting injuries, rape, wife battering, insult, discrimination, control, disregard, exploitation, etc. The position of women in any particular area including women in organized sector can be explained only in this background. No doubt, positive changes did occur in the last six decades, but the pace of such changes have been painfully slow and direction wayward.

1.1.2 Women in Organized Sector

The position and distribution of women in the organized sectors in terms of overall employment situation has historically been very small and its relative share is gradually increasing.
The analysis of the position of women in the organized sector is primarily based on the data compiled by the Office of the Director – General of Employment and Training (DGET) under the Ministry of Labour, Government of India. Both the industry – wise and sex – wise data are compiled every year for public and private sectors by the DGET. The obtained data have been included in the ‘Economic Survey’.

**TABLE 1.1**

**EMPLOYMENT IN ORGANIZED SECTOR – PUBLIC AND PRIVATE**

*Lakhs Persons as on 31st March*

<table>
<thead>
<tr>
<th>Year</th>
<th>Public Sector</th>
<th></th>
<th></th>
<th>Private Sector</th>
<th></th>
<th></th>
<th>Combined</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>No.of Women Employees</td>
<td>% of Women Employees</td>
<td>Total No.of Employees</td>
<td>No.of Women Employees</td>
<td>% of Women Employees</td>
<td>Total No.of Employees</td>
<td>No.of Women Employees</td>
<td>% of Women Employees</td>
</tr>
<tr>
<td>1990</td>
<td>22.50</td>
<td>11.99</td>
<td>187.72</td>
<td>13.94</td>
<td>18.39</td>
<td>75.82</td>
<td>36.44</td>
<td>13.83</td>
</tr>
<tr>
<td>1991</td>
<td>23.47</td>
<td>12.32</td>
<td>190.57</td>
<td>14.34</td>
<td>18.68</td>
<td>76.76</td>
<td>37.81</td>
<td>14.14</td>
</tr>
<tr>
<td>1992</td>
<td>24.29</td>
<td>12.64</td>
<td>192.10</td>
<td>14.79</td>
<td>18.85</td>
<td>78.46</td>
<td>39.08</td>
<td>14.44</td>
</tr>
<tr>
<td>1993</td>
<td>24.77</td>
<td>12.82</td>
<td>193.26</td>
<td>15.50</td>
<td>19.74</td>
<td>78.51</td>
<td>40.26</td>
<td>14.81</td>
</tr>
<tr>
<td>1994</td>
<td>25.65</td>
<td>13.19</td>
<td>194.45</td>
<td>15.89</td>
<td>20.04</td>
<td>79.30</td>
<td>41.54</td>
<td>15.17</td>
</tr>
<tr>
<td>1995</td>
<td>26.00</td>
<td>13.36</td>
<td>194.66</td>
<td>16.28</td>
<td>20.20</td>
<td>80.59</td>
<td>42.28</td>
<td>15.36</td>
</tr>
<tr>
<td>1996</td>
<td>26.35</td>
<td>13.56</td>
<td>194.29</td>
<td>17.92</td>
<td>21.05</td>
<td>85.12</td>
<td>44.26</td>
<td>15.84</td>
</tr>
<tr>
<td>1997</td>
<td>27.28</td>
<td>13.95</td>
<td>195.59</td>
<td>19.09</td>
<td>21.98</td>
<td>86.86</td>
<td>46.37</td>
<td>16.42</td>
</tr>
<tr>
<td>1998</td>
<td>27.63</td>
<td>14.23</td>
<td>194.18</td>
<td>20.11</td>
<td>22.99</td>
<td>87.48</td>
<td>47.74</td>
<td>16.95</td>
</tr>
<tr>
<td>1999</td>
<td>28.11</td>
<td>14.48</td>
<td>194.15</td>
<td>20.18</td>
<td>23.20</td>
<td>86.98</td>
<td>48.29</td>
<td>17.18</td>
</tr>
<tr>
<td>2000</td>
<td>28.57</td>
<td>14.79</td>
<td>193.14</td>
<td>20.66</td>
<td>23.90</td>
<td>86.46</td>
<td>49.23</td>
<td>17.61</td>
</tr>
<tr>
<td>2001</td>
<td>28.59</td>
<td>14.9</td>
<td>191.38</td>
<td>20.90</td>
<td>24.16</td>
<td>86.52</td>
<td>49.49</td>
<td>17.81</td>
</tr>
<tr>
<td>2002</td>
<td>28.87</td>
<td>15.38</td>
<td>187.73</td>
<td>20.49</td>
<td>24.30</td>
<td>84.32</td>
<td>49.35</td>
<td>17.81</td>
</tr>
<tr>
<td>2003</td>
<td>29.05</td>
<td>15.64</td>
<td>185.80</td>
<td>20.64</td>
<td>24.51</td>
<td>84.21</td>
<td>49.68</td>
<td>18.40</td>
</tr>
<tr>
<td>2004</td>
<td>28.90</td>
<td>15.88</td>
<td>181.97</td>
<td>20.44</td>
<td>24.79</td>
<td>82.46</td>
<td>49.34</td>
<td>18.66</td>
</tr>
<tr>
<td>2005</td>
<td>29.21</td>
<td>16.22</td>
<td>180.07</td>
<td>20.95</td>
<td>24.79</td>
<td>84.52</td>
<td>50.16</td>
<td>18.96</td>
</tr>
<tr>
<td>2006</td>
<td>30.03</td>
<td>16.51</td>
<td>181.88</td>
<td>21.18</td>
<td>24.05</td>
<td>88.06</td>
<td>51.21</td>
<td>18.97</td>
</tr>
<tr>
<td>2007</td>
<td>30.18</td>
<td>16.76</td>
<td>180.02</td>
<td>22.94</td>
<td>24.73</td>
<td>92.74</td>
<td>53.12</td>
<td>19.47</td>
</tr>
<tr>
<td>2008</td>
<td>30.40</td>
<td>17.20</td>
<td>176.74</td>
<td>24.72</td>
<td>25.03</td>
<td>98.75</td>
<td>55.12</td>
<td>20.01</td>
</tr>
</tbody>
</table>

In terms of overall employment situation, the organized sector has historically been very small and its relative share is gradually declining further. The ongoing process of liberalization and globalization in particular seems to have set the pace of deceleration of employment in this sector. It is evident from the table (Table 1.1) that in the recent past the absolute number of employees is declining. Currently it provides employment to just about 7 per cent of the total labour force.

But a vast majority labour force in the country prefers jobs in the organized sector for reasons of security of service, relatively higher wages, social security measures, regulated working hours, work site facilities like water, urinals, etc. For these basic workplace amenities, jobs in the organized sector are more favourable to women. It is for these basic workplace amenities that women prefer jobs in the organized sector. It is also evident from the table (Table 1.1) that the relative share of women to total employment is greater than that of previous years.

1.1.3 Women in Unorganized Sector

According to the National Sample Survey Organization (NSSO) which is conducting surveys of unorganized enterprises at periodical intervals, all enterprises not covered under the Annual Survey of Industries in the case of manufacturing industries and all enterprises except those run by the Government and those in the Public Sector were regarded as unorganized sector. In the compilation of National Accounts, the term ‘unorganized’ is used to refer to all those enterprises which are not included in the organized sector.

The Directorate General of Employment and Training considers all establishments employing ten workers and more as organized sector, but the Employment Exchange (Compulsory Notification of Vacancies) Act, 1959 makes it mandatory to submit
employment returns only for those establishments employing twenty-five or more persons.

According to international definitions, the unorganized (informal) sector consists of all those business entities owned by (i) Individuals (proprietary concerns), (ii) Partnership Firms, (iii) Registered Companies, (iv) Cooperative Societies and (v) Government/Public Sector undertakings.

These definitions have the ills of appropriate employment size, non-registration and non-maintenance of complete accounts. In the present day, unorganized or informal sector consists of all those enterprises owned as proprietary or partnership enterprises employing less than ten employees.

According to the NSS 55th round survey for the year 2000, the estimate of employment (aggregate) 396.77 million consists of 273.79 million (69.005%) male employees and 122.98 million (30.995%) female employees. These figures are presented in the table (Table 1.2) below.

**TABLE 1.2**

**EMPLOYMENT IN UNORGANIZED SECTOR - PUBLIC AND PRIVATE**

<table>
<thead>
<tr>
<th></th>
<th>Estimated Number of Employees (Million)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Male</td>
</tr>
<tr>
<td>Rural</td>
<td>196.74</td>
</tr>
<tr>
<td>Urban</td>
<td>77.05</td>
</tr>
<tr>
<td>Total</td>
<td>273.79</td>
</tr>
</tbody>
</table>

Thus, India`s workforce comprises nearly 92 per cent in the unorganized sector and nearly 7 per cent in the organized sector. Bulk of India`s workforce is unorganized in nature.

1.1.4 Position of Women

Women`s status is directly related to the world of work. In the world of work, women are holding secondary or subordinate position compared to men, thus leading to a male-dominated society. The male domination has been traced in different social formations. It, however, consolidated in the era of slavery and feudalism. The historical legacy continues in the present modern era. Thus, female subordination or male domination has been explained in terms of masculinity and patriarchy. Patriarchy refers to male-dominated and controlled social institutions not only over women`s productive and labour power but also on their reproductive power, mobility, sexuality and property and wealth. Women thus lose even control of their own bodies including the power of womb. They, therefore suffer from dual oppression. The men dominate women and children by the full control and authority on means of production and family. Patriarchy therefore is a much wider system of socio-economic power and male–dominated politics. Male domination is now considered as the result of socialization processes in the system of patriarchy – based history of unequal human development. Thus the position of women is not static and is changing with changes in social relations. However, the change process is slow and is located within the overall widening and deepening democratic processes in other arenas as well. The State has an important role to play in the whole process.
1.1.5 Factors Affecting Women`s Employment

Three factors are considered vital in determining the status of women in contemporary society. They are

1) Female Participation Rate

2) Female Literacy and

3) Gendering (Khandelwal, 2004).

These factors are inter-related. They constantly interact with the social institutions and affect and get affected while interacting.

1.1.5.1 Female Participation Rate

Female Participation Rate (FPR) refers to the percentage of the women employees to total employment in the respective category. It is very important in the study of gender relations. High female participation promotes economic growth and reduces poverty, lowers gender discrimination within a family, increases the bargaining power of women, leads to better male – female ratio and improves the female child survival rate (Dreeze & Zen, 1995). All this shows that high female participation rate improves the economic position of women which is one of the important determinants of gender relations. According to Agarwal (1994), enhanced economic status of women helps towards gender equality, when:(i) women’s self-esteem and their treatment in families improve;(ii) verbal and physical abuses and threats of divorce by husbands significantly reduce and (iii) women’s participation in household decision-making processes increases. All these evidences establish the primacy of matter (economic status – access to money) over socio-cultural basis (stereotyping).
1.1.5.2 Female Literacy

Female literacy and gender inequality are adversely correlated. Thus, providing female literacy becomes very important for gender equality. The education of the girl child and female literacy will be the primary areas for us. Three aspects of patriarchy-based gender relations are identified by the researchers with reference to the rural India. First, the present gender division of labour projects image of an adult woman into an unpaid domestic worker and child-rearing person. Second, the system of patrilocal residence makes investment in girl-child’s education meaningless in the eyes of the parents. Moreover, women are often considered as ‘parya dhan’ (literally, someone else’s asset). Third, the practice of dowry and the ideology of hypergamous marriage makes female education a liability (Dreeze & Zen, 1995).

1.1.5.3 Gendering

Gender relations in real life—the interactions and outcomes of these interactions between a man and a woman, are shaped by the roles, attitudes, ideas, practices and behaviours one has imbibed and internalized during the process of socialization. Such acquired beliefs and consequent attitudes and behaviours are called gender stereotypes. Ashmore and DelBoca (1986) defined gender stereotypes as “the structured sets of beliefs about the personal attributes of women and men”. Gender stereotypes are thus generalizations about the nature and attributes of men and women and influence our perception of individual men and women. They divide the people into two mutually exclusive categories—male versus female. Stereotypes lead to shared misperception of co-workers, job candidates, performance and credentials.
1.2 CRIMES AGAINST WOMEN IN INDIA

Women may be victims of any of the general crimes such as murder, robbery, cheating, etc. These crimes are dealt with by the Indian Penal Code. Hence they are called IPC Crimes.

But those crimes which are directed specifically against women are characterized as ‘crimes against women’. Such crimes alone are included in this category. These crimes are dealt with certain Special and Local Laws. Hence, these are called SLL Crimes.

The following crimes are dealt with the provisions of the Indian Penal Code(IPC).

(i) Rape (Sec.376 IPC)

(ii) Kidnapping and Abduction for specified purposes (Sec.363, 373 IPC).

(iii) Homicide for Dowry, Dowry Deaths or their attempts (Sec. 302/304 B, IPC)

(iv) Cruelty of Husband and His Relatives (Sec.498A, IPC) [Torture – both mental and physical (Sec. 498 A, IPC)]

(v) Molestation (Sec.354 IPC)

(vi) Sexual Harassment (Sec. 509 IPC)

(vii) Importation of Girls (upto 21 years of age) (Sec. 366 B,IPC)

The crimes under the SLL are dealt with the following legislations.

(i) Immoral Traffic (Prevention) Act,1956

(ii) Dowry Prohibition Act, 1961

(iii) The Child Marriage Restraint (Amendment) Act, 1929

(iv) Indecent Representation of Women (Prohibition) Act, 1986

(v) Commission of Sati (Prevention) Act, 1987 and
(vi) Pre-Natal Diagnostic Techniques (Regulation, Prevention and Misuse) Act, 1994

1.2.1 Statistics on Crimes against Women in India

The table 1.3 below gives the incidence of the crimes against women in India along with the rate of total cognizable crimes between 2001 and 2009.

<table>
<thead>
<tr>
<th>Year</th>
<th>No. of Crimes</th>
<th>Rate of Total Cognizable Crimes</th>
</tr>
</thead>
<tbody>
<tr>
<td>2001</td>
<td>1,43,795</td>
<td>14.0</td>
</tr>
<tr>
<td>2002</td>
<td>1,47,678</td>
<td>14.1</td>
</tr>
<tr>
<td>2003</td>
<td>1,40,601</td>
<td>13.2</td>
</tr>
<tr>
<td>2004</td>
<td>1,54,333</td>
<td>14.2</td>
</tr>
<tr>
<td>2005</td>
<td>1,55,553</td>
<td>14.1</td>
</tr>
<tr>
<td>2006</td>
<td>1,64,765</td>
<td>14.7</td>
</tr>
<tr>
<td>2007</td>
<td>1,85,312</td>
<td>16.3</td>
</tr>
<tr>
<td>2008</td>
<td>1,95,856</td>
<td>17.0</td>
</tr>
<tr>
<td>2009</td>
<td>2,03,804</td>
<td>17.4</td>
</tr>
</tbody>
</table>

Source: Compiled from Crime in India Reports, 2001 - 2009

From the table 1.3, it is inferred that the number of reported crimes against women increased 41.7 % between the years 2001 and 2009.

The incidence of crimes against women in India classified head-wise, between 2001 and 2009 are given below in the table, Table 1.4.

It is evident from the table 1.4 above that maximum number of crimes committed against women in India during the study period falls in the category of ‘Cruelty by Husband and His Relatives’ and minimum number of crimes are reported under Sati Prevention Act, in almost all the years in the study period 2001 – 2009.
With regard to incidences of sexual harassment cases, the same table shows that there was 13% increase between the year 2001 and 2009. These figures of sexual harassment include that all types of sexual harassment occurred against women, not exactly the sexual harassment at workplace. Also, it is unavoidable to remember that sexual crimes such as rape, sexual harassment, insulting a woman are reported lesser due to the sensitive nature of crime, social stigma of the victims, when compared with other general crimes. So, adding of ‘dark figures’ of sexual harassment incidences will contribute more deviation in the statistics, if they are measured through a national level victimization survey.
## TABLE 1.4

### HEAD-WISE INCIDENCE OF CRIMES AGAINST WOMEN IN INDIA BETWEEN 2001 AND 2009

<table>
<thead>
<tr>
<th>S. No</th>
<th>Head of Crime against Women</th>
<th>2001</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Rape</td>
<td>16,075</td>
<td>16,373</td>
<td>15,847</td>
<td>18,233</td>
<td>18,359</td>
<td>19,348</td>
<td>20,737</td>
<td>21,467</td>
<td>21,397</td>
</tr>
<tr>
<td>2</td>
<td>Kidnapping and Abduction</td>
<td>14,645</td>
<td>14,506</td>
<td>13,296</td>
<td>15,578</td>
<td>15,750</td>
<td>17,414</td>
<td>20,416</td>
<td>22,938</td>
<td>25,741</td>
</tr>
<tr>
<td>3</td>
<td>Dowry Death</td>
<td>6,581</td>
<td>6,822</td>
<td>6,208</td>
<td>7,026</td>
<td>6,787</td>
<td>7,618</td>
<td>8,095</td>
<td>8,172</td>
<td>8,383</td>
</tr>
<tr>
<td>4</td>
<td>Cruelty by Husband and His Relatives</td>
<td>49,170</td>
<td>49,237</td>
<td>50,703</td>
<td>58,121</td>
<td>58,319</td>
<td>63,128</td>
<td>75,930</td>
<td>81,344</td>
<td>89,546</td>
</tr>
<tr>
<td>5</td>
<td>Molestation</td>
<td>34,124</td>
<td>33,943</td>
<td>32,939</td>
<td>34,567</td>
<td>34,175</td>
<td>36,617</td>
<td>38,734</td>
<td>40,413</td>
<td>38,711</td>
</tr>
<tr>
<td>6</td>
<td>Sexual Harassment / Eve Teasing</td>
<td>9,746</td>
<td>10,155</td>
<td>12,325</td>
<td>10,001</td>
<td>9,984</td>
<td>9,966</td>
<td>10,950</td>
<td>12,214</td>
<td>11,009</td>
</tr>
<tr>
<td>7</td>
<td>Importation of Girls</td>
<td>114</td>
<td>76</td>
<td>46</td>
<td>89</td>
<td>149</td>
<td>67</td>
<td>61</td>
<td>67</td>
<td>48</td>
</tr>
<tr>
<td>8</td>
<td>Sati (Prevention) Act</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>9</td>
<td>Immoral Traffic (Prevention) Act</td>
<td>8,796</td>
<td>11,242</td>
<td>5,510</td>
<td>5,748</td>
<td>5,908</td>
<td>4,541</td>
<td>4,541</td>
<td>2,659</td>
<td>2,474</td>
</tr>
<tr>
<td>10</td>
<td>Indecent Representation of Women (Prevention) Act</td>
<td>1,052</td>
<td>2,508</td>
<td>1,043</td>
<td>1,378</td>
<td>2,917</td>
<td>1,562</td>
<td>1,562</td>
<td>1,025</td>
<td>845</td>
</tr>
<tr>
<td>11</td>
<td>Dowry Prohibition Act</td>
<td>3,222</td>
<td>2,816</td>
<td>2,684</td>
<td>3,592</td>
<td>3,204</td>
<td>4,504</td>
<td>4,504</td>
<td>5,555</td>
<td>5,650</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td>1,43,795</td>
<td>1,47,678</td>
<td>1,47,601</td>
<td>1,54,333</td>
<td>1,55,553</td>
<td>1,64,765</td>
<td>1,55,553</td>
<td>1,95,856</td>
<td>2,03,804</td>
</tr>
</tbody>
</table>

Source: Crime in India Reports 2001-2009
1.2.2 Statistics on Crimes against Women in Tamil Nadu

The crimes against women in Tamil Nadu, classified crime head-wise, for the period from 2001 to 2010 are given in table 1.5 below. It is observed from the table that the reported incidence of sexual harassment in Tamil Nadu amplified as more than 1000 in the years 2002 and 2004. It is also observed that the minimum number sexual harassment incidences reported in the years 2009 and 2010.
### TABLE 1.5

HEAD-WISE CRIMES AGAINST WOMEN IN TAMIL NADU BETWEEN 2001 AND 2010

<table>
<thead>
<tr>
<th>S. No</th>
<th>Head of Crime</th>
<th>Year</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>2001</td>
</tr>
<tr>
<td>1</td>
<td>Rape</td>
<td>432</td>
</tr>
<tr>
<td>2</td>
<td>Dowry Death</td>
<td>194</td>
</tr>
<tr>
<td>3</td>
<td>Molestation</td>
<td>773</td>
</tr>
<tr>
<td>4</td>
<td>Sexual Harassment</td>
<td>914</td>
</tr>
<tr>
<td>5</td>
<td>Cruelty by Husband and his Relatives</td>
<td>815</td>
</tr>
<tr>
<td>6</td>
<td>Kidnapping &amp; Abduction</td>
<td>659</td>
</tr>
</tbody>
</table>

**Total** | 4787 | 6077 | 5867 | 5914 | 5648 | 4641 | 6219 | 6267 | 5126 | 5928 |

**Source:** Compiled from Crime Review Tamil Nadu 2007 & 2008, State Crime Records Bureau, Crime Branch CID, Chennai
1.2.3 Reported Cases of Sexual Harassment in India and Tamil Nadu between 2001 and 2010

The number of reported cases of sexual harassment in India and Tamil Nadu between 2001 and 2010 is shown in table 1.6 below. However, the statistics does not include the ‘dark figures of crime’ of this specific category. The excluded crimes can be estimated by a wide range of victimization survey.

**TABLE 1.6**
REPORTED CASES OF SEXUAL HARASSMENT IN INDIA AND TAMIL NADU BETWEEN 2001 AND 2010

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Reported Cases of Sexual Harassment</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>India</td>
</tr>
<tr>
<td>2001</td>
<td>9746</td>
</tr>
<tr>
<td>2002</td>
<td>10155</td>
</tr>
<tr>
<td>2003</td>
<td>12325</td>
</tr>
<tr>
<td>2004</td>
<td>10001</td>
</tr>
<tr>
<td>2005</td>
<td>9984</td>
</tr>
<tr>
<td>2006</td>
<td>9966</td>
</tr>
<tr>
<td>2007</td>
<td>10950</td>
</tr>
<tr>
<td>2008</td>
<td>12214</td>
</tr>
<tr>
<td>2009</td>
<td>11009</td>
</tr>
<tr>
<td>2010</td>
<td>U.A</td>
</tr>
<tr>
<td></td>
<td>Tamil Nadu</td>
</tr>
<tr>
<td>2001</td>
<td>1012</td>
</tr>
<tr>
<td>2002</td>
<td>1718</td>
</tr>
<tr>
<td>2003</td>
<td>881</td>
</tr>
<tr>
<td>2004</td>
<td>1081</td>
</tr>
<tr>
<td>2005</td>
<td>665</td>
</tr>
<tr>
<td>2006</td>
<td>852</td>
</tr>
<tr>
<td>2007</td>
<td>875</td>
</tr>
<tr>
<td>2008</td>
<td>974</td>
</tr>
<tr>
<td>2009</td>
<td>501</td>
</tr>
<tr>
<td>2010</td>
<td>638</td>
</tr>
</tbody>
</table>


With regard to number of reported cases of sexual harassment the table 1.6 shows that their was 12.95 % increase in India between the years 2001 and 2009. However, there was 36.95 % decrease found in Tamil Nadu between the years 2001 and 2010.

1.2.4 Incidence of Crimes against Women in Tirunelveli District

The incidence of crimes against women in Tirunelveli classified head – wise and compiled from the statistics available in Crime Review Tamil Nadu 2007 -2010. The incidences classified as district and city level data are given in table 1.7 below.
**TABLE 1.7**

**HEAD-WISE INCIDENCE OF CRIMES AGAINST WOMEN IN TIRUNELVELI DISTRICT AND TIRUNELVELI CITY FOR YEARS 2005 - 2010**

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Head of Crime</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>D</td>
<td>C</td>
<td>T</td>
<td>D</td>
<td>C</td>
<td>T</td>
<td>D</td>
</tr>
<tr>
<td>1.</td>
<td>Rape</td>
<td>27</td>
<td>2</td>
<td>29</td>
<td>42</td>
<td>4</td>
<td>46</td>
</tr>
<tr>
<td>2.</td>
<td>Dowry Death</td>
<td>5</td>
<td>1</td>
<td>6</td>
<td>7</td>
<td>1</td>
<td>8</td>
</tr>
<tr>
<td>3.</td>
<td>Molestation</td>
<td>123</td>
<td>7</td>
<td>130</td>
<td>86</td>
<td>8</td>
<td>94</td>
</tr>
<tr>
<td>4.</td>
<td>Sexual Harassment</td>
<td>1</td>
<td>29</td>
<td>30</td>
<td>62</td>
<td>27</td>
<td>89</td>
</tr>
<tr>
<td>5.</td>
<td>Cruelty by Husband &amp; Relatives</td>
<td>48</td>
<td>6</td>
<td>54</td>
<td>44</td>
<td>24</td>
<td>68</td>
</tr>
<tr>
<td>6.</td>
<td>Kidnapping &amp; Abduction of Women &amp; Girls</td>
<td>26</td>
<td>6</td>
<td>32</td>
<td>31</td>
<td>3</td>
<td>34</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td>230</td>
<td>51</td>
<td>281</td>
<td>272</td>
<td>67</td>
<td>339</td>
</tr>
</tbody>
</table>


D: Tirunelveli District Incidence of Cognizable Crimes against women for the Years 2005 to 2010 and C: Tirunelveli City Incidence of Cognizable Crimes against women for the Years 2005 to 2010.

T: Total Incidence of Cognizable Crimes against women for the Years 2005 to 2010.

The table 1.7 revealed that there were no incidences of sexual harassment in the years 2009 and 2010, and however the rape incidences showed a gradual increase over the years between 2005 and 2010.
1.3 SEXUAL HARASSMENT OF WOMEN AT WORKPLACE

There was no commonly recognized term for ‘sexual harassment’ until the mid–1970s, though the phenomenon was well-known to women (Bowman, 1993). The term ‘sexual harassment’ as a legal concept gained meaningful application in the United States only then when the U.S. courts held that sexual harassment is a form of sex discrimination prohibited under Title VII of the Civil Rights Act of 1964. In India, the term ‘sexual harassment’ was first defined in a formal legal sense in the year 1997 by the Supreme Court in Vishaka V. State of Rajasthan.

Sexual Harassment may take diverse and varied forms. It may be violent or mild. It may be verbal or non-verbal. It may be physical or psychological. Generally speaking, sexual behaviour is “behaviour with a sexual connotation that is abusive; injurious and unwelcome”.

The term ‘workplace’, in ordinary language, refers to the physical space or location of the Corporation or Enterprise or Office where work is carried on. But the term ‘workplace’ in this research work, includes not only the physical space or the location of the Corporation or Enterprise or Office where work is carried on, but also any other work–related venues and interactions in which the employees may be involved in.

Thus, the term ‘sexual harassment of women at workplace’ may be defined as any sexual behaviour with a sexual connotation that is abusive, injurious and
unwelcome in the physical space or location of the Corporation or Enterprise or Office and work-related venues and interactions in which the employees are involved in.

1.3.1 Meaning and Definitions of Sexual Harassment

According to Reinhart (1999), until the mid-1970s there was no generally accepted term for ‘sexual harassment’. The term sexual harassment “in a legal sense” seems to have been coined in the United States of America and subsequently exported from there to other industrialized countries. Several terms were used in different countries to describe this phenomenon. However, the term ‘sexual harassment’ has acquired the largest acceptance worldwide as it more fully denotes the malady than the other terms.

According to Mackinnon (1979), “sexual harassment is the involvement of unwanted imposition of sexual requirements in the context of a relationship of unequal power” and also reported that “sexual harassment is a form of sex discrimination prohibited by the Constitution and Civil Rights Laws of the United States”. Since then, many international bodies, national legislations and courts have not agreed upon any universal definition of the term, ‘sexual harassment’. Sexual Harassment, in a formal legal sense, was first defined by the Supreme Court of India in 1997 in Vishaka Vs. State of Rajasthan. The American Equal Employment Opportunity Commission (1980), the Fair Employment and Housing Act (1988) (The California Administrative Code, Title 2, Regulation 7287.6), the U.K. Sex Discrimination Act (1975), the European Communities Commission (1991), the Canada
Labour Code, the Federal Sex Discrimination Act (1984) in Australia, the Employment Contracts Act (1992) in New Zealand, the Women’s Bureau of the International Confederation of Free Trade Unions –ICFTU (1986), the Committee on the Elimination of All Forms of Discrimination against Women constituted by the United Nations in its General Recommendation No.19 (January 1992) titled ‘Violence Against Women’, the Supreme Court (1997), all have defined sexual harassment in their own way. Through all these definitions, certain common elements of sexual harassment can be observed worldwide. Speaking generally, a behaviour constituting sexual behaviour must

1. occur in the place of work or in a work-related environment;

2. occur because of the person’s sex and/or it is related to or about sex;

3. be unwelcome, unwanted, uninvited, not returned, not mutual and

4. affect the terms or conditions of employment – ‘quid pro quo’ or the work environment itself ‘hostile work environment’ (Bhasin, 2007).

The Supreme Court Judgment on Sexual Harassment, 14th August 1997, for the first time, (Vishaka & others Vs State of Rajasthan & others) identified sexual harassment as a separate category of legally prohibitive behaviour. For this purpose, sexual harassment includes such unwelcome sexually determined behaviour (whether directly or by implication) as:

(a) Physical contact and advances; (b) A demand or request for sexual favours; (c) Sexually coloured remarks; (d) Showing pornography; (e) Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.
1.3.2 Forms of Sexual Harassment

Federal law recognizes essentially two forms of sexual harassment:

1. "Quid Pro Quo" and
2. "Hostile Work Environment."

The terms “quid pro quo” and “hostile work environment” do not appear in any statutory text. These terms appeared first in academic literature. Subsequently, they “found their” into decisions of the United States Courts of Appeals. The U.S. Supreme Court mentioned them for the first time in its decision in Meritor Savings Bank vs. Vinson (Bhasin, 2007).

**Quid Pro Quo** harassment, according to the EEOC Policy Guidelines (1964) on Current Issues of Sexual Harassment, occurs when the harasser conditions the granting of a job benefit or the avoidance of a job detriment upon receipt of some sexual favor from another employee. Quid pro quo harassment is the most blatant, most recognizable, and most obvious form of sex harassment. Normally, the victimized employee is forced to choose between the unwanted sexual demands and the loss of tangible job benefits or the imposition of a detriment at work (e.g., a promised promotion, sleep with me or be fired, avoidance of a demotion, a year-end bonus, or a decent raise).

**Hostile Work Environment**, according to the EEOC, looks at the offensive workplace behaviors that create an abusive employment setting. While the offensive conduct could be essentially the same as in quid pro quo harassment, hostile work environment focuses upon the impact of the conduct on another employee's work environment. When the
unwanted verbal or physical harassment "unreasonably" interferes with the employee's work performance or when it creates an intimidating, offensive work setting, hostile work environment harassment has occurred. To unreasonably interfere with someone's work environment, the harassment must be so severe and pervasive that a "reasonable person" would not put up with it.

1.3.3 Types of Sexual Harassment

Sexual harassment may be verbal, non-verbal, physical, non-physical and visual.

(a). Verbal

Verbal statements that might be illegal harassment can include, but are not limited to, the following comments:

1. Sexual propositions
2. Asking questions about an employee's sex life or conduct
3. Calling women/ men by crude sexual names
4. Asking personal or intimate questions
5. Making sexual threats
6. Bragging about sexual prowess
7. Making negative sexual comments about women/ men based upon gender
8. Repetitive asking for dates, affection, attention, or touching
9. Making fun of a co-worker in a sexual way
10. Verbally abusing a member of the opposite sex
(b). Physical

Offensive, illegal physical conduct can include, but is not limited to, the following behavior:

1. Touching
2. Jostling
3. Bumping or blocking
4. Leering or staring
5. Taking unwelcome photographs
6. Physically restraining a person of the opposite sex
7. Indecent exposure
8. Passing or posting sexually offensive materials
9. Groaning, sighing, or offering sexual thoughts
10. Whistling, jeering, hooting

Finally, the workplace can also be found to be sexually offensive and hostile where there are sexual photographs and/or drawings, sexual graffiti, and other types of sexually hostile physical behavior or conduct at work (Gist, 2008).

Gist (2008) further pointed out the Common situations that may involve sexual harassment include:

- **Pinups in the workplace**: Pinups containing sexual material (such as centerfolds) can create a hostile work environment. Don’t allow these in the workplace.

- **Asking a coworker for a date**: This by itself is not harassment. But if the person refuses the offer, continued asking can become harassment and should be stopped if a complaint is made.
• **Rude treatment of women**: A supervisor who treats women rudely, or who constantly demeans the ability of women to perform work, can be guilty of sexual harassment since adverse actions are being taken on account of the employees’ gender.

• **Verbal abuse and jokes**: Comments about a person’s appearance or jokes of a sexual nature can constitute harassment if they occur often and are unwelcome. You should make it a policy to stop all types of sexually oriented comments in the workplace.

• **Intentional touching**: A single act of intentional and unwelcome touching of a sexual nature will usually be found to be sexual harassment.

1.3.4 Impact or Consequences of Sexual Harassment of Women at Workplace

The consequences of sexual harassment vary from person to person, and are dependent on the severity, and duration, of the harassment. Depending on the situation, a sexual harassment victim can be experiencing anything from mild annoyance to extremely psychological damage, which can then negatively impact victim’s career and professional life often leaving it in ruins.

Sexualharassmentsupport.org online (n.d), found that some of the effects a woman who’s been sexually harassed can experience as follows:

(a). **Social Impact**

- Having one’s personal life offered up for public scrutiny—the aggrieved women becomes the ‘accused’, and her, lifestyle and private life will often come under attack.(This rarely occurs for the perpetrator).
• Being objectified and humiliated by scrutiny and gossip.

• Becoming publicly sexualized.

• Defamation of character and reputation.

• Loss of trust in environments similar to where the harassment occurred.

• Extreme stress upon relationship with significant others, sometimes resulting in divorce; extreme stress on peer relationship, or relationship with colleagues.

• Weakening of support network: colleagues, friends, and even family members may distance themselves from the aggrieved woman.

(b). Psychological Impact

Depression, Anxiety and/or panic attacks, Traumatic stress, Post-Traumatic Stress Disorder (PTSD), Sleeplessness and/or Nightmares, Shame and guilt; Self-blame, Difficulty concentrating, Feeling betrayed and/or violated, Feeling angry or violent towards the perpetrator, Feeling of powerlessness, Helpless, or Out of control, Withdrawal and isolation, Suicidal thoughts or attempts, Suicide, Loss of confidence and self esteem.

(c). Physiological Impact

Headache, Fatigue or Loss of motivation, Eating disorders (weight loss or gain), Increased blood pressure, Overall loss of trust in people, Problems with intimacy, Problems with one’s own sexual life (sexual dysfunction). The above symptoms may not be generated only from the harassment, but can be the cumulative result of harassment, retaliation, backlash, and/or blaming that an aggrieved woman may endure.
(d). Financial Impact / Impact on employment

- Being ostracized from professional circles.
- Having to relocate to another city, another job, or accept forced transfer
- Decreased work performance as the woman must focus on dealing with the harassment and the surrounding dynamics and/or effects; psychological effects of harassment can also decrease work performance.
- Increased absenteeism to avoid harassment, or because of illness from the stress.
- Having to drop career plans; her professional career may be affected because of decreased performance.
- Loss of Job and income
- Loss of references /recommendations
- Loss of career. (sexualharassmentsupport.org)

1.4 SEXUAL HARASSMENT AT WORKPLACE AND VICTIMS

There is some vulnerability of individual’s, contributing as factors to become a victim of sexual harassment at workplace. The victims reporting behaviour also plays an important role in discontinuing or continuing the harassment incidences. The reporting behaviour also depends on some factors, as discussed below. The general definition of victim is as follows.

1.4.1 Definition of Victims under U.N. Declaration, 1985

“Victims” means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of
criminal laws operative within Member States, including those laws proscribing criminal abuse of power. A person may be considered a victim, under this Declaration, regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between the perpetrator and the victim. The term "victim" also includes, where appropriate, the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization. (U.N. Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 1985).

With regard to sexual harassment, the victims of sexual harassment definition may be perceived and modified through U.N. definition on Victims of Crime, wherever and whenever the present and future researches in the area suggest.

1.4.2 Vulnerable Victims & Potential Harassers of Sexual Harassment at Work

According to the International Confederation of Free Trade Unions (ICFTU-1986), sexual harassment affects all women regardless of their age, marital status, physical appearance, background or professional status. Studies have revealed some high risk groups of victims: young women under 30 and unmarried, widowed, divorced, or separated women, especially with dependents. In addition to these, new entrants to labour market, women in irregular or precarious employment contracts, in non-traditional job, women with disabilities ,lesbian ,women form racial minorities are particularly vulnerable to sexual harassment and ‘are disproportionately at risk’ (ILO,2005). Further as noted by the ILO (2001), ‘sexual harassment within enterprises and institutions concerns, relations not only between supervisors and staff or between colleagues, but
usually covers a broad spectrum of working relations—with clients, such as hotel or restaurant guests, customers, and patients, as well as contract workers such as maintenance and repair staff, suppliers, cleaning agencies and other service providers.

1.4.3 Reporting and Un-reporting behavior of Victims of Sexual Harassment

It is the general tendency among the women to maintain secrecy about the matters relating to sex. Hence, even if they are sexually harassed at workplace they do not speak out to their friends or co-workers or report the matter to their immediate boss or higher authorities. This encourages the perpetrators to further harass them. So, if any women are harassed sexually at workplace she should immediately lodge a complaint with the higher authorities against the perpetrator. Hence, in initial stage, mostly the women avoid to make any complaint with fear of defamation. When the trouble becomes unbearable she has no other option than to report the matter to higher authorities in workplace. On the other side, there are reasons for victim’s reluctance to complain or reporting as follows:

1. Feeling of humiliation
2. Fear of taunting and humiliation by other co-workers.
3. Possibility and fear of difficulties in arranging marriage.
4. Husband and other family members may doubt the victims’ character.
5. Any other (YES, 2008).

Including these, Rufus & Beulah (2009) further identified some other reasons for less reporting or non-reporting behavior of victims of sexual harassment, as follows:

1. Fear of losing job
2. Lack of support from others
3. Don’t want to approach police station or court
4. Lack of belief in Criminal Justice System

1.5 INDIAN SCENARIO ON THE ISSUE OF SEXUAL HARASSMENT

In India, between 2000 and 2010 there has been a steep and continuous rise in the number of cases reported on sexual harassment, if the figures of National Crime Records Bureau keenly observed. There has been considerable increase in the number of cases reported on sexual harassment during the last two decades. The workforce of India comprises 92 per cent of unorganized sectors and remaining with organized sector where in majority of them were women. These working women are also subjected sexual harassment. This shows an alarming situation, which if not tackled effectively, would make the life of Indian working women miserable (Srivastava, 2004).

It is an amazing truth that many years after an established tradition of Indian working women, their harassment at place of work is so common. There are about more than ten million women who have entered all fields from medicine to politics, also from multinational technology oriented companies to piloting planes yet nearly all face the same problem. Sexual harassment is assuming new and various forms each day, but few organizations have formalized measures to tackle it, fewer even openly acknowledge its existence. Sexual harassment is also experienced by nurses in hospital and girls in the educational institutions. Sexual harassment occurs in government offices as frequently as in private organizations.
1.5.1 Familiar Incidences of Sexual Harassment at Workplace in Indian Scenario

Saxena (2007), in her book ‘Crimes against Women and Protective Laws’ has marked familiar cases of sexual harassment in Indian Scenario as follows:

In November 1983, Ela Chaudri, a commercial artist, in Government Directorate of Employment and Training was allegedly molested by her immediate boss. She complained to the Director General who did nothing to help her. Due to the purposive delay of her department for waiting the culprit to retire with a clean record, she got justice later only after the culprit retired.

In 1988, there was a stage for Dharna and a protest to march held to counter the sexual harassment of their supervisor, participated by women employees of the Directorate of Agriculture in Madras.

In the same year 1988, a controversial incident took place in which Rupan Deol Bajaj, a senior IAS officer accused the then Director General of Police, Punjab, K.P.S.Gill of sexually abusing her at a dinner party.

In October 1989, Mukti Datta, Secretary to Jan Jagran Samiti accused the then Union Minister of Environment and Forest, Z.R.Ansari of forcibly pushing her down on a couch and assaulting her inside his private office at Delhi.

On August 8, 1989, Dayanand Narvekar, the Speaker of Goa Assembly allegedly propositioned a 19 year old employee, Sunita Haldhankar, in his Chamber of Secretariat.
According to Indian Express Daily 1991(October 27;p.1), Maitreyi working in a private –small news paper was regularly subjected to sexually suggestive talk by her editor by keeping her in the office till late hours. Also in an other news, Rukmani, a ticketing officer in a reputed Middle Eastern Airlines, had to give up her lucrative job because the senior manager of the airlines, demanded a lot of sexual attention from her and tried to moleste her.

In March 1992, an Indian Revenue Service Probationer filed a molestation case against Bombay Custom Collector. The incident held when IRS probationer went to meet the Customs Collector to a courtesy call since that was the last day of her training tour. As the enquiry revealed a *prima facie case* against the collector, he was suspended.

In March 1992, during Holi a senior Doctor of Bara Hindu Rao Hospital allegedly molested two nurses of the hospital. There was a big agitation held by the nurses demanding justice. Like most other sexual harassment cases, that case also died a natural death.

In September 1992, Bhanwari Devi, a social worker was brutally gang-raped, since she tried to stop a child marriage. Thus that incident was the foundation for Supreme Court Guidelines for Sexual Harassment prevention at Workplace-‘Vishaka Judgement’.

In 2005, a Call Centre woman working in Bangalore was sexually assaulted and murdered. In continuation, NCW has urged to finalize guidelines to ensure safety of women employees in business process-outsourcing sector.
Apart from these individual incidences, a few emerging research studies in India were giving the various dimensions on prevalence of sexual harassment at workplace both in the organized and unorganized sectors. Those studies took the current scenario of the issue into the limelight. According to Shetty (2010), in her article in India Today Online pointed out a 2002 survey done in 5 states by Sakshi, a Delhi NGO, in which 80% of respondents said that they, or someone they knew, experienced sexual harassment at the workplace. Such behaviour cuts across social strata and professions, doesn’t stop at any level. It’s prevalent even in fields like journalism, where women are often seen as tough and aware. She further pointed out a study by Press Institute of India (PII) on the Status of Women Journalists reported that “sexual harassment emerged as a major concern of most respondents” with 22.7% saying that they had to “put up with sexist remarks/gestures” at the workplace. Of these women, 31.5% said that it had “seriously” undermined their confidence and affected their work. Even so, only 15.2% of the women who experienced sexual harassment made a formal complaint to superior or police.

When taking account of the legal scenario, there is no specific law in India to deal with sexual harassment of women at workplace. On the other hand, several provisions in the Indian Penal Code, 1986 & some special laws in India deal with we issue. The three judge bench of the Supreme Court of India in Vishaka Vs State of Rajasthan (1997) made a significant contribution in evolving the Code against sexual harassment at workplace. While emphasizing the need to have guidelines the Super Court said 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.”

These directions, according to the Constitution, would be binding and enforceable in law until suitable legislation is enacted. However, these guidelines will not prejudice any rights available under the Protection of Human Rights Act, 1993. The structure of the Supreme Court guideline, is as follows:

1. Duty of the Employer or other responsible persons in workplaces and other institutions
2. Definition
3. Preventive Steps
4. Criminal Proceedings
5. Disciplinary Action
6. Complaint Mechanism
7. Complaints Committee
8. Annual Report
9. Workers’ initiative
10. Awareness
11. Third Party Harassment
12. Steps to be taken by the Government. The story of this historical judgement of Vishaka Vs State of Rajasthan is briefed in Appendix - I.

1.5.2 Sexual Harassment Bill 2010

So far, a number of bills (by the National Commission for Women, Women’s Organizations and the Government) have been drafted but there is still confusion on what bill would serve the purpose better. At present, the introduction of Protection of Women against Sexual Harassment at Workplace Bill, 2010 in Parliament was approved in November, 2010. The bill seeks to ensure protection of women against sexual harassment at the workplace, both in public and private sectors, whether organized or unorganized.
Salient features of the Bill are as follows (CNN-IBN News online, 2010):

1) The Bill proposes a definition of sexual harassment, which is as laid down by the Honourable Supreme Court in Vishaka Vs State of Rajasthan (1997). Additionally, it recognizes the promise or threat to a woman's employment prospects or creation of hostile work environment as 'sexual harassment' at workplace and expressly seeks to prohibit such acts.

2) The Bill provides protection to person employed at a workplace for any work on regular, temporary, *ad hoc* or daily wage basis, either directly or through an agent, including a contractor, with or without the knowledge of the principal employer, whether for remuneration or not, or working on a voluntary basis or otherwise, whether the terms of employment are express or implied and includes co-worker, contract worker, probationer, trainee, apprentice or called by any other such name; but does not include domestic worker working at home. Further, the Bill seeks to cover workplaces in the unorganized sectors.

3) The Bill provides for an effective complaints and redressal mechanism. Under the proposed Bill, every employer is required to constitute an Internal Complaints Committee. Since a large number of the establishments in our country have less than 10 workers for whom it may not be feasible to set up an Internal Complaints Committee (ICC), the Bill provides for setting up of Local Complaints Committee (LCC) to be constituted by the designated District Officer at the district or sub-district levels, depending upon the need. This twin mechanism would ensure that women in any
workplace, irrespective of its size or nature, have access to a redressal mechanism. The LCCs will enquire into the complaints of sexual harassment and recommend action to the employer or District Officer.

4) Employers who fail to comply with the provisions of the proposed Bill will be punishable with a fine which may extend to Rs 50,000.

5) The Internal committee or Local Committee can give the option for aggrieved women to seek interim relief in the form of transfer either of her own or the respondent or seek leave from work.

6) The Complaint Committees are required to complete the enquiry within 90 days and a period of 60 days has been given to the employer/District Officer for implementation of the recommendations of the Committee.

7) The Bill provides for safeguards in case of false or malicious complaint of sexual harassment. However, mere inability to substantiate the complaint or provide adequate proof would not make the complainant liable for punishment.

The following few statistics of National Crime Records Bureau will be more functional to realize the current scenario of the crime against women in India (Crime in India Report, 2009):

- The proportion of IPC crimes committed against women towards total IPC crimes has increased during last 5 years from 7.9% in 2005 to 9.2% during 2009.
Madhya Pradesh has reported the highest number of Rape cases (2,998) accounting for 14.0% of total such cases reported in the country.

- In regard to sexual harassment (Sec: 509 IPC), the number cases reported were 11,009 with the crime rate 0.9. The number of such cases has decreased by 9.9% over the previous year (12,214). Andhra Pradesh has reported 32.0% of cases (3,520), followed by Uttar Pradesh 22.9% (2,524).

- Andhra Pradesh has reported the highest crime rate 4.2 of sexual harassment as compared to the national average of 0.9.

- 49.2% conviction was reported in the country in sexual harassment cases (3,784 convictions out of 7,696 cases in which trials were completed).

The Sociologist, Criminologist, Feminist, and Socially concerned have been arguing that the major causes for the prevalence of increasing crime against women such as sexual harassment, rape etc., in India are patriarchal structure of our country, women illiteracy and unemployment. However, in reality, Indian women’s education is registering growth and the women employment is equally increasing (Rufus & Beulah, 2009). To the extent that sexual harassment of women attacks the dignity and self-respect of the victim both as employee and as a human being. Sexual harassment not only has an effect on victim but also of the society as a whole. So the people should be made more aware of this kind of harassment and also to be educated on how to avoid such situations, both on the part of the harasser and the victim.
1.6 RELEVANT LEGAL INSTRUMENTS IN BOTH NATIONAL AND INTERNATIONAL LEVEL

The Indian constitution seeks to protect the interests of women through Fundamental Rights and Directive Principles of State Policy. DPSP (Part IV) of Constitution seeks to provide (i) an adequate means of livelihood, (ii) equal pay for equal work to men and women, (iii) the health and strength of workers, (iv) right to work, to education, (v) just to humane conditions of work and maternity relief, (vi) a living wage and decent standard of life of labourers, and (vi) participation of workers in management of industries. These are directives to the State to achieve the socio-economic objectives of national policy. Along with the constitutional instrument, the judicial decisions, the other relevant legal instruments both at national and international level are discussed below.

1.6.1 Constitutional Safeguards

a) **Right to equality**

The Right to Equality is one of the basic fundamental rights guaranteed by the Constitution of India. Article 14 of the Constitution contains the primary equality guarantee. This equality is supplemented with other provision that make’ equality code’ under the Constitution.

b) **Right to Work**

All citizens shall have the right to practice any profession, or to carry out any occupation, trade or business.

- Article (19) (1) (g) of Indian Constitution
In Vishaka Judgement, the Supreme Court held that once of the logical consequences of incidences of sexual harassment at workplace is the violation of women’s fundamental right “to practice any profession, or to carry out trade or business”, since it is dependent on the availability of a ‘safe’ working environment. The unsafe workplace environment in turn adversely affects this constitutionally guaranteed right.

e) Right to Live with Dignity

No person shall be deprived of his life or personal liberty except according to procedure established by law.

- Article 21 of Indian Constitution

The right to life would necessarily imply the right to live with human dignity and would include those aspects of life that make life meaningful, complete and worth living. Any form of gender discrimination has been recognized as an obstacle to the full realization of life under Article 21. Sexual harassment of women at the workplace is a violation of the right to life under Article 21, which implies the right to dignity (Jaisingh, 2004).

1.6.2 Judicial Safeguards under Vishaka Vs State of Rajasthan, 1997

Sexual harassment to working women violates fundamental rights of the working women regarding their life and liberty, and their right to work, carry out occupation, trade or business with dignity. There is no enacted law to protect the working women from sexual harassment. Supreme Court in exercise of its powers under Article 32 laid down
the following guidelines. This will be treated as law under Article 141 of Constitution of India.

It is necessary and expedient for employers in workplaces as well as other responsible persons or institutions to observe certain guidelines to ensure the prevention of sexual harassment of women:

1. Duty of the Employer or other responsible persons in workplaces and other institutions:

   It shall be the duty of the employer or other responsible persons in workplaces or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, settlement or prosecution of acts of sexual harassment by taking all steps required.

2. Definition:

   For this purpose, sexual harassment includes such unwelcome sexually determined behaviour (whether directly or by implication) as:

   (a) Physical contact and advances;

   (b) a demand or request for sexual favours;

   (c) Sexually coloured remarks;

   (d) Showing pornography;

   (e) Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

   Where any of these acts is committed in circumstances where under the victim of such conduct has a reasonable apprehension that in relation to the victim's employment or work whether she is drawing salary, or honorarium or voluntary, whether in government,
public or private enterprise such conduct, can be humiliating and may constitute a health and safety problem. It is discriminatory for instance when the woman has reasonable grounds to believe that her objection would disadvantage her in connection with her employment or work including recruiting or promotion or when it creates a hostile work environment. Adverse consequences might be visited if the victim does not consent to the conduct in question or raises any objection thereto.

1. **Preventive Steps:**

   All employers or persons in charge of workplace whether in the public or private sector should take appropriate steps to prevent sexual harassment. Without prejudice to the generality of this obligation, they should take the following steps:

   (a) Express prohibition of sexual harassment as defined above at the workplace should be notified, published and circulated in appropriate ways.

   (b) The Rules/Regulations of Government and Public Sector bodies relating to conduct and discipline should include rules/regulations prohibiting sexual harassment and provide for appropriate penalties in such rules against the offender.

   (c) As regards private employers, steps should be taken to include the aforesaid prohibitions in the standing orders under the Industrial Employment (Standing Orders) Act, 1946.

   (d) Appropriate work conditions should be provided in respect of work, leisure, health and hygiene to further ensure that there is no hostile environment towards women at work places and no employee woman should have reasonable grounds to believe that she is disadvantaged in connection with her employment.
4. Criminal Proceedings:

Where such conduct amounts to a specific offence under the Indian Penal Code or under any other law, the employer shall initiate appropriate action in accordance with law by making a complaint with the appropriate authority. In particular, it should ensure that victims or witnesses are not victimized or discriminated against while dealing with complaints of sexual harassment. The victims of sexual harassment should have the option to seek transfer of the perpetrator or their own transfer.

5. Disciplinary Action:

Where such conduct amounts to mis-conduct in employment as defined by the relevant service rules, appropriate disciplinary action should be initiated by the employer in accordance with those rules.

6. Complaint Mechanism:

Whether or not such conduct constitutes an offence under law or a breach of the service rules, an appropriate complaint mechanism should be created in the employer's organization for redress of the complaint made by the victim. Such complaint mechanism should ensure time bound treatment of complaints.

7. Complaints Committee:

The complaint mechanism, referred to in (6) above, should be adequate to provide, where necessary, a Complaints Committee, a special counsellor or other support service, including the maintenance of confidentiality.
The Complaints Committee should be headed by a woman and not less than half of its members should be women. Further, to prevent the possibility of any undue pressure or influence from senior levels, such Complaints Committee should involve a third party, either NGO or other body who is familiar with the issue of sexual harassment. The Complaints Committee must make an annual report to the Government Department concerned of the complaints and action taken by them.

The employers and person in charge will also report on the compliance with the aforesaid guidelines including on the reports of the Complaints Committee to the Government Department.

8. Workers' Initiative:

Employees should be allowed to raise issues of sexual harassment at workers' meetings, and in other appropriate forum, and it should be affirmatively discussed in Employer-Employees Meetings.

9. Awareness:

Awareness of the rights of female employees in this regard should be created in particular by prominently notifying the guidelines (and appropriate legislation when enacted on the subject) in a suitable manner.

10. Third Party Harassment:

Where sexual harassment occurs as a result of an act or omission by any third party or outsider, the employer and person in charge will take all steps necessary and reasonable to assist the affected person in terms of support and preventive action.
11. Suitable Legislation:

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

12. Un-prejudice guidelines:

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

Accordingly, Supreme Court directs that the above guidelines and norms would be strictly observed in all workplaces for the preservation and enforcement of the right to gender equality of the working women. These directions would be binding and enforceable in law until complete suitable legislation is enacted to occupy the field. These writ petitions are disposed of accordingly.

1.6.3 Remarkable Judicial Observations in India Relevant to Sexual Harassment

The following judicial observations of sexual harassment and sexual assault crimes are being interpreted in the judicial decision of sexual harassment and sexual crimes in India.

1. Apparel Export Promotion Council Vs. A.K.Chopra


‘The sexual harassment is a form of sex discrimination’.

2. Saudi Arabian Airlines, Mumbai Vs Shehnaz Mudhatkal

- (1999) 2 LLJ 109 (Bom).

‘Sexual harassment may include both ‘quid pro quo’ and ‘hostile environment’ elements’.
3. **State of Punjab Vs Major Singh Case**


   ‘When any act done to or in the presence of a woman is clearly suggestive sex according to the common notions of mankind that must fall within the mischief of Section 354 IPC’.

4. **Anuradha R. Kshrisagar Vs. State of Maharashtra**

   -1991 Cri LJ 410 Bom, per M.S.Ratnaparkhi,J.

   ‘In this case accused uttered the words of catching the lady teachers by their hair, it was violative of ‘modesty’ of the lady teachers, and therefore, those utterances constituted an offence punishable under Section 509 of the IPC’.

5. **M.M.Haries VS State of Kerala**

   - (2005) Cri LJ 3314 Ker, Per K.Hema, J.

   ‘Writing of a letter can be treated as ‘making a gesture’ since by such act, the writer expresses his attitude or conveys his intention’.

6. **State of Punjab Vs. Gurmit Singh**


   In this case, Supreme Court also took note of the treatment of the victims of sexual assault in the Courts during cross examination.
‘In case of rape, a victim has already undergone a traumatic experience and if she made to repeat again and again, in unfamiliar surroundings (court), what she had been subjected to, she may be too ashamed and even nervous or confused to speak and her silence or a confused stray sentence may be wrongly interpreted as ‘discrepancies and contradictions’ in her evidence’. “The expression that the inquiry into and trial of rape ‘shall be conducted in camera’.”

The Court must also ensure that the cross-examination is not made a means of harassment or crossing humiliation to the victims of sexual crime.

7. Bodhisattwa Gautam Vs. Subhra Chakraborty
   - (1996)1 SCC 490: AIR 1996 SC922 at p.926, para 9, per S.Sagir Ahmad, J.
   ‘Women have the right to life and liberty; they also have the right to lead an honorable and peaceful life. Their honor and dignity cannot be touched or violated’.

8. State of Rajasthan Vs. N.K
   ‘Merely delay in lodging the FIR cannot be ground by itself for throwing the entire prosecution case overboard. The Court has to seek an explanation for delay and test the truthfulness and plausibility of the reason assigned. If the delay is explained to the satisfaction of the Court, it cannot be counted against the prosecution’ (Bhasin, 2007, pp.20,373-404).


This case has changed the meaning of the terms, modesty and privacy in such a way that any kind of harassment or inconvenience done to a woman’s private or public life will be considered as an offence.

10. Medha Kotwal Lele & ors. v. Union of India & Ors

- WP (Cri.) No.173-177/1999

This case helped the Vishakha’s case to implement the guidelines successfully by issuing notices to all States and the Union Territories to impart the necessary steps (legalserviceindia.com, 2011).

1.6.4 Laws Relevant to Sexual Harassment in India

The relevant to sexual harassment can be classified as laws under IPC, Special Laws, Civil Remedies, as categorized below.

1.6.4.1 Indian Penal Code

The following Indian Penal Code (IPC) sections and other laws under which a case can be filed:

a. Section 209, IPC deals with obscene acts and songs and lays down:

   Whoever, to the annoyance of others,

   a) does any obscene act in any public place or b) sings, recites or utters any obscene song, ballad or words in or near any public place, shall be punished with imprisonment of
either description for a term, which may extend to 3 months or with fine or both. (Cognizable, bailable and triable offences).

b. Section 354, IPC deals with assault or criminal force to a woman with the intent to outrage her modesty and lays down that:

   Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine or both.

c. Section 509, IPC deals with word, gesture or act intended to insult the modesty of a woman and lays down that:

   Whoever intending to insult the modesty of any woman utters any word, makes any sound or gesture, or exhibits any object intending that such word or sound shall be heard, or that such gesture or object shall be seen by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or both. (Cognizable and bailable offences).

1.6.4.2 Relevant Special Laws in India

a. Under the Indecent Representation of Women (Prohibition) Act (1987) if an individual harasses another with books, photographs, paintings, films, pamphlets, packages, etc. containing "indecent representation of women"; they are liable for a minimum sentence of 2 years. Further Section 7 (Offences by Companies) holds
companies where there has been "indecent representation of women" (such as the display of pornography) on the premises guilty of offenses under this act, with a minimum sentence of 2 years (Sinha, n.d.).

b. Under the Information Technology Act, 2000, whoever publishes or transmits or causes to be published in the electronic form any material which is lascivious, shall be punished on first conviction with imprisonment of either description for a term which may extend to five years and with fine which may extend to one lakh rupees and in the event of a second and subsequent conviction with imprisonment of either description for a term which may extend to ten years also with fine which may extend to two lakh rupees.

1.6.4.3 Civil remedies

a. Civil suit can be filed for damages under tort laws. That is, the basis for filing the case would be mental anguish, physical harassment, loss of income and employment caused by the sexual harassment. The Apex Court in the State of Rajasthan Vs. Vidhyawati, held that, the Government will be vicariously liable for the tortuous act of its employees.

b. Further, Rule 3C of the Civil Services (Conduct) Rules provides that, no government servant shall indulge in any act of sexual harassment of any women at her workplace and they shall take appropriate steps to prevent sexual harassment at workplace. However the violation of this rule comes under ‘misconduct’ only (Awasthi, 2007).
1.6.5 International Instruments and Convention Regarding Sexual Harassment

Much of the impetus for the statute law and judicial decisions that prohibit or constrain sex discrimination and sexual harassment stems from the recognition of the equality of the sexes in various international instruments and conventions. The Charter of the United Nations’ the Universal Declaration of Human rights and the International Covenant on Civil and Political Rights, all contains statements of a principle against discrimination on the basis of sex. That principle finds fuller expression in relation to women in the Convention of Elimination of All Forms of Discrimination against Women. India ratified the Convention on 25-06-1993.

1.6.5.1 Universal Declaration of Human Rights, 1948

Human rights jurisprudence based on the Universal Declaration of Human Rights, 1948 has acquired recognition as the “Moral Code of Conduct”, having been adopted by the General Assembly of the United Nations.

The Article 1,2,3,5,7, and 9 confirming the relevant rights to the member states. These articles deals with equality in dignity and rights, freedom from discrimination especially e.g from sex discrimination, Right to life, liberty, and security of person, right against torture, cruel, inhuman, degrading treatment, equality before law and equal protection of law, and right against arbitrary arrest, detention or exile.

1.6.5.2 Declaration on the Elimination of Violence against Women
The General Assembly also adopted the Declaration on the Elimination of Violence against Women, by its resolution dated 20-12-1993.

Article 1: Meaning of ‘violence Against Women’ as any act of gender-based violence that results in, or is so 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”.

Article 2: Violence against women shall be understood to encompass, but not limited to:

b) Physical, sexual and psychological violence occurring within the general community including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere.

Article 3: Women are entitled to the equal enjoyment and protection of all human rights, which would include, inter alia:

a) The right to life

b) The right to equality, and

c) The right to liberty and security of person.

1.6.5.3 Convention on the Elimination of all forms of Discrimination against Women (CEDWAW)

Some provisions in the “CEDAW”, of significance in the context of sexual harassment are:

Article 11:
1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

(a) The right to work as an inalienable right of all human beings;

(f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

Article 24:

"State Parties undertake to adopt all necessary measures at the national level aimed at achieving the full realization of the rights recognised in the present Convention."

1.6.5.4 General recommendations of CEDAW

12. The general recommendations of CEDAW in this context in respect of Article 11 are:

"Violence and equality in employment:

22. Equality in employment can be seriously impaired when women are subjected to gender specific violence, such as sexual harassment in the work place.

23. Sexual harassment includes such unwelcome sexually determined behaviour as physical contacts and advances, sexually coloured 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 grounds to believe that her objection would disadvantage her in connection with her employment, including recruiting or promotion, or when it creates a hostile
working environment. Effective complaints, procedures and remedies, including compensation, should be provided.

24. States should include in their reports information about sexual harassment, and on measures to protect women from sexual harassment and other forms of violence or coercion in the work place."

The Government of India has ratified the above Resolutions on June 25, 1993 with some reservations which are not material in the present context.

For a better understanding of the legal issues of sexual harassment, ‘Legal Interpretation of Sexual Harassment at Workplace in International Perspective’ is briefly provided in Appendix – II.

1.7 PRESENT RESEARCH

With the understanding of above discussion, the researcher conducted a research entitled ‘Victims of Sexual Harassment at the Workplace – A Comparative Study in the Organized and Unorganized Sectors of Tirunelveli District’ with the rationalization such as the statement of problem, need and significance of study.

1.7.1 Statement of the Problem

Sexual harassment of working women exists in various forms like discrimination, torture, attempt rape, physical contact and advances, demand or request for sexual favours, sexually coloured remarks, showing pornography and other unwelcome physical, verbal, or non-verbal conduct of a sexual nature.

Sexual harassment creates a poisoned work atmosphere that dis-empowers and demoralizes women employees. When ignored sexual harassment exacts high cost to the
organizations in terms of loss of productivity, high rate of absenteeism among affected women workers, disruptions of work from long-term sick leaves and low morale. It may also tarnish the public image of the organizations.

The present study aims to analyze the victimization of women at workplace, nature, frequency of victimization, reaction and reporting behaviour of victims, impacts of sexual harassment, examine the relationship between personal and physical characteristics of the victims and level of sexual harassment, and to study the correlation between the extent of sexual harassment and the harasser's stimulating factors. Hence the present study is an attempt to analyze the victims of sexual harassment of working women at workplace for organized and unorganized sectors in Tirunelveli district.

1.7.2 Need and Significance of the Study

Sexual harassment of a woman at workplace violates her right to job, security, and equal opportunity. It can create working conditions that are hazardous to the psychological and physical well-being of women workers. With sexual harassment of working women at workplace, unjust and unfair conditions of women employment are continuing. This is an unfortunate reality of life of working women.

Though few studies on sexual harassment were done in our country, mainly these researches were conducted in the cities and metropolitan cities. Regard to the sexual harassment studies in India, there is a space in the facts of sexual harassment at rural or semi urban while considering the studies conducted at cities and metropolitan. This space creates the dark figures of sexual harassment victimization. Inclusion of both rural and
urban, organized and unorganized sectors in the researches will lead to understand the phenomena exactly and also lead to urge the policy makers to enact an appropriate law for prevention of sexual harassment which should fit all spheres wherever women working. Hence, the researcher understood the need to conduct a research among the victims of sexual harassment at workplace in both the organized and unorganized Sectors of Tirunelveli district. There is no previous in-depth study conducted on victims of sexual harassment at workplace in Tirunelveli district. This study would serve as a pioneer study in this area.

1.7.3 Limitations of the Study

Though this study can be pioneering, several limitations should be acknowledged.

1. Underreporting associated with respondents’ reluctance to acknowledge highly sensitive experiences may have led to an underestimate of the prevalence of sexual harassment.

2. The effective sample size was small, thereby reducing the number of associations that were statistically significant.

3. The cross-sectional nature of the data erodes the researcher’s ability to establish temporality or causality in many of the observed relationships. It is possible that the relationship work in the reverse direction or that the outcomes are caused by unmeasured intermediate variables.

4. Though the recent reviews explain that men victims of sexual harassment are studied, the present research does not attempt to study men victims of sexual harassment.
5. Due to the confidential nature of this research and due to the reluctance from both employee and employer side to support the study, the researcher need to employ the convenient sampling technique to the present research which limiting generalizability.

6. The above same reasons compelled the researcher to collect the data from the respondents both at the workplaces and from other than workplaces e.g. houses, working women’s hostels, canteen etc, to complete the data collection.

7. The broad five categories of employment segment selected for the purpose of present research form both organized and unorganized were not distributed proportionately due to convenient selection of samples according to the varying consent and support received from the above categorized employment segment’s respondents.

8. Since the samples were selected from Tirunelveli district alone, generalization of these findings to a larger study area is impossible.

1.8 CHAPTERIZATION

The present study "Victims of Sexual Harassment at the Workplace – A Comparative Study in the Organized and Unorganized Sectors of Tirunelveli District" is divided into six chapters.

Chapter I introduces the subject and deals with women and work, women in organized and unorganized sectors, crimes against women in India and Tamil Nadu, incidence of crimes against women in Tirunelveli district, workplace sexual harassment,
prevention policy, statement of the problem, limitations and scheme of work (chapterization).

Chapter II reviews the earlier studies relating to sexual harassment.

Chapter III gives a picture of profile of the study area.

Chapter IV describes the methodology which includes objectives of the study, hypotheses, sampling procedure, collection of data, tools of analysis, operational definitions, variables investigated, ethics involved in research.

Chapter V reports the results and discussions under the heads

(i) Demographic background and employment details of the sample women respondents.
(ii) Sample respondents’ awareness relevant to workplace sexual harassment issues.
(iii) Sexual harassment victimization at workplace.
(iv) Relationship between personal and family characteristics and the level of sexual harassment.
(v) Correlation between the extent of sexual harassment and harasser's stimulating factors and
(vi) Reporting behaviour of victims and impact of sexual harassment.

Chapter VI presents the summary of findings along with suggestions conclusions based on the study to protect women from sexual harassment.