

# SEXUAL HARASSMENT AT WORKPLACE IN UNORGANISED SECTOR

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## Abstract

*The Unorganised sector is a labour intensive sector that includes those workers in small scale industries, casual workers ranging from street vendors, housemaids, garment makers, rag pickers to coolies and masons This sector is recognised for its low and irregular incomes; hence causing it's people to be impoverished. Women are usually involved in more numbers in these sectors, this is due to the fact that there are multiple sub divisional jobs in this sector that are predominantly carried out by women. Sexual division in the informal sector is distinctly visible. It is in these position that wage discrimination is more rampantly and openly carried out. There are various requirements that are necessarily to be present in any kind of workplace, but it is observed that this unorganised sector is often forgotten while the process of making of new laws begins.*

*This paper will deal with the various problems faced by the women in the unorganised sector, the legislative and constitutional rights available in this light, reasons for such problems and suggestions for overcoming this fast growing issue.*

## 1. INTRODUCTION

The Unorganised sector is a labour intensive sector that includes those workers in small scale industries, casual workers ranging from street vendors, housemaids, garment makers, rag pickers to coolies and masons.<sup>1</sup> This sector is recognised for its low and irregular incomes; hence causing it's people to be impoverished. The need for studying various aspects of unorganised sector jobs is due to the massive share that it contributes to the national income;

<sup>1</sup> <https://gradestack.com/CBSE-Class-10th-Course/Sectors-of-the-Indian/Organised-and-Unorganised/15078-3004-4121-study-wtw>

which is currently resting at a whopping 60%.<sup>2</sup> It is revealed that more than 30% of this sector comprises of women by a survey carried out by International Labour Organisation.<sup>3</sup>

Some of those jobs happen to be those of a maid, cook, garments sector, toys/food items preparations, etc. This factor, regardless of being the truth still reveals that the managing positions of these sectors are still held by men.<sup>4</sup>

Women have penetrated the male dominated market of unorganised jobs in recent times. They have entered into fields of manual labour, manufacturing sector, agriculture, car cleaning, gardening, etc<sup>5</sup>. This emphasises the changing role and position of the modern women. She is not only a symbol of purity and godliness but she is now stepping out to work and be the bread winner for her family. This change has occurred due to various economical factors as well as cultural factors. Hence it is required that at the very least, they be protected from sexual harassment by superiors or co-workers.

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## **2. EXISTING PROBLEMS FOR WOMEN IN UNORGANISED SECTORS:**

- 1. Discrimination:** It is a largely followed practice to price discriminate women in the unorganised sector. They are not solely discriminated for the purposes of wages or salaries but also for the very fact of being a women.<sup>6</sup> It is established that women in these sectors are often required to possess great strength and tolerance. Though scientifically, women are proven to be more tolerant towards pain, the everyday sexists are not concerned with his fact. They are made to work longer hours and paid lesser amounts based on an assumption that they are less productive.
- 2. Educational barriers:** Most women in this sector are in that particular job due to the lack of educational support from the family members or due to lack of awareness

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<sup>2</sup> <http://www.cbwe.gov.in/training-activities/unorganised-sector.aspx>

<sup>3</sup> [http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-new\\_delhi/documents/publication/wcms\\_496510.pdf](http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-new_delhi/documents/publication/wcms_496510.pdf)

<sup>4</sup> [http://shodhganga.inflibnet.ac.in/bitstream/10603/115331/10/10\\_chapter%204.pdf](http://shodhganga.inflibnet.ac.in/bitstream/10603/115331/10/10_chapter%204.pdf)

<sup>5</sup> <http://icehm.org/upload/6334ED715042.pdf>

<sup>6</sup> [http://shodhganga.inflibnet.ac.in/bitstream/10603/33170/11/11\\_chapter%205.pdf](http://shodhganga.inflibnet.ac.in/bitstream/10603/33170/11/11_chapter%205.pdf)

regarding the importance of education. It is a commonly observed phenomena that most women in this sector join in after slipping into a state of poverty or are divorced, widowed, etc.<sup>7</sup> This is the mainly caused due to the lack of education imparted among these women. They are also exploited due to this fact.

**3. Poverty:** Majority of the persons belonging to this sector affected by poverty. This adds a new dimension of desperation in the picture of employment. This causes women in unorganised sector to often go to great lengths to remain employed regardless of the harassment faced by them.<sup>8</sup> This in turn causes them to compromise on their human rights for three times meals in their homes for their families.

**4. Biological differences and needs:** Women in unorganised sector are highly discriminated but are not allowed to receive breaks in relation to their biological needs. It is a fact of science that women have different and varied anatomy as to the men. Most women in this sector are not allowed to avail maternity breaks.<sup>9</sup> This mixed with lack of government and contractor/employers initiative causes numerous women to have various medical complications and even give a still birth. This is not just limited to the women at this point, but to the society as a whole.

### **3. LEGISLATIVE REMEDIES AND CONSTITUTIONAL REMEDIES**

Sexual harassment at workplace emerges mostly because of gender discriminatory attitude and is mainly emerging due to factors like gender, power, sexuality etc. INDIA! Though a fast growing country is still not free from such crimes. It is the responsibility of the state to protect the citizens of the country. Sexual harassment results in violation of the basic fundamental rights of a woman. Equality under articles 14 and 15 of the constitution of India and her right to life and to live with dignity as mentioned under article 21 of the Indian constitution etc has been ensured by our constitution. It does not only decline the attitude of the Indians but also India. Hence to protect the same there exist laws and legislations which protect the women of our country. These are certain laws and legislations which exist to protect the deprived women of our country:

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<sup>7</sup> [https://www.unicef.org/teachers/girls\\_ed/BarrierstoGE.pdf](https://www.unicef.org/teachers/girls_ed/BarrierstoGE.pdf)

<sup>8</sup> <https://www.citylab.com/equity/2017/11/sexual-harassment-and-tipped-wage-workers/546314/>

<sup>9</sup> <https://everylifecounts.ndtv.com/for-women-working-in-unorganised-sector-new-maternity-benefit-programme-comes-as-a-blessing-9370>

### 3.1 LEGISLATIVE REMEDIES:

#### 1. SEXUAL HARASSMENT AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013 :

Sexual harassment at workplace (Prevention, Prohibition and Redressal) Act, 2013 is a Legislative Act in India enforced in the year 2013. It was passed in Lok Sabha on 3 September 2012 and in Rajya Sabha on 26 February 2013. The President assented for the same on 3 April 2013.

This act was enacted to provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment.

Due to the number of crimes increasing in India, there was a need for such legislation which would protect women against sexual harassment. The need was felt in the year 1997 and India finally enacted law on prevention of sexual harassment against female employees at work place when a group of women filed Public Interest Litigation against the State of Rajasthan and Union of India to enforce the fundamental rights of women who work under Articles 14, 19 and 21 of the Constitution of India.

This case is famously known as **Vishaka and others v. State of Rajasthan and others (1997) 6 SCC241, AIR 1997**. The Supreme Court of India proposed certain guidelines to alleviate the problems of sexual harassment.

#### 2. CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW), 1979:

This was adopted in the year 1979 in the UN General Assembly. This convention focused on the elimination of all forms of discrimination against women. This convention is often described as an International Bill of Rights of Women. It ensures the fairness of women and men regarding human rights and crucial flexibilities in the political, monetary, social, and common circles. It underlines that segregation and assaults on ladies nobility disregard the standard of balance of rights. It consists of 30 Articles. It defines what constitutes discrimination against women and also sets an agenda for national action to end such discrimination.

By adhering to the convention, the states commit themselves to a series of measures to end discrimination against women in all forms. Some of them are:

- To incorporate the guideline of equity amongst men and women in their legitimate framework.
- Abolish all kinds of discrimination which exist in the society
- Establish tribunals and other public institutions to ensure the effective protection of women against discrimination.
- Ensure to abolish all kinds of acts and laws which discriminate women by persons, organization or enterprise.

### **3.2 CONSTITUTIONAL REMEDIES:**

As mentioned in the Preamble of the Constitution of India, India is a Sovereign, socialist, Secular, Democratic and Republic country and equality of status, dignity and opportunity must be secured for all the citizens of our country irrespective of gender, caste, sex, religion, age etc. Constitution of India is a written document. It provides a framework for the government and law. Our Constitution provides for certain laws which ensure right to equality, freedom etc. Some of the articles ensured under the constitution are:

1. **ARTICLE 14:** Article 14 ensures Right to equality under law which means that every citizen has a right to live a life free from discrimination on any grounds. It ensures every women of the country with equal opportunities as men get and that every women is to be treated equally without being discriminated on any grounds.
2. **ARTICLE 15:** Article 15 of our constitution ensures that there shall be no discrimination done on the basis of sex, caste, race, religion or place of birth. It ensures that the state shall not discriminate any citizen on any of the above mentioned cases. the violation of the same would lead to further consequences. Also, one of the provisions under this article states that 'Nothing in this article shall prevent the State from making any special provision for women and children'.
3. **ARTICLE 21:** Article 21 ensures Right to personal liberty and life. it ensures that there shall be no person who would be deprived of personal liberty and life.
4. **ARTICLE 32:** This article ensures that every citizen has a right to approach the supreme court for the enforcement of the right if he/she has been deprived of the same.

5. **INDIAN PENAL CODE, 1860:** As a result of rising crimes such as sexual harassment against women there was a new section which was added in The Penal Code in the year 2013 through the **Criminal Law (Amendment) Act, 2013**, which enlists the acts that constitute offences of sexual harassment and it also imposes punishments/penalty for such an act committed against women. The person committing any such offence against women would be punishable with 1-3 years of imprisonment or fine or both.

- **ARTICLE 354 OF IPC:** Under the Indian Penal Code, Article 354 states that & 39;when without any consent of the women, acts of any kind of physical attack or intentional force are committed to outrage her modesty, then the offender shall be fined or sentenced to two years of imprisonment or convicted with both& 39; It ensures punishment and penalty for the offenders who commit crimes against women and sexually abuse them.
- In the chapter 22 of Criminal intimidation, insult and annoyance, commission of act, : Any kind of words used or intentional gestures to insult the modesty of a woman or to hurt her privacy is an offence which is cognisable, bailable and triable by any magistrate and can be punished by way of fine or sentence upto 2 years of imprisonment or with both.

#### **4. REASONS FOR SEXUAL HARASSMENT AT WORK PLACE:**

Sexual harassment at work place is not a new phenomena. It appears to be new to people only because there is increase in the reporting of such cases now a days. Such assaults against women have been increasing everyday and impact the careers of thousands of women. It is not only the men who harass women but also women who harass other women. This can be due to multiple reasons. It is not just sexual abuse but also mental abuse which the women face in their day to day life. Here are few reasons why such crimes take place:

1. **CULTURAL DIFFERENCES:** Something's create confusion as to what is and what is not accepted in our changing society. For example, when a young black male was interviewed in London in the university of ESSEX, he said that he was not aware that

he was sexually harassing that girl and this confusion was only because of certain cultural differences and the same act of his would not be regarded as sexual harassment in his culture or His hometown.

2. **DIVORCE**: Due to certain marital stress and divorce some workmen come to work with certain kind of emotional barriers and this in turn would lead to harassing women at workplace. This Distress may be due to broken marriages, barriers in their marriage or any kind of emotional state of being by which people tend to commit such crimes, knowingly or unknowingly. many colleagues, co-workers or superiors tend to target divorced or unmarried women due to the attribution of 'property' like features with women.
3. **VICTIM BLAMING**: Victim blaming is one of the main factors. It is due to generation gap or people who do not accept the current trend of different lifestyle. As in the case of sexual assault and rape people who do not accept the current lifestyle or dressing tend to blame the victims for the consequences faced by them. Many women are inclined to excessive guilt and self-blaming or they even end up believing that the result of the same is due to their lifestyle or because they have done something to attract such behavior towards them.
4. **SEX RATIO**: In the recent years, there has been excessive fall in the sex ratio of women especially in states like Punjab, Delhi, Gujarat and Haryana. People who are culturally backward and still believe in having male child as an asset and female child as a liability are one of the reasons for increasing crime rates in India. according to statistics, there is 12-15% excess of young men in Asian countries especially in China and India. Such men belong to low socio-economic background and this creates taboo among men which leads to sexual needs and in turn lead to increase in crimes against women.
5. **BEHAVIOR**: Some men behave differently at times than how they would behave as individuals at a different given situation. This can be due to anger management issues , emotional imbalance, feeling of being superior or any ego issues, etc.. The way certain people handle situation might differ from person to person and while they have such

anger management issues they tend to harass women and try keeping them under their control.

6. **COMPANY POLICIES:** Not only making company policies are important but also implementing the same is equally important. It would not be of any use if these policies are only printed on papers and not implemented. When the companies lack such policies, crimes against women rapidly increase as men in the company would have an advantage and deprive the victims at the same time. Women often resign rather than complaining and not take any action against such men.
7. **CONSUMPTION OF ALCOHOL OR DRUGS:** Consumption of excess alcohol and drugs usually tend to change the behavior of people. They behave aggressively and become emotionally imbalanced. These also affect the health of the consumer. There are certain negative consequences that will affect the consumer's behavior in their day to day life. for example, hangovers, engaging in unwanted sexual activity, getting assaulted as well as assaulting others, humiliating or being humiliated by others etc.

#### 5. SUGESSTION:

1. **STRONG COMPANY /INDUSTRY /CONTRACTOR POLICIES:** When there are strict company policies that exist it creates a clinch of fear among the people in the company and the crimes against women at workplaces will reduce. For this, the company employees must be aware of such policies so that such crimes would stop Now a days, there is a new department in every company which is known as 'HUMAN RESEOURCE MANAGEMENT DEPARTMENT' which takes care of such matters. They also conduct different programmes which educate the employees about the existing laws and company policies and concentrate on women empowerment. In cases where the industry is a small scale one or when the relationship existing is one of agent and a contract, it is important that there are complain boxes or complain redressal methodology established.
2. **REGULAR CHECK:** The employeers should see that they keep a regular check on the employees by conducting meetings and taking suggestions. this would let the managers or the company superiors to know what's going on in the company. For example, some



companies have a women's meeting every month in which the HR head would look into the matters and take suggestions for the same. Regular meetings and constant dialogue between the employer employee is required in the unorganised sector.

3. **TRAIN EMPLOYEES AND WORKERS:** The employer must conduct a training session where the employees are trained. these sessions must concentrate on the different kinds of problem women face and how they can be prevented. These sessions must also educate the employees on what sexual harassment actually means and take reviews regarding the same.
4. **IMPLEMENTATION OF LAWS:** When such complaints are logged the state must see that they take it seriously. Laws are of no good if they are just to be showcased. The laws which have been enacted must at the same time be implemented so that these crimes against women reduce.
5. **ATTENDENCE AT WORKSHOPS:** The employer officials must see that when workshops which educate the employees are conducted, all the employees attend such workshops. They must ensure that all upper-level employees attend such Anti-harassment workshops.
6. **GOVERNMENT AGENCIES:** Government agencies and commissions should be set up the state and centre. This is due to the fact that there exists no union in the case of unorganised sector in large scale, hence their voices cannot be made heard easily. Hence it is of utmost necessity that the government takes adequate measures to protect the rights of these impoverished and exploited individuals.

## **6 CONCLUSION :**

Women, throughout the primitive ages and ancient history have taken the role of a care-taker, the one who would gather food and protect the family internally; while the man dealt with other animals and choose fights with external parties for the betterment of his group. The role of women in this competitive world in the present day has changed . It has diverged from the historical role of women.

In current times, women do not just merely act as a hidden advisor, or the centre show piece but as a person who drives the boat of development and well- being. In many Indian and Non-Indian families, the woman has taken charge in order for them to be able to avail the basic necessities of life and more. In this scenario it is important that the marginalised section of the society is not further subjected to more situations of discrimination, abuse and exploitation.

As new culture is integrated with the existing Indian culture, problems and ambiguities do arise, in such situations, legislations and employers are to act with the principles of equity. If that is followed, it will not be long before women and men are on the same footing even in the unorganised sector.

