

**SEXUAL HARASSMENT OF WOMEN AT WORK  
PLACE - A SOCIO LEGAL STUDY WITH SPECIAL  
REFERENCE TO COURTS IN GREATER  
VISAKHAPATNAM, A.P.**

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# CHAPTER IX

## Conclusion & Suggestions



“The liberal idea of tolerance is more and more a kind of intolerance. What it means is 'Leave me alone; don't harass me; I'm intolerant towards your over-proximity.'”

— Slavoj Žižek



## 10. Conclusion & Suggestions

### 10.1. Conclusion

In recent decades the presence of women in public life has grown, whether in politics, in the workforce, or in the migrant streams that cross international borders. Yet gender inequalities in power continue to be a persistent and integral feature of the modern world and its institutions. Therefore, the ideal of gender justice and the idea of woman empowerment continue to have their prominence in all the crucial issues concerning women. The ideal of *gender Justice* impresses upon how addressing gender inequality, will be essential to achieving the Millennium Development Goals and the idea of woman empowerment calls for a process of change in power relations that is both multidimensional and interlinked. Sexual harassment with its primary demonstration in uneven power relations therefore is an anti thesis to the ideal of gender justice and idea of woman empowerment. Internationally, the issues of gender justice and women empowerment are addressed with a human rights perspective. It is expected to be highly productive to analyze the question of sexual harassment from human rights perspective that offers the possibility of cultural change. Violations of women's human rights are directly or indirectly related to the gender system and to mainstream cultural values Human rights violations are committed against men as well as women. However, their impact clearly differs depending on the gender construct of the victim. No doubt then that woman suffer from sexual harassment due to their biological as well as gender construct, either way of which is opposed to human rights ideology.

Sexual harassment is a form of gender violence. Violence is a gross disrespect to human rights philosophy which the United Nations has been vigorously advocating since its inception. Over the past few decades, gender-based violence has increasingly come to be recognized as a serious problem at the international level, not only for women but also for the attainment of equality, development and peace. Forms of gender-based violence with the relational and power structures in operation, includes sexual harassment in the workplace and in educational institutions.



## *10. Conclusion and Suggestions*

Woman empowerment is crucial because it is a well established fact that unequal distribution of power and the asymmetrical relationships that exist between men and women in our society perpetuate the devaluation of women and their subordination to men. It is meant to be an antidote for gender-based violence, a patriarchal social mechanism for perpetuating the subordination of women. Sexual harassment of women at workplace is a major barrier for woman empowerment because whereas economic independence is identified to be a key path for women to overcome the power inequalities, sexual harassment at workplace is blocking many women to pursue the same.

From the human rights perspective, sexual harassment is a major block to the ideal of equality of entitlement to human rights. Human rights arise out of the need of each and every individual to enjoy the conditions essential for a decent life. Women enjoy the same rights and freedoms as men, and autonomy, under the terms of the Universal Declaration of Human Rights; International Covenant on Civil and Political Rights; International Covenant on Economic, Social and Cultural Rights; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and the Convention on the Elimination of All Forms of Discrimination against Women. Linking the issue of gender-based violence with human rights offers new possibilities for analysis and for the struggle to end discrimination against women. Among others, violence against women is a violation of the right to life, liberty and personal safety (Article 3); of the right to not be subjected to torture or to cruel, inhuman or degrading treatment or punishment (Article 5); of the right to equality before the law and to equal protection under the law (Article 7); of the right to a fair trial (Articles 8 and 10); of the right to freedom of movement (Article 13), and of the freedom of assembly and association (Article 20).

At United Nations World Conference on Human rights, held in Vienna in June 1993 Conference, the women's movement proposed that the Universal Declaration of Human Rights include specific references to gender-based violence and that the Declaration be reformulated from the gender perspective, which is not limited to the situation of women but rather encompasses all of society. The resolutions adopted at the World Conference on Human Rights emphasize the importance of ensuring that women are able to enjoy the highest possible level of physical and mental health



throughout their lives and, to that end, recognize their right to accessible and adequate health care, equal access to all educational levels on an equal footing, and to a life free of violence. Sexual harassment hampers right to personal development, since its victims suffer a form of psychological paralysis which prevents them from developing their creative potential; of the right to social and political participation, because it inhibits activities outside the household (with the exception of the bare minimum of activities related to traditional roles), such as participating in organizations, groups or meetings; of the right to freedom of expression, and of the right to an optimum state of physical and mental health.

The United Nations General Assembly, at its Forty-Seventh session, agreed that the violation of the human rights of women was not just limited to acts perpetrated or directly condoned by Governments. It asserted that the Governments also should bear a social and political responsibility for acts committed by third parties if they had not taken the necessary measures to prevent, investigate and punish acts of violence. Therefore, the historical and day-to-day experiences of women, like that of sexual harassment, which hinder the women from enjoying their human rights conducive to their right to development should be taken into account by the concerned governments and to that end must make necessary arrangements to provide a barrier free path to the human development irrespective of sex and gender dimensions.

Rule of law is directly integral to the implementation of human rights. The human rights ideology promoted by the international community finds the state made law as the chief means for implementation of the same. In line with this approach, sexual harassment which involves violation of the most basic human rights like right to life, liberty, equality, right to self determination etc also deserves for its eradication the support of state made law.

Law has been playing a very significant role in bringing social transformation in India from gender perspective. Indian Constitution has been the chief avenue for accommodating most of the international and national initiatives for multi dimensional development and empowerment of women. It provided a spirited platform for conceiving, designing and executing the various laws for improvising the status of women in India.



Every incident of sexual harassment at work place results in constitutional violation of the right to equality (Article 14), right against discrimination on basis of sex (Article 15), right to practice any profession occupation or trade (Article 19(1)(g)) and right to life and liberty (Article 21), the most crucial fundamental rights. The Directive Principles of State Policy, like Art 38 which seeks state to promote the welfare of people by securing and promoting a social order in which justice, social, economic and political shall inform all the institutions of national life, Art 39(a) speaking of policy to secure adequate means of livelihood, Art 3 (d) requiring that the health and strength of men and women be not abused by economic necessity, Article 39-A seeking the legal system to provide equal justice, Article 41 seeking the state to make effective provision for securing right to work coupled by Art 42 for providing just and humane conditions of work, contained in the Part IV of the Constitution providing a path way for good governance of the state also carry an implied expectation that the government has to play active role in curbing the menace of sexual harassment. The Indian initiatives for dealing with the menace of sexual harassment took off from these constitutional directives. The epoch making judgment of the Supreme Court of India in *Vishaka vs State of Rajasthan* in 1997 squarely rests on these constitutional directives and the CEDAW the implementation of which has the substantial backup of our constitutional spirit.

Vishaka judgment of the Indian Supreme Court in 1997 provided a new mile stone for gender justice. Its contribution lies in providing the problem of sexual harassment at workplace the deserving public focus and state attention. From the legal point of view it provided a stop gap arrangement for the victims of sexual harassment before India has come out with the much needed legislation. Vishaka judgment in fact, is much more than a mere stopgap arrangement through its Guidelines. It marked an important turning point for gender justice for women whose long fought struggles could secure them a place in public sphere to prove their potential but yet are suffering from the patriarchal domination at the workplace. It has provided a great succor for the victims of sexual harassment and to those who wanted to lend a supporting hand to the victims. In fact, it provided the lead for the Indian legislature to seriously consider the problem of sexual harassment at workplace. In all the sixteen years that passed between the judicial legislation in the form of Vishaka judgment in 1997 till the statutory legislation on sexual harassment in 2013, it is the Vishaka judgment which



provided the hope and relief for the victims of sexual harassment. It also provided the necessary direction to the courts in dealing with different issues concerning the sexual harassment. Pending the legislation, the Indian judiciary has provided useful clarity to relevant issues like, the status of the enquiry committee, the finality of enquiry proceedings, lesser importance to technicalities like date or vague charges, legality of composition, need for victim oriented approach etc.

The new legislation, namely, The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, has provided the formal legal framework to deal with the issue of sexual harassment. This is a significant measure in the sense that it has paid exclusive attention to the issue of sexual harassment of women at workplace unlike the general law of the land contained in IPC, common law or the labour law pertaining to labour force in general. The Act prohibits sexual harassment of women at workplace. Given the power imbalances in the institutional context in which sexual harassment takes place, the legal imposition of the positive duty on the employer of the institution to prevent and protect is of crucial importance. In its essential spirit, this Act is undoubtedly a proactive instrument in the fight against sexual harassment because an employer/board is in a position of power to really change the ‘culture’ of an organization.

The Act is quite broad in its scope bringing within its functional purview almost all the organizations. Its comprehensive coverage of the terms like ‘employer’, ‘employee’ and ‘aggrieved woman’ secures a wide range application of the Act. Major achievement of the Act is the introduction of compulsory grievance mechanism in the form of Internal Compliance Committee and Local Compliance Committees, the composition of which is woman friendly. The Act contains well thought provisions like scope for interim measures for protecting the interests of victims, ordained duties of the employers to keep the workplace free from sexual harassment, time bound enquiry.

The new Act with its preventive and remedial approaches is definitely a step forward in the direction of giving a new hope for the working women to dream of realizing not just their livelihood and security but also their liberty, dignity and right to development in their respective workplace. However, the Act is not free from shortcomings. Amongst them, the most important are, the provisions allowing



conciliation and punishment for false complaints as the same are apprehended to be misused. Also the lack of distinct provision to avoid the victimization of the complainant and the possibility of time bound enquiry leading to imperfect conclusions are also matters of apprehension. Practical difficulties involved in setting up the grievance mechanism as per the stipulations of the Act are a matter of concern for some organizations. While the new Act has ushered in a new beginning, we have miles to go before we can feel rest assured about the positive impact of the same.

Legal Profession around the world enjoys a distinct status and is hailed as noble profession for the reason that this profession is an important limb of the machinery for administration of justice. The conception of legal services as a ‘noble profession’ rather than services is clearly reflected from the formulation of stringent and restrictive regulatory machinery. These regulations have been justified on the grounds of public policy and ‘dignity of profession.’ The judiciary has reinforced these principles.

India has the world’s second largest legal profession with more than 6,00,000 lawyers. The predominant service providers are individual lawyers, small or family based firms. Women are incrementally entering into the legal profession, particularly for the reason that legal profession is expected to provide them relatively better autonomy when contrasted with other fields of work, social perception about them as persons possessing the power of knowledge of legal rights and remedies and a feeling that the members of general society will hesitate to exploit them unlike the other women.

Like the situation in various other states the entry of Indian women into legal profession was also preceded by struggle against social resistance to women being legal professionals. The resilience of path breaking women and more importantly, the initiatives of the progressive thinking individuals and social reformers have contributed to the contemporary scenario where women are entering into the legal field in large numbers around the world. In India too, the traditional scenario has sufficiently changed. Now we find that in many parts of India the number of women legal professionals is consistently swelling to match those of men. Law profession thus has become most sought after field of work for women.



If India desires to take pride for improvising the status of women through its legal policies, much of the credit for the same has to be extended also to those in the legal profession for their contribution in various capacities as lawyers, judges, advisors etc. in the application and further development of the laws in question. In this connection the researcher struck by the curious question about the state of affairs in the courts, the workplace for legal profession, with regard to sexual harassment, has conducted an empirical study to assess the perceptions and practice of the workforce in courts of the District of Visakhapatnam, Andhra Pradesh.

The data of perceptions and practices of judicial officers, advocates and administrative staff collected through questionnaire, the informal conversation of the researcher with the women respondents, interaction with few judicial officers and further the researcher's personal observation of the profession as a practicing lawyer led to the following major findings with reference to the courts of Visakhapatnam District.

1. Advocates of both sexes and administrative staff of both sexes are familiar with the term sexual harassment.
2. Advocates of both sexes and administrative staff of both sexes, have broadly agreed, though in different proportions, that all the listed actions such as an uncalled compliment about physical appearance, physical gesture with sexual overtones, cracking embarrassing jokes of sexual nature, unwanted physical touch, showing vulgar pictures, demand or request for sexual favour, use of vulgar expressions or word, negative comments about moral character of women colleagues would constitute sexual harassment.
3. The respondents seemed not too sure about whether denial of important position to a woman in the organization for the reason of her being a woman amounts to sexual harassment or not. Relatively speaking, higher number of women advocates (43%) has shown inclination not to consider such denial as sexual harassment. Male advocates are evenly divided (39% against 40%) in their opinion thereby demonstrating that they are uncertain about whether or not such denial amounts to sexual harassment. So far as the administrative staff is concerned, half of the women staff (50%) expressed their inability to take a definite stand. But amongst those who took a definite



stand, women staff is inclined to lean more towards the stand that such denial amounts to sexual harassment which stand is opposed to that of women advocates. None of the judicial officers (0%) accepted that it amounts to sexual harassment. Majority (60%) of male staff confessed their confusion unlike respondents from the other groups.

4. Character assassination is a form of sexual harassment according to judicial officers, and in their opinion the new Act on Sexual harassment should make an explicit reference to character assassination in the legal definition on sexual harassment
5. Respondents of all the groups have broadly agreed , though in different proportions, that low self esteem, mental stress, low efficiency, reluctance to continue career, family disturbance and discouragement for career will result from the sexual harassment.
6. Regarding the reasons responsible for sexual harassment, women advocates (46%) and administrative staff (56%) have imputed the maximum reason to the tolerance of sexual harassment by the women. However, half (50%) of male advocates and 56% of male administrative staff and most unexpectedly, a very high percentage of (85%) of the Judicial officers have imputed sexual harassment maximum to the cause of unnecessary attraction by the way women dress or behave  
The reason that women do not mind sexual harassment is discarded by almost all the women respondents from the two categories of advocates (2%) and administrative staff (0%). Similar stand is adopted by male advocates (3%).
7. Respondents of all categories observed that that marital status has no bearing on the incidence of sexual harassment.
8. Respondents of all categories strongly (96% judicial officers, 76% women advocates, 65% men advocates, 63% women staff and 97%) male staff) refused the proposition that sexual harassment in legal profession is higher when compared to other professions or fields of work.
9. Judicial officers (85%) demonstrated a very strong belief that sexual harassment in legal profession in India cannot be said to be more in India than is the case in advanced countries. A clear majority (65%) of men advocates also have subscribed to the same opinion. Higher number (56%)



of Women advocates and male administrative staff (53%) also preferred to go by the same stand. Majority (63%) of women administrative staff remained uncertain in this regard.

10. Compared to other women in legal profession, judicial officers are least amenable to sexual harassment according to the opinion of the judicial officers. The reasons subscribed by the judicial officers for this observation that woman judicial officers are least amenable to sexual harassment are, the socially powerful position of women judicial officers when compared to other women professionals of law, their knowledge about the available legal protection, fear of loss of public image in society. When compared to women Judicial Officers or women administrative staff or women advocates women the menial workers are identified by the judicial officers to be more vulnerable to sexual harassment.
11. Responses of women respondents indicate that they experience from their male counterparts, all the suggested actions, namely, unwanted compliments or comments about dress or looks, indirect invitation for physical intimacy, direct sexual advances, vulgar jokes, comments about loose morals, unrestrained use of vulgar language in their presence in some proportion or the other. 24% of woman advocates were non committal unlike the woman administrative staff.  
On an overall analysis, it appears that the incidence of direct sexual advance or indirect invitation for physical intimacy is less as per the reflections of the women respondents. The incidence of vulgar jokes and unrestrained use of vulgar language seem to be equally bothersome to the women staff (53% each) more than other actions. For women advocates, the incidence of vulgar jokes (39%), unwanted compliments or comments about dress or looks (33%) and comments on loose morals (31%) seem to be a common experience on an almost equal footing.
12. Women advocates and women administrative staff apprehends sexual harassment from the male advocates compared to others, others, namely, judicial officers, administrative staff or general public.
13. About the frequency of exposure of women advocates and staff to sexual harassment at workplace, judicial officers (0%) and men staff (0%) unanimously denied that the same is a regular occurrence. Rather, they

(95%) maintained that the incidence of sexual harassment is a rare or a never occurred incidence. Majority (63%) of men advocates also considered the incidence not as regular but rather a never occurred or a rare one. Women advocates stood divided (49% against 51%) in their opinion. However, more than half (54%) of the women staff have maintained that the sexual harassment is frequent and a regular one.

14. Half of men advocates (51%) and majority (60%) men administrative staff maintained that they never indulged in sexual harassment. About one third of them (38% advocates and 33% staff) confessed that they do indulge in the same sometimes.
15. Discussion about the character of women colleagues is a frequent or an almost daily occurrence in the routine conversation of male colleagues according to the estimation of majority (86%) of women advocates. They have completely rejected the idea that such a thing never occurs. On the other hand, it is a never or rare occurrence in the estimation of men staff (60%). Opinion of the female administrative staff is slightly tilted towards accepting the same as a rare occurrence. They also did not support the idea that such occurrence is rare. Slightly more than half (54%) of the men advocates believe that it is rare or never occurrence. It may however be noted that the number of those men (from both groups) who acknowledged that discussion of the kind is frequent is significant enough to indicate that judgmental discussions about the moral character of female colleagues is definitely not rare. This is corroborated by the personal observation of the researcher during the time she practiced in the Court.
16. Judicial officers (63%) and male administrative staff (60%) clearly believed that sexual harassment at workplace is not a barrier for career development of women. On the other hand, Women administrative staff (57%) believed that sexual harassment will come in the way of achievement of better success in career. Whereas more than half of women advocates (53%) have shown slight inclination to believe that sexual harassment would not come in the way of better success in the profession, men advocates leaned towards the belief that sexual harassment will come in the way of better success.
17. Judicial Officers (92%) evinced great trust that women are not reluctant to join the legal profession on account of the fear of sexual harassment. In tune



with this belief the women advocates (89%) declared confidently that they never entertained the idea of quitting the profession because of the reason of sexual harassment. However, the women staff (83%) confessed that there were moments when they wanted to quit the job because of sexual harassment at workplace.

18. Only one third of the respondents from the groups of men advocates, men administrative staff and women administrative staff are aware of the new legislation on sexual harassment enacted in India in 2013. Amongst all, the groups, women administrative staff is more aware (43%) of the existence of the new Act.
19. Sexual Harassment Cell is not constituted in the Court to distinctly deal with the complaints of sexual harassment as per Visakha Guidelines and the new Act on Sexual Harassment, 2013. However, the researcher is informed during her interaction with few women judicial officers that a Women's Grievance Committee of three women judges, currently headed by senior most woman judicial officer of the District Court (presently, Ms Anupama Chakravarthy) is constituted in the District Court of Visakhapatnam to deal with any complaints from women working therein. According to the information, the cell is not designated as sexual harassment cell. Enquiries of the researcher revealed that so far no complaint on sexual harassment is dealt by this forum. It may be noted here that an attempt has already begun in the High Court of Andhra Pradesh to constitute Gender Sensitization and Internal Compliance Committee at both High Court level and the level of District and other subordinate courts level. Draft regulations are reportedly awaiting the due process of notification.

About half of the judges (52%) are aware of the grievance forum. Half of the male administrative staff (50%), slightly less than half (49%) of the men advocates, and slightly more than half (53%) of the women administrative staff respondents are aware of the existence of the same. Least awareness is exhibited by women advocates since three fourths of them (74%) are ignorant about the existence of the grievance forum. The researcher's personal interaction with the respondents gave an impression to the researcher that the respondents who expressed their awareness about the existence of the forum seemed to have only a vague and hearsay idea about



the existence of the grievance forum. The Researcher also observed that there is no special place allocated to the grievance forum.

Regarding the approach of the respondents towards the use of grievance forum by the victims of sexual harassment, a very positive approach is demonstrated. A strong majority of the respondents from all the groups gave an assuring reply that they will advise the victim to immediately complain the same to the redress forum constituted for the purpose of dealing with sexual harassment.

20. Amongst the possible reasons suggested for women being reluctant to make complaints of sexual harassment, the least endorsed reason by all the respondents is the feeling of women that sexual harassment is natural in where women and men work together. Fear of adverse public opinion is the reason most endorsed followed by the fear of family disturbance as the reason for not filing complaints.
21. It is the strong belief of women advocates and women administrative staff, women in legal profession will be bolder in utilizing the grievance forum for sexual harassment than is the case of women in other professions or fields of work.
22. It is the strong belief of women advocates (77%), women administrative staff (70) %) that women working in legal profession will be more bold, active and forthcoming in lodging complaints of sexual harassment when compared to women working in other fields. So far as the judicial officers are concerned, no clear opinion emerged to the question if women in legal profession will be more bold and forthcoming than women in other professions. Opinion is equally divided. Thus whereas 41% of the respondents believed that women in legal profession will be more bold and forthcoming, equal percentage (41%) of the respondents opined that it is a matter of individual situation.
23. There is a very strong recommendation from the judicial officers (96%) and advocates (67% women and 86% men) to the effect that Bar Council of India should specifically make an express policy statement that sexual harassment amounts to professional misconduct.
24. Compared to all the bodies, namely, Sexual Harassment Cell, Higher Judiciary, Bar Association, Bar Council of India and Legal Services



authority, all the respondents preferred Sexual harassment cell to play more active role than others.

25. Limited hope is expressed about the positive impact of sexual harassment law in bringing a change in men's behavior towards their female counterparts in legal profession.
26. High grade assurance is given by the respondents from all groups that for the fear of possible sexual harassment, they will not be discouraging the women aspiring to join legal profession as judicial officers, advocates or ministerial staff of the Court.

The data concerning the position of sexual harassment in the courts of Greater Visakhapatnam and the major findings drawn from the same proved that the women working in the courts are not free from sexual harassment. The finding from the responses of women respondents indicate that they experience one or the other of indicated actions from their male counterparts, namely, unwanted compliments or comments about dress or looks, indirect invitation for physical intimacy, direct sexual advances, vulgar jokes, comments about loose morals, unrestrained use of vulgar language in their presence in some proportion or the other, leads one to conclude that sexual harassment of women does prevail in these courts. The researcher's self observation of the state of affairs during the time she practiced in the court and also the intimate conversations she could have with few of the woman respondents during which they were disclosing their experiences substantiates this finding. Also, the researcher's self observation that undue discussion about the moral character of women in legal profession does take place frequently in the court leading to character assassination of women which in the opinion of the judicial officers is a form of sexual harassment is also acknowledged by many woman respondents during their informal interaction with the researcher. The fact that none of the woman respondents certified that such discussion never takes place reveals that they are subjected to the problem of character assassination.

The fact that a non negligible number of women staff and women advocates estimate that sexual harassment of women at their work place is regular and frequent and the fact that majority of woman administrative staff nurtured a feeling of quitting their job because of sexual harassment leads to the basic conclusion that women working in the



courts Greater Visakhapatnam do experience sexual harassment. The refusal of the women administrative staff to the statement that women advocates by reason of the independent character of the legal profession would be less subject to sexual harassment when compared to the women administrative staff as the latte are subjected to workplace hierarchy coupled with the lack of sufficient degree of assertiveness of women advocates to agree that by virtue of the independent character of their profession they are less amenable to sexual harassment, suggests that as a workforce women advocates in the Courts of Visakhapatnam District do not stand in any better position despite the independent character of their work. In view of the above observations, the first hypothesis stands proved. This finding lends support to the general assumption that sexual harassment of women prevails in legal profession in India.

Having concluded that women in the courts of Greater Visakhapatnam are not free from sexual harassment, the other hypothesis to be concluded upon is whether women working in the courts under study perceive sexual harassment as a great barrier to career or professional advancement. Due to the mixed reaction without any decisive majority for this question, it could not be definitely concluded either way, i.e., that sexual harassment is or is not perceived as a great barrier for professional or career advancement at the workplace. The non amenability of the hypothesis to a definite conclusion is discernible from the fact that while a greater number of woman administrative staff expressed the opinion that sexual harassment is a barrier to career advancement, very limited number of woman advocates took similar stand. Likewise, whereas a very high majority of women administrative staff admitted that at times they entertained the thought of quitting the job due to sexual harassment, a very high majority of woman advocates took a contradictory stand that such they never harboured any feeling of leaving the profession on account of sexual harassment at workplace. On the whole however, taking into consideration the overwhelming reluctance of all the respondents to believe that sexual harassment would be more in legal profession than in other professions or places of work and also the readiness of the respondents to assert that they will not discourage their close female relative from entering into the legal profession or the Courts for discharging administerial work, it can be reasonably inferred that sexual harassment of women associated with legal profession in general and the Courts of Greater Visakhapatnam in particular is



either not too severe as to be perceived as a great barrier for the professional or career advancement of the women or that women working in courts, the place of work for legal profession, do not let themselves be dissuaded by the problem of sexual harassment. Also in the light of the general tendency that ordinarily a group of persons or category generally tries to safeguard its interests and the social image which inclination is expected to be more in service oriented professions like legal profession, it might be equally possible that unlike the woman administrative staff who per se cannot be branded as legal professionals, the women advocates and judicial officers who typically belong to the category of legal professionals, might have been unduly guarded in expressing their perceptions about the negative impact or extent of sexual harassment in the legal profession. For reasons whatever, the second hypothesis is not proved definitely.

Being active executors of law, courts will set leading example in establishing the stipulated grievance mechanism for sexual harassment- is the third hypothesis. This hypothesis is proved wrong. The recent episode of the complaint of sexual harassment by a Law school intern against Justice Ganguly brought into limelight that there is no internal complaints committee constituted in the Supreme Court itself which has spearheaded the development of sexual harassment specific law in India through its epoch making Guidelines in its Vishaka judgment delivered way back in 1997. It is only very recently that the Supreme Court has adopted the Gender Sensitization & Sexual Harassment of Women at the Supreme Court of India (Prevention, Prohibition and Redressal), Regulations, in 2013. Andhra Pradesh High Court in whose jurisdiction the District Court of Visakhapatnam functions also does not have any internal complaints committee to deal with sexual harassment complaints. Very recently, Regulations entitled The Gender Sensitisation & Sexual Harassment of Women at the High Court of Andhra Pradesh (Prevention, Prohibition And Redressal) Regulations, 2013 are drafted. Similar Regulations are also made by the A.P.Hgh Court to govern its subordinate judiciary and other related bodies. They are called, The Gender Sensitisation & Sexual Harassment of Women at the Subordinate Courts, Tribunals, A.P.Judicial Academy and A.P.State Legal Services Authority under the Administrative Control Of The High Court of Andhra Pradesh (Prevention, Prohibition And Redressal) Regulations, 2013.These draf regulations are awaiting Gazette notification to come into force.



Courts of Greater Visakhapatnam in which the data is gathered, do not have any exclusive sexual harassment cell. However, a general grievance forum headed by the senior most woman judge is said to be in existence to deal with complaints from woman employees. Oral enquiries of the researcher did not lead to even hearsay information regarding the entertainment of any complaints of sexual harassment by the grievance forum.

It is not out of place here to mention that only one third of the respondents of all categories are aware of the new legislation on prohibition of sexual harassment at workplace enacted in 2013 which ordained the establishment of internal complaints committee to hear complaints on sexual harassment of women.

The fourth hypothesis is -- women associated with legal profession will be bolder and forthcoming in utilization of grievance mechanism for sexual harassment. This hypothesis could not be tested factually because the courts under survey do not have any internal complaints compliance committee or sexual harassment specific grievance forum to deal with complaints of sexual harassment as stipulated by the law. The recent measure of Supreme Court in establishing GSICC and the ongoing attempt of the Andhra Pradesh High Court to establish the internal complaints compliance committee in both the High Court as well as in its subordinate courts to deal with sexual harassment taking place in their precincts are too nascent to provide any information adequate enough to draw any positive conclusions that women in legal profession would very bold and forthcoming in complaining about sexual harassment. With regard to the utilization of the general grievance committee claimed to be established by the District Court of Visakhapatnam to deal with grievances of women employees, the enquiries of the researcher about the whether the same is utilized by anyone to complain about the sexual harassment did not reveal any instance of a complaint on sexual harassment having been dealt by the said committee. Theoretically however, a significant finding which has a great bearing on the above hypothesis is that a very substantial majority of women advocates and women staff strongly maintained that women in legal profession will be bolder and forthcoming in utilization of the sexual harassment grievance cell and also the further finding that they intend to encourage the victims of sexual harassment to immediately complain to the grievance forum indicates that women associated with legal



profession are likely to be bolder and forthcoming in utilizing the grievance forum for sexual harassment. In addition to this, the news which is recently reported (just few days before the submission of the thesis) that the very first annual report of GSICC of the Supreme Court has recorded two complaints of sexual harassment and that one Advocate, Mr. Nagesh who has been found guilty of sexual harassment has been debarred from entering the premises of the Supreme Court for six months indicate that provided the grievance mechanism is available women associated with legal profession will be bold and forthcoming in lodging the complaints on sexual harassment. In the light of the same, it can be concluded that the fourth hypothesis is true at least, partially.

The fifth hypothesis keeps in mind the general public expectation that the workforce of the courts devoted to the administration of justice, would be a cut above the common perceptions, practices and approaches which prevail in general society about sexual harassment. Having drawn the hypothesis to the contrary that the workforce in the courts despite the association with legal profession also holds common perceptions and approaches towards sexual harassment, the researcher ultimately arrived at the conclusion that the hypothesis stands partially true. This conclusion is based on two major findings. One is with regard to the stark contrast of the responses of male and female respondents given to the question about the reasons for sexual harassment for which the women respondents took the stand that the reason for sexual harassment is the tolerance of women towards the sexual harassment. In a stark contrast and very typically, greater number of men respondents from all the groups have pointed the finger at the dress or looks of the women as the leading cause of sexual harassment rather than at any other factors like women tolerating sexual harassment, uneven power relations between men and women. This shows the workforce of the courts under study also reflect the same contrast of approach between men and women observed in general society with regard to the issue of sexual harassment. Second major finding is that a different approach is shown by the respondents when it comes to the issue of active utilization of legal mechanism to deal with complaints of sexual harassment. It is a general observation that victims would be discouraged in Indian society from making any complaints. . But, the readiness exhibited by the respondent workforce in the Courts under study to encourage the victims to make immediate complaint to the grievance forum had revealed that their



approach is distinct from the general members of the society. Therefore, the last hypothesis is proved only partially.

It can be reasonably concluded that courts, the place where the noble legal profession is pursued seem to be no different from other places/ fields of work. This is obvious from the glaring facts that women associated with legal profession are also not immune to sexual harassment like other working women and the courts, the chief workplace for legal professionals, are equally sluggish in building a professional environment free from sexual harassment.

India has no doubt, taken a constructive step in developing a legal platform for women to pull up their socks to step on to the same and redress their grievances concerning sexual harassment at their workplace. However, much water has to flow before The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 realizes its constitutional objective of providing protection from sexual harassment at workplace resulting in violation of the fundamental right of women to equality under Articles 14 and 15 and her right to life, liberty and to live with dignity under Article 21 and right to practice any profession and to carry on any occupation, trade or business which includes a right to safe environment free from sexual harassment. Keeping in view that sexual harassment more often reflects the patriarchal perceptions about women in Indian society, much need to be done beyond the formal measures. Coercive legal machinery must be duly supported by the social mission to bring attitudinal changes in the society about the social place of women in human society.

## **10.2. Suggestions**

1. The Act should provide some useful but not exhaustive guidelines that would help construe the term ‘unwelcome conduct’ constituting sexual harassment.
2. The Act should further be developed to take care the possible victimization of successful or unsuccessful complainants of sexual harassment.
3. The Act should build up a transparent scheme of conciliation so that the same would not succumb to power equations. Conciliation should be limited only to low threshold complaints of sexual harassment. Repetition of the objectionable



behavior from the accused perpetrator subsequent to the conciliation should lead to stringent measures.

4. The Act should be developed further to provide guidelines for the internal complaints committees to avoid the possibility of a liberal interpretation of the term ‘false’ complaints and require the internal complaints committees to give a detailed explanation as to why the same should not be considered as a genuine complaint. Also sensitization programmes be conducted to create awareness in the victims, perpetrator and even the members of ICC that mere inability to prove sexual harassment will not inevitably end up the complainant women being punished.
5. The Act should provide that in the event of the failure of the respondent to pay compensation to the aggrieved woman, the employer shall directly make such payment. Such vicarious responsibility will alert the employers to put in place and strictly monitor the compliance mechanism at their respective workplaces. However, keeping in mind the under economic status of many workplaces, such prescription must be rationalized by identifying reasonably larger and economically sound organizations.
6. Wide publicity is to be given about what actions would amount to sexual harassment and the legal consequences of the same.
7. Character assassination involving imputation of career development of a woman to her immoral character should be included in the definition of sexual harassment.

### **Legal Profession & Courts**

8. With reference to the Courts, all the High Courts must be hastened to set up GSICC at the earliest as mandated by the Supreme Court. The High Court of Andhra Pradesh must take necessary steps to immediately operationalize the draft regulations on sexual harassment applicable within the precincts of High Court, Subordinate Courts, Tribunals, Judicial Academy and Legal Services Authority.
9. BCI must expressly declare that sexual harassment amounts to professional misconduct



## *10. Conclusion and Suggestions*

10. Legal Services Authority must conduct sensitization programmes on sexual harassment to the general public, para legal staff as well as all those who are associated with legal profession.
11. A unit on the topic of sexual harassment must be introduced in the syllabus of professional ethics taught to the students of law. Till such introduction sensitization programmes on sexual harassment must be conducted in the law schools.
12. Immediate steps must be taken to enlist the volunteers to extend their services to the complainant victims of sexual harassment.
13. Wide publicity must be given about the availability of GSICC in the concerned courts.
14. Women workforce in the courts must be sensitized not to colour up the ordinary employment or occupation specific complaints as grievance of sexual harassment so as to avoid the courts getting into unnecessary adverse negative image regarding sexual harassment.
15. Pending the activation of GSICC in the District Court of Visakhapatnam, wide publicity is given about the new legislation on sexual harassment and display at all prominent places of the court precincts the details of those actions which amount to sexual harassment.
16. Pending the establishment of GSICC in the District Court of Visakhapatnam, the District Court should give publicity about the existence of general grievance forum and draw clear guidelines regarding its services as a provisional forum to deal with complaints of sexual harassment.
17. Yearly programmes must be conducted in the Court to imbibe extra sensitization in the advocates about the negative impact upon the public image about the respectability of legal profession in case of their indulgence in sexual harassment of women. Advocates also must be sensitized to be torch bearers of gender sensitive behavior.

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