

society an arrested person released by proving his innocence also cannot survive because no one can provide any job and due to that arrest their family members will be suffered.

It is stated that the Indian police is well known to all the people throughout the world about their harassment, third degree methods, atrocities on the innocent people, whether they are innocent or offenders. That is the reason of incorporating the Articles 20, 21 and 22 to give safety to the arrested persons from the police. Article 22 is the extension of Article 20 and 21, but the police are not following the provisions, these Articles are remained on papers only.

The police arresting the persons without any reasonable doubt and by the influence of

political leaders, higher officials and by the influence of business magnates arresting, torturing and harassing to confess the crime which they have not done, and they also not producing them before the Magistrate within 24 hours of the arrest. Moreover the police manipulating date of arrest and the case diary before submitting to the Magistrate. These things cannot be known to the ordinary persons and they cannot prove in the Court of law.

Even literate people do not know what are the rights and entitlements under the law. The law ceases to be their protector because they do not know that they are entitled for the protection of law and they can avail the legal services programmes for putting an end to their exploitation and winning their rights.

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## SEXUAL HARASSMENT OF WOMEN

By

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### *Introduction :*

Woman played an important role in the life of man like as mother, sister, wife, daughter. Indian history also says without the support of women we cannot achieve anything. Due to that our Indian epics, Vedas and Upanishads says “Yatra Naryantu Pujiyathe tatra Devata Ramante”. The meaning of this phrase is ‘where females are honoured, there the deities are pleased. But these words are not followed by the men from that time to till the modern era.

From last several decades the women were subjected to sexual harassment

irrespective of their age, religion, caste and economic status. It was well known thing to all over the world.

By seeing the critical condition of the women *Mahatma Gandhiji* stressed with melted heart, on the occasion of Independence of India, “I can say that India would get its full freedom only if a woman walks in the street in the midnight”. Now the guidelines given by Mahatma are ridiculed. Under the spirit of the Constitution, from time to time Indian Parliament enacted several Acts and making amendments to the old laws but these all are remain on papers only. But the miserable stories of the women in all religions are the same. It destroys the dignity

and integrity of the women of all the religions. Thus half of the population are put into darkrooms torturing them. Even though six decades have been completed, but there is no change in the life of the women. The Constitution has recognized women as equal with men but really the present position of the women is not better in any religion or region throughout the country. They have been under the foot of the men from the centuries in every walk of human life.

No doubt, the Constitution, Indian Penal Code, Dowry Prohibition Act 1961, Marriage Laws *etc.*, have provided certain safeguarding provisions to the women. But women are still being treated as a luxuriant commodity to fulfil their sexual desire. From the last several centuries male treating female as his property. But no one caring her wholeheartedly. The role of women is confined to that of a daughter, house wife and mother but the women are not safe even within the four walls of their homes. Housewives are subjected to physical and mental harassment. From time to time the Supreme Court and the High Courts have been giving newer guidelines and instructions. However sad to say that all of them become in vain. Without the willingness of the female male are going to intercourse with women. How it is very brutal activities of men. Such activities show no difference between men and animals. This type of sexual harassment prevails in almost all societies from ages.

The object of this article is to discuss and analyze the causes for the growth of Sexual Harassment on Women and Principles of Remedies, protection and safeguards from such harassments and how to curb the evil tendency from the society. This study aims at highlighting the imminent need for refurbishing the laws importing social justice to keep pace with the changing spectrum of deteriorating conditions.

There has been an enormous increase in sex crime in recent times. Eye-teasing and its aggravated form, sexual harassment of women, specially at work places and at study points are crimes which are almost recognized male sport. Sexual harassment crosses all professions. It can be as early found in film studios, Government Offices and in Private Organizations, though some professions, seem more prone to it than others. If we think the reasons for the evil attitudes of the males so many causes are there.

1. In the present society due to the heavy pricing rates and financial burdens wife and husbands both are doing jobs. Due to that they cannot spend most of their time with their children. The lack of parental control over their children will tend to become a psycho and drug addicts and starting to harass the girl students.
2. The media play an important role in influencing the human mind. The Televisions, films and Internet have the maximum impact on the viewers. Most of films and serials shown in Cinema Halls or on Television or on Internet depict scenes of violence and vulgarism and undesirable sex exposes depicted in movies and television which adversely affect the viewers, particularly the teenagers, by matching those things they are imitating in their real life.
3. The changes in the habits of dress and undress may stimulate sexual impulse in the minds of the men. Wearing the complete dress by the women or girl will increase her dignity, but when she wears half covering dress it will decrease her dignity. Due to the impact of western culture our Indians are crazy for imitating the western ways and become very sexy in wearing modern clothes by girls and women invite the lustful looks of sexy persons.

4. Due to family unhappiness by the wife the men are trying to fulfil their lustful sex-desire by sexually harassing their co-employees.
5. One more main reason for growing incidence of sexual crime is that majority of sex offenders get acquitted in the absence of eye-witnesses as these offences are always committed in desolate lonely places. Besides fear, awe and humiliation also dissuades woman, who is a victim of sex crime, from approaching the Court of law and even if they dare to do so, they feel awkward in replying the questions relating to the details of sex-act. The victimized woman seldom raises hue and cry against the culprit.

This situations poses real problems, specially for the working women and girl students. To make the situation worse there is no specific law which deals with this crime in its entirety.

There are three sections of IPC (Sections 509, 294 and 354) which can be exploited to deal with such crimes. These sections make gestures or acts intended to insult the modesty of a woman or acts which intrude upon her privacy a crime, but it is very difficult to exploit these provisions to deal with the various expressions of sexual harassment which is something very difficult to prove.

It has myriads of manifestations each more obnoxious than the other. Unwelcome sexual advances, requests for sexual favours and other verbal physical conduct of a sexual nature constitute sexual harassment.

Sexual harassment and eye-teasing are treated as low priority crimes. The term eye-teasing is itself revealing in its indulgent over tones. It seeks to trivialize a very serious issue. We find women being insulted almost every day, everywhere and every time.

It is almost a torture for a woman to walk alone on the road. Male predators stalk the vehicles with the sole purpose of teasing and tormenting young and bashful women.

Often these bus rides early in the morning turnout to be a nightmare for the victims. The case of *Monisha Verma* is to the point, though that lonely girl was being harassed and molested by three DTC employees, none of the few passengers came forward to rescue her.

An act of sexual harassment and molestation is by its nature difficult to prove in a Court of Law. Theoretically any person who intrudes on the privacy of a woman or utters any word or amok any sound or gesture or exhibits any object with an intention, that such word or sound shall be heard or that such gesture or object shall be seen by the woman, can be looked for sexual harassment, but it is not easy to prove the intension which is an essential ingredient of his offence.

One of the evils of the modern society is the sexual harassment caused particularly on the working women by their male counterparts at work places. It is an amazing truth that years after an established tradition of Indian working women their harassment at place of work is so common. There are about 10 million women who have entered all fields from medicine to politics to piloting planes yet nearly all face the same problem. Sexual harassment is assuming new and subtler forms of each day, but very few organizations have formalized measures to tackle it, fewer even openly acknowledge its existence.

The experiences of nurses and girl students in a Hospital cum Nursing Colleges are similar to this type of sexual harassment. The nurses are harassed by the male doctors as well as the patients.

In March 1992, during Holi a Senior Doctor of Bana Hindpax Hospital<sup>1</sup> allegedly molested two nurses of the hospital. There was an agitation by the nurses demanding justice, numerous allegations and counter allegations were made against the nurses and the doctors. But, like most other sexual harassment cases, this case also died a natural death.

Recently a Professor, the Head of the Department of Chemistry of Hans Raj College, Delhi University<sup>2</sup> was accused by two of his girl students of molesting them at his residence. The President and the Secretary of the Student's Body threatened to close down the college and resign if prompt action was not taken against him.

An another sexual harassment case was occurred recently at Vijayawada by a student by name *Manohar*<sup>3</sup>. A girl student, named *Srilaxmi* was harassed and maltreated by *Manohar* and lastly he brutally murdered her at college when she was going to write the examination.

Recently in Hyderabad, one girl, who is studying S.S.C. consumed poison due to the harassment and threatens of eye teasers with filthy language and went to report to the concerned police station. The police rescued the girl and later registered the complaint<sup>4</sup>.

This news creates a sensation in the society and several complaints were given by the girls for the enormous increase of sexual harassment in their day to day life to the City Police Commissioner Mr. *Prasada Rao*, by hearing those complaints he arranged Special Police Drive on eye teasers. In a Special Police Drive from January 4th to 10th of 2008, 213 eye teasers were arrested.<sup>5</sup>

By arranging these special police drives at schools and colleges in the morning and evening times we can control the eye teasers. At Hyderabad in 2007, 838 harassment cases, 27 murder cases, 54 rape cases, 58 kidnapping cases were registered. In Cyberabad jurisdiction 806 harassment cases, 40 murder cases, 41 rapes cases and 47 kidnapping cases were registered.

Sexual harassment not only caused at work places, study points, this evil tendency continues at Prisons also. The increasing number of women and young girls coming in contact with the police whether as complainants or as accused or as victims of crime, there the Police misusing their power and authority and misbehaving or harassing the women for sex to desire their wants.

By hearing all these the humanity bows its head with shame. In majority of incidents the aggrieved women and parents do not want to complain to the police with a fear that the reporting to the police and publishing in newspaper would further cause low-degradation and shame in the society. If a woman sexually harassed dares to approach the police, there also she is humiliated and molested. No sympathy is shown towards the affected woman. Moreover, in the Courts also the sufficient justice is not available to the victim. Too much delay, ridiculous questions by the defence lawyers in the cross-examination, procedural and technical points, evidences *etc.*, are the main obstructions to prove the guilty. If we think the reasons for the evil attitudes of the males so many causes are there.

An act of sexual harassment and molestation is by its nature difficult to prove in a Court of Law. Theoretically any person who intrudes on the privacy of a woman or utters any word or amok any sound or gesture or exhibits any object with an intention, that such word or sound shall be heard or that such gesture or object shall be seen by the woman, can be looked for sexual

1. Indian Express, Legal News.

2. Indian Express, Legal News.

3. Eenadu Telugu Daily.

4. Eenadu Telugu Daily.

5. Prajashakhti Telugu Daily

harassment, but it is not easy to prove the intention which is an essential ingredient of his offence. The lack of evidence and social stigma prevent the victim from complaining. According to *Indira Jai Singh* a famous lawyer, this phenomenon is widely prevalent but not many cases come to Court. *Jai Singh* herself has handled cases involving sexual harassment of Air Lines Staff and others. There has been a vast increase in the number of cases reported from Delhi in recent years.

It is strange that in spite of all talks about the improvement in women's status and the laws, eye teasing continues unabated.

Incidents of eye teasing, molestation and violence against women have become a continuing scandal in Delhi and other places also. Whenever any incident gains momentum the authorities seem to wake up for a brief moment. General steps taken by the University and other institutions specially by the Delhi Transport Corporation and the police for the protection of girls have never materialized or remained effective for long and the mala is a continues unabated. In Ramaja's college stripping incident in 1991; a girl student was allegedly stripped and molested in the hostel by a gang of male students. There was great hue and cry but all those loud platitudes.

The Supreme Court in a PIL time and again has been emphasizing on the need for an effective legislation in India to curb sexual harassment of working women. Finally, in *Vishakha v. State of Rajasthan*<sup>6</sup>, the Supreme Court, in its judgment dated August 13th, 1997 laid down guidelines to remedy the legislative vacuum on this issue.

The following are the guidelines and norms issued by the Supreme Court:

It shall be the duty of the employer or other responsible persons in work places 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.

It defined "Sexual harassment" as including any unwelcome sexually determined behaviour (Whether directly or by implication) like:

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

As a result of this judgment where any of these acts are committed in circumstances where under the victim has a reasonable apprehension that, in relation to the victim's employment or work, any woman employee whether she is in Government, Public or Private Enterprise who is subjected to sexual harassment of any kind can take recourse to initiating criminal proceedings, disciplinary action and also seek compensation from the guilty employer or other person responsible for the sexual harassment<sup>7</sup>.

It is gratifying to note that the broad guidelines laid down in *Vishakha's* case were applied by Bombay High Court in 1998 in the case of Mrs. *Shehnaz Sani* who was working as a Ground Hostess in Saudi Arabian Airlines of Bombay and was sexually harassed by her employer. The Court directed the employer of Mrs. *Sani* to reinstate her with back wages for 13 years, during which she was rendered unemployed due to the wrongful termination of her services by her boss. This judgment has certainly set a new trend in the protection of human rights to dignity of working women in India.

6. AIR 1997 SC 3011

7. *Medha Kotwal v. Union of India*, 2004 (5) SCALE 753



The Supreme Court in *Apparel Export Council v. A.K. Chopra*<sup>8</sup>, emphasized that in cases involving violation of human rights, the Court should be alive to the international convention and apply the same in deciding cases, particularly, those relating to violation of right to gender equality and right to life and liberty including sexual abuse and harassment of female at the work place. In this case the delinquent, a Superior Officer was found guilty of molesting and of having tried to physically assault a female subordinate employee.

The Court held that the act of the delinquent was wholly against moral sanctions, and decency and, therefore, mere want of actual assault or bodily contact does not render the punishment of removal of the delinquent from the service wholly unjustified. In other words, the conduct of the delinquent does not cease to be outrageous as it clearly amounts to sexual harassment. The appeal was, therefore, dismissed.

The Courts have held that, it is the duty of the employer or other responsible persons in work places or other institutions, whether public or private, to prevent sexual harassment of working women.

The acts of indiscipline and misbehaviour on the part of students must primarily be dealt with within the institutions and by exercise of the disciplinary authority of the teachers over the students and of the management of the institutions over the teachers and students. The girl students going to the educational institutions for learning should not remain under constant fear of that they being sexual harassed by male students.

### **Conclusion:**

It may be noted that like any other crime, sex crime cannot be eradicated completely.

It is, therefore, necessary that apart from the legal provisions various other effective measures should also be utilized for repressing sex delinquency. Specially at work places, cases of eye teasing have registered a sharp increase. Most of such incidents are not reported because of the negative attitude of the police and the difficulties encountered in proving the crime. In exceptional cases when this crime is contested, the attitude of the Court is not very encouraging and mostly it is the guilty person who comes out victorious after an arduous legal battle.

There is a need to change the attitude of the women towards men, men towards women and women towards women.

Since, the position of the women in the present situation radically change in various aspects in the social life of the women, especially in education, employment and even in matrimonial home. Due to the impact of the Western Culture on Indian customs and relations leads to loosing of significance of the traditions and customs of society. It may be suggested that the female should not follow the Western Culture and try to avoid wearing their indecent clothe systems.

The role of law-enforcement agencies such as the police, the lawyers, the magistracy, the rehabilitation centers as also the voluntary social organizations in combating sex criminality hardly needs to be emphasized. Law is only an instrument through which crimes can be prevented provided the law-enforcement machinery implements the provisions of law efficiently. This is possible only with the active cooperation and support of concerned agencies. Unfortunately, general lack of understanding and coordination among the police, the prosecutors and other agencies and a tendency to criticize each other's performance is hampering the suppression of sex crime and conviction of sex offenders.

The problem of women's sexuality covers a large area of violation of human rights. It

8. AIR 1999 SC 625

is a blatant violation of women's bodily integrity. Double standards seeing women's bodies and especially sexuality as shameful and glorification of males over females has to be stopped forthwith.

Lastly, it may be stated that after making several enactments in legislative laws the miserable stories of women still continuing. There is no change in the society. They have been under the foot of the men from the centuries in every walk of human life. Hence a drastic change has to come in providing safeguards to the women and act

immediately if a woman complaisance to the police drives that she is being harassed by someone, they must never refuse and they have to take control of the culprits. At the same time at all vulnerable points in the city where the maximum number of cases of eye teasing take place were converted into check points. The Special Police Drive must have to send the trained women police in the buses to identify and arrest the eye teasers readhandedly. By using all methods the police have to create a fear in the minds of the sex-deviants and eye teasers.

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### CORPORATE GOVERNANCE VIS-A-VIS ROLE OF LAW AND INSTITUTIONAL INVESTORS

By

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Corporate Governance (CG) is quintessential for every corporation/company established more so in developing nations as the corporations look ahead and are supposed to compete and be at par with the corporations of those as in the developed nations. The recent rise and fall of the record sensx crossing the milestone of 20K points and abrupt falling to 16K without having any stability has again depicted the vitalities of role and impact of CG in every company. Not just in India but internationally the conceptualization of CG has been encountered with tremendous growth, especially after collapses of major number of multi-national corporations such as Enron Corporation and Worldcom<sup>1</sup>.

CG's advent in frontline news in India was aftermath series of incidents in 1992

starting from *Harshad Mehta* scam, preferential shares issued to promoters at a low price and companies which duped the shareholders by vanishing away with their monies, which could have been stopped had there been effective CG. This incident led the Government to take necessary actions for safeguarding the investors, one of the predominant step was taken by the *Confederation of Indian Industry (CII)* through establishing a committee chaired by *Rahul Bajaj* in the year 1996 which drafted guidelines and the code of Corporate Governance and finalized the *Desirable Corporate Governance Code* in April 1998, thereafter SEBI constituted two committees to look into the issue of corporate governance, first chaired by *Kumar Mangalam Birla* that submitted its report in early 2000 and the second by *Narayana Murthy* three years later.

SEBI has been constantly putting efforts to ensure that the companies adhere CG, making mandatory regulations for providing

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1. "The Board Seat Becomes A Hot Seat: New Liability Risks For Corporate Directors" Philip Mattera, Corporate Research E-Letter No. 51, January-February 2005