

## Understanding Harassment at Workplace through the Traditional Theory of Violence: A Case-based Approach

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### Abstract

Violence against women is partly a result of gender relations that assumes men to be superior to women (IHRO, 2009). The Indian society still upholds the traditional patriarchal culture of male members as the superior gender and the bread winner of the family whereas the women are relegated to the background as primary care givers of the household and subservient to the men. Given the subordinate status of women, gender violence is considered normal and enjoys social sanction. Women in public services are more prone to workplace violence due to the nature of their jobs which involves interaction with the public and colleagues. The research paper tends to bring out this aspect with the aid of case studies on the subject. Similar case studies are chosen from the police services and are a classical paradigm to illustrate violence against women sanctioned by the patriarchal tradition prevalent in the society. For the purpose of this research gender violence is defined as: 'any act involving use of force or coercion with intent of perpetuating promoting hierarchical gender relations' (APWLD, 1990). The outcome of the study proves the traditional theory of violence where women are subjected to harassment by the dominant male sanctioned by culture and social norms. Also the non-adherence and inadequacies of existing legislation towards violence against women is highlighted in the study.

**Keywords:** Gender, Violence, Patriarchal, Socio-cultural Norms

### Introduction

The status of women in India has evolved over the ages. During the ancient period women enjoyed equal status to men (Mishra, 2006) which deteriorated in the medieval period with invasions from foreign powers. The reformists of the 19<sup>th</sup> century and the 20<sup>th</sup> century fought for the rights of women questioning the prevalent practices in the Indian society such as Sati, Jauhar, Devadsai, Purdah, Dowry and child marriage. With Independence, the rights of women were enshrined in the Constitution as fundamental rights with right to equality in Article 14, non-discrimination by the State in Article 15(1), equality of opportunity in Article 16, equal pay for equal work in Article 39(d), special provisions by the State in favour of women and children in Article 15(3), renounces practices derogatory to the dignity of women in Article 51(A) (e), and provisions to be made by the State for securing just and humane conditions of work and for maternity relief in Article 42 (Menon & Shivkumar, 2001).

The current scenario in India reveals women's participation in all spheres of the economy and society. Women are visible in all activities of life from politics, sports, media, education, services and several others. Post-Independence, the Indian Civil Services which was primarily dominated only by males were open to women. But the women were given jobs which the men did not want to do or jobs of a lower cadre. Though women constitute nearly half of the population with a majority employed in the service organizations of the public sector, their work is largely undermined and their contributions underestimated. The All India Services Conduct Rules of 1968 (Conduct Rules, 2005) ensured that the rights of the employees in the public service organization were protected. Despite these protective measures women are discriminated at work because of their gender variance. The women are subjected to harassment at their workplace due to their unequal status. Harassment at work is termed as a form of violence against women. It is one of the social mechanisms which forces women into subservient position and accords power quotient to the other gender. The United Nations defines violence against as: 'any act of gender-based violence that results in, or is likely to result in, physical, sexual or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life' (WHO, 2011).

Violence in the workplace is fast becoming the number one problem for employers (Workplace Violence Statistics, 2010). It takes a devastating toll on women's lives, on their families and on society as a whole. Most societies prohibit such violence yet the reality is that too often it is hushed up or brushed aside. Workplace violence are spill-overs of violence at home and in the society. The Indian society still carries the traditional outlook with regard to the representation of women. The women are subjugated in the name of traditional norms and culture inherent in the Indian society. Their domination by the male members at home is extended to the workplace where they are dominated again by male superiors. The power quotient is accorded to one gender, herein the male, by societal norms who in order to retain the power use violence against the other gender to bring them to submission. This is the basis of the traditional theory of understanding violence against women.

The traditional theory of violence against women in the Indian context is part of the patriarchal ideology which has been considerably reinforced and sanctified through the ancient Hindu religious texts which still exercise a strong influence over the Hindu and in general Indian society (UNESCO,1993). One form of violence which is solely targeted against women is sexual harassment. This form of harassment stems from the structure of patriarchy defined broadly as a system of male dominance legitimized within the family and society through superior rights, privileges, authority and power. Women are much more likely to be victims of external harassment precisely because they lack power, are in a more vulnerable and insecure position, lack self-confidence or have been socially conditioned to suffer in silence. The degree of patriarchy, vary from society to society. The process of subordination however is generally achieved by devaluing women's contributions while at the same time extracting a significant contribution from them. The acceptance of the patriarchy in society forms the crux of the feminist theory or the traditional theory in understanding workplace violence.

The prevailing forms of harassment at workplace include the sexual desire-dominance paradigm which conceptualizes the hostile work environment harassment (Dugar & Deora, 2011). The term sexual harassment means a type of employment discrimination consisting in verbal or physical abuse of a sexual nature. It has historically been a well-kept secret practiced by men, suffered by women condoned by management and spoken by no one. It is a manifestation of power relations. The cases of sexual harassment of women at the workplace are increasing alarmingly because of several factors like poor status of women, increasing number of working women, poor knowledge of human relations and values, poor law and order position in the society and no adequate provisions of law to deal with the problem effectively. The issue is not just a women empowerment issue but an issue pertaining to Human Rights, Human Resource Management and Safety and Health of the work environment.

The Constitution of India ensures and guarantees every individual the right to practice any profession or to carry on any occupation, trade or business as enshrined under Article 19(1)(g) (Bhasin, Alok., 2008). Every woman has a constitutional right to participate in public employment and this right is deprived in the process of sexual harassment which compels her to keep away from such employment. Though this right is only available against the State it is a recognized right in all the major international conventions. Sexual harassment of woman at the place of work exposes her to a big risk and hazard which places her at an inequitable position vis-à-vis other employees and this adversely affects her ability to realize her constitutionally guaranteed right under Article 19(1)(g).

Sexual harassment at workplace is also a violation of the right to life and personal liberty as mentioned in Article 21 that no person shall be deprived of his life or personal liberty. Right to livelihood is an integral facet of the right to life. Sexual harassment is the violation of the right to livelihood. For meaningful enjoyment of life under Article 21 of the Constitution of India 1950 every woman is entitled to the elimination of obstacles and of discrimination based on gender (Radhakrishnan, 2009). Since the 'right to work' depends on the availability of a safe working environment and the right to life with dignity, the hazards posed by sexual harassment need to be removed for these rights to have a meaning. The Preamble of the Constitution of India contemplates that it will secure to all its citizens – Equality of status and opportunity. Sexual harassment violates this basic motive of the framers of the Constitution.

Sexual harassment at workplace in India was highlighted with the leading case of Vishaka v. State of Rajasthan (Desai, 2008). In this case a social activist, Bhanwari Devi was alleged to be brutally gang raped in the village of Rajasthan. The incident records the hazards to which a working woman may be exposed and the depravity to which sexual harassment can degenerate, and the urgency for safeguards by an alternative mechanism in the absence of legislative measures. The famous Vishaka guidelines an aftermath of the judgement of the case sought to ensure redressal of grievances of women at workplace. Also it outlined the establishment of grievance cells to address the problems of women at workplace in both public and private sectors. In the absence of effective legislative measures, the need is to find an effective alternative mechanism to fulfil this felt and social need. In this case, the Supreme Court has categorically held that sexual harassment results in violation of

fundamental rights of equality of sexes, of right to life and liberty, and of the right to practice any profession or to carry on any trade or business.

It was very important for the courts to recognize that gender discrimination can take the form of sexual overtures. The quintessential case of harassment involves a more powerful typically older male supervisor, who uses his position to demand sexual favours from a less powerful female subordinate. Within this paradigm heterosexual desire and male dominance are inextricably linked (Schultz, 1998). Men use their dominant positions at work to extract sex from women and this extraction of sex from women ensures their dominance. This sexual desire – dominance paradigm governs the understanding of harassment of women at workplace. The feminist theory of violence against women is based on this quantum where a dominant male subjugates the weaker female. This theory outlines that society is patriarchal in nature.

Women are predominantly employed in the public service sector of the government organizations. These women are more prone to violence at the workplace due to the nature of their jobs. The service sector involves constant interactions with the public and other employees in the organization. The nature of employment in these organizations make the women employed here more vulnerable to the hazards of violence. By entering into the employment arena the women have to break the glass ceiling to create a niche for themselves. With the prevalence of violence at the place of employment, women have to surpass more barriers of an invisible nature but very real to assert their presence at work and society.

It is on this premise that the current study is undertaken wherein case studies of women in public services are analysed to understand the concept of workplace violence within the traditional theory of violence.

### **Research Methodology**

The researcher has taken secondary source of literature such as case studies to apply and analyse the traditional theory of violence against women. The case studies have one common point-‘patriarchal ideology’ that governs social structure in the society which is mainly responsible for the violence perpetrated against women. Premised upon male dominance, the society compels women to subordination, subservience and dependence on men in all spheres of life. Violence in the context of this research is defined in terms of (i) sexual harassment and (ii) bullying eventually leading to death of the woman.

### **Research Findings**

For the sake of this research case studies were chosen from a public service organization. In this research, the public service chosen is the police services to explain the phenomenon of workplace violence against women with the specific reference to the issue of sexual harassment. Around ten cases with a similar background have been cited as illustrations of offenses of a sexual nature at the workplace. In each of the case the harassment is by a higher official against a woman official of a lower rank. The cases go on to display the absence of an effective redressal system to handle such issues. In most cases the victim is harassed for a period of time before seeking help. The Vishaka guidelines of 1997 which recognizes sexual harassment as an offense and has laid down the creation of a woman's

grievance cell is seldom followed in any of the cases. In fact the non-adherence of these guidelines was brought into focus with case of S. K. Valli in 2004. This sensational case highlighted how sexual harassment runs rampant in the police organizations and is disregarded as trivial or as part of the job. The scenario leaves a lot to be desired requiring more stringent measures to safeguard the interests of women employees in the organization and ensure existing legislation are enacted favourably.

**Case 1:** S. K. Valli, a woman constable in the Erode All Women Police Station faced sexual harassment ever since her posting in 2004 by senior officials. The consequence of this being that Valli had to pay severe action due to her refusal to yield to the demands. When her son filed an application by RTI on the abduction of his father the case was side-lined, and focused more on demoralizing his mother Valli's integrity. Valli filed a PIL in the Madras High Court to the DGP to probe into the sexual harassment rampant in all the police stations and to effect the 1997 Supreme Court guidelines on sexual harassment. (Source: The Times of India, 12<sup>th</sup> May 2011)

**Case 2:** A woman constable in Kadaladi, Ramanathapuram district filed a PIL similar to Valli's case. She was faced with frequent transfers as she refused to comply with the sexual demands of her superiors. Her non-compliance with the higher officials demands lead her to be constantly transferred to remote areas. (Source: Deccan Chronicle, 09<sup>th</sup> May 2011)

**Case 3:** In June 1998, a woman constable of the the Tiruchy Cantonment Police Station filed a case against the Deputy Superintendent of Police and his wife, also a police inspector, alleging sexual harassment. The woman constable belonging to the battalion was every morning summoned to her superior's house and demanded by her superior and his wife to do household chores. Notwithstanding this, she was asked by the wife to massage her superior every morning before he went for bath. Harassment is sanctioned in this case by a member of the same sex herein the superior's wife. It is ironical that women instead of rising against this form of harassment succumb and sanction such forms of harassment. It brings to question whether harassment on women is really perpetuated by men. (Source: The Hindu, 29<sup>th</sup> February 2000)

**Case 4:** A woman constable of the sixth battalion, Madurai was in an affair with a sub-inspector who was already married. The lady in question was forced into affair in order to remain in the good books of the superior. But things reached a stalemate when she became pregnant with his child. The sub-inspector refused to acknowledge child or the affair forcing the woman to resort to drastic steps. She immolated herself and child. A sad waste of lives! What course do women like this woman constable have in the face of a male dominated society? (Source: The Times of India, 09<sup>th</sup> May 2011)

**Case 5:** It can be termed as audacity or sheer male chauvinism when the case of women constables of the fifth battalion of Avadi became highlighted. These women came forward with a petition in December 2009 against the inspector. The reason being the sub-inspector had begun to demand sexual favours for sanction of leave. Women are subjected to harassment at every step in life. Simple basic rights are denied to them leaving them exposed to the whims and fancies of the other gender. (Source: Express Buzz 09<sup>th</sup> May 2011)

**Case 6:** Narmada another woman constable of Manamadurai of Sivaganga district filed a petition in July 2010 against her colleagues complaining of sexual harassment. (Source: Express Buzz, 15<sup>th</sup> July 2010)

**Case7:** In Namakkal women constables were constantly exposed to lewd looks, vulgar remarks and double intenders on their sex. All of which was done by higher officials whom they could not go against. However situation has reached intolerable levels where they were finally forced to complain of the forms of sexual harassment they were subjected to at work through a PIL. (Source: The Times of India, 12<sup>th</sup> May 2011)

**Case 8:** A lady constable of the crime branch in Goa alleged sexual harassment by her senior official. The victim claimed that the officer kept sending her repeated SMS when she was on leave to meet up with him. Despite telling him she was busy with her family he repeatedly sent her such requests. On her arrival the next day at work the officer wanted her to go for a drive with him which she again put off. The officer offended by this behaviour from a junior officer hit her physically when encountering her on the corridor oblivious to others. The lady constable in question filed a complaint against the said official for misbehaviour. However the issue was not taken up immediately as the complaint was against a senior official. (Source: The Times of India, 14<sup>th</sup> September 2011)

**Case 9:** A senior IAS officer, Rupan Bajaj was slapped on the posterior by the then Chief of Police, Punjab Mr. K. P. S. Gill at a dinner party in July 1988. Rupan Bajaj filed a suit against him, despite the public opinion that she was blowing it out of proportion, along with the attempts by all senior officials of the State to suppress the matter. In August 1996, Gill was convicted under Section 354 (outraging the modesty of a woman) and Section 509 (word, gesture, act intended to insult a lady), generally summarized as sexual harassment. Gill was sentenced to pay a fine of Rs.2 Lakh, be imprisoned rigorously for 3 months and simply for 2 months, and finally to serve 3 years of probation. After final appeals before the Supreme Court in July 2005, the conviction was upheld, and the jail sentences were reduced to probation. The victim had declined to accept the monetary compensation, and the court ordered that it be donated to women's organization. (Source: The Times of India, 27<sup>th</sup> July 2005)

**Case 10:** Another startling case that came before the Maharashtra police was the alleged rape of a trainee constable who also became pregnant by her higher officials. Her case brought to light that 11 other women constables were also being sexually harassed by the same individuals. The irony of this situation was that one of the officials was advisor to the police committee for sexual harassment. Moreover these women hailing from a poor background remain hapless victims and are scared of earning the wrath of their superiors. (Source: DNA Daily News & Analysis, 01<sup>st</sup> May 2011)

It is explicit that all the cited cases have one common ground where women of a lower rank are subjected to harassment sexually by their superiors. Though all the cases are taken from different areas of its occurrence it is pretty evident that, the attitude of men over women workers remain the same everywhere. The superiors exercise authority to demand sexual favours from the women in a lower rank. The traditional role of women as care givers and guardians of the hearth translates their role in the work environment where they are

subjugated by a male worker or a superior. Patriarchal culture and ideology relegate women to an inferior position giving men more power and authority over them. The men who are the head of the household having a dominating presence at home and society carry the same image to their workplace. The patriarchal behavior exhibited by them at home and society spills over at workplace where they command the same treatment from the women workers. When this is denied they resort to sexual harassment and other forms of violence against the women workers.

The case studies 1, 8 and 9 are clear examples of harassment against women by a superior not being given the due importance that it should be accorded. Rather, the cases are relegated to the back burner or delayed in the name of legalities. The legal system provides loopholes to bring to book the perpetrators of the violence and the process leaves a lot to be desired. Immediate action and stringent measures to curb this menace is required for women to break the glass ceiling and speak up for their rights.

In cases 2 and 5, women officials are withheld their basic rights at work by superiors not sanctioning their leave. The men on the pretext of holding a higher position than the women, exploit them sexually. This is a violation of their fundamental constitutional rights which ensures right to equality. Cases 3 and 4 cite how women are forced into affairs with their superiors and thereby harassed sexually another violation of the constitutional right to personal liberty. Cases 6, 7 and 8 are clear examples of verbal and non-verbal sexual harassment by their male superiors and colleagues. In cases where the accused sexually harasses or insults the modesty of a woman by way of either- obscene acts or songs or- by means of words, gesture, or acts intended to insult the modesty of a woman, he shall be punished under Sections.294 and 509 respectively. Case 10 is the worst form of sexual harassment which is rape eventually leading to the death of the victim by a senior male official. The perpetrator in such cases can be tried under Section 354 and Section 375 of IPC (Kumari, 1999).

In all the cases the justice is delayed, which is tantamount to justice denied. The social system of accepting male domination at home and thereby at workplace is prevalent in the Indian society. As is visible in most cases the women are frightened of earning the wrath of their male superiors and so take the harassment silently. Women are portrayed as the weaker sex in the society and they themselves tend to retain that image at their own costs. In the few cases where they choose to break the barriers and speak for their rights they are subjected to more suffering and humiliation. Their jobs are at stake, they tend to lose respect among others, health is compromised, and they live in some cases in constant fear. The harassment that the women face have serious negative connotations which if left unattended can hamper their participation in the society. Women, as cited in the case studies, are ridden by the fear factor of the negative consequences of complaining against the harassment they face at workplace. In the few cases where they have chosen to speak up the women have had to pay for complaining against their superior by their image being tarnished further. Also the time taken to mete out justice to the perpetrator leaves the women not victorious but with just a sad nemesis of the harassment they had already faced.

## Conclusion

By any measure workplace violence is emerging as a prominent local, state and national issue. Clearly, the place of employment does not exist in a vacuum but rather reflect the larger societal context. Employers and employees of every occupational category in both private and public sectors are realizing that going to work may be hazardous to one's health. The likelihood that such violence may prove fatal provides a new meaning to the term 'graveyard shift' for many employees particularly the women employees in the organization. Safe working environment is very much essential for the exercise of the fundamental right to practice any profession. The Supreme Court commented Gender Equality includes protection from sexual harassment and right to work with dignity which is a universally recognized basic human right as stated in the case of Vishaka v. State of Rajasthan. This common minimum requirement has received global acceptance. The court had to rely on international statistics and conventions due to the lack of development of the Indian legislation. In the absence of proper legislation pertaining to this field the court took upon itself to formulate effective measures to check the evil of sexual harassment of working women at all workplaces. The contents of international conventions and norms are significant for the purpose of interpretation of Articles 14, 15, 19(1)(8) and 21 of the Constitution and the safeguards against sexual harassment and for the formulation of a guideline to achieve this purpose.

It is imperative that the rights of women have to be safeguarded not just by the legal system but by the women themselves. The societal values and norms which tend to subjugate women need a definite makeover to accommodate the new age woman. Traditionally women have conditioned themselves to tolerate violence as it is taboo to break the rules of the society which is acceptance of the patriarchal system. The women need to break the glass ceiling to shatter the existing scenario in the society replete with more norms and traditions solely targeted against women. A subdued and submissive approach to the violence perpetuated against them does not hold the key to the empowerment of women. Rather an awareness of the existing situation and the will to overcome the barriers posed by the society and their own selves alone will be an answer to the social evil of harassment and violence. Thus, the study focus aids in highlighting the inherent defects in the society which paves way for violence against one section of the society and the lack of effective mechanisms to curb this menace.

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