

Why does Underreporting of Sexual Harassment continue to prevail in the workplace in the 21st Century.

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Abstract

The Research Question for this dissertation is “Why does underreporting of sexual harassment still continue to prevail in the workplace in the 21 century. Results of A Survey done by the Bar Association in 2017 said that 70 percent of women did not report sexual harassment in India (Chachra Manish ,2017). According to Statistics conducted by Canada General Social Survey 472,000 women have been reported of sexual assault. Yet data collected by the police showed that

only 27000 women have been victims of sexual assault, only 7,951 persons were convicted. A poll done by the Global News found that one in 5 women have reported cases of sexual harassment (Anna Mahler Paperny ,2015). The question that one needs to ask is why even in the 21 century do women hesitant to report cases of sexual harassment . Is it because of the patriarchal culture which constantly engages in the practice of victim blaming , is it because that in most institution it is the women who is mostly penalized for reporting sexual harassment or is it because the women is uncomfortable in reporting issues of sexual harassment because she feels her reputation will be tainted.the thesis seeks to understand the issue of sexual harassment in the workplace , primarily focusing on analysis of reasons and circumstances that leads to underreporting of sexual harassment in the workplace and providing policy recommendations for the same .

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Declaration

I hereby declare that the work presented in the dissertation titled“ Why does Underreporting “of Sexual Harassment by women at workplace Still continue to prevail in the 21 century” in the partial fulfilment of the requirement of the award of Masters of Arts (Public Policy)submitted in Jindal School of Government and Public Policy of my OP Jindal Global University . It is an authentic record of my own work carried out under the guidance of Professor Jhuma Sen , Assistant Professor , Jindal Global Law School and Professor Sudarshan Ramaswamy , Dean , Jindal School of Government and Public Policy.

The matter embodied in this report has not been submitted for the award of any other other degree to the best of my knowledge and belief .

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CERTIFICATE

This is to certify that the dissertation titled "Why does underreporting of sexual harassment by women at workplace still continue to prevail in workplace in 21 century." is a *bona fide* work of **Shayani Sarkar**, under my guidance in partial fulfilment of **Master of Arts (Public Policy)** program of **O.P. Jindal Global University's Jindal School of Government and Public Policy**, during the years 2015-17. The matter embodied in this work has not been submitted for the award of any other degree to the best of my knowledge and belief.

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Methodology

The methodology has primarily been secondary research with very limited primary research. Due to time constraints i based my primary research with staff students and faculty at OP Jindal Global University. Due to Specific time constraints i could only interview 5 staff,10 students and 10 faculty from OP Jindal Global University. The reason for choosing this kind of methodology is that I wanted to basically see the link between the primary and the secondary research and also point out various gaps in the existing literature.

Data Collection

My method of data collection was primarily

1. Electronic Resources (Electronic Journals and Articles like AnaghaSarpoddar,KaushikBasu, Catherine Mc Kinon , Vicky Schulz).
2. Books from Philosophers and Academicians like Murtha Nussbaum , Martha Farell.
3. Informal Conversations and interviews of Jindal Staff , Students and Faculty.
4. Report from Newspaper like Hindustan Times , Hindu and Websites like Global News, Business Standard.

Chapter 1 –Origin and Evaluation of Sexual Harassment in the workplace

It was due to the advent of industrialisation and urbanization that women began to step out of their homes seeking job opportunities for their economic independence and to break free from male domination and exploitation. The women movement in 1960s supported and sought the need to open workplaces and training opportunities for women. For instance, the National Organization for Women in United States worked as a pressure group and made a case for the government to enforce Title 7 of the Civil Rights Act of 1964, which says that there should be no sexual discrimination in the workplace. Yet, even as the work opportunities for women improved, they began to face a new kind of exploitation, victimization and subordination which ultimately came to be recognised as a form of sexual harassment.

Indeed, the problem of sexual harassment is not new, it has been since long kept under the wraps, not adequately recognised by institutions including public, customs and to some degree in law. The kind of behaviour rooted in the concept of sexual harassment are centuries old. It was only in 1970s that sexual harassment came to be recognized as a human rights issue. This thesis seeks to understand the issue of sexual harassment in workplace, primarily focusing on an analysis of reasons and circumstances that leads to the non-reporting or underreporting of sexual harassment at workplace in India, while drawing inferences from experiences in other countries.

Evolution of the concept in the west

During the time when the women movement in the west gained momentum the radicals within the women liberation movement focussed on the aspect of gender relations inside the sphere of private life. That was the time when the women movement also talked about sexual relations. In 1970s a new branch of cultural radical feminism emerged which said that heterosexual relations were constructed as per power dynamics and were a way of subordinating women according to patriarchal structures. It was pointed out that sexual relations were a primary mechanism for enforcing women oppression. This strand of feminism also took up the issue of sexual violence and henceforth sexual violence was the main concern of feminism. In 1975, the term “sexual harassment” was first coined by Carnoll Broadsky in his book “The harassed worker”. Carnoll Broadsky refers to sexual harassment not only as sexual advances but also to other non-sexual forms of harassment. According to Broadsky sexual harassment is not only between boss and supervisor but from supervisor to subordinate, peer to peer and from subordinate to boss (Schulz Vicky, 1998).

According to Lin Farley (Schulz,1998) who was a founder of Women Worker United the legal concept of sexual harassment was explored in 1974 over a series of discussions in Cornell University. Definition of sexual harassment according to thinkers like Mc Kinon, Agarwal and Stanko emphasizes on sexual harassment from the perspective of gender relations and the consequences it has on women. According to these thinkers, the concept of sexual harassment has emerged due to unequal power relations between men and women at workplace (Sapoddar Anaghya, 2004). Further, according to thinkers like Haspel, Kasim, Thomas, Mc Kinon the relations relates not only to biological roles but also social roles, which are constructed by the society. According to Haspel Sexual Harassment refers to a way of gender discrimination because the woman is seen as a sexual object inspired by the fact that she has the necessary qualifications and skills (Sapoddar, 2014).

In 1979 Catherine Mac Canon (Catherine Mc Kinon, 1980) who is also credited with being a major architect of sexual harassment law argued that sex is perceived as the primary tool to oppress women. She argued that the main reason for hiring women in workplaces is to please the male boss and women in spite of their potential and skills are perceived by men as sexual beings. Catherine Mc Kinon argues that even though sexual harassment constitutes part of gender discrimination but the fact that sexual harassment constitutes a part of women subordination has not been accepted. Mc Kinon further argues that the concept of sexual harassment can be classified into 2 categories:

a) Quid Pro Quo – Sexual Compliance is expected to be exchanged for job opportunity.

b) Conditions of Work Harassment – This type of Harassment refers to physical or verbal abuse.

Ratna Kapur (2001) says that the interpretation of the law in the US has been of great debate and discussions among feminist, legal scholar and practitioners. The court has a hard time to decide what constitutes unwelcome sexual behaviour and at what stage does the work environment become hostile or offensive. The law was also criticised on the ground that the burden lies on the complainant to prove that the conduct was unwelcome. (Kapur Ratna, 2001)

Evolution of the concept in India

In India due to the prevalence of patriarchy, women were confined to the four walls of their home, it was believed that their primary responsibility was managing domestic affairs and of rearing of the child. When women stepped out of their homes and started working they were treated as sexual objects, they were dehumanized as sexual objects of men and the community. They were not considered capable enough to take decisions on their own and were treated as a subject in the hand of their bosses or supervisors. It was believed that the primary responsibility of a woman was to please their male supervisors. The crime of sexual harassment is committed in India with the intention of punishing women who “consciously or unconsciously challenged the norms which were set for Indian women by the society”. The crime of sexual harassment is committed with the intention to cripple women, who are articulating new ideas for themselves,

The concept of sexual harassment in India evolved after the " Vishakha v/s State of Rajasthan" court case. This judgement was delivered on 13 August 1997. The judgement was a milestone in itself as it acknowledged the fact that sexual harassment at workplace was a violation of fundamental rights of women. The case involved a brutal gang rape of a social worker (Bhanwari Devi) in the village of Rajasthan. The message was clear, Bhanwari Devi was gang raped because she challenged the Traditional notion of Indian Women as poor and disempowered, rather she was seen as a torchbearer of change.

The incident brought into focus the hazards to which a woman exposed in the workplace and generated the urgency to create alternative safeguards for women or an alternative mechanism in the absence of proper safeguards. The petition was an outcome of public pressure created by social activists and non-governmental organizations which said that proper judicial safeguards need to be adopted for checking sexual harassment to ensure that there is gender equality at workplace. According to the sexual harassment act in India sexual harassment means:

- a) Physical contacts and advances.
- b) Demand / Request for sexual favours.
- c) Making sexually coloured remarks.
- d) Showing pornography.
- e) Unwelcome physical / verbal conduct.

Problematic

In India Another problem with the law is that it is very difficult to define a " hostile work environment ". The question here is who defines whether an environment is hostile or not as the entire concept of hostile work environment is very subjective. Martha Farrell in her book "Engendering the Workplace. Gender Discrimination and Prevention of Sexual Harassment in organizations" says "sexual jokes, rough language etc may be viewed from one perspective as hostile while from the other perspective it may be viewed as normal. Further Professor Nandini Taub says that men in order to display their power and show women their position in the workplace often end up committing unreciprocated sexual advances and that might create the hostile environment. However it might not be considered as a crime in the eyes of law because it is really difficult to prove it. (Farrell Martha, 2014)

Both in India and USA the law related to sexual harassment says that the conduct against the women must be unwelcome. It means that the complainant's sexual past, mode of dressing and conduct will be taken into consideration in deciding whether the conduct was unwelcome. Bar dancers, waitresses and sex workers can be made vulnerable to such claims. Hence the law does not give emphasis on the word consent in the sense her consent is dependent or vulnerable to her sexual history or her code of conduct in the past. Even women who have limited knowledge about sex or could not give minute details of the subject could be made vulnerable to such claims. According to the current context the victim can get away by saying that the way of dressing is sexually provocative. For example in one case in USA the Supreme court ruled against a woman

just because she drinks and hangs out with her male friend and hence the judgement ruled in favour of the abuser saying that the behaviour was not unwelcome. The current law has been said to be not empowering for women as it focuses on the history of the complainant. Hence the definition of sexual harassment is subjective and open to interpretation. The JS Verma Committee Report says that the interpretation of the term unwelcome must give due importance to both objective and subjective criteria. This provision will give importance to the fact that every woman who have a different perception and different comfort levels are given protections

Both in India and USA is that the law mandates that the behaviour must cause some disadvantage to a women primarily in professional terms, for example her recruitment may be hampered or her promotion may be affected. Under the current scenario the victim may get away if there has been no discrimination against women at the workplace even if it has affected the complainant personally. For example in the Vinson in Meretor Bank Case Michelle Vinson was a trainee who was subjected to 4 years of unwanted sexual relations by Sydney Taylor who was the vice president of the bank. But in the judgement the court said that since it did not find the behaviour to cause any disadvantage to a women and hence the court did not even investigate as to whether there was any forced sex relationship on the employee and the manager.

Both in India and USA the law mandates that the conduct must be harmful or pervasive enough to create a hostile or pervasive work environment. However the major problem with the law is that the court has not framed a criteria which determines what constitutes a hostile or pervasive work environment and the law has taken has not taken into account that any form of harassment whether sexual or asexual in nature might create an “offensive work environment “which might not fall into the category of offensive or hostile. Further another criticism against the act in India has been that the act does not provide protection to the complainant and hence the victim may be forced to take back due to the threats by the offender. Further due to the judicial delay the complainant may have to deal with the institutional pressure created by the employer to leave the job.

Another limitation of the sexual harassment is that it does not recognize the fact that majority of Indian women do not work in formal sector but in informal sector for example – as casual workers or self-employed etc. There is no punishment or no procedure against sexual harassment happening in informal sector. Further the act does not take into account majority of women who are in the agricultural sector or in the armed forces.

The law instead of being a measure for changing the status of women, is based on the prevalence of social norm in the country. Further the court may judge that she has transgressed any of the social norm then the act will not be defined as unwelcome rather it will be interpreted as the fact that she has invited sexual attention and she was sexually provocative .

Even after the Vishakha guidelines were passed not only sexual harassment not reduce, but other forms of harassment also came into the picture. According to Yugantar Report, this report tells us about the nature of sexual harassment that working women face in their day to day life sexual harassment started from physical actions through body and language and reached to other forms of harassment such as sexual advance, physical contact and demand for sexual flavours . According to a survey done by Sakshi a nongovernmental organization in Delhi 80 percent

respondent said that sexual harassment exists in workplace, 49 percent of the respondents have encountered sexual harassment at workplace, 41 percent have experienced sexual harassment at workplace, 58 percent did not know about Vishakha guidelines and only 20 percent of the organizations have implemented the guidelines. According to another finding carried out jointly by Sophia College and India Centre for Human Rights and Law, brought out the fact that women also faced instances of sexual Harassment through slang reports, comments about dress and figure, repeated unreciprocated invitations to join at a club, lunch or dinner, nonverbal forms of harassing and luring women to go out with the boss on the pretext of receiving an increase in the pay.

The need of the day is to renew and revise the definition of sexual harassment. The law needs to redefine the notion of “unwelcome” and needs to realize the fact that the notion of unwelcome should not be judged upon the history of the victim, her clothes and her profession. Its high time the people, the legislature and the judiciary recognize that sexual harassment is not only sexual but verbal, technological and emotional as well. Further the term workplace should include both formal and informal means of employment. This thesis attempts to initiate a discussion on those lines.

In addressing some of these concerns, this thesis is divided into four chapters. The second chapter focuses on the role of culture and society in issues concerning underreporting of sexual harassment. The third chapter focuses on the psychological theories which leads to underreporting of sexual harassment at workplace. The last chapter gives some policy recommendations which will hopefully reduce underreporting of this crime and lead to adequate punishment for the perpetrators.

Chapter 2 – Role of Culture and Society.

History of subordination of women

The concept of subordination of women in India has started from the age of Manusmriti which has set the norm to confine women within the rules of womanhood and motherhood. According to Manusmriti an ideal wife is one who obey all the orders of her husband and gives service to her husband during his lifetime and observes celibacy after death. During the age of Manusmriti the notions of women within the patriarchal structures was socially constructed and it was said that “women need to be guarded day and night irrespective of her age “ and “they need to be thoroughly restrained. It was also during this time that the notions of purity and pollution were brought into the picture. The main role of a woman was considered to be domestic as well as reproductive functions. Any women who did not confine to these norms were outcasted and humiliated.

(Reference-http://shodhganga.inflibnet.ac.in/bitstream/10603/66848/8/08_chapter%201.pdf)

Cultural tradition in India and across the world act as obstacles for the growth and development of women. In India as well as in other countries women are seen as being less important to men, they are not given the basic human rights such as right to work and the right to political participation. Till date women are being given a subordinate status in the society as compared to their counterparts. These traditions have become so internalized that women often think their subjugation as natural and willingly accept the second class status. In India it has been seen that poverty is not the only reason for subjugation for women culture and traditions play an equal role in treating women as inferior to men. It is culture and traditions due to which most women don't get equal opportunities as men as hence job opportunities are not open to them. Culture and Traditions both in Western and Non Western Countries perpetuate injustice against women. Women all over the world are denied some of the basic human rights – health education, politics

,liberty etc . Women who constitute a half of the world population receive are recipient of only a small proportion of the opportunities and benefits that men normally receive.

Statistics has shown that even though there has been an increase in enrolment in primary education, between 2000 -2006 56 percent of girls have dropped out of schools. Further more than 750 girls are not enrolled in schools,and across the world as many as 580 million women are illiterate.

Even though participation of women has increased, between 1990 -2005 women constitute 40 percent of such employees ,yet employment ratios are still higher for men than women. Globally gender gap ranges from 15 percent in developed regions to more than 40 percent in South Asia , Middle east and North Africa.

The culture in India and across the world also permits some kind of violence. Statistics has shown that unabated violence is the reason for maximum number of death and disability issues among women. Further rape is used as a revenge for war.

India is a patriarchal society which is based on unequal power relations between men and women, where women are considered subordinate. In the patriarchal society men are considered masculine and masculinity is considered with aggressiveness and dominance of men where feminty is considered subordinate and meek.

India has a culture of putting restrictions on women attire, on their conduct which is the related to the responsibility of maintaining the modesty of a women. In India women continue to be deprived of socio economic rights as well as unequal power relations. Women in India are not treated as human being they are treated as mere instrument in the hand of others for example - reproducer care givers etc .Due to patriarchal India have consistently witnessed inequality of sexes in the form of male dominance . In the system of patriarchy women are dehumanized as sexual objects of men as well as the community and the responsibility of protecting those lies with the men.Both Hindu and Muslim Culture contains traditions of powerful norms of female modesty , defence ,self obedience . However still date the opinion of women towards these norms has not been taken into consideration, The religious and cultural traditions has been used to continue the practice of political and economical disempowerment of women .The principle of purity and pollution are used as an excuse to relegate women to live substandard lives against their lives.

In the patriarchal culture in India women have been victims of sexual exploitation. Since history women have faced sexual exploitation in many forms, landlords sexually exploited Indian Women, sexual exploitation has been used as a form of revenge in caste atrocities, marital rape is still not considered a crime in India , “ women have also been the bearers of violent makers of political change . The patriarchal culture is based on the notion that men are supposed to be the breadwinners and women the homemakers of the family.

1. Women who fight and defy these norms are seen as a threat to male control . Rape has been used as a weapon to stop women against crusading for political reforms. This can be further elaborated by the example of Bhanwara Devi who was gang raped because she was fighting against child marriage , Women who fight out the system of patriarchy and enter the workplace face greater resistance from family or spouse .As women move out of their homes and enter workplaces they are viewed as the threat to the concept of men as breadwinners (An non -governmental organization in Delhi) states “ Women In the labour force are seen as a threat to the institution of patriarchy . They view the women as snatching men jobs “ , .Workplaces are also a product of the patriarchal culture .It is due to the patriarchal culture that in spite of same qualifications and same abilities women usually get inferior position than men .

Since the workplaces are a part of patriarchal culture the various techniques that workplace use to seclude in women are to characterize the work as appropriate for men only , to provide sexist evaluation of work performance or to deny promotions . Other techniques that workplace in India use to seclude women are to demean their dignity and question their job ability at workplace FurtherThe various techniques used to make women feel inferior are to characterize the work as appropriate for men only , to provide sexist evaluation of work performance or to deny promotions . Further Research has shown that the crime of sexual harassment is committed in the workplace with the intention of psychologically disempowering women .Further research has also shown that men see sexual harassment as a way of entertainment or relief from stressful work .Further in India like many countries of the world we do not have adequate statistics for sexual violence . In India crimes of sexual harassment, marital rape and domestic violence often go unpunished and hence women find no incentive in reporting the crime .

Due to patriarchal culture most of the workplaces consist of unequal distribution between men and women(Indian workplaces consist of fewer women than men). Unequal representation of women in the Indian women is one of the main reason for prevalence of sexual harassment in the workplace . This is due to the fact that as most workplaces in India consist of a few number of women as compared to men women do not find enough support to lodge a complaint Results of a study done about the prevalence of women in the workforce says that only 4 percent of women are in senior management positions . The prevalence of so few number of women in the management is the reason why the decisions of the company are not taken in favour of women and the same applies for cases of sexual harassment . It is also due to this fact that very few women retain are in the management that the patriarchal culture continues to rule in the workplace.

The roots of sexual harassment lie in the patriarchal culture where men have greater power and control vis –a –vis –women. As women end up being powerless they are

hesitant or are in a position to speak out about their subjugation and exploitation hence “ a culture of silence “ continues to prevail – where the perpetrator s are not punished for their crime and cases of sexual harassment keep on increasing . A study by Yugantar Educational Society has confirmed that the culture of silence exists in most organizations today. The Report further said that the reasons why women do not file complaint is because they fear they will be taunted by the co workers, they will face character assassination etc. Mukhadam and Patvardhan says “ there seems to be a general tendency to trivialize the issue , belittle it or ignore it .”This is also due to the fact that women do not perceive sexual harassment as a problem of the institution but rather perceive it as a personal problem. Martha Farell in her book mentions about how a female nurse perceives sexual harassment. The nurse saw sexual harassment as a small issue and said “ We can sort out such a small issue , it is not right to trouble the management over every little issue .”(Farell Martha ,2014)

2. Further in the patriarchal culture the principle of organizational hierarchy continued to prevail. In the system of organizational hierarchy the principle of inequality and discrimination continue to rule .“ According to Ackler 1990 “ Concentration of power in the workplace based on heteronormative masculinity gives rise to a gendered workplace where men continue to assert power and control over women in many forms of which sexual harassment is the most pervasive form .”According to Weisberg (1996) says that sexual harassment can occur because women occupy inferior positions and have lower roles . Sexual harassment is committed with the intention to perpetuate the inferior position of women. She also says that every incident of sexual harassment works towards reinforcing the inferior position in the women not only in the workplace but also in the society. Collier (1995) says that “ sexual harassment in following is a pattern of intrusion into women lives , a form of policing and thereby control .

The concept of objectification of women is inbuilt in patriarchal culture and hence continues to exist in the workplace. Murtha Nussbaum in her book “ Sex and Social Justice “ explains the meaning of objectification of women through an example . She assumes two people – A is a man and b is a women, further let’s assume B is going for an interview and A is who really acquaintance tells her that you that you don’t really need to go . You just send them some pictures. It tells us that A is reducing B to a body and in the process conveying the message that her professional and personal accomplishment does not count. The concept of objectification of women is also used in certain novels one of which is playboy. The message that the novel playboy conveys is that women are objects who can be used for pleasure . The core reason for objectification of women is sexual but the primary reason for objectification according to James Mill is the erotic education of men and women . According to him the basic education of men in the society teaches that they can dominate and use women. The media in India through advertisement films , has indecently represented women or indecently co modified women.”This can be further proved by the fact that still now it is believed that the primary responsibility of a women is to look sexually attractive and to give in to the demands of the male supervisor .(Sex and Social Justice , 1999)

As a result of the patriarchal culture in the workplace women become the primary target of sexual harassment irrespective of the fact that they occupy the highest /lowest ranks in the hierarchy . It is the structure of the workplace that hold and maintain power which creates the circumstances leading to sexual harassment of women irrespective of their social standing.

. In India many incident of sexual harassment go unrecognized and unreported because the crime of sexual harassment which are accepted in Indian Culture are considered as normal socialization pattern. The reason why most women don't report sexual harassment is because it is believed that women provoke the crime of sexual harassment through their attire , interaction with men . Also due to some widely held myths, beliefs and perceptions women are unsure about what constitute sexual harassment.

The Indian women movement have protested against this type of patriarchal culture where women have also been prone to sexual violence in one form or the other . The success of the Indian women movement was visible in August 1997 when Sexual Harassment of Women at Workplace is an offence punishable under law.

However even today the practice of victim blaming still continues in India women tend to perceive sexual harassment as a problem of the institution rather than individual. When an Islamic women was asked about her opinion towards sexual harassment she said

“ I come from a conservative background and religion and right from the start i have been told not to act so freely with men . WhenI see it in the perspective of my colleagues, I don't think I invited it . But in the background of religion i think maybe I did. Maybe i should not have gone to that man so many times for help.”Also due to the fact that women do not get justice even if they report sexual harassment most women end up confirming the norms set by the society . A 36 year old women who is in a government job said “ It is very dangerous to be advanced . I have to be religious, not cut my hair. Otherwise they think I am loose .”(Sundar Madhavi , 1996).

Psychological theories And Role of Institutions in Underreporting of Sexual Harassment at workplace.

It has been seen that after the Vishakha guidelines were implemented more and more cases of sexual harassment began to be reported . One of the cases was the

case of Rupan Deol Bhaj , an IAS officer who fought a 8 year legal battle against KPS Gill who was the Director General of Police at that time (Farell Martha , 2014). On the 1 January 2017 a mass sexual assault took place in Bangalore. The reaction to the incident of New Year Eve opened up some important areas of distinction most important being the fact that whenever crimes like Sexual Harassment , Sexual Assault occurs the tendency is to blame the victim and dismiss sexual harassment merely as an unfortunate consequence rather than acknowledging the gravity of the crime . In this particular incident the policemen were not blamed who failed to stop the crime rather the victims was blamed because they failed to anticipate it . The same reaction is common in most sexual harassment cases across the country .There is a tendency to dismiss these incident rather than acknowledge and address it .

According to A survey done by National Crime Record Bureau the cases of sexual harassment increased from 57 -119 .(Chachra Manisha , 2017)Further statistics has confirmed that the reports have gone up which means that more and more women are reporting about cases of sexual harassment. However one reason why despite the statistics sexual harassment continues is that often women do not report do not get justice or due to the process of judicial delay often gets justice after a very long battle and hence due to these factors other women are not encouraged to report. As a result women often end up normalizing the matter and trivializing the matter and this ends up creating a culture of silence. (Farell Martha ,2014)

It is due to the dynamics of workplace which creates “ unequal distribution of power “ which encourages discriminatory practices , which reinforces the power distribution between men and women and sexual harassment is a form of gender discrimination in the workplace. It is due to the fact that men occupy higher positions of authority that patriarchal culture remains in the workplace and so does the culture of silence. With regard to the workplace sexual harassment is often treated as a private matter . Even if the crime of sexual harassment happens in public it is often mistook for consensual and mutually accepted behaviour .The culture of workplace towards the crime of sexual harassment is often based on the patriarchal attitudes and mindset in the society . Workplaces often take the “reasonable women standard “into account while addressing issues of sexual harassment. The Reasonable Women Standard has its roots in the reasonable men standard.”This standard is considered objectionable because the views of a man was taken into account to determine whether the crime committed was grave enough and in these cases the perpetrator is a man. (Farell Martha , 2014)

Many women who do not report sexual harassment at workplace feels that there is no light at the end of the tunnel. s women at workplace act does not answer certain questions such as “ who is in charge of ensuring that workplaces comply with the act and who should be held responsible if the workplace do not follow the provisions of

the act ,

Another reason why most women don't see light at the end of the tunnel is that most workplaces don't have a body for dealing with issues of sexual harassment, further even in workplaces where Internal Complaints Committee exists to deal with matters of sexual harassment members are not adequately trained in ICC. The law mandates the formation of Internal Complaints Committee in every public / private companies . According to a 2015 research study titled " Fostering Safe Workplaces by FICCI showed that 36 percent of Indian Companies have not constituted ICC . (Chachra Manisha , 2017).In this aspect the question which needs to be asked is that what actions needs to be taken for these kinds of offences in a place where there is no body to act these kinds of crimes . The results of a study in 2015 showed that one in 3 women have been sexually harassed and that 71 percent did not report it . In Canada one in 5 victim who were sexually assaulted have reported the matter to police .Only 23 of the cases in Canada go to trial courts most cases don't even have a hearing.(Anna ManlerPaperny , 2015)

Anaghya Sarpotdar who is an expert and researches in the area of sexual harassment says that one reason why women don't report sexual harassment is because employers discourage reporting in order to protect their image

She further says that another reason why women don't report is because the ICC is supposed to be independent but are puppets in the hands of their supervisors. Further often women are not aware or unsure about what constitutes sexual harassment . This is because in most workplaces there is no awareness on what constitutes sexual harassment. Furthermore women who are powerless or are prostitutes are less likely to get justice under the law . Sexual harassment affect women but the reason women don't report it is because women fear being fired from the job. Also if they consider changing the job there are less chances of being hired if they tell employer that they left the job because they were sexually harassed. Further women may feel that it may be better for them to tolerate sexual harassment as they may need the reference of the man in the long term of their career. If the women have just entered the job then she may feel afraid of reporting the person, especially if he is in a higher position. Ironically a women did not report because she wanted to work with the person who has sexually harassed her in this particular case the person was a director of the institute. Also in some cases the person who commits the crime may have power over the life of the women and their career . Somewhere the hope lies that the behaviour won't be repeated. Women also don't report the crime of sexual harassment because the fear retaliation , of not

being believed . In most cases they have the courage to launch a complaint only if they are sure about the fact that the endorsement of the employer will not be needed in future. Further often if the perpetrator is in a position of authority often women feel young or powerless.

In a country like India for cases of sexual harassment often there is a tendency for victim blaming and that is one of the reason why women don't report sexual harassment ,they don't want their reputation to be tarnished they just want to move on . The silence around sexual harassment is largely due to the practice of victim blaming in a patriarchal system women end up blaming themselves.

Also in a country like India the definition of sexual harassment varies from person to person . According to a Survey done on University student most women respondent felt that eve teasing was not sexual harassment and it could be overlooked /ignored. The main reason why the perception of sexual harassment differ from person to person is because the socialization of men and women differs across the world.

Further Gender discrimination continues in workplace till date . This could be reinstated by the case of RK Pachauri where a women employee accused RK Pachauri who was the then director of the institute .The case went on for two years despite the fact that women had clear evidence to prove this point , this case reinforces the fact that gender equality still exists in workplaces.

Due to the patriarchal culture even if men and women have the same qualifications and the same abilities men end up holding the higher position in the organization . The power which men holds in the patriarchal culture, often create a culture of silence where women often ends up being powerless and hence lack the courage to speak out their subjugation and exploitation . Often as a way of coping women end up trivialisingthe issue or ignoring it. If a victim has the courage to report a case of sexual harassment the questions that police ask a victim can often turn out to be a traumatic experience.Police often ask a women about her psychiatric,legal and behavioural history. The past of the victim, the behaviour and the credibility is often questioned during the process of cross examination.

Further women don't report it because they fear backlash and in most cases of sexual harassment “ there is backlash against female complainant , often the women who complaints ends up losing the job .

Due to the specific time constraints I limited my research to OP Jindal Global University . I Interviewed 5 staff and 10 student and 10 faculty from all schools

of OP Jindal Global University . The patriarchal notion was reinforced when a student said that she can report against a professor but can't complain against a family member out of respect – in this particular interview I could see the interview of patriarchal culture.

Another interviewed reinforced the finding of the secondary research which said that in cases of sexual harassment instead of supporting the victim institution creates a pressure to leave the job . Subsequent interview again focused on the different techniques women use to cope such as changing the department or leaving the job However there was a gap between the primary and secondary research . The primary interviews emphasized on the fact that in the current day and age In spite of receiving no support from the institution women who cared self respect has complained and is still working in the university .

Professor Anuradha Palinachamy of OP Jindal Global University has in a way taken an initiative to break the silence by refusing to be anonymous and making a point when she says that all these things should not be hidden under the carpet anymore. She says that even though the sexual harassment committee exists in the institution. The committee is not anonymous decisions are not taken by the committee but by the management. She further says that it is the role of any institution to take care of its employees. It is the role of the university to take care of its student. According to Professor Albeena Shakeel the main reason why women don't complain is that the decisions of the committee are not available to the general public. She further says that women have to make a decision between consequences and risk of complaining verses complaining. She further says that if women complain about sexual harassment the fight is individual, not the institution. She further says that even though as per the law most institutions today have an internal complaints committee the institution does nothing special or out of the way to encourage women to launch a formal complaint. Upasana Mahanta said it is not easy for women to approach the sexual harassment committee. In case of this university she said it is not the role of the only committee members to deal with cases of sexual harassment but the faculty also needs to help student to deal with cases of sexual harassment. A student of JGU said that some forms of sexual harassment are reported more than others is that what constitutes sexual harassment may not constitute sexual harassment to others. With aspect to the sexual harassment committee, she said that student don't have faith in the committee, she further said that another reason why student don't report about sexual harassment is that the sexual harassment committee is arbitrarily formed, often people who has money and muscle power gets away with crime . A member of administration further reinforced on the fact that the Internal Complaints Committee which is supposed to be independent often succumbs to pressure. Another professor said that often women don't report because they fear backlash, they fear they would be targeted by the institutions and branded as liars if the cases

are not established. Another professor of the university said that there are number of reasons why women don't report sexual harassment, the social stigma attached with the subject, the fear of retribution, he further said that it becomes all the more difficult in a patriarchal society. Another professor who has earlier been a part of sexual harassment committee in The university said that section "14" of sexual harassment act said that stern complaints needs to be taken against women who launches false or malicious complaints and he said this is the main reason why women don't report cases of sexual harassment. With respect to the university he said that women don't report sexual harassment is because the culture of patriarchy and sexism exists in the university.

The need of the day is for women to be aware about all forms of sexual harassment (eve teasing,) and the judiciary to punish the culprits for incidents which are considered lessdangerous sothat the message goes out loud and clear that sexual harassment is a severe crime and the culprits will be punished.

Policy Recommendations

The workplace culture decides whether cases of sexual harassment continue to occur in an organization or whether they can be stopped . If the organization aims to have zero cases of sexual harassment then they must aim to first create a workplace which is inclusive,diverse and which hold employees accountable for their action in other words employees who come forward to prevent cases of sexual harassment are rewarded and those who fail to do so are penalized. If the workplace has a culture of respecting women, treating women with dignity then it will eventually end up having a gender sensitive work culture where people will eventually know what constitutes appropriate and inappropriate behaviour. Subsequently if an organization wants to promote gender sensitive work culture then they need to be made aware about the specific needs of women and ensure that no discrimination exists among women and men in the workplace.

. Policies need to be made in the organization which ensures that no instances of harassment occur. The organization must also take the responsibility that any behaviour that is harassing is penalized and that women who complain about sexual harassment will not face issues of retaliation .The organization must ensure that no one is spared if they engage in the wrong behaviour i.e. those who occupy the positions in the top hierarchy are also punished if they engage in any kind of harassing behaviour. When any worker enters the workforce the organization must have an orientation in which employer are explained about what kind of behaviour is considered acceptable and non acceptable . Sufficient budget must be allocated for training, investigation and schedule to ensure that training are allocated in a proper manner. While the system needs to be put into place the organization needs to ensure that the systems are monitored in a timely and effective manner . Workplaces need to focus on 2 kinds of training – workplace civility training and bystander intervention training . As a part of workplace civility training employers are made aware about the appropriate and inappropriate behaviour in the workplace. The best part of the training is that it focuses on the positive aspect of what employers and managers should do rather than what they should not do .Additionally bystander intervention training makes aware about appropriate and inappropriate behaviour in the workplace. It focuses on what employees and managers should do rather than what they should not do. If the bystander intervention training is adopted in workplaces it could yield positive results – the employers will develop a sense of collective responsibility and will be made aware about what kind of behaviour is problematic. The main target group of the bystander intervention training is students from colleges and high schools. The main aim of the training is to encourage students to interact with peers to prevent cases of sexual assault from occurring. The bystander intervention training occurs in 4 stages-The first stage in Bystander Intervention training is to create awareness about what type ofbehaviour could be constituted as problematic . In the second

stage of bystander intervention training the participant develop a sense of collective responsibility i.e. they not only observe but also take action whenever they view problematic behavior .In the third stage the bystanders are trained in skill training exercise so that they have the confidence to intervene whenever they see problematic behaviour.

Recently the Bengaluru police has recently launched a mobile app titled “Know your police station . It was through this app that the Bengaluru Police recently arrested a man from a bus . The man has been accused of molesting a woman on a moving bus on 10 May. The woman lodged a complaint through the app “Know your police station. Initiatives like these need to be taken by the police department of all the states to ensure that more and more cases of sexual harassment are reported.(The News Minute, May 11 , 2017)

It is often due to the process of judicial delay that victims don't report sexual harassment . The JS Verma Committee Report has made very important recommendations. The need of the day is to ensure that speedy justice is given to rape victims. The Verma Committee Report has also suggested that “cases of rape and sexual assault should be fought by women prosecutors and by women judges . All members of the judiciary, all members of the administration which includes police officers even of the lowest ranks should be trained in the area of gender sensitivity. The JS Verma Committee Report has pointed out that “in-house dealing of all grievances would dissuade women from filing complaint” and might promote a culture of silence. It has recommended setting up of an employment tribunal which would be comprised of 2 retired judges (one might be a woman), a female sociologist and one female advocate . The Report further suggested that tribunal should function as a body for the disposal of complaints and for the resolution of disputes. The report further suggested that the appointment letter should contain the policy towards sexual harassment so that every person is aware about sexual harassment. Female members of the workplace who are in the lowest ranks might not be comfortable in giving a complaint in writing due to factors such as illiteracy, lack of education. Hence the complainant should be in a position to approach the tribunal and state the complaint orally and then the tribunal can transform the complaint in a written form. The Report has also suggested that the employer should take the responsibility of conducting education / awareness programmes about sexual harassment. The employer should also make sure that a nodal officer is appointed for cases of sexual harassment and that officer should have the adequate training for cases of sexual harassment.. Hence the senior leadership in the organization should make sure that through this programmes men are also trained about the correct pattern of socialization about the incorrect practices in the concept of patriarchy etc . As the roots of sexual harassment lie in the theory of gender discrimination that exists in the workplace . Hence the senior leadership should make sure that men and respect women as equal and capable human beings

rather than as sexual objects.

The committee further recommended that section 14 of The Sexual Harassment of Women at Workplace Act be deleted. The Act says that stern action should be taken against any women who launch false or malicious complaints. It is possible that the employer may manipulate by the employer to prove that the complaint is false. Alternately the Committee has recommended the tribunal should reprimand a woman and that will be the adequate punishment of the women as that record will have an influence on the future and career of the women.

Martha Farrell in her book “ Endangering the workplace , Gender discrimination and prevention of sexual harassment in organization “ recommends that every organization should not only have an “ Anti Sexual Harassment policy “ but also a gender policy which penalizes any behaviour which is considered inappropriate and make women uncomfortable . An advantage of a gender conducive environment is that it can create a forum where both men and women debate about topics which may be eventually called women issues.

According to Murtha Nussbaum Women needs to be given equal opportunity and “their voice needs to be articulated at every stage starting from planning to implementation and this needs to be applied in all development goals in the country. According to a study in World Bank in 2012, the average representation of women is only as low as 17 percent. The development goals need to give importance to the term empowerment, social justice, inclusion, capability and freedom.

I have done my limited study in the university campus . As a part of the study I have interviewed student , faculty and staff and studied their perception about underreporting of sexual harassment at workplace. In this chapter I have included the various policy recommendations which I have got during the period when I was interviewing students , faculty and staff in the university .According to Professor Upasana Mahanta awareness needs to be brought about what constitutes sexual harassment . Unless women are given the assurance that they will not be ostracized / victimized . Institutional confidentiality needs to be maintained about cases of sexual harassment . It is a natural fact that If a women complaints about sexual harassment her family members are bound to get worried then proper counselling needs to be given to family members about the importance of reporting cases of sexual harassment . Further the internal complaints committee needs to be more accessible and more friendly to women . She says that often it is not very easy to speak to members about sexual harassment. She said that as a faculty it is her responsibility to encourage student to launch a formal complaint . In the cases of university if a student is not feeling comfortable to complaint then the faculty should encourage more student to complain . The faculty should take the responsibility to set up a meeting with a committee member, and the women or the

student in case of the universities should not be judged . She further said that larger community support need to be provided to the victims . She also emphasized on the point that law and policy cannot alone support people perception. She further says that it is a wrong perception that it is not the role of sexual harassment committee to address the cases of sexual harassment, it is the role of the faculty, and the staff . According to Professor Albeena Shakeel the decisions of Sexual Harassment Committee needs to be taken on a public forum, on other words it needs not be secretive. The law envisages gender sensitization training, gender sensitization training needs to be given in all institutions be it schools, colleges or universities. Further she says that proper protection needs to be provided to the complainant. She says that institution needs to provide a more conducive environment, still now most institutions have not done anything out of the way to provide support to people who complain. Further the workplace also needs to provide dignity to the people who complaint .She also said that community support needs to be provided in institutions , the women needs to be encouraged to lodge a complaint and the institution also needs to take the responsibility that after the complaint the women is not harassed in different ways , I.e. no defamation case is lodged against them ,the institution should not view them in a negative way ,there is no character assassination or no gossips or loose talks are held about their character .Another student who said that due to different ways of socialization what constitutes sexual harassment to one may not constitute sexual harassment to others , has emphasized on the process of mediation in case of low grave offences . She believes that the process of mediation can raise sexual awareness and can make the person realize their mistake. In a hypothetical situation she said that if a friend has faith in sexual harassment committee she will encourage her to complain, she also said that in some cases taking extra legal means can prove effective. One example of an extra legal mean can be that if a professor is harassing a student, an anonymous letter can be sent to the professor by a student so that the offender knows that someone is watching . Professor Anuradha said that if the case of underreporting of sexual harassment needs to be tackled that the environment of the institution needs to be more friendly to cases of sexual harassment. She further says that there needs to be no loopholes In the process, the current system in institutions has loopholes due to which cases don't see light of the day and hence women are not encouraged to report,She said that the institution needs to have surprise checks on internal complaints committee to ensure that they are functioning properly and that the case gets justice . The leadership initiative needs to come from the top management levels of the institution,She further said that people who are trained in this area needs to be appointed in the committee as often the committee s. According to a staff of OP Jindal Global University the implementation of policy depends on the frequency of issues . She said that the need of the hour is for the institution to have a fool proof policy which will have no loopholes in the process . With specific reference to the university she said that the job of the faculty is to educate masses , she further said that in this university the faculty does not want to step out of their comfort zone ,

she also emphasized on the point that the job of faculty is to educate the masses but in cases of sexual harassment no one wants to take the responsibility to help a student to report a case .She further says that the it is the job of the internal complaints committee to make the women feel comfortable to launch a case . Another professor also said that it should be the task of the institution to make sure that the the committee is autonomous and the decision regarding the complaint and the procedure is fair and is not taken under any influence or any pressure. He also emphasized on the fact that only people who are known for their integrity should be appointed who are known for their integrity .Another professor who did not want to be named said that as the law mandates every institution needs to have an awareness training on what constitutes sexual harassment . According to him this is the very first step that we need to take if we have the goal to reduce underreporting of sexual harassment in India. Another student of the university said that in case the institution does not lend support to the women, the women should individually take the responsibility of continuing the fight till the very end till the time the perpetrator is put behind bars.Another professor who did not want to be named said that adequate policies already exist in the country to prevent sexual harassment but serious problem lies with the implementation of the policies in other words policy needs to be implemented properly .He further said that In Indian Culture the crime of sexual harassment Is treated as a joke –sexual harassment needs to be treated seriously

Argument

In this thesis I argue that while culture is definitely one of the reasons for underreporting of sexual harassment at workplace, as per my research i found that most of the institutions have not done anything out of the way to make it comfortable for women to report sexual harassment. While my thesis suggests few policy recommendations at the moment it is important to see that the existing policies are implemented properly. It is important for the government to set up a body which should take the responsibility of ensuring that every organization should have an employment tribunal. The need of the day is to see sexual harassment as a problem of the institution not just the individual. As per my

knowledge a start can be made in this direction by changing the patterns of socialization where women are treated as equal and capable human being rather than as simply sexual objects. The patterns of socialization should ensure that people see sexual harassment as a serious crime rather than as a joke

References –

Electronic Resources

1. R .Feldblum and Victoria A Lipnic , June 2016,“ Select Task force on the study of harassment in the workplace , “June 2016.file:///C:/Users/admin/Desktop/New%20folder/Select%20Task%20Force%20on%20the%20Study%20of%20Harassment%20in%20the%20workplace.pdf”
2. January 23,2013, “Report of the Committee on the Ammendment to Criminal Law . , JS Verma Committee Report.
3. Sarpotdar Anagha,2014 , “ Sexual Harassment of women at workplace in India , journey from a workplace problem to a Human Rights Issue , Journal of Business Management and Social Sciences Research Volume Number 3 ,pages 19-24,”accessed at - <http://www.borjournals.com/a/index.php/jbmssr/article/viewFile/1759/1101> on 03/04/2017
4. Basu Kaushik, 2003 , “ The Economics and Law of Sexual Harassment in the workplace , The Journal of Economic Perspectives, Volume 17 ,number 3,pages 141 -157, American Economic Association , accessed at <http://www.jstor.org/stable/pdf/3216826.pdf>. on 02/04/17/
5. Catherine Mac Kinon , 1980“ Reviewed work sexual Harassment of working women , a case of sex discrimination “, Columbia Law Review, Volume number 8, pages 1686 - 1695, reviewed at” <https://www.jstor.org/stable/pdf/1122289.pdf>” on 30/3/2017
6. Schultz Vicky ,1998 , “ Reconceptualising Sexual Harassment at The Yale Law Journal,No 6 , Page 1683- 1805 accessed at <http://www.jstor.org/stable/pdf/797337.pdf>.on 31/3/2017 accessed on 30/2/2017.
7. KapurRatna , “ Sexcapades and the Law accessed at <http://www.india-seminar.com/2001/505/505%20ratna%20kapur.htm>” on 4/4/2017.
8. Patil Prachi , 2016 , Understanding Caste Violence as a form of sexual violence, Volume 7 Number 1 . Chachra Manisha , 2017 , “Despite Laws 70 percent of working women do not report sexual harassment , employers show poor compliance “, “Indiaspend.<http://www.indiaspend.com/cover-story/despite-law-70-working-women-do-not-report-workplace-sexual-harassment-employers-show-poor>”
9. SaigalSonam , 2017 , “ Sexual Harassment at Work , the limits of the Law , “ The Hindu “<http://www.thehindu.com/news/cities/mumbai/sexual-harassment-at-work-the-limits-of-the-law/article17763605.ece>
10. Anna ManlerPaperny , 2015 “ Why don’t women report rape because most get no justice when they do , “ Global News.”<http://globalnews.ca/news/1845136/why-dont-women-report-rape-because-most-get-no-justice-when-they-do/>

11. Margaret Gardiner ,2016 , “ why women don’t report sexual harassment “, The Huffington Post ,”http://www.huffingtonpost.com/margaret-gardiner/why-women-dont-report-sex_b_11112996.html
12. Govindarajan Padmapriya , 2017 , “ Time for India to get serious about sexual assault “, The Diplomat”<http://thediplomat.com/2017/01/time-for-india-to-get-serious-about-sexual-assault/>
13. Chachra Manisha “ 70 percent of working women do not report sexual harassment in India “,Business Standard<http://www.business-standard.com/article/current-affairs/70-working-women-do-not-report-workplace-sexual-harassment-in-india-11703040>
14. Sundar Madhavi , 1996 , “ In a fragile space ,sexual harassment and the construction of Indian Feminism.”Law and Policy Volume 18 no 3 and 4.

Books

1. Nussbaum , Murtha ,1999 ,” Sex and Social Justice , Oxford University Press, Pages , 213-239.Accessed on 11 /4/2017.
2. Nussbaum , Martha , Women and Human Development , Cambridge University Press, Pages Accessed – “30, 44-45).
3. Punjabi Kavita ,ChakravartiParomita , 2012 “ Women Contesting Culture “, school of women studies , Jadavpur University , Pages accessed – Page 19.
4. Farell Martha , 2014, “ Endangering the workplace , Gender discrimination and prevention of Sexual Harassment in Organization “, Utpal Publishing House,pages accessed -51-58,101,316-317.

