

THE ANALYSIS OF GENDER BASED VIOLENCE AGAINST WOMEN

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ABSTRACT: *Women have been vulnerable to gender and abuse for many years. They continue to face inconsiderate treatment in society in today's times. In the job areas and other sphere of life, this analogous condition remains and creates a difficult environment for the women in the country like India. The gender-based abuse that women in India face has been discussed in this paper. The author has addressed the definition and types of gender-based abuse in society. The author has further given suggestions for curbing gender based violence against women, this violence is not new and had be prevailing in since the ancient times due to which women could not prevail the existing rights provided to them. The author has mainly focussed and discussed about the Sexual Harassment Act, 2013. This paper titled "The Analysis of Gender Based Violence against Women" is an attempt to spread awareness about the issue of gender based violence against women.*

KEYWORDS: *Gender, Redressed Mechanism, Sexual Harassment, Violence, Women.*

INTRODUCTION

Owing to the daily suffering that women experience as a result of sexism and violence by other genders in society, women are viewed as an economically marginalized gender of society. In jobs matters, schooling, political control and often sometimes because of their gender, they face prejudice. Being a woman makes them vulnerable to violence and sexism that is typically sexual in nature.

Sexual abuse at work is viewed as a denial of the rights and dignity of women and is regarded as gender-based violence from a global viewpoint. Sexual abuse is now viewed as a derogatory picture that represents the worldwide superiority of men over women. Sometimes, sexual assault cannot simply be about sex because it may be about something else, such as race or ethnicity. A woman of colour, for instance, can perceive workplace discrimination differently than a white female co-worker. Because of the mixture of her sex and her race or nationality, she may be the object of aggressive or violent behaviour.

Measures to prevent violence faced by women have been taken. One of India's most influential measures was the ratification of Convention on all forms of Discrimination against Women (CEDAW).¹

The legislature passed a special Sexual Harassment at Work (Prevention, Prohibition and Redressal) Act, 2013², to eliminate sexual harassment in workplaces. For all companies, this act

¹ Convention on the Elimination of All Forms of Discrimination against Women, 1979, UNHR, (2015).

² Sexual Harassment at Work (Prevention, Prohibition and Redressal) Act, 2013.

is obligatory to obey. It includes workplaces within its reach, such as schools, universities, organisations, hospitals, etc.

The main intention of the act is to prevent gender biased violation against women. Men don't come under the purview of this Act. Mere enactment of this legislature is not enough, proper methods of implementation of the Act should be adopted.

Therefore, the act for this reason includes a remedy process that requires a litigation process for all instances of gender-based abuse experienced by women in the workplace.³

DISCUSSION

1. *India's Gender Related Harassment:*

Gender-based violence means some kind of harassment or behaviour carried out because of a person's gender that affects the dignity of the woman. In India, gender-based violence against women means abuse or discrimination on account of the disparity in the individual's biological gender. Thus, gender-based harassment is also considered as gender-based violence. Gender-associated stereotypic stereotypes are also part of gender-based aggression.

The notion that only men should be physicians while women are nurses, for instance, also amounts to differentiation based on gender-based harassment. The Declaration of Human Rights of the United States, 1948, forbids any form of discrimination on grounds of sex and encourages dignity and independence for all citizens.

Each person deserves equality in all social, economic, cultural, political and psychological aspects of life.

2. *Types of Gender Related Abuse:*

There are five kinds of aggression dependent on gender that are prominently present. But there are even more which on a large scale may not be apparent.

This may be attributed to people's conventional mind set in society. The key five kinds of abuse dependent on gender are as follows:

- Sexual Assault- Sexual assault encompasses sexual assault or gender discrimination of women. This often implies some sexual assault or danger which does not simply mean physical injury. Rapture, marital rape, embarrassment, intimation, abuse or use of force of a sexual nature are part of sexual harassment.
- Physical Harassment- Physical harassment involves actual touching or battery, i.e. assault or physical abuse. This entails throwing acid on women or even pretending to throw acid, abuse at home, slavery, trafficking in human beings.

³ Ravindra B. Ghooi, Violence Against Women in India: A case for research in Tackling the Menace, Research Gate, May 2013.

- Emotional and psychological violence- This form of abuse disturbs the individual's inner peace and affects the person's emotional ability. Emotional and psychological abuse against women includes dowry, harassment, voyeurism, insults, unfair or disrespectful conduct, and remarks or even the deprivation of rights.
- Socio-economic harassment- Socio-economic harassment is common today and can be seen as women are discriminated against in terms of educational opportunity, income discrimination, unfair care at jobs, advancement, political participation, etc.

3. *Redressed Mechanism for Gender Based Violence:*

Under the Sexual Harassment at Work (Prevention, Prohibition and Redressal) Act, 2013, also referred to as the POSH Act, the workplace comprises public places, agencies, undertakings, offices and institutions of private places, undertakings and offices under section 2(n) (o). The workplace also comprises hospitals, retirement homes, schools, sporting centres, stadiums.”⁴

In the case of *Saurabh Kumar Mallick v Comptroller & Auditor General*⁵, An expanded definition has been given to the office. Workplace involves where administrative power becomes part of the workplace in a position where the working women live.

4. *Redressed Mechanism under the POSH ACT, 2013:*

The redress process is a structured process under the POSH Act, 2013, where it is a mandate under this Act to create an Internal Committee. The civil remedies are given for under this act. ⁶

Any business or enterprise must be the internal committee. The company shall constitute a minimum of ten workers who shall hear and address abuse and gender-based violence complaints. Any failure to appoint such a committee could lead to a fine being levied.

Punishment: The employer must compulsorily draft laws or administer punishment under bye laws in any company. If no laws or discipline have been prescribed against sexual assault, a formal apology, reprimand, censure, withholding of promotion or pay rights, increases, termination of employment, undergoing therapy sessions or community service must be carried out. Often, compensation from the respondent's salary must be available to the aggrieved woman.

The amount of the compensation depends on the magnitude of the harassment and the respondent's role in the company. For the labour class, it is possible to set the amount of instalments to pay compensation.

If the allegation is baseless, a fine of Rs. 5000/- is levied on the woman if malafide is proven.

Confidentiality: In order to ensure fairness and to verify the organization's reputation with regard to the treatment of offences of sexual assault, the mere declaration of allegation is issued without

⁴ Sexual Harassment at work place (Prevention, Prohibition and Redressal) Act, 2013, No. 144-C, Acts of Parliament, 2010 (India).

⁵ Saurabh Kumar Mallick vs. The Comptroller and Auditor General of India and Anr.,(2008) DLT 261

any disclosure of the identities of the parties. Any invasion of privacy leads to the imposition of a fine of Rs. 5000/-.

If any company does not comply with the POSH Act 2013 laws, then a fine of Rs.50,000/- will be levied. If this carries on, penalties could be doubled. The 2013 POSH Act is non-cognizable.

SUGGESTIONS

Gender-based abuse is continually knocking on every home, office and various areas of the world's gates. Violence focused on gender has deep roots in India. Women face relentless brutality every day, from rural areas to urban areas.

In order to avoid further gender-based abuse, women should become more conscious of the state's legislation and support other women in need.

Women should have complaint bins and approachable bosses in work spaces. The process of redress should be quick and ensure justice that addresses the needs of aggrieved women. Even, in the office, if so, any guilty party should not be more entertained, found committing any crime.

CONCLUSION

A denial of the human rights of women is gender-based abuse in the form of harassment. This abuse of women's inalienable rights in society is characterized by inadequacies that still remain in India. Violence based on gender in India has a strong effect on the country's growth. Excess prejudice would hinder the country's ethnic, social and economic development.

With many forms of gender-based violence in our country, the constitutional rights guaranteed by the Constitution have already been violated. The roots of gender-based violence have made it inevitable, and the best way to avoid such violence is to remove the triggers for such violence.

Women are one of the most marginalized parts of society that should be safeguarded and supported. To this end, the POSH Act 2013 was passed by the legislature as the first step in combating sexual abuse against women in the workplace.

The redress process established under the Act is swift and, when lodged, encourages justice for all the parties involved in a complaint. Any baseless complaint can also be illustrated by this process. Interim relief is also a simple solution for any grievances.

The civil remedy is focused on women's needs, while other choices include judicial remedies if the aggrieved person seeks justice in the strictest type. Any form of legislation would be useless if the persons for whose gain the law was passed were not aware of the law. The duty of the state is to disseminate knowledge of the tool at hand to obtain its rewards. The civil rights of all genders in society shall not be violated by any human act.