



LAWS

FOR PREVENTION

OF WOMEN RIGHTS

JV'n Ms. TANUSHI SAHNI

JAYOTI VIDYAPEETH WOMEN'S UNIVERSITY, JAIPUR

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Author NameMs. TANUSHI SAHNI

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CHAPTER- I

SAFEGUARDS FOR WOMEN: CONSTITUTIONAL PERSPECTIVE

INTRODUCTION

Women in our society play a vital role in the development of our country. She is not only a homemaker, she is a person who is the backbone of the whole family. She performs all household functions and along with this she fulfills all the obligations in her office being the employee of the office. Our society is developing day by day but still the mindset of the society members have not broadened up. They still think that the women in just meant for household works. But still a few ratio of people help in the upliftment and development of a woman's future. A woman plays many roles in her life for instance she plays a role of a daughter, wife, mother, daughter-in-law and after performing all her roles perfectly, she also works as an employee. Our Constitution provides equal opportunities for women and had made no discrimination between men and women. If male members are given more priorities than females, then it is against Fundamental Rights and thus it is declared as violation of Article 14 of Constitution. Both men and woman are getting equal treatment but still there are few places where women is still seen with a bad eyes and they don't think women capable to work efficiently as compared to men . They appreciate women not only because they encourage their work but because they want favors from women.

Harassment at workplace has become a wide issue which is very common globally and which leads in degrading the society. Women have become so modern and energetic in the fields of jobs and business. Many women's have proved it that they are not less than men still women is been harassed. Women are also free to live her life without any discrimination and continue her life with dignity.

Generally men believe that they are superior to women but they have no reason to prove it. We all agree on the contention that a man also plays a very important role in the family as he handles all the financial matter and also acts as a protector for the whole family.

We cannot deny with the fact that the man is the head of the family but still a man alone cannot handle all the responsibilities including his job, handling household activities, nourishing the

child and taking care of his parents even, so we can say that a man is incomplete without his wife and he cannot manage everything alone. He also needs a house lady who can handle him and can even take care of his family.

Every man needs his wife to be educated so that she can be a good guide for their children. After struggling with the issues of her family and taunts of her in-laws, she move forward to build her future and make optimum utilization of her knowledge. As soon as she enters the workplace, she gets harassed. She is not just appreciated and given first priority because of her good work, sometimes she gets fast success because male members of the firm wants favors from her.

Workplace harassment is a direct torture on the females who works in the firm, factories or different organization. It is generally a common problem which majority of women faces, but they never report the matter in the Court of law or to the higher authorities due to various fears. Instances of fears can be losing their jobs, family and their goodwill in the society.

Thus, there should be a safe and positive environment in the working area so that a woman should work efficiently and ultimately help in the instant development of the organization rather than having a fear to safe herself from the bad intentions of the few male members who thinks a girl just as a product.

There are many laws provided by the Constitution acting as the safeguard for women and helping in their welfare and betterment. The Constitutional Safeguards for women are Right To Equality-Article 14, Life and Personal Liberty- Article 21, Right to Education- Article 21 A, Right against sexual exploitation- Article 23,24 ad Constitutional Remedies – Article 32, 35.

RIGHT TO EQUALITY – ARTICLE – 14

Article 14 of the Indian Constitution specifies that every individual are equal in the eyes of law. It is duty of the State for making provisions for betterment of women and Children. For instance, The reservations are been allotted to the women in buses, trains, metro and in jobs also and it is constitutional. It was also held by the Supreme Court that reservations of some seats are there in colleges.

SECTION 497, INDIAN PENAL CODE

Adultery is an offence if it is committed by men but it will not be considered as an offence if it is committed by women. The women cannot be prosecuted for abettors. The special provisions for welfare and betterment of women have been made and is valid under Article-15(3) of Indian Constitution.

SECTION 437, CODE OF CRIMINAL PROCEDURE, 1973

There is a restriction on the release of accused person on a capital offence on bail except child under the age of 16 years or women or ill persons.

LIFE AND PERSONAL LIBERTY- ARTICLE 21

Article 21 guarantees the right to life with dignity. Sexual Harassment of women has been held by the Supreme Court to be violative of Right to life.

Sexual harassment at a work place environment means the infringement of the ladies rights and she has the right to live her life. It also includes few acts which are not genuine, for instances physical contacts with the lady, a request or a demand for providing sexual favors, showing porn movies, saying something or acting in a way through which a lady becomes uncomfortable. A woman gets so uncomfortable with such unwelcome acts but still she do not take any action against the person who has a malicious intention because she need to save her job to earn her livelihood and to provide a good survival to her family and in result she has to survive in the negative environment.

Sexual harassment refers to the forceful pleasures demanded by male members from female employee which includes the mental and physical harassment of a female employee. It is illegal in the eyes of law which involves the exchange of sexual desires in return of job opportunities.

The employer offers a job and in return demands for a sexual pleasure and to please him which in result will lead to the upliftment of a woman. In past times, females were not employed as they were only meant to do their household work but now in the present era, women has become independent and has raised in every field for instance, a woman has proved her talent in the fields of medical sciences, law, etc. She has proved that she is not less than a man. She started from riding an auto-rickshaw to flying a plane. Thus, the harassment of women at her workplace is termed as "WORKPLACE HARRASMENT OF WOMEN".

On one hand, a woman is been harassed by demanding sexual favors by her Bosses or her seniors and on the other hand she is given less remuneration for her work as compared to the male employees. There is a biasness done amongst the male and female employees regarding their salary which results to the gender inequality. A woman is been harassed at her workplace by listening to the various taunts, unpleasure acts, showing pornography, sending unpleasant mails and messages which makes the woman uncomfortable. It degrades the inner confidence of a woman and lowers down her strength and capabilities.

In the present era, many laws are been made for the protection of a woman at her workplace. It's the duty of an employer that a woman should get a safe working environment at her workplace and she should feel comfortable. Harassment directly have a negative impact on the woman's mental, physical and emotional health. After the enforcement of many laws for the protection of a woman, still she is been facing a number of issues at her workplace. This should be totally stopped and a man should think a woman as a respected personality that she handles both her household work and works in the office, rather than thinking her as a product.

DEFINITION OF WORKPLACE HARASSMENT

Workplace harassment is termed as threatening or torturing an employee or a group of employee on the workplace. Harassment at workplace includes both mental and physical torture.

AGGRIEVED PERSON

A woman irrespective of any age, caste, married or not, employee of an organization or an outsider if harassed becomes a victim or an aggrieved person.

TYPES OF WORKPLACE HARRASMENT

DISCRIMINATORY HARASSMENT

It includes harassment due to racism, age based discrimination, gender harassment, religious based harassment, disability based harassment, sexual based harassment, etc.

PERSONAL HARASSMENT

It is a type of harassment which does not depend on a particular caste, creed, age , religion. It includes comments which are not appropriate, taunts which makes the women uncomfortable, Malicious remarks, humiliation, etc.

PHSICAL HARRASMENT

It is a type of harassment which involves physical violence, attacks or threats. It may also lead to assault in serious cases. It is also termed as workplace violence. For instance, kicking , hitting, threat to hit him comes under the head of physical harassment.

POWER HARASSMENT

It is characterized by a power disparity between the harasser and the harassed. It includes extreme demands which an individual cannot fulfill.

PHYCHOLOGICAL HARASSMENT

It has a negative impact on a person's psychological well being. It lowers strength and confidence of an individual. It affects a person's physical health, social and works. It includes saying wrong terminologies about the person.

CYBERBULLYING

In this they share humiliating things about the victim by mass emails or chats. It includes rumors about the women and spread it on social media.

RETALIATION

Retaliation harassment occurs when a person harasses someone else to get revenge and to prevent the victim from behaving in such a way again. For instance an employee complains about the other employee to lower down his image in the office.

SEXUAL HARASSMENT

It includes unwanted sexual favors demanded by the employers from the employee. For example sharing sexual photos, inappropriate sexual gestures, entering in someone's personal life, bad jokes and taunts which makes the girl comfortable.

QUID PRO QUO SEXUAL HARASSMENT

It is a type of exchange based sexual harassment. If a job is been offered to a woman, in return she is been ask to provide some sexual pleasures to her Boss and please him. For instance, It can be asked if the employer give a job offer or a promotion to a woman employees, in return he asks for some sexual favors.

THIRD PARTY HARASSMENT

It is a type of workplace harassment which is done by a third party i.e. someone who is outside of the organization.

VERBAL HARASSMENT

It includes things like insulting or saying bad words to an individual, making her uncomfortable either in public/ private.

Harassment is illicit just on the off chance that it depends on some ensured normal for the representative, for example, his or her age, race, national root, sex, religion or incapacity.

What's more, badgering must be serious or unavoidable keeping in mind the end goal to damage the law.

CASE ANALYSIS- VISHAKA AND OTHERS V/S STATE OF RAJASTHAN

(BHANWARI DEVI CASE)

Vishaka and others V State of Rajasthan was a 1997 Indian Supreme Court where Vishaka and other women's groups filed Public Interest Litigation (PIL) against the State of Rajasthan and the Central Government of India to enforce fundamental rights of working women under Article 14, 19 and 21 of the Constitution of India. The petition was filed after Bhanwari Devi, a social worker in Rajasthan was brutally gang raped for stopping a child marriage.

RIGHT TO EDUCATION- ARTICLE 21, 21 A

Education is a basic ingredient for a child to develop his career. A person should be educated so that he can further touch the height in his future. Our law provides right to children for free and compulsory education till the completion of child's elementary education in his neighbourhood school.

The term “Compulsory education” means obligation of the appropriate government to provide free and elementary education and must also ensure compulsory admission, attendance and completing elementary education to every child who is between the age of 6 years to fourteen years.

The term “Free” specifies that no Child shall pay any fees or any charge or any expense so that there will be no hurdle in completing his/her elementary education.

- It also mentions the duties and the responsibilities of appropriate Governments, local authority and also the parents in providing free and compulsory education, and sharing of financial and other responsibilities between the Central and State Governments.
- It tells the rules, regulations and standards relating to Pupil Teacher Ratios(PTRs), building and infrastructure of the school , working days of school and working hours of the teachers.
- It provides for rational deployment of teachers by ensuring that the specified pupil teacher ratio is maintained for each school, rather than just as an average for the State or District or Block, thus ensuring that there is no urban-rural imbalance in teacher postings.
- It also provides for prohibition of deployment of teachers for non-educational work, other than decennial census, elections to local authority, state legislatures and parliament, and disaster relief.
- It provides for appointment of appropriately trained teachers, i.e. teachers with the requisite entry and academic qualifications.
- It prohibits

(a) physical punishment and mental harassment;

(b) screening procedures for admission of children;

(c) capitation fee;

(d) private tuition by teachers and

(e) running of schools without recognition,

- It provides for development of curriculum in consonance with the values enshrined in the Constitution, and which would ensure the all-round development of the child, building

on the child's knowledge, potentiality and talent and making the child free of fear, trauma and anxiety through a system of child friendly and child centered learning

EQUAL WORK FOR BOTH MEN AND WOMEN-ARTICLE 39(D)

Our law provides equal pay for equal work of both men and women. But still there many places wherein the discrimination between men and women is done in terms of their pay scale. People must get SALARY according to nature and capacity of their professional work.

Women are also capable to do all jobs and they are giving challenge to men that they are not less than them in any field. A women almost profess all profession. There are many works in which women bodies are little less competent to work as compared to men.

For example industry work load . There are many corporate firms in which women is been promoted on their physical pleasures and few employers demands sexual pleasures from the women employee.

We can move forward with one more example i.e. Air Hostess. Physical appearances are one of the basic necessities to get the job.

MATERNITY RELIEF -ARTICLE 42

The law has given a boom for the working ladies through which they can balance both their professional and personal life. Maternity benefits are been provided to the women who conceived. The maternity relief provided to the mother protects the infant and mother which is further beneficial to the mother and the infant in having a good health as Right To Health is also one Of the fundamental rights as right to health in included under Right to life. (Article 21)

MARRIAGE – CONDITIONS FOR WOMEN

The Hindu Marriage Act, 1955 deals with the marriage provisions . The ingredients for a valid Hindu marriage that the bride and the bride groom must be Hindus. At the time when they enter into a sacrament i.e. marriage neither party should be of unsound mind , insane and nor be unfit for procreation of children. Both the bride and the bridegroom must have attained the age of majority and the bride must have completed 18 years of age and the bridegroom must have completed 21 years of age. The parties should not come in the degrees of prohibited relationship.

CHAPTER- II

MAARIAGE AND MAINTENANCE

REGISTRATION OF MARRIAGE

Section 8 of the Hindu Marriage Act that the State Government make laws for the registration of Hindu Marriage and it should also be mentioned in the Hindu Marriage Register. The registration is been made so that it could be considered as an evidence in the Court in case of unforeseen circumstances.

SECTION 18 - MAINTENANCE OF WIFE

A Hindu wife has right to maintained by her husband during her life time. She is also entitled by the law to live apart from her husband. She also has the right to claim maintenance from her husband if he is guilty of desertion or cruelty or has any other wife living or resides with a concubine or converted to another religion.

WHERE A WOMEN MUST GO TO BE CLAIM MAINTENANCE

The application by the women for maintenance must be given in the Civil Court. Along with it , an application can also be made to the Section 125 of the Code Of Criminal Procedure.

If any women is unable to maintain herself, she needs to file an application for the maintenance in Section 125 of the Code Of Criminal Procedure. The proceedings in the criminal courts are much more faster than civil proceedings. The application for maintenance must be filled in Court of a First Class Magistrate. The applications of maintenance are filed in the family Courts.

HINDU WOMEN'S RIGHT TO PROPERTY

The literal mean of the term “Stridhan” means Women property. Various kinds of gifts can be considered as stridhan defined by Manu.

CHAPTER-III

WOMEN RIGHT IN INDIAN PENAL CODE,1860

RIGHT OF PRIVATE DEFENCE

Any act which is done by any person in order to protect himself, his property or any person is explained as private defense. Right to private defense is explained from Section 97 to 106 of Indian Penal Code, 1860. It always depends upon the circumstances of the situation. Right to private defense does not exist in front of a unnamed and unoffending person, it is also described in these sections that the power used in private defence should be reasonable and necessary.

Right to private defense also can be used for the person of unsound mind. The right can be misused as it can be used as defence in some cases as it creates an exception in criminal liabilities.

CRUELTY BY HUSBAND OR RELATIVES

It is defined under Section 498 A of Indian Penal Code. The women generally face cruelty by her husband and relatives for various reasons. The women is been tortured for bringing less dowry or becomes incapable of being fulfill the needs and demands asked by the bridegroom and his family. She is been maltreated by the husband and also relatives for various reasons. There are many restrictions imposed by the family members on the women. She is not allowed to do office job, she is also not allowed to express her views and give her opinion in the family matters. She is been taunted daily for unnecessary reasons. The women is also beaten maliciously when she takes stands for herself.

SEX SELECTION AND CAUSING MARRIAGE

This is one of the common practice held these days. Sex selection is a common issue and a child is the mother's womb is been detected through ultra sound machines. In case the child detected is a girl, she is been killed inside the womb of the mother and this practice is termed as female foeticide. Government has made various laws to prohibit sex selection.

BIGAMY

When a husband/wife marry to the second person, while the present spouse is alive/living, it is called Bigamy. Bigamy is illegal in India under Section 494 of Indian Penal Code, 1860. It is a punishable offence with the punishment for imprisonment extends to seven years and fine also.

In the case of bigamy, second marriage is always void, as the second marriage is only permitted in the following cases;-

1. When the first spouse dies
2. When the Court declares first marriage void
3. When the first marriage is dissolved by the divorce, or
4. When the spouse is missing or absent for 7 years

DOMESTIC VIOLENCE

This is a common phenomenon which is being faced by majority of women in the current era. The women have developed a lot in every field and proved that she is not less than a man. But at the end, the man thinks that a woman is always below a man and she cannot express her opinion and she cannot be efficient than a man in her works.

RAPE

Rape is when a person intentionally penetrates another's vagina, anus or mouth with a penis, without the other person's consent. Assault by penetration is when a person penetrates another person's vagina or anus with any part of the body other than a penis, or by using an object, without the person's consent. It defines in section 375 of Indian Penal Code 1860.

Consent

What isolates sex, or an offer of warmth, from rape? It's a matter of consent. That is, the two individuals consenting to what exactly's going on by decision, and having the opportunity and capacity to settle on that decision. See Consent is Everything and Support for casualties of assault and rape for more exhortation and information.

Common myths about rape

It's generally believed that by and large of assault, the wrongdoer is an outsider. The fact of the matter is most of individuals who submit assault know their casualties and, sometimes, are family members, companions or work partners.

Assault inside marriage and connections can likewise happen. Keep in mind, sex is about consent. In the event that your accomplice or spouse has constrained you into having intercourse with them, this is assault. We treat this as truly as some other assault or rape.

ADULTERY

The word “adultery” derives its origin from the French word “avoutre”, which has evolved from the Latin verb “adulterium” which means “to corrupt”. The dictionary meaning of adultery is that a married man commits adultery if he has sex with a woman with whom he has not entered into wedlock.

Under Indian law, Section 497 IPC makes adultery a criminal offence, and prescribes a punishment of imprisonment upto five years and fine. The offence of adultery under Section 497 is very limited in scope as compared to the misconduct of adultery as understood in divorce proceedings. The offence is committed *only* by a man who had sexual intercourse with the wife of another man without the latter’s consent or connivance. The wife is not punishable for being an adulteress, or even as an abettor of the offence. Section 198 CrPC deals with a “person aggrieved”. In the sub-section (2) of section 198 of CrPC informs that the law treats the husband of the woman as aggrieved by an offence committed under Section 497 IPC and in the absence of husband, some person who had care of the woman on his behalf at the time when such offence was committed, with the permission of the court. It *does not* consider the wife of the adulterer as an aggrieved person.

Section 497 IPC and Section 198(2) CrPC together constitute a legislative packet to deal with the offence of adultery^[3] which have been held unconstitutional and struck down by the Supreme Court in *Joseph Shine v. Union of India*, 2018 SCC OnLine SC 1676.

CHAPTER- IV

CONCLUSIONS AND SUGGESTIONS

According to me, workplace harassment has become a very serious problem; still women are not making complaint regarding harassment. I think they should not take this problem so lightly. The few tricks to handle it are as follows:-

- A woman should not ignore the harassment she faces. She should be so strong and fight back.
- She should keep records of time and duration of phone calls, messages, emails, CCTV footage in which she gets such messages which makes her uncomfortable.
- The woman should report the complaint against the person who harasses her. She should not take her complaint back in fear of losing her job or goodwill. Her family members should also cooperate rather than asking her to be quiet regarding the harassment faced by her.
- A woman should resort to law if she feels that the investigation was not fair. If she thinks that injustice happened with her, then she can also move to the higher authority for redressing her grievance.
- No problem last for a lifetime. This is a crucial stage which a woman must face with full confidence and she must take care of her physical and mental health.
- If we feel that we cannot handle all this alone, then take help from your family members ad fight for justice.
- You should not run with the problems, because switching to another job is not the solution. Harassment is a common issue and its spread all over.
- We should say a big “NO TO SEXUAL HARASSMENT”.

One of every five ladies approx is been sexually harassed in the working environment. But still they do not report the harassment in fear of losing their job, or in fear that there will be a scar on

their image. Majority of the family members even after knowing their problem just pretend to support her. They merely advised to either switch the job or either ignore all this and just focus on their work. But no one help them to find the solution.

It's not easy to leave a job of Rs. 1 lakh per month, but according to my opinion she should take strict action against the person who harassed her and fight for justice because money is just a medium of survival and its definitely not big than our self respect.

It's not a crime against one individual; it's a crime against humanity. If today a girl who is a victim will not complain, then it will become a habit of the accused to molest every girl in the workplace, because he is aware that no one will report against her. It is a request to all women to raise your voice if you are facing any such harassment, because nothing can be bigger than our SELF RESPECT.

Being a woman you are been given opportunities to fight for the wrong that happened to you and get a chance to give your contribution in Stopping and help in the development of our society providing a safe environment in the society.

The women should be appointed, promoted according to their mental capacity and their nature of their professional experience and work rather than physical appearance

The maternity benefit is quite important as it protects the mother, the infant and also helps in non violation of our Fundamental Rights.

Rape, dowry death , female feoticide should be dealt with punishments so that no individual should even think for committing these offences. The retributive theory of punishment must be given to the person who committed this offence. It is the crime against the humanity so strict measures should be taken to stop it which directly help in the welfare and betterment of a women and the whole society.

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Contact Us:

University Campus Address:

Jayoti Vidyapeeth Women's University

Vadaant Gyan Valley, Village-Jharna, Mahala Jobner Link Road,
Jaipur Ajmer Express Way, NH-8, Jaipur- 303122, Rajasthan (INDIA)

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