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Sexual offences at workplace: Challenges, Responses of the developed countries and the Implementation of the International Regulatory Framework

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Sexual offences in the workplace are a widespread issue that exacerbates difficult economic conditions and impedes women's ability to achieve equality with men. Sexual harassment legislation and rules adopted on a global and regional level are still not designed to prevent ordinary workplace sociability or mutually consented partnerships. These restrictions, on the other hand, are aimed against egregious conduct that prevents women from having full and equal participation in the workplace. Due to sexual offences, women are 30 percent more likely than men to leave their jobs. A sexual offence is an issue that exists all over the world. Various countries have taken action to address the effects of such a situation. Policy development is seen to be ongoing. Governments and organizations are addressing the issue by replying to the response to critical crises. Despite the fact that sexual offences can be labelled as predatory behavior or harassment in a broad sense, it is widely recognised as a particularly harmful form of abuse because of its role in maintaining women's subservience to men and worsening or attempting to create constraints on women's participation in the workplace. Countries hold specific obligations under international treaties to devise, administer, and oversee laws that target all forms of violence against women. Despite the fact that many countries have implemented or upgraded regulations on crimes against women in the last few years, sexual offences against women are nevertheless rampant. Many governments still lack clear laws to fight violence against women, and when it does exist, it is typically severely restricted and/ or not applied. This paper concentrates on the socio-legal discipline of regulatory analysis and assesses international

instruments' ability to function as a legal mechanism capable of appropriately formulating policies, regulating compliances, and administering regulations in developing countries. This paper is going to adopt to doctrinal methodology to critically analyse the issue under this study. The expected outcome of this study is to put forth the need of the developing nations for effective International Law implementation by defining a standard and attempting to establish strong mechanisms. Also, it is critical to identify that existing international humanitarian law incurs extensive and detailed commitments to address Gender-Based Violence against women and that, initiatives for a novel normative instrument and supplementary initiatives must not subvert, but rather complement those obligations.

Keywords: *sexual offences, workplace sexual harassment, international law, gender-based violence in developing countries*

INTRODUCTION

Sexual brutality is abhorrent conduct that violates UNICEF's core principles of essential rights, and it is a grave dishonor of UNICEF's guiding principles whenever these basic rights are abused. It's outrageous, terrible, and frequently illegal. When there exist power inequalities and chances to leverage such disparities, sexual exploitation, violence, and assault emerge conceivable. It is critical to ensure that the work environment is free of prejudice and violence in order to achieve good work. Non-discrimination and fairness are recognised globally as vital to every mechanism of international laws and are enshrined in the founding documents and laws of most countries. Equitable and uniform opportunities and access are regarded as the basis of promotion and security of the humanitarian privileges of the workforce, as well as are essential for societal harmony and long-term prosperity. Sexual violence/offences/harassment infringes on a woman's right to privacy, morality, personal dignity, and sexual choice. Sexual offences are capable of arising in various settings, which include the place of work, educational establishments, healthcare institutions, any offices and within their precincts, and in any public or private places. If the alleged conduct is uninvited or unwanted, it is considered sexual harassment. In India, every 12 minutes a female is sexually fraught.¹ China, notes that 80% of working women have encountered harassment of

¹ National Crime Records Bureau (NCRB), *Crime Clock 2002*, (Accessed on 25TH April 2022) <<http://ncrb.nic.in/ciiprevious/data/cd-CII2002/cii-2002/crim4e%20clock.htm>> accessed 27 April 2022

sexual nature at some phase of their profession.² Germany cites a study that indicated 93% of female employees were survivors of sexual abuse as of 1998. In Australia, about 6 of 10 nurses have been harassed/abused sexually.³ In Hong Kong largely grievances arriving at the Equal Opportunities Commission (EOC) in recent years were sexual harassment. In the United States, over 50% of employed women had been sexually harassed.

In Canada, 51% of women reported having experienced sexual violence at least once, and in Singapore, almost 50% of women have been victims of sexual harassment. Women have repeatedly overcome challenges erected by males in the guise of systemic sexism, such as men's claims that women are incapable of doing productive work or arduous manual labour. Women have indeed performed such tasks well, and have also handled family responsibilities effectively; nonetheless, men continue to regard them as second-class citizens. The feminist movement evolved as a response to unfair laws enacted by men, which had deprived women of some basic privileges. *Simone de Beauvoir*, a French theorist has demonstrated how men have subjugated women owing to their physical appearance since the dawn of humanity.

The sexual offence is not limited to a particular country. Even after decades after the adoption of the International regulatory mechanism; every country, be it developed, developing, or underdeveloped, is still latched in the iniquity of sexual offences. Sexual harassment is regarded as a crime and therefore is illegal, regardless of if it is legislated for or governed by laws, such as labour, penal, or tort regulatory frameworks. This study examines international instruments' potential to act as a legal instrument adept at effectively setting the policies, regulating adherence, and executing norms in developing countries, focusing on the socio-legal domain of regulatory evaluation. Considering the wide ambit of the subject under study and the number of developing nations battling out the evil of sexual crimes, doctrinal analysis of this research is limited to only South Asian developing countries which also include India.

METHODOLOGY

² See D.K Srivastava & Minkang Gu, 'Law and Policy issues on Sexual Harassment in China: Comparative Perspectives' (2009) 11 (17) Or. Rev. Int'l L., 46

³ Julie Cogin & Alan Fish, 'Sexual harassment – a touchy subject for nurses' (2009) 23 (4) J. Health Org. & Management, 442-62 <<https://pubmed.ncbi.nlm.nih.gov/19862867/>> accessed 25 April 2022

This study aims to confirm the shortcomings of the law against sexual offences at the workplace, as well as the reality that despite stringent laws and implementation of the international legal framework still are occurrences of gender-based atrocities. This is a normative study that examines the efficiency of international treaties, and legislation of selected developing countries on this topic.

CONCEPTUAL ANALYSES

Sexual violence is a challenging subject that involves women, their thoughts and actions, as well as societal standards. Sexual offence is the most common and pernicious sort of abuse against women, owing to the fact that it has been considered "common" conduct rather than an abuse of women. It frequently manifests in the guise of authority, force, desire, etc. One can't grasp the problem of gender-based violence in the workplace by looking at current socio-cultural concerns like gender inequality and how these affect women's status.

Sexual harassment survivors are generally hesitant to report it. This would be frequently owing to the normal approach to sexual misconduct as less severe, an absence of understanding of what defines sexual harassment, dread of retaliation from the employer, fellow employees, administrators, relatives, friends, or a lack of adequate recourse or monitoring procedures, and prejudices that blame the sufferer rather than the offender. There are other evidence challenges, particularly when sexual harassment happens without witnesses, making establishing it through substantiation difficult. In most nations, more serious types of sexual abuse, such as rape, pedophilia, and physical violence, have already been criminalised. The adoption of anti-discrimination measures outlawing sexual misconduct workplace has begun efforts to address this issue. The United States had been at the forefront of this endeavor. Sexual harassment (including same-sex harassment) at the place of work is proscribed under Title VII of the United States Civil Rights Act of 1964.⁴

SEXUAL VIOLENCE AGAINST WOMEN IN THE WORKPLACE: WHAT CAUSES IT?

⁴ Mary Beard, *'Woman as a Force in History, 1946: VII Equality as the Escape from Subjection'* (Marxist) <<http://www.marxists.org/archive/beard/woman-force/ch07.htm>> accessed 25 April 2022

Sexual violence exists in different settings depending on the severity of the act. The kind of sexual violence experienced by women in the workplace is generally considered to be sexual harassment. When undesired gender-based gesture occurs in the workplace, it is referred to as sexual harassment at the workplace. Sexual harassment refers to *“unwelcome sexual advances or verbal or physical conduct of a sexual nature which has the effect of unreasonably interfering with the individual's work performance or creating an intimidating, hostile, abusive or offensive working environment.”* The need to establish gender stereotypes for how opposite genders ought to act in the workplace is among the most popular gender societal norms.

Different perspectives amongst men and women, a need to dominate employees' livelihood, and reprisal against individuals who refuse to succumb physically to the boss's expectations are among several causes. Sexual intimidation is not only as regarded sexual interest, but it proposes authority and intimidation. Such harassment perpetuates gender norms and authoritarian power systems in the workplace, which disproportionately affect women. Sexual harassment is determined by how the harassed individual is impacted, and the intention of the harasser is irrelevant. Being silent in cases of atrocities does not always imply so as to the behaviour was acceptable. When there is mutual attraction and conversion it does not lead to sexual harassment as the behaviour is not unwelcome. If a co-worker communicates that such remarks or requests for a particular gesture are not appreciated, such behaviour should be discontinued.

WHO IS MOST SUSCEPTIBLE TO SEXUAL OFFENCES?

Sexual offences can be experienced by anyone, whether it is a woman, a man, a higher-ranking executive, or a worker in the unorganised sector. Some classes, however, are especially vulnerable. Women are more vulnerable than men because of their long-run patriarchal established low status and weak negotiating power in lucrative employment, the economic sphere, and society in general. Employers and administrators, particularly those with employees from vulnerable groups, should be aware of the menace and take steps to avert sexual offences and ensure a protected and healthy effective work setting for every employee.

LITERATURE REVIEW

Women's safety and welfare are covered by a large body of law, both individually and collectively. It is critical at this stage to determine the essential elements of significant legislation that are primarily connected to or have a close relationship with crimes against women. Because of the nature and extent of this research, it is indispensable to conduct a systematic appraisal of a few studies aimed at safeguarding women from sexual violence. Women have been condemned to humiliating places even in today's world, despite India's heritage of worshipping women as heavenly energies and despite the statutory provisions.

Ram Pal Bidhuri, states that although many offenses have been substantially reduced by the legal regime, there will always be an increase in crimes, particularly against women. Analytical scrutiny of appropriate institutional techniques is required, and socially sensitive judgments are preferable to ambiguous rules contained in punitive statutes.⁵

M. Waites, mentions that there have been concerns regarding social circumstances, understanding, behavior, and rationale, which will result in a significant shift in attitudes toward sexual offences. The nation's social system will transform if basic rights and equality are implemented which will result in a revolutionary goal of repairing the scenario of the social system.⁶

Bringing up the discussion over alternate pathways, Bronwyn Taylor contended there are considerable affirmations proving pragmatic improvements in the law enforcement system's

⁵ Ram Pal Bidhuri, 'Efficacy of Legal Mechanism In Fighting Crime Against Women In India: An analytical study' (2016) 7 (8) International Research Journal of Management Sociology & Humanity, 277-285
<https://www.academia.edu/32998213/EFFICACY_OF_LEGAL_MECHANISM_IN_FIGHTING_CRIME_AGAINST_WOMEN_IN_INDIA_An_analytical_study_Ram_Pal_Bidhuri> accessed 25 April 2022

⁶ Waites, M., 'Human rights, sexual orientation and the generation of childhoods: Analysing the partial decriminalisation of 'unnatural offences' in India' (2010) 14 (6) The International Journal of Human Rights, 971-993
<<http://eprints.gla.ac.uk/44245/>> accessed 25 April 2022

action in dealing with sexual offenses, and that the requirement for statutory proof to establish sexual offenses is unnecessary.⁷

Singh. S & Kumar. A noted that a number of factors attribute to India's elevated rate of sexual violence. Per some analysts, the entire legal and social structure adds to the high rate of sexual violence by allowing perpetrators to feel safe from ineffective law enforcement, politicians, and attorneys.⁸

According to Evan. J. Mandery, to be strong deterrents, statutes should be framed in such a way that they represent the severity of the damage and also the form of the act. Retribution has to be in proportion to the extent of the damage, but they'll always be efficacious if the culprit and sufferer have a fair hearing and pre-trial proceedings.⁹

Rohit Nautiyal and Ankita Rai write in the article "Nipping sexual harassment" that it is vital to maintain that everyone can offer their services without dread of harassment, sexual discrimination, or sexual misconduct in order to offer employees rewarding and fulfilling career opportunities and long-term opportunities for growth in an equitable and participatory work environment. Various workplace sexual misconduct occurrences have been seen, although the victims are reluctant to report the occurrences to superiors or the legal authorities.¹⁷

⁷ Bronwyn Naylor, 'Effective justice for victims of sexual assault: Taking up the debate on alternative pathways' (*Research Gate*, January 2010)
<https://www.researchgate.net/publication/228169808_Effective_Justice_for_Victims_of_Sexual_Assault_Taking_Up_the_Debate_on_Alternative_Pathways> accessed 25 April 2022

⁸ Sakshi Singh & Anurag Kumar, 'Sexual violence in Indian public sphere: Counter-public creation and deferral' (*Research Gate*, March 2019)
<https://www.researchgate.net/publication/333025046_Sexual_Violence_in_Indian_Public_Sphere_Counter-public_Creation_and_Deferral> accessed 25 April 2022

⁹ Amita Pitre & Lakshmi Lingam, 'Age of consent: challenges and contradictions of sexual violence laws in India' (2022) 29 (2) *Sexual and reproductive health matters*, 29(2)
<https://www.academia.edu/45674989/Age_of_consent_challenges_and_contradictions_of_sexual_violence_laws_in_India> accessed 25 April 2022

INTERNATIONAL LEGISLATIVE MECHANISM COMBATTING SEXUAL OFFENCES

Male supremacy towards women is now seen as a distorted version of sexual harassment. All through the centuries, the international domain has established worldwide principles and international conventions to combat sexual violence at work and raise exposure about the issue. The objective of achieving worldwide justice must be accomplished. Gender-based atrocities are defined by certain findings set by the international society, such as the identification of offences being of the sexual kind in the place of work as a type of breach of natural rights. Personal integrity, freedom, and dignity will always be valued. Harassment in the place of employment is one kind of gender-based crime. Individual States' policy on sexual harassment prevention must describe sexual misconduct as a type of oppression and an infringement of women's rights. International norms for the elimination of gender-based violence in the workplace provide a roadmap for increasing the current parity between men and women like an inalienable fundamental right. "*Universal Declaration of Human Rights, 1948: Articles 1, 2, and 7¹⁰ discuss dignity, rights, and freedoms, as well as equal protection from discrimination.*"

ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111) strives to shield against sex, race, colour, religion, political opinion, and national or social origin discrimination in employment and profession. The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) stated in its general report of 2003 that sexual harassment is a type of sex stereotyping that must be handled within the provisions of Convention No. 111. The CEACR has recommended governments adopt adequate steps to prevent sexual harassment in jobs and employment and has supplied components for defining sexual harassment.

Under the International Covenant on Economic, Social, and Cultural Rights, 1966, the nations are required to pledge the rights outlined in it devoid of discriminatory practices. To exercise

¹⁰ Universal Declaration of Human Rights, 1948, art.1, art.2, and art.7

the social, economic, and cultural rights enshrined in the Covenant, countries must achieve gender equality. Article 7¹¹ guarantees the right to decent working conditions.

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which is structured to eliminate all forms of prejudice against women and provide gender equity, was an important convention recognized by the United Nations that had a significant effect on the regional and global society and has already been adopted by many of the nations. India, among other nations that have ratified the CEDAW. This convention guarantees women's access to social, political, and cultural aspects of equity and independence.

ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169) mandate that the administration must take special measures, contained by the foundation of law and regulation, furthermore in collaboration with the people concerned, to guarantee that men and women workers have equal rights and opportunities and treatment in the workplace, as well as safety from sexual harassment.(Article 20.1-3 (d)).

ILO Decent Work for Domestic Workers Convention, 2011 (No. 189) states that each Member must acquire steps to guarantee that domestic workers are protected from all types of abuse, harassment, and brutality (Article 5)¹².

ILO Resolution on Equal Opportunities and Equal Treatment for Men and Women in Employment, ILC, 71st Session, 1985 state that measures should be implemented to safeguard women and men from reproductive dangers and sexual harassment.

*'Violence against women' is defined in "Article 1 of UN Declaration on the Elimination of Violence against Women, 1993 as an act of gender-based violence that causes or is likely to cause physical, sexual, or emotional pain or injury to women, which include threats of such actions, coercion, or deprivation of liberty, whether in public or private life. As part of violence against women, it also includes sexual harassment and coercion at employment, at academic institutions, and anywhere else."*¹³

¹¹ Universal Declaration of Human Rights, 1948, art.7

¹² Decent Work for Domestic Workers Convention, 2011, art.5

¹³ UN Declaration on the Elimination of Violence against Women, 1993, art.1

The Beijing United Nations Women's Conference in 1995 focused on the promotion of women's privileges and the eradication of hostility against women, especially sexual harassment in the workplace.

The International Labour Organization (ILO) accepted the Violence and Harassment Convention (No. 190) and its accompanying recommendation (No. 206) at its Centenary Conference in June 2019. Convention No. 190 and Recommendation No. 206, afford a common agenda intended for preventing, remedying, in addition to eliminating violence as well as workplace harassment, counting gender-based aggression and violence. For the first time in international law, the Convention acknowledges the right of one and all to a world of jobs liberated from violence, as well as the need to respect, promote, and achieve that right (Art. 4(1))¹⁴. Convention No. 190 is premised upon the idea with the aim of guarding anyone who may be subjected to workplace violence or harassment. It safeguards workers and other individuals in the workplace.

The Convention and Recommendation recognise that avoiding and eliminating workplace violence and harassment entails Members to respect, promote, and comprehend elemental workplace ethics and rights, as well as advocate decent work(Art. 5). In regards to fairness and equality before the law, the Convention encourages Members to pass laws, rules, and regulations that favor the rights of all people, in addition, to non-discrimination policies to include women workers and people who belong to a particularly susceptible group or groups in vulnerable circumstances who are inexplicably affected by violence and harassment(Art. 6)¹⁵.

THE REGULATORY FRAMEWORK OF DEVELOPING NATIONS OF SOUTH ASIA

Victims who have been sexually harassed are unsure who to approach in the lack of a process to rectify occurrences of sexual harassment. The absence of a framework shows that the system does not acknowledge or prioritise these issues, implying that prejudice and violence are implicitly condoned. Since workplace sexual harassment was initially recognised as a type of

¹⁴ Decent Work for Domestic Workers Convention, 2011, art.4(1)

¹⁵ Decent Work for Domestic Workers Convention, 2011, art.6

sex based prejudice, many countries have implemented anti-sexual harassment legislation. Sexual harassment is regarded as a crime and is forbidden under all laws, including labor, criminal, and civil laws. Under this study, a brief analysis is done of the laws of the selected developing nations, which is presented below.

INDIA:

In 2013, the Government passed the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redress) Act. This Act defined sexual harassment, outlined the system for lodging a lawsuit and conducting an investigation, and specified the appropriate course of action.

The Vishaka guidelines¹⁶, which had previously been in force, have been broadened. The Supreme Court established the Vishaka rules in a 1997 ruling. This occurred in a lawsuit brought forward through women's rights organisations, one of them being Vishaka. Public interest litigation was opened up for Bhanwari Kali, a social worker from Rajasthan, who was allegedly gang-raped. She had stopped the wedding ceremony of a one-year-old daughter in 1992, resulting in the claimed gang rape as a form of retaliation. The Vishaka guidelines defined sexual harassment and set three key responsibilities on establishments: prohibition, prevention, and redressal. The Supreme Court ordered that a Complaints Committee be established to investigate complaints of sexual harassment of women in the place of employment. These guidelines were widened by the Act of 2013. It stipulated that each department or unit with ten or more employees shall establish an Internal Complaints Committee (ICC). It established protocols and defined numerous components of sexual harassment, such as the aggrieved victim, who might be a woman employed or unemployed, any age, who contends to be subject to any conduct of sexual misconduct. This implied that the Act safeguarded the rights of women either working or accessing the workplace in any position.

¹⁶ *Vishakha and others v State of Rajasthan* ((1997) 6 SCC 241)

Under the 2013¹⁷ Act, sexual harassment¹⁸ includes “any one or more” of the following “unwelcome acts or behaviour” committed directly or by implication:

- * Physical contact and advances
- * A demand or request for sexual favours
- * Sexually coloured remarks
- * Showing pornography
- * Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act 2013 in India states that it is the responsibility of the employer, to "provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and matters connected therewith or incidental thereto."¹⁹ This means that steps are required to be taken to avoid or deter sexual harassment at the workplace, and also offering appropriate training, as well as providing mechanisms in favor of the mediation, settlement, or execution of acts of sexual harassment. 2013 Act expressly states the following obligations of an employer and/or the competent government in the deterrence of sexual harassment in the workplace²⁰. These are stated as below:

- Establish an appropriately safe environment in the workplace, including protection from third parties (outsiders) who may come into touch with employees.
- Showing the legal ramification of sexual harassment.
- Information on the grievance management systems, including the Internal Committee, should be displayed.
- Arrange training and awareness programs on a frequent basis to educate personnel about the Act's provisions.

¹⁷ Sexual Harassment Of Women At Workplace (Prevention, Prohibition And Redressal) Act, 2013, Preamble

¹⁸ Sexual Harassment Of Women At Workplace (Prevention, Prohibition And Redressal) Act, 2013, s 2(n)

¹⁹ Sexual Harassment Of Women At Workplace (Prevention, Prohibition And Redressal) Act, 2013, s 19

²⁰ *Ibid*

- Conduct training sessions for the Internal Committee's members.
- Recognize sexual harassment as a violation of the service standards, and take appropriate action.

The Act also prescribes the Government's duty and responsibility toward deterrence of sexual harassment at the workplace and for the effective implementation of this Act.²¹

BANGLADESH:

In the case of Bangladesh National Women Lawyers Association (BNWLA) vs Government of Bangladesh and Others²², the Bangladesh Supreme Court defined "sexual harassment" and issued a mandate to safeguard girls children, and women from sexual harassment at the workplace and in the academic system in both the public and private fields, and these guiding principles were required to be adhered to till the appropriate laws have been made. The Court based these instructions on a variety of sexual harassment statements, as well as constitutional principles, human rights mechanisms, and international legal precedent. The Court expressly cited sections 19(1), 26, 29, and 31 of the Constitution²³, noting that the idea of gender parity inherent in the Constitution includes sexual harassment deterrence.

The 2009 High Court Guidelines for Sexual Harassment defined the offence and provided punishment for abusers, but the victim received little assistance beyond counseling. Furthermore, the labor code and gender-based violence policing frameworks are also severely lacking. As a result, along with amending the law, adequate application and oversight should be ensured. The country's labour legislation does not even describe workplace harassment or violence. Section 332²⁴ of the Bangladesh Labour Act, 2006 stipulates that no individual of any organization should act indecently or unmannerly with any hired female, or in any way that is offensive to that lady's modesty or honour.

²¹ Sexual Harassment Of Women At Workplace (Prevention, Prohibition And Redressal) Act, 2013, s 20

²² *Bangladesh National Women Lawyers Association (BNWLA) v Government of Bangladesh and Others* (2008) Writ Petition No. 5916/2008

²³ Constitution of the People's Republic of Bangladesh, 1972, ss 19(1), 26, 29, and 31

²⁴ Bangladesh Labour Act, 2006, s 332

NEPAL:

The Government of Nepal has enacted particular law regarding workplace sexual harassment having the purpose of protecting everyone's right to occupation and providing a protected workplace setting. On February 20, 2015, the Sexual Harassment at Workplace Prevention Act, 2015 (2071) ("Sexual Harassment Prevention Act" or "Act") went into effect. The Sexual Harassment Prevention Act prohibits sexual harassment in the place of employment, which is defined as any location used by (a) government entities, (b) entities owned (wholly or partially) by the government, (c) corporate bodies or institutions established in accordance with prevailing laws, and (d) any firm, institution, or corporate body registered or licensed to carry out any business, trade, or provide services.²⁵

Because the Act purports to make available a broad understanding of the workplace in terms of physical location, if such bodies have been functioning out of temporary shelters like tents following the earthquake, such tents would likewise be considered "workplace" for the Act. Employees and workers engaged by entities (even contract workers) are protected under the Act, as are customers (and persons escorting the customers) who pay a visit to the workplace to obtain services. The Act is also gender neutral and provides protection to women as well as men, unlike other nations' legislations which protect only women.

PAKISTAN:

The government of Pakistan passed the Protection against Harassment of Women at Workplace Act in 2010, to give legal protection to women and decrease the gender gap that occurs in the workplace owing to harassment. Sexual harassment in the workplace has finally been recognised as a criminal offence. This Act is built on the notion of providing men and women with equal opportunities without fear of discrimination. The 2010 legislation asserts in its preamble that it will protect women from workplace harassment while upholding their dignity. However, several of the Act's flaws, which are being noted, are immediately obvious

²⁵ Sexual Harassment at Workplace Prevention Act, 2015

in its definitions. Section 2(h)²⁶ of the Act defines harassment as "*any sexually inappropriate advances, request for sexual favours, or other oral or nonverbal interaction or physical unwanted physical contact, or sexually dehumanising attitudes, interfering with work productivity or generating an intimidating, hostile, or abuse in the workplace, or the aim to condemn the plaintiff for refusing to abide with such a request or a condition of employment.*" The Act's moral and practical flaws began to surface, and its poor implementation techniques were called into doubt.

The Protection Against Harassment of Women at Workplace (Amendment) Act, 2022, was notified by the Pakistani Parliament and officially adopted into law. Legal experts describe it as a "revolutionary step" because it expands and strengthens the scope of the significantly weaker 2010 law. The new statute concept of gender discrimination hence will no longer be limited to workplace sexual harassment. Non-contractual workers, freelancing artists, remote workers, trainees, students, artists, sportswomen and volunteers, and many others, will be protected. A workspace will not only be a standard office location, but will also include virtual offices, roads, gyms, and other places where employees go to work. The definition of a hostile environment is clarified. Defamation lawsuits brought against the complainant (victim) will be considered retaliation. It is gender-neutral legislation. Under the new law, cases will be resolved in 90 days. Child-friendly processes will also be considered under the law.

SRI LANKA:

The Constitution guarantees the right to equality²⁷ and the liberty to employ in any legal activity, occupation, trade, industry, or enterprise²⁸. As a result, sexual harassment is a sort of violation of the rights listed here. If the assaulter is an executive or managerial official, a victim of sexual harassment may initiate the case of fundamental rights on these grounds.²⁹ Furthermore, the victim of sexual harassment who suffers physical or emotional harm can claim a remedy under Article 11 of the Constitution. Furthermore, because Sri Lanka is a signatory to the First Optional Protocol to the International Covenant on Civil and Political

²⁶ Sexual Harassment at Workplace Prevention Act, 2015, s 2(h)

²⁷ Constitution of Democratic, Socialist, Republic of Sri Lanka, 2020, art.12(2)

²⁸ Constitution of Democratic, Socialist, Republic of Sri Lanka, 2020, art.14 I G

²⁹ Constitution of Democratic, Socialist, Republic of Sri Lanka, 2020, art.17 and art.126

Rights, a victim can seek help from the Human Rights Commission. According to Sri Lanka's Women's Charter, men and women are entitled to have equal rights and opportunities in employment settings and wages. It also emphasises the right of women to work. The main piece of legal document in Sri Lanka is the National Level Legislation on Sexual Harassment Penal Code. Sexual harassment is defined in the Penal Code as "*unwelcome sexual advances by words or action used by a person in authority, in a working place, or in any other place.*" Sexual harassment in Sri Lanka is recognised as a criminal offence.

RESPONSES AND CHALLENGES

Irrespective of how many generations pass, women's predicament is unlikely to alter. Women have been subjected to prejudice, abuse, violence, humiliation, embarrassment, and a variety of other kinds of atrocities over the centuries. All people are entitled to the same rights under the Human rights ideals and the Constitution of the particular country, which is the nation's ultimate authority. The right to democracy, on the other hand, is a lie for masses of women who are often constantly threatened with violence. Notwithstanding all of the legislation and Acts for women enacted by both the legal system, countless women continue to be victims of sexual violence, despite the legal and fundamental safeguards they enjoy. The following are some of the elements that obstruct the application of legal protection.

Limitation of victim-centered services: Women's fear of reporting rape, not just to the authorities but even to their relatives, is exacerbated by the shame they experience at home and in society. The authorities fail to give maximum support services to women who have been sexually abused and are deciding whether or not to submit criminal complaints. Although the legislations exist and the International norms are followed for a number of years, the implementation of legal sanctions, in reality, is fully not achieved.

Hostile environment: A challenging setting develops as a result of sexual misconduct at the workplace, and the victims prefer to internalize the problem, attempting to conceal what occurs at work. They are concerned that their colleague will form an incorrect image of her

character, and that the management would react by reducing her job rewards and prospects for promotion. As a result, she wants to keep the problem hidden and suffer in silence.

Structure of hierarchy or the power of domination: In the structure of hierarchy Inequality in the workplace is caused by system policy. This is because some people are in lower positions and others are in higher positions. This results in a considerable flux of domination at work, increasing competitiveness among the inferior (co-workers) and allowing sexual harassment misconduct to be used against them at work.

The vulnerable position of women: Disadvantaged women, like those who are single mothers or who are young, are more likely to be harassed at work. The way women are depicted at work is influenced by culture and society's ideas of them as tender to be objects of desire or attractive to men. Because of their vulnerable status, some people believe they invited sexual misconduct. Women who are required to work due to economic necessities and to improve family economics, and who are the breadwinners, are compelled to be at work to provide for their families.

Poor system of monitoring: Women's harassment in the workplace is not always monitored in some companies. Sexual harassment is less common in government organisations due to special legislation and monitoring. However, hostile work environments may occur more frequently, either directly or implicitly. Sexual harassment is tolerated because of a lack of adequate work policy development in all organisations, whether public or private.

CONCLUSION

Due to gender disregard for offences, the severity of sexual offences against women has escalated over the period in societal structure. In so many instances, there appears to be a lack of testimony, with the relevance of age proving the primary basis of the low recidivism rate. The legal system is totally skewed, and the victim receives no pity or compassion. Many perpetrators were previously acquitted on the premise of 'assumed consent,' which is frequently deduced from the avoidance of damage. Sexual harassment has been deeply enrooted in the system which necessitates strategic policy development. One of the most

important steps in combating sexual harassment and maintaining a safe working environment is to develop and implement a detailed policy on the subject.

The goal of such a strategy will be to develop the behavior and attitude of both males and females in the workplace, as well as to create a welcoming climate at the workplace for both. Changing mindsets, not circumstances, is the key to coming up with a solution. Such offenses are naturally decreased in a community wherein boys and girls are educated to value each other and are considered equal. In addition to making public space available to people of all genders, gender norms must be deconstructed, and inequity relations must be resolved.