



# Jus Corpus Law Journal

Open Access Law Journal – Copyright © 2022 – ISSN 2582-7820

Editor-in-Chief – Prof. (Dr.) Rishikesh Dave; Publisher – Ayush Pandey

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## Legal and Social Mindset regarding Sexual Harassment of Women

Ajay Kumar Yadav<sup>a</sup>

<sup>a</sup>Ramaiah College of Law, Bangalore, India

*Received* 12 December 2022; *Accepted* 22 December 2022; *Published* 28 December 2022

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*This paper addresses the standpoint of the growing issue of women being physically and sexually abused. Women who have been assaulted and humiliated developed mental health issues. People may have suicidal thoughts and attempt suicide as a result of cultural pressure. To address the growing issue of women being physically and mentally abused, immediate action is required. “To address the concern about sexual abuse, society, and the government should establish and enforce specific legislation. The paper takes into account the multiple concurring and conflicting nature of the general public regarding women. As a result, it is critical to influence a shift in general thinking and attitude. Current rules must be strictly enforced to appropriately protect women.*

**Keywords:** *sexual harassment, women, mindset.*

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### INTRODUCTION

Women's status and standing have been in charge since the beginning of time due to their inherent fluidity. There have been significant changes in the status of women in society from the Vedic era to the present. Women have endured the full gamut of life's ups and downs, from the

grandeur and respect they attained during the Vedic period to the persecution and servitude they faced throughout the post-Vedic era, to their current struggle for equality, acknowledgement, and survival. Women have maintained their subordinate position during each of these crises. To get a deeper insight into the past, we can look into the Vedas, Gita, Mahabharata, Ramayana, Arthashastra, Dharmashastra, and several similar ancient literary works. This has been the case in the majority of cases. Women are expected to endure various forms of abuse and assault, as well as having their rights to be treated with decency and respect in everyday life violated. By far the most heinous and repulsive of all crimes is assaulting and harassing women.

Violence against women encompasses a wide range of distressing customs, repressive behaviours, and violent acts committed against women. It addresses a woman's verbal abuse, mental pain, financial reliance, social rejection, and physical assault. Violence against a woman is the most serious crime that can be committed against another person because it directly violates her human rights. No woman is born to be horrifically mistreated and has her right to life and liberty denied. Regardless of social status or upbringing, the great majority of women will endure physical or sexual violence at some point in their lives.

Dowry-related violence, dowry deaths, infanticide, female foeticide, forced prostitution, sexual abuse, physical or verbal abuse, rape, trafficking of women and young girls, and other atrocities are only a few examples. Other varieties contain even more heinous operations. They are the victims of abuse and neglect in all aspects of life, and they face discrimination in all human endeavours.<sup>1</sup> As a result, these habits affect women in almost every aspect of their life, including marriage, early childhood, the home and workplace, school, and employment. Women are thought to have fewer rights than men due to their various societal positions and essentially different physical and biological makeups. Women's skills are typically undervalued because they are perceived as housewives and caregivers. As a result, they are thought to be incapable of performing all of the obligations performed by male members. Furthermore, this creates the impression that women are less qualified than men to fulfill these responsibilities. Men believe

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<sup>1</sup> H. O. Agarwal, *International Law and Human Rights* (15<sup>th</sup> edn, Central Law Publication 2008)

they are in a position to demonstrate their power and control over women, which is the sole explanation for this occurrence. In its most fundamental form, savagery is an act of power and enmity that violates the target's independence and character.

The illegal use of force against another person's free will without that person's agreement to control them is defined as violence. As a result, violence is a form of coercion. Finally, it is widely acknowledged that the concept of violence is difficult to grasp. This is because violence is a multifaceted phenomenon that is highly ambiguous and subject to societal perception. It is fundamentally complicated and all-encompassing because no single act can be labelled as violent or abusive. Misuse can be verbal or physical abuse, individual or collective action, ongoing interaction or a one-time incident, or something even worse. We must rely on other sources of knowledge because neither the perpetrators nor the victims can adequately describe or analyze the act through observation alone.

Because the concept is dynamic and multifaceted, it is critical to have a thorough understanding of it before dealing with it. Gender-based violence is the most sensitive issue on the current global human rights agenda. Gender-based violence is common in India, according to different sources and perspectives, and affects all socioeconomic groups and communities. Despite this, there is no data on the prevalence of gender-based violence in the country. This appears to be the case. Gender discrimination affects all aspects of life, including the home, society as a whole, and access to education, resources, and decision-making power. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), also known as the Treaty for Women's Equality, is a seminal international agreement that acknowledges women's global equality and fundamental human rights.

Another name for it is the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). The CEDAW convention establishes a practical framework for each country to improve the status of women and girls. In 1993, India introduced legal provisions that had a direct impact on the acceptance of this agreement. Although the United Nations General Assembly did not ratify the Convention on the Elimination of All Forms of Discrimination against Women until 1979, practically all of the world's most powerful countries have made

considerable progress toward recognizing gender-based violence as a human rights concern". However, the current state of affairs demonstrates that just implementing norms and conventions has not resulted in the desired effect and that there is still a serious issue that must be addressed because it is ubiquitous and deeply established.<sup>2</sup> This is because there have been far higher incidences of female victimization in all countries. Abuse of any form, including rape, domestic violence, molestation, sexual abuse, and eve-teasing, is now a common criminal offence that is almost always documented. Mistreatment includes both verbal and physical abuse.

In contrast, each of these occurrences is a distinct example of what is known as sexual harassment or sexual misbehaviour against women in general. These are all distinct examples. Gender-based violence is a great example of women's subjugation, as well as men's superior status and authority in society. It is equally important to remember that a woman may be the victim of verbal or physical abuse from an unknown or well-known someone. It is critical to remember this truth at all times. Several times, members of the same family, as well as their friends, relatives, or co-workers, have been implicated in the crime. When all of these factors are considered, it is not unreasonable to believe that a woman in today's society is not even safe in her own home.

## LAW RELATING TO SEXUAL HARASSMENT

Sexual harassment is prohibited by the Indian Penal Code, which was enacted in 1860. The definitions of "rape" and "stalking" are also incorporated in the Code. However, the terms "molestation" and "eve-teasing" are not defined. The offences, as well as their components and accompanying punishments, have been defined. The offence of eve-teasing is addressed in Penal Code sections 509<sup>3</sup>, 294<sup>4</sup>, and 354<sup>5</sup>. Section 509<sup>6</sup> makes it criminal to violate a woman's modesty

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<sup>2</sup> S. C. Srivastava, 'Sexual Harassment of Women at Work Place: Law and Policy' (2004) 39(3) Indian Journal of Industrial Relations

<sup>3</sup> Indian Penal Code 1860, s 509

<sup>4</sup> Indian Penal Code 1860, s 294

<sup>5</sup> Indian Penal Code 1860, s 354

<sup>6</sup> Indian Penal Code 1860, s 509

by saying or doing anything with the intent to insult a woman's modesty. "Section 294<sup>7</sup> outlines the penalties for engaging in any obscenity, including singing or speaking any obscenities.

Section 354<sup>8</sup>, which prohibits the use of criminal force or violence on a woman to breach her modesty, imposes a similar penalty. Because modesty varies by location and Eve-teasing is not officially included in the Code, the concept of modesty has not been established.<sup>9</sup> There is no definition of Eve-teasing. Something that isn't considered a breach of modesty in the United States may be in India. What is called obscene in the United States may not be in India. Sexual molestation or abuse, in addition to this felony, is penalized under Section 354 of the Code". Sections 375 and 376 of the Indian Reformatory Code detail the procedures for the assault offence. The scope of Section 375's definition of rape was initially limited, but it has subsequently been broadened and modified to reflect modern culture.

The December gang rape in New Delhi that killed a 23-year-old student sparked a national outcry about the treatment of women in India and the culture of complicity that is believed to exist regarding sexual assault in India. The massive protests that occurred were the key reason that the law was changed. Attempting to pierce a woman by manipulating a body part; or, on the other hand, applying the mouth to a woman's private parts, etc., are now considered acts of rape and are punishable under Section 375<sup>10</sup> of the Criminal Code. Section 376<sup>11</sup> of the new law specifies harsher penalties for a variety of violent offences such as gang rape, acid attacks, and rape. Certain procedures have been put in place to punish rape violators when the rape victim dies or is left in a vegetative state as a result of the rape. These modifications have been implemented.

It also harshly punishes people who commit rape regularly. In addition to these preventative measures, the government and courts have enacted a slew of rules and regulations to protect women across the country. Special laws, for example, have been put in place in Delhi to protect

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<sup>7</sup> Indian Penal Code 1860, s 294

<sup>8</sup> Indian Penal Code 1860, s 354

<sup>9</sup> C. MacKinnon, *Sexual Harassment of Working Women: A Case of Sex Discrimination* (Yale University Press 1979)

<sup>10</sup> Indian Penal Code 1860, s 375

<sup>11</sup> Indian Penal Code 1860, s 376

women's safety when taking public transportation. Adequate new legislation has also been enacted. "There have also been produced specialized phone applications that might assist you in finding someone. Along with ratifying CEDAW in 1993, India passed the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressed) Bill, 2012 on February 26, 2013, to establish a strong framework for the defence of women's human rights. This act was enacted to address the issue of workplace sexual harassment of women. However, there are serious flaws in the Indian legal system that must be addressed, most notably the lack of a thorough explanation of specific crimes such as eve-teasing and the corresponding jail time". It is critical to have a comprehensive set of laws in place to account for such acts and keep society safe.<sup>12</sup>

### **CAUSES OF SEXUAL HARASSMENT AGAINST WOMEN**

The patriarchal structure of Indian society, in which male members are considered superior to female members, is the fundamental reason women are subjected to the aforementioned inhuman acts and violations of their right to live in dignity. The terms "dominance" and "submission" are frequently used to characterize the distinct roles that men and women play in society. It is traditionally customary for men to dominate over women and for women to be obedient. Since the dawn of time, women have been seen as the most vulnerable category. Any grandeur bestowed to women in ancient and Vedic civilizations was lost as a result of writers such as Manu confirming and championing a low position for women in their writings. Manu believes that a woman should never seek freedom. She should be subservient to the authority of her male family members and live her entire life under their watchful eye. In her capacity as a daughter, she should have a dependent connection with her father, her husband in her capacity as a wife, and her son in her capacity as a widow.

These attitudes and beliefs have harmed women's place in our culture. Males do not respect women's modesty and decency because of the way they think and were raised, which is a large part of the problem. Because of physiological and cultural qualities related to the notion that

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<sup>12</sup> G.S. Venumadhava & M. Tejashwini, 'Sexual Harassment of Women at workplace' (2015) 3(5) International Journal of Advanced Research

women are delicate and feeble, men are viewed as more remarkable than women. Because they are physically feeble and unable to defend themselves, they are easy targets for abusers. As a result, they are an easy target.

For a multitude of reasons, women are far more likely than men to withstand obscene behaviour, including the fact that women regularly require authority, frequently find themselves in risky or uncertain situations, frequently require self-assurance, and frequently experience peace. One of these virtues is reserve. The sensitivity of their words and acts, as well as their reliance on their relatives and siblings, have all contributed to the popular assumption that women lack the abilities required for effective self-defense. One of the key defences advanced by society for such activities is the victims' clothing preferences and features. This is especially true in cases involving rape. Some social professionals and politicians believe that women's lives attract men to approach them and participate in sexual harassment. Several claims and emphasises have been made in recent years. Wearing sleeveless dresses, enjoying evening activities with friends, keeping cordial connections with male family members, and so on are some of the excuses stated by individuals who prefer blaming the victims rather than the abusers and perpetrators. Following a violent occurrence, it is more common to blame the victim and make them appear to be the cause of the criminal's actions rather than to provide them support and sympathy.

However, it is critical to recognize that women of all ages, particularly young girls, are vulnerable to sexual assault. Any woman is vulnerable to sexual assault, from young women who attend early-am parties to elderly women who attend morning temple ceremonies. Those that abuse their position are likely to be a diverse group, whether they wear western apparel or traditional sarees. One factor contributing to the rise in reported instances is female victims' incompetence or refusal to disclose sexual harassment. They are cautious to disclose more incidences of this sort because they believe that doing so may exacerbate their victimization.<sup>13</sup>

As a result of the legal action they pursue, they will be the subject of intrusive and unpleasant interrogation because of the questions they ask about themselves. Furthermore, to demonstrate

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<sup>13</sup> A. Thomas, 'Incidents of Sexual Harassment at Educational Institutions in India: Preventive Measures and Grievances Handling' (2015) 3(2) International Journal of Recent Advances in Multidisciplinary Research

their superiority over the other gender, men mistreat and exploit women to obtain power. These crimes are frequently committed for the cause of vengeance, anger, or pure entertainment. This is because civilizations have not yet grown and advanced to the point where they appreciate the importance of women's rights. A big contributing factor is the drinking and intoxication of persons who conduct these types of crimes while taking addictive substances. Furthermore, the vast majority of women's abusers are uneducated or illiterate. These folks lack the requisite information, preventing them from recognizing women's beauty. As a result, more similar instances have occurred across the country.

### **SOCIAL MINDSET REGARDING SEXUAL HARASSMENT**

When a woman is subjected to sexual abuse and badgering in the form of crimes such as eve-prodding, attack, or, in the most extreme case, assault, she suffers an injury that is impossible to quantify. This is because each woman's assault and experience are unique. Being morally and socially degraded and rejected leaves a victim with a stigma that is permanently attached to her dignity and character. No one can bear the terrible emotional anguish. Women who are teased find it nearly impossible to travel the same streets or work in the same place because they are aware that they will be subjected to serious forms of abuse in the form of profane gestures and statements. This is because eve-teasing makes it incredibly difficult for guys to navigate the same streets as women. Furthermore, it causes emotional and psychological instability, which disrupts the person's daily pattern even more. Sexual assault, sexual exploitation, and harassment, on the other hand, have serious and long-lasting consequences. They create a lifelong mental scar that makes reintegration into society more difficult.

This is because of the notion that they are not accepted by society. Instead of receiving help and support from others, the injured person must deal with increasing marginalization by society as a whole, and even by members of their own family. Some of the women who have been assaulted and humiliated develop mental health issues. People may have suicidal thoughts and attempt suicide as a result of cultural pressures. Even family members may resort to such harsh



tactics.<sup>14</sup> According to a recent study, young girls who have experienced sexual assault have a variety of physical, biochemical, and behavioural issues, some of which can last for decades.

Women who have been harassed or humiliated exhibit low self-esteem, as well as worry, remorse, helplessness, rage, embarrassment, despair, and apathy. As a result, these offences have a significant negative impact on the lives of women in a variety of ways. They are not only a kind of physical abuse, but they also cause the victim to suffer mentally and emotionally for the rest of their lives. Rape, especially in the context of marriage, causes a wife's core to be disturbed, resulting in humiliation and suffering. A bad concept affects women on a mental and emotional level, and what makes it worse is the worry they feel about having to face it and get through it without incident. This self-inflicted silence and compliance to rape have a tremendous influence on women's deep, mental, and psychological health.

Long-term symptoms like insomnia, eating disorders, dysfunctional sexuality, loss of confidence, and the formation of a poor self-image are some of the extreme repercussions that victims may experience. Extreme symptoms that patients may suffer include the following: In addition to these distinguishing characteristics, extreme impacts may exhibit the following characteristics: Children who witness daily violence in their homes are more prone than other children to exhibit emotional and behavioural problems. These may also lead to a person acting aggressively in the future or becoming a victim of violent behaviour.<sup>15</sup>

## CONCLUSION

To address the growing issue of women being physically and sexually abused, immediate action is required. "To address concerns about sexual abuse, society, and the government should establish and enforce specific legislation. These regulations should focus on specific instances, such as child sexual abuse. The media and law enforcement may also play an important role in informing women about their rights and the options available to them. The conduct of law enforcement officials who investigate and prosecute crimes against women must be governed

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<sup>14</sup> M. P. J. Pereira & E. J. Rodrigues, 'Sexual Harassment at Work Place in India Medico Legal Aspects' (2014) 306(4) *Journal of Indian Academy of Forensic Medicine*

<sup>15</sup> L. I. Gerdes, *Sexual Harassment* (Greenhaven Press 1999)

by state legislation. Despite the state's and its authorities' best efforts to create a safe environment for women in society, harmful behaviour persists and weakens societal cohesiveness.

To instill a sense of security, it is critical to offer women more authority through legislative changes and societal changes. Non-governmental organizations (NGOs), schools, and colleges must educate and raise awareness among females for them to be able to protect themselves from sexual assault and harassment. They must be taught how to report physical abuse as well as how to retaliate and battle it". Parents are also critical in achieving this goal, which is to ensure that their children receive an appropriate and healthy education. It is critical to change men's attitudes and conduct toward women all around the world. They should be taught to appreciate women's beauty rather than seeing them as simply food for their nasty cravings. This should be taught to them.

As a result, it is critical to influence a shift in the general public's thinking and attitude. Furthermore, current rules must be strictly enforced to appropriately protect women. The freshly passed Criminal Law (Amendment) Act of 2013 is a significant advance for India's parliamentary assembly. It not only introduces a slew of new laws, but it also stiffens the penalties. Despite this, claims of criminal activity persist. This demonstrates that the current system is incapable of appropriately addressing the problem of violence against women. There is still work to be done before society can be considered a safe environment for women.