

Workplace Harassment Beyond Gender Stereotypes: A Legal Study on the Rights of Male Employees

¹Jaishree Soni, ²Dr.Savyasanchi Pandey

¹LLM Student, ²Assistant Professor

^{1,2}Department of Law, Kalinga University Raipur C.G.

¹shreadv09@gmail.com, ²pandey.Savyasanchi@kalingauniversity.ac.in

ABSTRACT

Sexual harassment in the workplace affects individuals of all genders, yet the victimization of men is often overlooked. This essay aims to shed light on this issue, explore its implications, and suggest strategies for prevention. Men experiencing harassment may feel ashamed or powerless, hindering reporting. Despite underreporting, research suggests a significant number of men face workplace harassment, fueled by traditional notions of masculinity and fear of consequences. This silence perpetuates the cycle of abuse. Harassment can lead to emotional distress, career setbacks, physical health issues, and toxic work environments. To combat this, employers must foster safe reporting environments, provide comprehensive anti-harassment training, offer support services, conduct fair investigations, and promote gender equality. Addressing societal norms and stereotypes surrounding masculinity and victimhood is crucial. By breaking the silence and promoting a culture of respect and empathy, we can create safer workplaces for everyone.

INTRODUCTION

This study focuses on the under reporting of sexual assault against boys and men as well as the lack of awareness of the issue. The information gathered comes from 115 respondents who represented a range of ages and professions. Most of them hold the viewpoint that males and boys can, also, be sexually harassed and that females can also be a sexual offenders, while a small number hold the viewpoint that neither males nor women can sexually assault anyone.

When it comes to sexual assault, men are frequently or always thought to be the attackers rather than the victims, while women are thought to only be the victims and never the attackers. Since the dawn of time, people have held this assumption that men are more likely than women to assault one another, regardless of the circumstances. Most individuals respond "No" when asked if a guy can be sexually abused because they contend that men can never be a victim of sexual assault.

As with any other crime, sexual harassment of males is a common occurrence that requires the attention of the public and legislators. While some people may concur that men are raped in jails, the majority of people do not bother to consider the possibility that sexual attack against men and boys occurs on a much larger scale than they realize or care to consider. Many Indians still view homosexuality as a taboo and a disease, so homosexuals still have a long way to go. The Supreme Court's ruling decriminalizing willingly sexual relations between grownups from the same gender, which were previously illegal under Section 377 of the IPC, is still despised by many Indians. Therefore, the thought of a male fellow of society being raped, by either gender, still has an elongated road to go before it becomes accepted by the people in a nation like India, where people were not even ready to encirclement homosexuality as a normal marvel and thought it to be an offensive two years ago.

Sexual harassment targeting males

In general, crimes are against society. It does not discriminate against any caste, gender, religion, or region. Another horrible crime, sexual battering can happen to anyone, regardless of their age, sexual orientation, or even gender. Any unwanted or inappropriate sexual gesture toward anyone is considered sexual harassment. It conceals an extensive range of behaviors, including sexual assault and asking for a sexual favor in exchange for something. The problem of wrongdoing against females has constantly been more severe. Several sexual offenses are committed against women. The laws of many nations have passed various provisions to cope with such horrible crimes, yet there is no comparable law that is satisfactory for men. As previously stated, the absence of such laws for males does not preclude sexual offenses against men from occurring; crime knows neither caste nor gender; it can occur against any man.¹

Sexual attacks on a man can occur anywhere, including in schools, public transportation, and colleges, as well as in their private space. However, the majority of sexual assaults on males occur at work, usually by a coworker or boss. They may be assaulted in a variety of ways, including the demand for sexual favors, the removal of their clothes, the handling of their genitals without their consent, and many more. An additional issue with sexual assault on men is that they might be assaulted by both gender perpetrators. Many men have been raped by male friends; A man named John Kelly was violated by his man companion.

Sexual harassment endured by men within work settings

¹Donovan, M. A., & Drasgow, F, Do men's and women's experiences of sexual harassment differ? An examination of the differential test function of the sexual experiences questionnaire, 265-282 (Military Psychology 1999)

Sexual attacks in the work are increasingly widespread, resulting in job loss, stress, and financial hardship for the victim. According to the EEOC (Equal Employment Opportunity Commission) data from 2015, almost 6822 sexual harassment accusations were submitted to the EEOC. Approximately 17.1% of the 6822 claims were completed by men who claimed to have been sexually violated.

However, the true sum of male fatalities could be significantly higher, nonetheless, there are no accurate statistics that can guarantee how many guys have been harassed. Similarly, according to PEW research numbers 2014, 25% of women and 13% of men aged 18-24 had been sexually harassed online. It is possible to believe in this patriarchal society that no guy may be bothered by women. Men may refuse to seek justice because they are ashamed or fear being mocked by their colleagues if the specifics of the assault are exposed.

The Equal Employment Opportunity Commission defines workplace sexual harassment as "that which affects an individual's employment, his working performance, and other factors." The figure of cases of sexual harassment against men by women or other men is constantly increasing. Male sexual harassment claims are becoming increasingly common, especially after the United States Supreme Court ruled in 1998 that men are protected from workplace sexual harassment under Title VII of the Civil Rights Act.² The EEOC has released several incidents in which men have been sexually assaulted. Two young men reported sexual harassment at a New Jersey supermarket shop in one such case. In this particular instance, two young men began working as assistant managers at that supermarket store in 1999. They abandoned their jobs one by one after a few days, claiming that they were sexually abused. Their female supervisor has abused them by requesting sexual favors and using other unpleasant language. The first man was fired for not doing anything for his boss, while the latter departed because his female boss spread false information about his involvement with his boss.

Data and documentation regarding instances of sexual harassment perpetrated: Men

Between April 2005 and April 2015, surveys performed by the Save Family Foundation and My Nation Foundation surveyed almost 100,000 men via the Internet. They discovered that around 98.2% of men had experienced major domestic violence from their spouses and in-laws. Men are subjected to physical, verbal, economic, sexual, mental, emotional, and financial abuse.

1. 34.3% of men were affected by economic violence.
2. 28.6% of men were affected by physical violence,
3. 27.5% of men were affected by emotional violence
4. 20.4% of men were affected by sexual violence.

²Civil Rights Act, 1964, No. 78, Act of Parliament, 1964 (US)

5. The lowest violence that all the men surveyed faced was verbal abuse.³

Requirement for effective statutory legislation

The rising incident against males emphasize the need for gender-neutral laws in India - Sexual harassment incidents committed against men (with the perpetrator being a woman) such as the *Vijay Nair case* (famous cyber stalking case) are increasingly being reported, prompting the issue of whether India wants gender-neutral sexual harassment standards. The people responsible in all of these scenarios were women. Apart from the lack of legal recourse available to men in such cases, there is evidence that male victims of sexual harassment do not receive emotional support within their social circle; friends of male victims of sexual harassment are often dismissive of such incidents, instead, identifying the victim "lucky" to be desired by a woman. The fear of not being taken seriously is not the only reason men rather from reporting sexual harassment situations. Fear that a female perpetrator will wrongfully utilize sexual harassment laws implicate the male victim (by alleging that it was the man who sexually harassed her) As a result, many male victims of sexual misconduct don't submit official complaints. This concept was explored in the 2004 movie *Aitraaz*, featuring Priyanka Chopra and Akshay Kumar, whereby the protagonist, Raj Malhotra (played by Akshay Kumar), is sued for rape by his employer's wife, Sonia (played by Priyanka Chopra), when Raj refuses to bow down to Sonia's physical requests. According to a 2010 Economic Times-Synovate survey, "men are as vulnerable to sexual harassment as women" in India.

To safeguard women, the Sexual Violence of Women at Workplace Act of 2013, sections 354, 375, and 498A of the Indian Penal Code, among others as well, had been enacted. As stated by Justice Krishna Iyer, "A murderer kills the body, but a rapist kills the soul." Although understanding the repercussions of sexual assault, no legislation has been developed to protect men from acts like these. They give little help to males who have experienced assault. However, few other laws have been modified or utilized to provide some relief to children of all sexes. Sexual assault on a man is beyond a doubt an awful offense, and the government needs to concentrate on this increasing danger before it takes a deadly shape. The scope of sexual harassment legislation should be developed, and consistent laws ought to be passed to safeguard people's rights. The judiciary JS Verma committee's⁴ recommendation should be considered. Male humility needs to be recognized in legislation publications, and suitable measures ought to

³Smith, S. G., Zhang, X., Basile, K. C., Merrick, M. T., Wang, J., Kresnow, M., & Chen, J, *The National Intimate Partner and Sexual Violence Survey: 2015 data brief – updated release*. U.S. Department of Health & Human Services, Centers for Disease Control and Prevention (Oct 14, 2023, 10:05 PM),<https://www.cdc.gov/violenceprevention/pdf/2015data-brief508.pdf>

⁴Report of the Committee on *Sexual Harrasment of Women at Workplace (Prevention, Prohibition, Redressal Bill,2012)*, by J S Verma, Chairman,(New Delhi, Government Printing office, 2012) 23.

be included to avoid an assault on a male. Sexual discrimination laws ought to contain every conceivable aspect, as the misconduct is as tough to prove as it is to reject.

Sexual harassment is one of the most serious crimes. Sexual harassment is a major social issue that must be addressed in every way possible. Given the gravity of such an offense, the legislature has passed a number of acts and sections to combat such crimes against women. To protect women, the Sexual Harassment of Women at Workplace Act of 2013, sections 354, 375, and 498A of the Indian Penal Code, among others, have been enacted. According to Justice Krishna Iyer, "A murderer kills the body, but a rapist kills the soul." Despite knowing the effects of sexual assault, no legislation has been enacted to protect men from such crimes. They offer no recourse to males who have been sexually harassed. However, few other laws have been amended or adopted to provide some relief to children of all genders.

The United States Congress established this statute in 1964, making discrimination based on race, color, religion, or gender illegal. Title VII of the aforementioned Act forbids employers from engaging in any form of discrimination. It also pertains to sex discrimination. Using its provisos, the US Supreme Court ruled that Title VII of the Civil Rights Act protects males from workplace sexual harassment.

The POCSO act attempts to impose harsh punishment on people who commit sexual crimes against children. To deter aggravated sexual assault, punishment may include the death penalty or imprisonment, as well as a fine. This act is gender-neutral since it makes no distinction between boys and girls. However, such acts alone will not suffice to eradicate such heinous crime. The scope of such acts is extremely limited. The United States Civil Rights Act primarily relates to workplaces and addresses numerous civil rights and labor law purposes, whereas POSCO specifically addresses children.

Article 14 of the Indian Constitution guarantees the right to equality before the law. However, given the gravity of this act, the issue of whether or not Article 14 truly provides equal legal rights to men and women emerges. In my view, this doesn't seem to be the situation at hand. If both men and women have been sexually assaulted, why are the laws just for women and not for men? Why can't a man be dealt with fairly if he is sexually assaulted "just because he is a man"? Why are there no provisions to protect the rights of transgender people? In light of all of this, it does not appear to fulfill the aim of Article 14. In a comparable manner, Article 16 of the Indian Constitution mentions equal chance regardless of sex, nevertheless, there are numerous laws protecting women's rights but none defending men's rights. The primary concern is that, while Article 16 gives equal employment opportunities, it should also take the equal safeguard idea into account for both male and female employees. Article 21 of the Indian Constitution deals with the preservation of life and personal liberty and states that no individual shall be deprived of his life or personal liberty, yet it appears to fail in the instance of justice delivered to male sexual assault victims.⁵

⁵INDIA CONST.art. 21.

Indeed, we usually read about sexual harassment cases in which a woman has been harassed or abused, but men are now facing similar charges, though the amount of such crimes is lower than those against women. It was regularly claimed that an adult male was harassed in college or, more frequently, in jails, but these acts went undiscovered owing to a lack of proper legislation and other sociological factors. Sexual assault on a man in jail is a serious problem. Many times, the person has been raped in prison, highlighting the importance of laws to protect men. A man imprisoned in a US prison was assaulted by another man imprisoned in the same facility.

Promoting reporting and seeking resolutions for addressing workplace sexual harassment against men

Sexual harassment is a pervasive issue in the workplace, impacting both men and women. Nonetheless, one aspect that is frequently overlooked is the issue of sexual harassment against men. Uncovering and resolving this silent issue is critical for developing a corporate culture that values diversity, support, and a solid commitment to overcoming this challenge. The encouragement of reporting and the active pursuit of solutions are critical components of this process.

Starting the process of breaking the silence includes developing a transparent culture within the organization. Employees should be informed that they can report any sort of harassment without fear of retaliation. To achieve this cultural transition, leadership must take proactive actions to demonstrate a commitment to a safe and respected workplace. The use of open dialogue, town hall meetings, and regular communication channels becomes critical in demonstrating the organization's determination to prevent sexual harassment.

To encourage reporting, it is critical to educate staff about the complexities of sexual harassment in all of its forms. Many people may not perceive subtle behaviors or comments as harassment, therefore education is crucial in improving awareness. Workshops, training sessions, and informational campaigns can be organized to provide employees with the knowledge and resources they need to recognize and report inappropriate behavior. These programs should be all-inclusive, addressing both men's and women's experiences.

Creating a supportive environment involves furnishing resources for victims of sexual harassment. Counseling services, support groups, and access to mental health professionals become instrumental in aiding individuals to cope with the emotional and psychological toll of harassment. By acknowledging the impact on victims and providing resources to address their needs, organizations demonstrate a commitment to the well-being of their employees.

Encouraging reporting also entails fostering collaboration and bystander intervention. Colleagues play a crucial role in establishing a safe environment by intervening when they witness inappropriate behavior. Training programs can educate employees on how to be active bystanders, empowering them to support their colleagues. Promoting a culture where individuals watch out for one another contributes to a collective effort in breaking the silence.

Breaking the silence is an ongoing process that necessitates regular monitoring and evaluation of organizational efforts. Periodic assessments of the effectiveness of reporting mechanisms, the impact of educational programs, and the overall workplace culture are indispensable. Organizations should be willing to adapt and enhance their strategies based on feedback and changing circumstances to ensure a sustained commitment to addressing sexual harassment. In addition to internal mechanisms, organizations must ensure the existence of legal protections for individuals reporting harassment. Whistle blower policies can safeguard individuals from retaliation and provide a clear framework for reporting.⁶ Communicating and understanding the legal rights and protections available to employees further empowers individuals to come forward.

CONCLUSION

Regulations 2015, which feature a gender-neutral definition of sexual harassment, are arguably India's first gender-neutral sexual harassment statute. The Indian government might take the first step in this direction by conducting statewide surveys to identify the statistics of such crimes in India and inviting public debate on these topics. This would ensure that any legislation (if any) on this subject is well-informed rather than a knee-jerk reaction. Men are expected to be tough and strong, but that doesn't mean they don't suffer the same obstacles that women do. While we're talking about women's rights, we shouldn't forget about men's rights. The idea is to empower women rather than to elevate one gender above the other. Focusing solely on one gender is unjust, and unfair, and violates people's fundamental rights under Articles 14 and 15 of the Indian Constitution. This research sheds light on a pervasive yet often overlooked issue: the prevalence of sexual harassment against men in the workplace. Through a comprehensive examination of available data, we have illuminated the alarming frequency of such incidents, challenged preconceived notions, and emphasized the importance of recognizing the diverse manifestations of workplace harassment.

The scope definition provided in this study underscores the multifaceted nature of sexual harassment, urging a broadened perspective that encompasses various forms and impacts on both genders. By acknowledging the experiences of male victims, we contribute to a more inclusive dialogue that transcends traditional gender norms and fosters a workplace culture built on equality, respect, and dignity.

The legal landscape, as explored in this research, reinforces the imperative for proactive measures to address and prevent sexual harassment against men. Existing laws may offer a foundation, but our findings underscore the need for continual evaluation and enhancement of legislation to adapt to the evolving nature of workplace dynamics. Organizations must prioritize

⁶Beck, A. J., & Johnson, C. (2012). Sexual victimization reported by former state prisoners, 2008 (NCJ 237363). U.S. Department of Justice, Bureau of Justice Statistics. <https://www.bjs.gov/content/pub/pdf/svrfsp08.pdf>

the implementation of robust policies that not only comply with legal requirements but also cultivate an environment where all employees, regardless of gender, feel safe and empowered. As we navigate towards a more equitable future, employers, policymakers, and society as a whole must confront the challenges posed by sexual harassment against men. By fostering open conversations, challenging stereotypes, and actively implementing preventative measures, we can aspire to create workplaces that champion the rights and well-being of every individual.