

## **WHO DECIDES WHAT ‘OFFENCE’ IS? ANALYZING SEXUAL HARASSMENT WITHIN A SUBJECTIVE DOMAIN**

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### **ABSTRACT**

The issue of sexual harassment is one of the most debated in the present times. At a time when ‘consent’ and ‘offence’ are keywords that appear in the daily discourse, it becomes essential to analyze them. The paper discusses various scholars and their areas of specific studies pertaining to sexual harassment. The focus has been on the Sexual Harassment of Women Act in India which came into force in the year 2013 and the events that led to its realization. The paper then analyzes the contemporary issue of the popular social media campaign by the name of #MeToo which has re-opened debates, bringing issues such as dissent, anonymous complaints and accusations to the fore. The final argument entails that even though a legal cure is in place, the remedy for prohibition of Sexual Harassment remains incomplete till a social change and the basic realization for acknowledging fellow human beings with dignity does not see the light of the day.

**Keywords:** Sexual Harassment at Workplace, Feminist Movement, #MeToo Campaign

### **1. INTRODUCTION**

It has taken a long and intensely fought struggle on part of women all round the world to justify their presence outside the households within their respective workplaces. With decades gone by since the First Wave of Feminism<sup>1</sup> challenged the embedded patriarchy in the society, women today still continue to fight for a justified and dignified presence as a contributor to the workforce. Their struggle for equality, recognition and survival, however, is yet to reach a definite conclusion.

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<sup>1</sup> It was the first systematic demand that emerged for the rights of women that emerged during the French Revolution. Mary Wollstonecraft who is known as the Mother of Feminist Movement presented the charter of rights for the women to the then government of France demanding equal citizenship status for women.

With rapid industrialization and development in various spheres of economic domain the employment of women has also increased to a great extent. India however, is still witnessing an escalating women-workforce that feels insecure within their work environments. This directly hampers their efficiency as a worker, undermines their capabilities and deprives them of the opportunities within the workplace as a respected member of the work group. The reason for this is that a quantitative change does not always infer a similar change in the quality of the mindset that would normalize and consequently recognize the space women have carved out for themselves. Contrary to this, the steady increase in the rate of employment brings with it a plethora of evils which germinate from the seeds of a gender biased society. Physical and mental harassment and more specifically sexual harassment are manifestations of gender discrimination at workplace and also a direct infringement on the human rights of any individual. Catherine Mackinnon has defined sexual harassment as “unwanted imposition of sexual requirements in the context of relationship of unequal powers.” (Mackinnon, 1979).

Based on the prevalent understanding of the issue of Sexual Harassment and the ongoing contestation it has been facing from the male as well as the female community this paper aims to cater to a subjective understanding to the issue of Sexual Harassment as present in the literature of the past along with an analysis of the impact of sexual harassment in the present context through specific laws, peoples’ movements across the globe and social media surges have cropped up as potential platforms for anonymous expression.

## **2. THE SEXUAL HARASSMENT OF WOMEN AT WORKPLACE ACT, 2013**

Sexual Harassment at the workplace in India remains a serious offence. At the same time is also an issue that is not easily talked about or discussed. It was in 1997, that sexual harassment was looked at from a constitutional and legal lens in India. The Supreme Court of India chalked out the Vishakha Guidelines after the judgment of the *Vishaka and Others Vs. State of Rajasthan and Others*<sup>2</sup> case. The Supreme Court acknowledged sexual harassment at the workplace as a human rights violation. It was an attempt to protect women against sexual harassment at the workplace since the then civil and penal laws in the country did not contain adequate provisions to address this form of violence against women. The Vishaka Guidelines were to be “*binding and enforceable*” (Sexual Harassment of Women at Workplace Act, 2013) in law until a suitable legal cure would be in place. Before 1997, women workers did not have any other recourse other than lodging a complaint under sections of the Indian Penal Code. It was due to this that the employers and the workplaces did not have accountability towards the safety and security of their women employees (Chaudhari, 2008).

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<sup>2</sup> Vishaka and Others Vs. State of Rajasthan and Others (JT 1997 (7) SC 384)

S.C. Srivastava, (Srivastav, 2004) who has analyzed the cases and Act pertaining to the safety of women from a legal perspective discusses how the three judge bench of the Supreme Court in the Vishaka case observed that incidents like these infringe and violate the fundamental rights of 'gender equality' and the 'Right to Life and Liberty'. The act of sexual harassment if seen constitutionally is then a clear violation of the rights an individual is guaranteed under Article 14<sup>3</sup>, 15<sup>4</sup> and 21<sup>5</sup> of the Indian Constitution. As a corollary to that, the fundamental right 'to practice any profession or to carry out any occupation, trade or business' under Article 19(1) (g) also stands violated. It was the growing number of cases of sexual harassment in India that demanded an urgent and forceful law to be in action. After much deliberation, on 23<sup>rd</sup> April, 2013, 'The Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act, 2013' was brought into force as a comprehensive mechanism for ensuring a safer work environment for women and safeguard the vision of Vishaka guidelines.

The Act is comprehensive as it not only chalks out the redressal mechanisms for the course of complaints but also defines the meaning of the terms 'sexual harassment'<sup>6</sup> and 'workplaces'<sup>7</sup>. According to the Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act, 2013' the definition of 'sexual harassment' includes the following acts, whether carried out directly or implied:

- i) Physical contact or advances,
- ii) Demand or request for sexual favours,
- iii) Making sexually colored remarks,
- iv) Showing pornography, or
- v) any other unwelcome physical, verbal or non verbal conduct of sexual nature (Sexual Harassment of Women at Workplace Act, 2013)

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<sup>3</sup> Equality before law The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth

<sup>4</sup> Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth. (1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

<sup>5</sup> Protection Of Life And Personal Liberty: No person shall be deprived of his life or personal liberty except according to procedure established by law.

<sup>7</sup> The definition of 'workplace' includes within its ambit "(i) any department, organisation, undertaking, controlled or wholly or substantially maintained by funds provided directly or indirectly by the appropriated Government; (ii) any private sector organisation or a private venture (iii) hospitals or nursing homes; (iv) any sports institute, stadium, sports complex or competition or games venue. (v) any place visited by the employee arising out of or during the course of employment including transportation provided by the employer for undertaking

Not only does the Act include the workers of the unorganized sector, the institutional arrangements that are envisaged under the bill are also systematically placed with the constitution of an Internal Complaints Committee (ICC). Mridul Eapen, while commenting on the draft bill which was put forward in the year 2007 called the inclusion of 'dwelling and households' a 'commendable step' in the direction of an inclusive Act against sexual harassment.

Commending the efforts, Eiapen, (Eapen, 2010) however argues for a more sensitized institutional mechanism for the unorganized sector as it lacks the formal hierarchy of vertical authority as well as horizontal support which makes it difficult for the victim to decide a course of action while complaining about such cases.

The Act provides for the formation of an Internal Complaints Committee (ICC) which provides for a female presiding officer. The Act also provides that one half of the members of the Committee must be women. In order to prevent any pressure from the authorities of the workplace, the Committee must also include a third party representative from a non-governmental organization or any other individual who would be conversant with the issue of sexual harassment. The Internal Committee may also, on the request of the aggrieved woman, take steps to settle the matter between her and the respondent through conciliation before initiating an enquiry for the same. This can however be done, provided that no monetary settlement shall be made as a basis of conciliation.

Various studies that center the issue of the functioning of the Internal Complaints Committee have discussed how despite being constituted as per the guidelines given, the functioning of most of the Committees has not been up to the mark (Chaudhari, 2008). Significant confusion prevails regarding the range of behaviors that might be termed as sexual harassment.<sup>8</sup> The problems include the ambiguity of the definition of sexual harassment which still remains a subjective term despite being comprehensively defined in the Act. Though the ICC has been made approachable and fair by providing women with significant and decisive roles in the Committee, unavailability of female superior employees in a lot of organizations dilute this impact. The concept and functioning of the Internal Complaints Committee (ICC) has also been debated by the Verma Committee<sup>9</sup>. Terming the guidelines of the Sexual Harassment Bill "unsatisfactory" the Committee proposed the setting up of an employment tribunal in contrast to the ICC. The tribunal was to receive and adjudicate all complaints of Sexual Harassment Cases. For speedy

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<sup>8</sup> Tinkler(2008) and Welsh(1999) discuss the aspect theoretically and have been referred to during the course of the paper.

<sup>9</sup> The Verma Committee was formed in the aftermath of the December 16, 2012 *Nirbhaya Gang Rape Case* in New Delhi, India. The Committee submitted its report on January 23, 2013.

trial and justice delivery, the tribunal would be granted the rights to carry out its own procedure for each complaint and its redressal.

It can be argued that the subjectivity of sexual harassment in itself causes a barrier for the Act to reach its specified goal. Lesser number of female supervisors also restricts a significant number of victims to even take up a legal course in the first place. The issue of sexual harassment need not just be taken up legally but also requires a sociological understanding. A legal remedy would fail if it is not able to dissect its way through the layers of normalized crime and victimhood over the past many decades. An act may be considered sexual harassment by a woman but may not be considered offensive by the man responsible for it. Similarly in different sets of gatherings of men and women different physical acts may be considered 'unwelcomed'. The challenge for policy makers and legal decision makers is to then decide where they draw the line between a friendly advance and an act of harassment. However, it can be argued that each time a woman is treated/mis-treated by a man in the public domain, an underlying sociological understanding of the man's idea of the woman's place in the society surfaces. To understand this, a subjective analysis of the male-female dichotomy in the public domain becomes essential.

### **3. SEXUAL HARASSMENT: THE SUBJECTIVE DOMAIN**

As mentioned earlier, the subjectivity attached to the very issue of sexual harassment act as barriers to its redressal. Following are the major issues that have come to the fore during numerous normative and empirical gender studies conducted across time and space:

- lack of a proper awareness of the definition of sexual harassment
- lack of awareness about the legal remedies available
- lack of institutional support
- treating the presence of women in the workplace as a diversion from the 'norm'

There has been lack of information and research in the field of sexual harassment. According to Sandy Welsh (Welsh, 1999) the research is still in its infancy, it has however moved from prevalence studies to more sophisticated empirical studies with theoretical analyses of the causes and consequences of the act of sexual harassment. Researchers have attempted to answer basic fundamental questions about sexual harassment in their recent analysis that we come across. M.J. Booker calls sexual harassment an 'open' concept in his article 'Can sexual Harassment be salvaged?' (Booker, 2016). According to him, the definition of sexual harassment becomes important because our very failure to evict sexual harassment from workplaces is a direct result of our inability to define sexual harassment in definite terms. It no longer remains a linguistic issue but one that includes work environment and culture along with ones belief.

Sandy Welsh (Welsh, 1999) in a sociological analysis as well as S.C Srivastava (Srivastav, 2004) in a legal analysis of the scenario of sexual harassment in India have both drawn similar conclusions. Both agree that when it comes to analyzing how prevalent sexual harassment is, it cannot just be measured by the cases reported within concerned institutions. This is because the nature of the act is such that it ranges from outright infringement of the workers' modesty to subtle remarks or hostile work environment, unwanted advances that include passing sexual comments, jokes which consequentially interfere with the person's mental and emotional state of mind and retards his/her ability to work effectively. Most of these acts when included under the ambit of the definition of 'sexual harassment' significantly increase the chances of the women being victims of sexual harassment atleast once in their lifetime. Most of the cases go unreported due to unawareness of redress mechanism or legal safeguards that the law provides. More than this, the lack of awareness regarding the very definition of 'sexual harassment' is the reason that the victims do not feel legally empowered to address the problems faced by them in the workplace.

Unfortunately, a lack of interest on the part of the victim surfaces where the workers avoid getting into the complexities of a complaint mechanism so as to prevent the 'fear of retaliation or disbelief to a fear of losing one's making the situation worse' (Welsh, 1999, p. 182) within the institution by being associated with the tag of being a victim of 'sexual harassment'. In the Indian context, S.C. Srivastava mentions a survey of working women which was carried out by the National Commission for Women. The survey reveals that although the number of cases reported for sexual harassment have risen there is still a sense of reluctance which women experience which reporting such cases to the higher authorities. (Srivastav, 2004, p. 365)

The above mentioned aspect of work place has been termed by Welsh as the 'organizational culture'<sup>10</sup>. She argues that the definition of sexual harassment and its occurrence is contextualized by the institutional and individual factors. Justine Tinkler observes similar patterns of behavior in her analysis where the individual who voices complaints against the acts of sexual harassment may be tagged as overly sensitive, or 'too quick to take offence'<sup>11</sup>. (Tinkler, 2008, p. 425)

Catherine J. Taylor (Taylor, 2012) argues that sex composition at workplaces is a significant factor that determines the day-to-day experiences and interactions among workers. There has

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<sup>10</sup> "The concept of sexuality as well as 'hyper-sexuality' features within the characteristics of organizational culture that not only focus on the harassment of women but also the harassment of heterosexual males by heterosexual males."

<sup>11</sup>Tinkler offers a set of 7 hypotheses in the study '*People are too quick to take offence: The Effects of Legal Information and Belief on Definitions of Sexual Harassment*'(2008)

been a general notion that those who share a minority within the workplace also have a lesser degree of support from their co-workers. The interactions further are determined by the cultural understanding and gendered roles within the society. Taylor talks about the gendered expectations at the workplace which are fuelled by the prevalent cultural notions within the society. Women do not negotiate or voice their opinions much in cases where they feel exploited because of a general understanding that neither do they belong to the public space, nor is their credibility entitled to be recognized in terms of promotions and perks. Their satisfaction level as employees is comparatively higher as compared to their male counterparts even though their wages and promotions do not meet their expectations.

When a woman steps out of the boundaries of her household and enters the workspace she has a pre-conceived notion in mind based on the understanding that she has done something in violation of the established gendered norms of behavior of the society. Thus women hold themselves accountable for violating the norms of the society and acting otherwise. Consequently, lesser support and acts that violate her free space of functioning and existence also become a part of the societal norms for this woman. On the other hand, voicing her opinion against it again places her in violation of the 'norm'. An added fear is the unnecessary labeling at work by fellow colleagues. Many women lose out on this repeated struggle to stand in contestation with the society and at some point give up. Thus, not many make it beyond the 'glass ceiling'<sup>12</sup>.

The gender disparity that germinates within the patriarchal society slowly but evidently makes its way to public offices, corporate houses and every other institution even as they outwardly signify empowerment and growth. Women struggle to justify their positions outside the personal spaces of the household where a considerable amount of their energy goes in inspecting their behavior and keeping it conducive to the 'acceptable norms', consequentially affecting their efficiency as an employee. Welsh discusses similar arguments on the lines of the sex role 'spillover'<sup>13</sup> theory, where women's gender roles take precedence over their role as individuals. It features in female-dominated jobs where the nurses are expected to be 'nurturing' and waitresses are expected to be 'sexy'. However, when women enter the workspace to compete with men that have conventionally been dominated by males, harassment becomes more prominent where employees are still dominated by a certain normative that places women outside their workplace and subordinate to males in the workplace.

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<sup>12</sup> The notion that prevents women from excelling in positions that are higher up in the work hierarchy despite her qualifications. The determining factor for her restrained career journey then becomes her sex and not her qualifications.

<sup>13</sup> Welsh. 'Gender and Sexual Harassment.' p.178

Taylor talks about occupational minority within the workplace where the supervisors are generally men. As a result of this, a woman employee finds it difficult to find suitable support and information at the workplace because of her compromised nature of network connections, which is a direct result of her occupational minority. Lack of appropriate support has been repeatedly highlighted in the Sexual Harassment in the Workplace Report of the House of Commons (House of Commons, 2018). It has been identified and duly addressed that the burden of proving the accusation lies solely on the victim of sexual harassment. Legally however this might not find many challenges but having to do this without any evident support and the constant social threat of being judged by the society and disadvantaged by the employer is something that has a deep psychological bearing on the victim.

According to the analysis of the NIFTY Companies Annual Report 2017-18<sup>14</sup>, 44 companies published their annual reports in which the numbers of total complaints registered were 620. The previous year the number however was 16 cases lesser. The analysis of the Report highlights how more women employees in the workforce directly affect the number of cases being reported over the year to the authorities. Out of the 620 cases reported around 82% were seen to be reported from those companies that had a higher woman employee ratio. On the other hand, companies that performed poorly in women workforce also witnessed lesser cases being reported. A similar trend is seen in the Annual Reports of the National Crime Records Bureau. The statistical data it offers highlight the fact that the reported cases of sexual harassment have been at a steady rise. The rate of the cases of sexual harassment reported in 2015 grew at a rate of 3.8 than those reported in 2014. The total numbers of cases reported in 2015 were 22833, which covered 22911 individuals as victims.<sup>15</sup>In the year 2016, the incidents reported rose to 26494 which covered 26570 individuals as victims (National Crime Records Bureau, 2016).

The reason that the efficiency of the entire redressal-seeking process takes a backseat is not just limited to lengthy and tedious reporting procedures. The stories reported by many victims generally have the underlying tone of a non-cooperative employer/ authority when it comes to choosing between going public with the case and appeals or preserving their organization's sanctity by any means possible. The victims have even observed hostile behavior after they voiced their concerns and a change in the way they are perceived and interacted with at the workplace. Consequently women not just fear risking their jobs or promotions in case they complain but also the embarrassment and alleged blame for the harassment that follows. The House of Commons Report cites many cases where the company in a bid to sustain its trajectory

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<sup>14</sup> Source: NIFTY Company Annual Reports 2018

<sup>15</sup> "Crime against Women," *National Crime Records*

*Bureau*, 2015, <http://ncrb.nic.in/StatPublications/CII/CII2015/FILES/Table 5.2.pdf>.

of work and profit finds it more inconvenient to do away with a senior member in the hierarchy (even if he has crossed the line and is accused of harassment) than a junior or subordinate (usually the victim). It has also been observed that having witnessed the dealing with similar cases and an understanding of the company's preferences, the victims of sexual harassment find the option of resigning more viable than to engage in a futile exercise of complaining against the one who is powerful.

This set of information like the one provided by the NIFTY Annual Report and the House of Commons Report then tries to formulate our perspective towards the issue of sexual harassment. We question the basis on which we analyze the data of the reported sexual harassment cases. One dimension of looking at it may be the fact that more awareness and sensitization within the workplace has made the woman feel empowered enough to report the cases to the higher authorities. Moreover, when a woman finds camaraderie in fellow colleagues of the same sex, they feel more motivated to report harassment and assault, which they would have otherwise been too conscious to come out with. The idea might be critiqued by those who argue that the absence of women from the public domain creates lesser chances of them getting sexually harassed, as is depicted by the data discussed above.

The trend in terms of the solution that then arises is like a two way road with opposing perspectives on either side. The patriarch might say that the solution lies in absenting the female sex from the public domain. The visionary however would argue that the solution to women being harassed in the public domain lies in more women entering the public domain; not as victims but as agents of change and support for the ones already present there.

To reduce workplace gender inequality, it is the issue that needs to be discussed at the broader level. For Tinkler the theme that recurs in the analysis of sexual harassment is that apart from the legal definition, it is the background of the individual and the environment of his surroundings that define what a person labels as 'sexual harassment'. The knowledge of the law also affects the way people categorize sexual humor or remark as harassment or not. A functional law builds up people's expectations and slowly paves the way to their daily lives, practices and norms and beliefs as ordinary citizens.

As already mentioned in the text above, the very definition of 'Sexual harassment' becomes a cause of contestation and eventually a matter of personal belief if there is no proper knowledge of the exact law. Noted scholars have highlighted the importance of a proper definition of sexual harassment to avoid the issue being diluted due to ambiguity.

Sandy Welsh has argued that what becomes more crucial than framing a law is to also initiate alterations in the long drawn conventional beliefs and thinking. This can only be done by analyzing first of all, the dominant thought process among individuals regarding such issues.

This again establishes a correlation to one of the hypotheses that Tinkler (Tinkler, 2008) quotes in his writings which states how females tend to see sexual harassment in a much broader sense than males do. The underlying argument still remains that until and unless a social restructuring of beliefs takes place, sexual harassment as an act of violation of one's rights will remain diluted and ambiguous for the ordinary people irrespective of their educational qualifications or the sector they serve as an employee in.

The Verma Committee set up in India in the wake of the horrendous Nirbhaya Rape Case in 2012 has also been of the opinion that "unwelcome behavior" under which the complaint is filed should be considered subjectively. This then expands the domain of how sexual harassment is defined. The Panel held that the employer could be held liable in cases where they are found to permit and enhance an environment of sexual misconduct and behavior.

#### **4. THE #METOO CAMPAIGN: A STRUGGLE AGAINST SEXUAL HARASSMENT**

The #MeToo campaign has not only broadened the domain of expression but social media and the advent of information technology have bridged the gap between the Public and the Private<sup>16</sup> which the feminist scholars have been debating for since the past many decades. It has allowed the private experiences, events and traumas to surface and be put forward to the world through a public platform. Not only social media campaigns but also counselors, consultants, women NGOs and Gender Movements have played a major role in spreading not just the message, but also the experiences of the aggrieved individual in a manner that encourages others going through the same trauma to speak up and take action. The #MeToo campaign has given an insight into the perspective of sexual harassment as it is taken by women. The continuous surge of personal incidents and narrations over the internet is reflective of the fact that sexual harassment as an act is a subjective activity. The narrations make us realize that we cannot restrict the occurrence of the acts of sexual harassment to a particular work sector, work force or a particular sex. The phenomenon has been ranging across sectors and crossed every form of the physical boundary that the mind can think or create. Creating a divide where men and women are seen as perpetrators and victims respectively of sexual harassment acts again sets a drawback on the overall analysis of the phenomenon. In an era when we are striving towards gender

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<sup>16</sup> The Public vs. Private dichotomy in feminist theory refers to the reclamation of the public domain for women. Feminists argue that the categorization of the women belonging to the private sphere and the men to the public sphere is not correct and must be challenged.

sensitization and bridging the cis-normative divide, it becomes important to ponder on the complexities of the issue at hand and not merely look at it as a power relation between the sexes.

Despite adequate laws in force and mechanisms that are being enhanced and implemented daily, the question we need to ask ourselves is that is it the underlying power relations of the society that guide such acts of harassment. The solution needs to be looked at not just institutionally but also attitudinally. The way economists discuss the theory of the 'trickle-down' for benefits to the lower strata of the society, it becomes contentious given the present scenario whether the thrusting of deterrence from above would have any impact on the overall idea of gender and discrimination from below.

The Sexual Harassment in the Workplace, 5<sup>th</sup> Report by the House of Commons 2018 states that the #MeToo campaign is more about 'solidarity than individual action'. This also answers numerous criticisms and questions that were highlighted during the trial of justice Kavanaugh to the US Supreme Court where his supporters gathered in large numbers and intellectuals across the globe questioned if it was ethically correct to raise a 20 year old issue in the public domain and start the quest for the right and wrong.

The public naming and shaming of prominent individuals is for sure not the best way to solve grievances and raise allegations. However, what needs to be observed here is that most of the women making such allegations and resorting to the platform of social media, themselves belong to significantly educated and aware strata of the society. The probable explanation for this again brings us to the point that has been repeatedly highlighted. Soon after an Indian actress was seen raising a similar issue against a prominent figure from the same industry. The next thing we knew, the Indian Social media was taken by storm with numerous accusations and allegations against esteemed public figures, journalists, politicians, sports figures and various men from almost every profession and position.

One of the recipients of the Nobel Peace Prize 2018 is Nadia Murad who courageously fought the adversities of living as a sex slave for the Islamic State. Renowned journalist Veena Venugopal has linked the decision of the Nobel Committee to the changing narrative of sex crimes across the globe (Venugopal, 2018). A patriarchal society that always thrusts the survivor of sexual crimes with the burden of shame senses a breath of fresh air with this announcement.

The ongoing #metoo movement that symbolizes the fearless assertion of the numerous survivors of sexual harassments and crimes finds strength with the recognition of a survivor's story and courage at such platform.

Another of India's famous feminist activist Kamla Bhasin has drawn a very important corollary to the overall arguments that one comes across in administrative and legislative practices in order to ensure a better environment for women.

*"Our men don't need to change to support women, but to save themselves from being brutalized by centuries of exposure to patriarchy."* – Kamla Bhasin (Bhasin, 2013)

The underlying approach that has stayed among numerous sources of literature highlights how the solution to the practices of harassment and sexual assaults are not just institutional but also attitudinal. The very notion where Bhasin has dragged the male population as being partly victimized under the reign of patriarchy acts as an eye-opener for the entire society. Consequently then we all, men and women, have been victims of this ideological menace. The categorization and further concretization of male and female specific characteristics, attitudes, behaviors, work-spaces and even choices generates an unhealthy binary within the society. When this binary strengthens and takes an institutionalized form, the power dynamics between the dominant and the subservient get deeply seated in the society.

The success of the #MeToo movement highlights a disturbing picture of the due process across the country. As much damage as a sexual assault may cause on a woman's overall well-being, it is further aggravated by the inefficient and mostly silent institutional authorities. But a similar patterned story surfaces with each #MeToo outpour over the internet. Behind every story of harassment or every such case that went unreported, there was a fear of not being taken seriously by the concerned authorities, a sense of skepticism regarding the established rule, and an insecurity of losing one's job at the workplace and prestige within the society. Thus the failure of the established process of law is the success of #MeToo. (Venugopal, Not Without Her Consent, 2018).

## **5. CONCLUSION**

It is only with detailed study and further analysis that we can gain a better understanding of the range and context of unwanted sexual behaviors which will make the empirical understating of the act of sexual harassment even more exhaustive and complex. As the cause and consequences of the act are varied, the analysis thus demanded is qualitative, rather than just quantitative. This would tap the depth of the issue and at the same time try to better understand how the workplace also 'institutionalizes' sexual harassment that places the victims at a disadvantage .

In the Indian context particularly, the diversity may further magnify to include the issues of not just gender but also caste which again forms a significant base of discrimination within the society. This would further complicate the process of analysis and redress of an already subjective act of sexual harassment. What then matters is to incorporate the required guidelines

within the ambit of the law to make it more conducive and accommodative for India and at the same time balance it in a way that it does not become too wide to be unmanageable.

Various scholars, surveys, legal reports and judgments have repeatedly tried to draw our attention to the grave issues of sexual harassment. Despite having a functional law in place, its efficiency and effectiveness remains uncertain because of the lack of awareness along with the personal beliefs of people which are mostly guided by conventional norms of the society that normalizes sexual commenting and does not consider it as serious an act that could be violating the fundamental rights of fellow human beings.

The Act in place is comprehensive; however, as Tinkler would argue that when the law leaves scope for loopholes and comes across as even partly ambiguous, people are more likely to depend on their own belief to (mis)interpret it. Starting with basic awareness programs, workshops by employers for their employees and office staff can bring about a change for the greater good. Employees, who are confident about their rights and assured of the security their workplace provides, can better perform and further contribute to build up a society that strives towards the realization of human rights and demands the same for all its members. Thus, a society that is aware of its rights as well as duties progresses collectively as a whole both at the professional sphere as well as towards the self-actualization of each individual.

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