

***“ #Me Too Campaign – Creating a Healthy Atmosphere
at Workplace for Both Females and Males,
A Study in the Context of India”***

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Abstract

The researcher having served as Director, Gender resource Centre, Women and child development Department, Gujarat-India for more than four years; takes keen interest in gender related issues. The #Me-too campaign initiated by a social activist Tarana Burke in the year 2006, has started gaining ground after Alyssa Milano an American Actress took a resort to a spate of Twitter messages in October 2017, asking the victims of sexual assault to come out openly against the predators. This campaign has exposed an internationally famed Hollywood actor, whose career is virtually finished as a result of a sustained and concerted movement by the women victims of his tendency to exploit the vulnerable budding Hollywood actresses. Recently, a section of the Indian female journalists and film T.V. actresses emulated the #MeToo campaign by launching a united campaign against a powerful minister and also Bollywood/T.V. celebrities. In this context, a narrative paper has been prepared to study relevance of this movement in India. There is no doubt that the Indian women have also become aware of their rights as an individual at work places and they feel confident that they can no longer be taken for granted. The #Me-too movement has achieved one significant result – the hope that workplaces will now be safer for women. There is a hope that men will think twice before indulging in obscenities with their female colleagues. In the present paper, an attempt has been made to provide a glimpse of a scenario of workplaces in India and legal provisions to prevent, prohibit and redress sexual harassment of women at work place. This paper will enable the sociologists, feminists, journalists, and other persons who are concerned with gender issues to understand zero ground level conditions at work places and to carry out further research on the relevant topic.

Keywords: Sexual Harassment, Work Place, #MeToo, Hollywood, Bollywood, Compliance, Celebrities

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Introduction

It is well-known that 'Me Too' or #MeToo is a movement initiated in 2006 by a social activist *Tarana Burke* against the means of sexual abuse and harassment in America.

This campaign started to gain ground after Alyssa Milano, an American actress posted a tweet and repeated the same for thousands times in October 2017, asking the victims and survivors of sexual assault to come out, accepting the bitter truth of the society and letting others know that they are not alone.

Tarana Burke founded the '*Me Too Movement*' to help survivors of sexual violence, particularly non-white young women who were not so well off to find ways to make them come out of the aura that they had suffered.

The basic objective of "Me Too Movement" was to create awareness not only among the survivors but also the entire vulnerable groups against exploitation at the hands of the giants in their respective fields. It was also aimed at creating a confidence among the survivors by ensuring that they are not alone on this difficult terrain.

The trend re-ignited the fire and re-gathered the fame after #Me-too was tweeted thousands of time by Alyssa Milano in October 2017 within 24 hours. The same hash tag was used by more than 4 million people in twelve million posts on the world most popular social medium-Facebook. Any man or woman, who came forward to declare that he or she had been the victim of abuse, started being referred to a "silence breaker".

The prominent celebrities from Hollywood who participated in this campaign on the tweeter; are as follow:

- Lady Gaga
- Monica Lewinsky
- Debra Messing
- Gabrielle Union
- Anna Paquin
- Patricia Arquette
- Rosario Dawson
- Rachel Wood
- America Ferrea
- Bjork
- Sheryl Crow
- Gillian Anderson
- Rosario Dawson
- Selma Blair

It has successfully unearthed the buried truth about the wrongs done by internationally famed Hollywood giant Harvey Weinstein and many other men like him and brought them to justice in the eyes of the world.

The Indian Context

Recently, this movement has spread with an epidemic proportion in India too, following a concerted tirade launched against an ex-union minister by more than a dozen women; and serious allegations of sexual harassment at work place by a number of women against the towering film actors , producers and other dignitaries in their respective fields.

The prominent among those who are engulfed in #MeToo fire, such as

- Mr. M J Akbar Ex. -Minister of State (MoS) for External Affairs
- Alok Nath, Film & Serial Actor
- Nana Patekar, Film Actor
- Jatin Das, Painter
- Vikas Bahl, Director – Movie “Queen”
- Suhel Seth, Celebrity consultant
- Chetan Bhagat, Author

Ironically, the victims have come out in the open to level serious charges against the celebrities; approximately after two decades of the alleged incidents of unwelcome gesture in the nature of sexual harassment.

An inordinate delay and the timing of the tirade against the giants in their respective field indeed raise a doubt about its motive. However, the fact cannot be overlooked that during those old days, there was absence of any forum or mechanism to ventilate their grievances at work place; except the relevant legal provisions under Indian penal code. #MeToo campaign has emboldened and motivated the past victims of sexual harassment at the hands of influential persons; to share their bitter experiences with the entire world.

Similarly, the revelations by women journalists and film actresses are a seminal moment in independent India’s history. Their testimonies have shattered the silence that had surrounded SH (sexual harassment), with every woman thinking she was alone and had to either continue to suffer or fight her battle alone, which was intimidating, given the powerful position the predators in authority held.

Workplace harassment is not just a frivolous crime - it is a violent crime. Violence need not always be physical. It can be mental. It can be emotional. Through words and deeds, a person has the potential to outrage the feelings and emotions of another. This is much easier and more hurtful in the context of sexual harassment and intimidation.

“Yet, this time, women are refusing to toe the line. In the year since The New York Times’s investigation outed Harvey Weinstein as a sexual predator, and, an Indian law student published a crowd-sourced list of academics accused of sexual misconduct, a dam seems to have burst, taking with it the onus to suffer alone, and, in silence.”

“Women are finally speaking up and they are angry. Their language of dissent is still formulating, still being shaped by the scars they bear, sharpened by fury, shame or

revulsion, but they are no longer afraid.” – Paromita Chakrabarti, The Indian Express, dt.22/10/18.

We must not forget that for every story told by women, there are dozens of stories untold. Maybe those stories that find space in the media belong mostly to visible professions like the media and film industry, but the victims are everywhere, from villages to rich urban households. It is the fear of societal reaction and stigma that forces them to suffer silently or in extreme cases, to end their lives. If the society stands up with those who raise their voices, slowly but definitely, the menace will end and reform will set in.

Prevention of Sexual Harassment and legal intervention

In 1997, Justice (retired) Sujata Manohar, with the Chief Justice of India (late) J S Verma and Justice (retired) B N Kirpal, delivered the verdict laying down legally binding obligations on institutions regarding prohibition, prevention and redressal of sexual harassment at workplace.

These guidelines (popularly known as Vishakha guidelines), the foundation for the Sexual Harassment of Women at Workplace Act, 2013, came into force in connection with a PIL filed by Vishakha – an NGO in the alleged gang rape of Bhanwari Devi, a social worker from Rajasthan.

In 1992, she had prevented the marriage of a one-year-old girl, leading to her rape as an act of revenge.

Legally binding, these defined sexual harassment and imposed three key obligations on institutions — prohibition, prevention, redress. The Supreme Court directed that they establish a Complaints Committee, which would look into matters of sexual harassment of women at the workplace.

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act was passed in 2013.

It defines sexual harassment, lays down the procedures for a complaint and inquiry, and the action to be taken. It broadens the Vishaka guidelines, which were already in place.

It mandates that every employer constitute an Internal Complaints Committee (ICC) at each office or branch with 10 or more employees. It lays down procedures and defines various aspects of sexual harassment, including aggrieved victim — a woman “of any age whether employed or not”, who “alleges to have been subjected to any act of sexual harassment”, which means the rights of all women working or visiting any workplace, in any capacity, are protected under the Act.

It mandates that every employer constitute an Internal Complaints Committee (ICC) at each office or branch with 10 or more employees.

Definition: - Sexual harassment

Sexual harassment 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.
- Sexually suggestive remarks or innuendos; serious or repeated offensive remarks;
- inappropriate questions or remarks about a person’s sex life Display of sexist or offensive pictures, posters, MMS, SMS, WhatsApp, or emails
- Intimidation, threats, blackmail around sexual favours; also, threats, intimidation or retaliation against an employee who speaks up about these
- Unwelcome social invitations with sexual overtones, commonly seen as flirting
- Unwelcome sexual advances.

Limitation

The Act states the complaint of sexual harassment has to be made “within three months from the date of the incident”. For a series of incidents, it has to be made within three months from the date of the last incident. However, this is not rigid. The ICC can “extend the time limit” if “it is satisfied that the circumstances were such which prevented the woman from filing a complaint within the said period”. The ICC is to record these reasons.

Conciliation:-

The section 10 of the Act deals with conciliation. The ICC “may”, before inquiry, and “at the request of the aggrieved woman, take steps to settle the matter between her and the respondent through conciliation” — provided that “no monetary settlement shall be made as a basis of conciliation”.

The inquiry process

The ICC may forward the complaint to the police under IPC Section 509 (word, gesture or act intended to insult the modesty of a woman; maximum punishment one year jail with fine). Otherwise, the ICC can start an inquiry that has to be completed within 90 days. ICC has similar powers to those of a civil court in respect of the following matters: summoning and examining any person on oath; requiring the discovery and production of documents. While the inquiry is on, if the woman makes a written request, the ICC “may” recommend her transfer, leave for three months, or any other relief to her as may be prescribed. When the inquiry is completed, the ICC is to provide a report of its findings to the employer within 10 days. The report is also to be made available to both the parties.

The identity of the woman and the contents of her complaint cannot be disclosed to any person who is not part of the internal complaints committee.

Compliance of ICC report

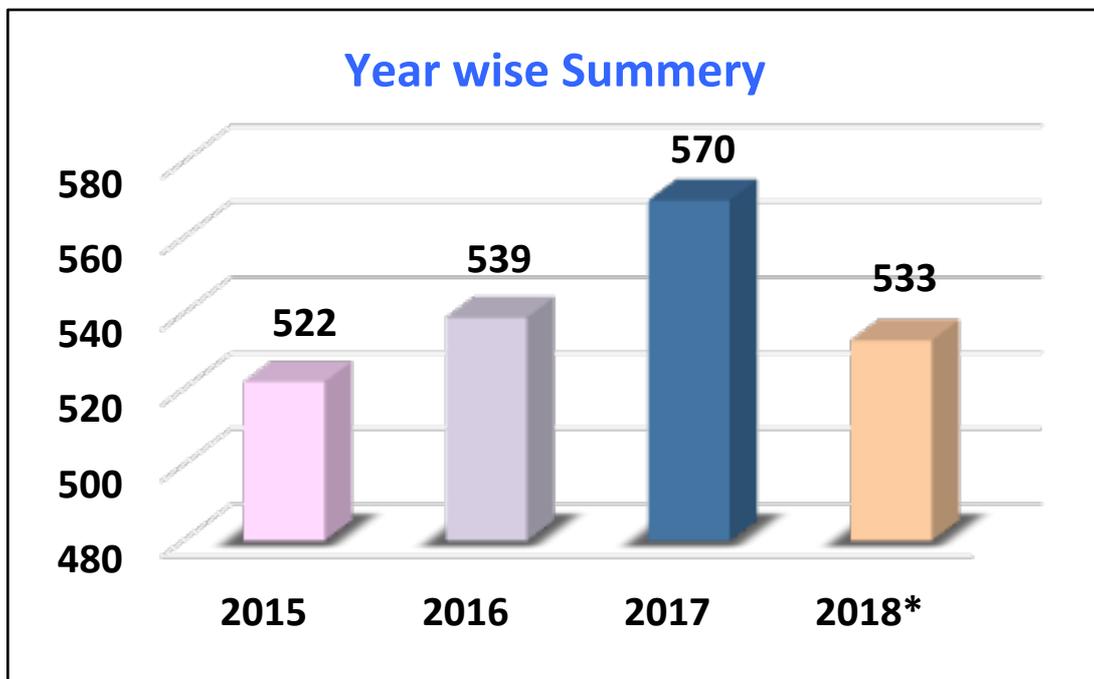
If the allegations are proved, the ICC recommends that the employer take action for sexual harassment for misconduct “in accordance with the provisions of the service rules” of the company. These will obviously vary from company to company. It also recommends that the company deduct from the salary of the person found guilty, “as it may consider appropriate”. Compensation is determined based on five aspects: suffering and emotional distress caused to the woman; loss in career opportunity; her medical expenses; income and financial status of the respondent; and the feasibility of such payment.

After the recommendations, the aggrieved woman or the respondent can appeal in court within 90 days if one is not satisfied with the committee’s procedures.

False Complaint

The Section 14 of the Act deals with punishment for false or malicious complaint and false evidence. In such a case, the ICC “may recommend” to the employer that it take action against the woman, or the person who has made the complaint, in “accordance with the provisions of the service rules”. The Act, however, makes it clear, that action cannot be taken for “mere inability” to “substantiate the complaint or provide adequate proof”.

All India Sexual Harassment Cases



| Year wise all India Summery: | |
|---------------------------------------|-----|
| 2015 | 522 |
| 2016 | 539 |
| 2017 | 570 |
| 2018* | 533 |
| * Data presented on July, 2018 | |

Source:

Government of India
Ministry of women and child development
Lok Sabha (lower house of The Indian Parliament)
Unstarred question no. 1763
Answered on 27/07/2018
Sexual harassment of women at work place

Case Studies / Specific Incidents:

Genuine Cases

- I. A female employee of a Government electric company in Gujarat lodged a complaint against her senior colleague for sexual harassment. It was revealed that the electric company had not complied with the mandatory legal provision of constituting an internal complaint committee. The electric company had to constitute ICC at the behest of the local govt. authority. The aggrieved woman got assurance from the respondent that there would not be repetition of misdemeanour.
- II. A senior police officer posted in a state level prison; faced the allegations of unwelcome advancement towards his junior female prison personnel. Following a detailed inquiry; the respondent, police officer was charge sheeted and a cut in his pension was considered by the competent authority.
- III. A Senior college professor in Gujarat University was found guilty of sending unwelcome written messages to his female colleagues. His services were terminated following an inquiry in this matter.
- IV. A visiting faculty at a pre-eminent university in Gujarat was found guilty of asking his female student to approach him in his office room after office hours with an intent to take undue advantage of loneliness. His contractual services were terminated
- V. An associate professor, at the department of Chemistry–Saurashtra University (Gujarat) was suspended after an internal complaints committee found substance in the allegations of physical advancement in the nature of sexual harassment by a female of research scholar under him.

- VI A 50 year old teacher of a municipal school in Surat city was arrested for allegedly sexually harassing a minor girl student.

Sub Justice Complaints :

- VII. Ex. Union Minister of State, M J Akbar had to relinquish his ministerial post following a concerted campaign against him on the pattern of “Me Too” by a female Journalist Priyanka Ramani along with many other women
The Ex-minister faced serious allegations of misconduct and harassment of the nature of unwelcome Physical advancement.
The accused person i.e. the former minister has filed a complaint in a court of law against this female journalist on the ground of defamation. The matter is pending in a court of law.

False Complaints

- VIII. An ex-senior female executive in the legal department of a well-known multinational company levelled serious charges of sexual harassment at work against her senior colleague including female.
Not only that, she took a recourse to publicity and propaganda through electronic and print media.
A special internal complaint committee was constituted.
The entire proceedings were conducted systematically and the complainant was given an opportunity to cross examine the main respondent.
After due process of inquiry it transpired that the allegations were not true.
As a matter of fact, the complainant had tried to deviate the issue of her non-performance for which she was given a notice by the company.
- IX. An ex-outsourced female employee of a multinational company’s branch in Madhya Pradesh (India) lodged a complaint of sexual harassment against a branch manager.
The internal complaints committee conducted inquiry in an impartial manner and came to the conclusion that the complainant herself had initiated communication with the respondent through WhatsApp.
There was nothing which could be construed as unwelcome gesture in the nature of sexual harassment on the part of the respondent.

Boarder line Case

The most shocking incident of allegations of sexual harassment against the highest Judicial Officer of the country by a female employee has put the entire judiciary of India into an embarrassing situation, albeit the allegations are found to be untrue by the inquiry committee. .

Major Findings:

- An inordinate delay and the timing of the tirade against some of the giants in their respective field, indeed raise a doubt about its motive.

- However, the fact cannot be overlooked that during those old days, there was absence of any forum or mechanism to ventilate women's grievances at work place.
- Over the last few years, production houses have, begun to take measures to counter such instances.
- The grievance redressal mechanism exists in the Government, Semi-Government - offices, Corporate Sectors, Financial Institutes, Health Institutes, the Film Industries and the NGOs etc.
- The ICC members are found to be lacking in knowledge of the legal provisions.
- There is no denying the fact that this movement has empowered the women to form a community and helped each other in sharing their bitter experiences related to sexual abuse with the outside world through social, print and electronic media.
- It has also raised awareness among women about their basic rights as an individual in the work place and outside also.
- However, women are not always sure whether this will bring them justice.
- It has created deterrence in a section of men who is inclined to treat their women counter parts as the object of sensual enjoyment.
- It has helped a number of persons to be bold and courageous enough to come out openly and to talk about their suffering irrespective of the race or religion, official and economic status.
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Conclusion: The other side of the Coin

- ❖ The Globally popular movement has its limitations like other similar movements on the social front.
- ❖ It could result into relapse of mental agony and trauma among the victims following a wide publicity of their bitter experiences; without finding a lasting solution to one's predicament.
- ❖ This movement does not cover the sexual assault and harassment faced by the Sex Workers who face this devil on a regular basis and also young girls who are victims of trafficking.
- ❖ The movement does not take adequate precaution to check veracity of the facts which may lead to concocted stories and false accusations of rape, harassment, and molestation.
- ❖ It is believed that at least 10% of the reported cases of rape is actually breach of trust on the part of a male partner after developing consensual physical intimacy and not physical assault.

Recommendations:-

- All the sectors whether Government or Private must create a congenial atmosphere for women at work place.
- Grievance mechanism for working women should be suitably strengthened.
- The members of the complaint committee should be oriented on the legal provisions periodically and they should be sensitized enough to perform their duty without an iota of predilection and prejudice.

- Internal complaints committee's members should be trained and sensitized in such a way that they are able to treat every incident of alleged sexual harassment on its merits and demerits.
- The complaint should be inquired in accordance with the principle of natural Justice leaving no room for accusations against style of functioning of the committee.
- False complaints of sexual harassment should also be dealt with deterrence so as to ensure that men employees are not compelled to "avoid" their female colleagues in day to day discharge of duty.
- The men should also be actively involved in creating gender Just Society and thereby to ensure that this social movement is not turned into women versus men campaign.
- Premature Disclosure of the accused's identity should also be prevented

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