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## Avinash Kumar



*Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.*

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# **CRIMINAL JUSTICE SYSTEM: POSITION OF WOMEN AT THEIR WORKPLACE**

AUTHORED BY - PRABHJOT KAUR

B.A., LLB (10th Sem)

## ***Abstract***

The Indian Constitution grants the right to equality to both men and women. They both were equally entitled to right to choose their profession or work area. But in reality women's were discriminated at their homes and outsides their homes. In this article we will discuss about the safety of women's at their workplace and define the workplace safety and various forms of harassment and discrimination. We will also discussed about the various kinds of challenges faced by the women employees at their workplaces. Sexual harassment at workplace is a hard reality which is faced by girls or women's day to day life. Women's were suppressed by the men's or by superior employers. In this article we will also explore how laws are tackle with such kind of offenses that are occurred at workplace with landmark judgments.

## ***Introduction***

Basically, Criminal justice system(CJS) is a term which is widely used to explain how to deal with crimes and which initial steps can be taken to reduce the rate of criminal cases. It is a system which penalize those who perform anti social activities in the communities. National and local government follows the rules of Criminal justice system so that the unwanted crimes can be prevented. No doubt, Criminal justice system (CJS) is an effective system but despite of it's effectiveness, somewhere it comes up with global issues that are related to the position or status of the women's at their workplaces. Nowadays, various crimes are continued to be occurred with women's such as domestic violence, sexual harassment, sexual assault, stalking, intimidation, rape, attempt to rape, cruelty, pay disparity or discrimination and others. These kind of cases are not just responsible to degrade the dignity of women's status at their workplaces but also responsible for the concept of gender inequality. It can be noticed that the burden of preventing such kind of offenses is solely on the shoulders of the CJS but this system is totally failed to address the risk factors of certain crimes related to females. Due to the acceleration of these crimes, there might be no place which can be considered safe and comfortable for women either it is their workplace or their homes. In this article, all the

challenges which are faced by the women's regarding their safety will be discussed and also the legal frameworks will be explained with recent judgements.

### ***What is safe Workplace?***

A safe workplace is a location where a worker feels secure, respected and free from any kind of harassment, discrimination and also ensuring a safe environment where employees work without any risk related to their safety and security. Organizations are accountable for safety of the employees. In order to deal with the female colleagues this safety becomes first and foremost priority for the organizations. Women's safety involves strategies and policies that taken place before violence has occurred to prevent perpetration or victimization.

### ***Challenges faced by women's at their workplace –***

#### **❖ *Discrimination***

Discrimination takes place when one employee is treated less favorably than the other based on their gender. There are various kinds of discrimination prevailing in workplace.

- Gender discrimination- when employee is mistreated because of their gender. This kind of discrimination may lead to sexual harassment and unequal wages
- Racial discrimination- This discrimination occurs when an employee intentionally or unintentionally ignored because of their race.
- Disability discrimination- It can be happen in workplace, society, participation events. Due to their physical incapacibilities, disabled persons are ignored by the organizations.

❖ **Sexual harassment:** Harassment is the main factor which gives mental trauma to a person. Unwelcome remarks, comments about person appearances or clothing, vulgar gestures are often seen in the workplace, that makes a hostile environment for women's. There is one viral movement which is known as "Me too" movement was founded in 2006 to survivors of sexual harassment, to find pathways to healing. Vishaka vs State of Rajasthan (1997): It is a landmark judgement in which supreme court provides a guidelines for workplaces sexual harassment.

❖ **Physical Assault:** The multiple number of violent cases against a women requires a urgent attention. Physical assault is one of the serious threat to the women's .It can be compared with the bodily harm or trauma i.e. hitting, punching, slapping etc. There are various laws enacted by the legislature which are concerned with the Physical assault:

- Bharatiya Nyaya Sanhita, 2023: Punishment for assault is given under sec 131 of BNS, whoever assaults or uses criminal force to any person shall be punished with imprisonment or three months or fine or both.
- Protection of women from Domestic violence Act (PWDVA), 2005: This act protects the women from domestic violence. It also provides a protection and support to women's who are facing physical abuse and assault, promoting their well being.

Lalita kumari vs Government of UP(2013): In this case supreme court held that registration of FIR is mandatory in assault cases.

- ❖ **Bullying and intimidation:** Bullying is a also a one of the form of harassment. A bullying can be done by co-worker, customer, director, manager. It is a repetitive insulting of one person by the another person or group of person. People who are suffered from bullying may experienced from stress, anxiety, lack of confidence etc Both bullying and intimidation are the acts of harassment. Intimidation-includes the yelling or screaming , insulting a worker in front of co workers or clients Bullying and Intimidation both creates a inhuman environment for the workers .Women's often faced bullying and intimidation by male colleagues who takes privileged of their dominance.
- ❖ **Limited opportunities:** Globally, women have lesser opportunities for participation than men. Reasons behind's that women are barred from participating in decision making or guaranteeing equal work opportunities.It can be seen that women are more skilled than the men but despite of that women continue face a challenges that obstruct their professional development.
- ❖ **Lack of support system:** Women have less access to senior leaders who provide guidance or support.Due to lack of network system it puts a significant impact on women's career development.There must be a efficient support system where women employers recognize and address the problems they faced, especially when it comes to health and safety.This absence of effective support system can be one of the reason behind the discrimination or harassment or career stagnation.
- ❖ **Pay Disparity:** It usually occurs when employees indulge in same kind of work but paid differently. It can be based on various aspects such as race, gender, job status, ethnicity.

## LEGAL FRAMEWORKS FOR PROTECTION OF WOMEN AT THEIR WORKPLACE:

*Laws are made equally for everyone, but the existing laws for women's in india continue to be discriminatory and detrimental. To improve the women's safety at their respective workplaces, there is a need to strengthen the legal frameworks, enhancing awareness and transparency and ensuring enforcement of existing laws. There are various laws are made for women's safety and protection:*

❖ **Indian Constitution:**

*Article 14 guarantees all citizens the right to equality, there should be no discrimination on the basis of gender, caste, religion and Article 15 are prohibited state from any kind of discrimination*

❖ **The sexual harassment of women at workplace Act, 2013**

*This act provides a safe working environment for women by establishing a Internal complaint committees (ICC) under section 4 of this act. It consists of four members, two members from amongst the employees preferably a women with experience in social work. Penal consequences of indulging in acts of sexual harassment are required to be displayed at the workplace.*

❖ **The equal Remuneration Act, 1976**

*This legislation ensures the equal wages fir both men and women if they were doing the same work. Article 39 of the constitution provides that there is a equal pay for equal work for both men and women. This act was also passed for the prevention of discrimination, on the grounds of sex, against women in the matter of employment. Under this law appropriate government shall constitute one or more advisory committees to advice.*

❖ **Indian Penal code, 1970**

*Section 100 provides that every person including a woman has the right to protect her body from any violence, attack or assault which can direct the apprehension of death, grievous hurt etc. The criminal law (Amendment act Section- 354A penalize sexual harassment. Offender's can face imprisonment of up-to 3 years or fines, depending on the severity of offenses.*

❖ **Factories act, 1948**

*Sec 66(1)(b) of this act prohibits the work of women during night shift. The aim of this act is to protect the safety of female workers during their night time work.*

❖ **Legal services authorities act, 1987**

*Under this act legal service authority is established at centre, State and district level. When women face any kind of harassment then they have the opportunity to attain the legal support from such authorities even when they are financially unable to provide the fees.*

***Landmark judgements related to workplace harassment***

➤ **Kolkata rape case**

*It is a recent case, in which trainee doctor was found raped and murdered in R.G. Kar Hospital, Kolkata on 9th of August, 2024. She went to the seminar hall for taking some rest after long hours duty in hospital where she was raped and murdered by Sanjay Roy who is considered as a prime accused and a civic volunteer. In this case ex-Principal of R.G. college was also arrested. On 18th August Kolkata High Court referred the case to CBI. Court noted the serious question about the safety of women at their workplace. CBI provides the report in which BNS section 64 & 103 are involved i.e. rape (10 years imprisonment) & murder (death penalty or life imprisonment). On 14 Sept CBI arrested R.G. Kar principal Sandip Ghosh and Kolkata police officers for over-delays in registration of FIR and missing evidences.*

➤ **Vishaka vs State of Rajasthan 1997**

*In 1992, Bhanwari Devi, a social worker of Rajasthan was gang raped because she was tried to stop the child marriage held in town. Accused was acquitted at district and session court. Then PIL was filed collectively by various organizations under a common platform- Vishaka, in PIL they were demanding certain guidelines for protecting women from sexual harassment at workplace. SC held that such act would be the violation of fundamental rights of women i.e. article 14 - Right to equality and article 15 - Right to life and liberty. Supreme court also provides the guidelines for women's workplace safety;*

- It should be the responsibility of employer for preventing such crimes at their workplace.
- There must be a complaint committee at workplace who redress the complaints of employees.
- Committee should be headed by women employee only.
- Half of the members of the committee are women and provide advice and

assistance to sexual harassment victims.

➤ **Rupon Deol bajaj vs KPS Gill 1995**

*In this case senior IAS officer was sexually harassed by a superior officer by molested her modesty by patting her posterior during a party, where he was alleged of sec 354 and sec 509 under Indian penal code. High court reject the case because of insufficient evidences. In 2005, Supreme court upheld the charges and convicted KPS Gill for their acts.*

### **Conclusion**

It can be concluded that women's are not safe in this democratic country. They were faced a discrimination at each and every place whether it is their home or their workplace. Women's are the most important factor for ensuring the development of country. But they were always suppressed by the mens or society. New criminal law Bharatiya Nyaya Sanhita , if someone engages in intercourse or lures another person for sexual favors under the pretense of employment, this act is now criminalized and equated with rape. There must be a one internal complaint committee was established in every workplace which aid the complainant to file a FIR for justice. There must be a implementation of better policies and laws for safe and sexual harassment free workplace. Criminal justice system provides moral support he victims and investigates the crime as soon as possible. The main aim pf the criminal justice system is to ensure that every person who suffers any injury is allowed to seek justice. There must be a strict implementation of the laws.

### **References**

<https://www.humanrightscommission.vic.gov.au/...workplace/sexual-harassment-at-workplace>

<https://www.civilserviceindia.com/.../Essay/sexual-harrasment>

<https://www.aclu.org/issues/womens-rights/women-and-criminal-justice>

**[https://www.ohchr.org/sites/default/files/Documents/Publications/training9chapter11en.p](https://www.ohchr.org/sites/default/files/Documents/Publications/training9chapter11en.pdf)**

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