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Defamation: A Unique Global Perspective Of METOO Movement

Authored By-Tarannum Syed

1.Abstract

To justify the cause of Me-Too movement, this study aims in various aspects on how this movement is being lead and also majorly focuses on how it had a scope for being misused with political influence, social media and also as a game of money. The situations in society gives us an understanding that people are focusing only on the rich men but not on both men and women who commit a crime. For the matter of fact in Me Too, ME need not be always **women** and can be **men** as well.

Hence with the influence of social media we should not come to a conclusion that the person has sexually harassed a woman causing 'Defamation' leading to lot of unwarranted humiliation. Rather every case must be deeply investigated and should be checked whether it is really a sexual abuse/ Harassment or not. If the investigation is not done properly, it leads to defamation by giving him the 'Tag' of criminal in public by media just with a statement of women which has not proved yet.

Further this analysis helps in understanding that the motive of this movement should be extended to focus on women who are restricting themselves in filing a case against person who had committed crime, as there are many poor women who are harassed but not on records. The study finally justifies on how to use the movement in an ethical way serving the actual purpose of the same.

2. Introduction

“Every individual is born with the same dignity and rights”. However, not everyone is treated equally based on who they are, where they were born, or their gender. Inequality between men and women has also resulted in a lack of protection for women who are victims of sexual abuse. As a result of underreporting, shame, and distrust, violence against women is a major unsolved issue that disproportionately affects women.

In this era of hyperactivity, social media, and various electronic platforms, various malice is spreading everywhere, protecting one's hard-earned reputation has become a bigger challenge every day in the corporate world. As a result, the need for effective legal tools as defamation safeguards and for promoting organizational excellence has grown in importance. This essay has attempted to analyse the need for a stronger legal system, both civil and criminal, to protect corporate houses/companies/corporations from unwanted defamation, as well as the current legal system. This essay aims in focusing on how the case should be checked thoroughly and then accuse the person who has committed a crime.

Analyzing the fact that only the rich men are targeted and few women who file a case just for money, political influence and publicity. Me Too should also focus on the suffering of men with abuse. Many cases which are filed are with no valid reason and proof and the person who is accused is suffered in the eyes of public with defamation. Few cases also give example of a mere defamation but not sexual assault.

Finally, this study aims in letting the society know the consequences of utilizing the Me-Too movement in a misleading way. How the men are being accused without a solid reason which is leading to a complete destruction of the reputation of that man. This analysis gives a brief summary on what is defamation and what is Me Too movement and it also shows how this movement is leading to defamation of a person rather serving the actual purpose.

3. What Is Defamation?

Integrity, honor, intelligence constitute a valuable asset for a person. Defamation is a statement which lowers a person's reputation in the eyes of society. It involves injury caused to a person by a false statement of a fact. It is a form of humiliation to a person if it is not true and it is considered as a tort or a crime. It not only destroys the peace in a person's life but he/she can even get into depression and mental stress which can be quite dangerous.

Every person has a right to live in protection in the hands of law. Depreciating a good name is infringement of one's own right and hence it is a wrongful act. A true statement is not considered as defamation until and unless it is proved.

Defamation is different from opinion. Opinion is of two forms pure and mixed. Pure opinion is imaginative expression. For instance, person calling someone loser or crazy which is not actionable. Mixed opinion is facts based and if it is false or incorrect statement then it is actionable and loses its protection from defamation. For instance, accusing someone for a crime without any proof of complete facts and truth. Defamation is in the form of libel or slander. Libel is when a person is defamed with a printed or written form or a permanent form which can be seen in the form of cartoon, photograph, statue, painting etc. Slander is when a person is defamed by the other person with spoken words or communicating others.

The main essentials of defaming a person in the form of libel or slander are malice, the words used must be against the plaintiff, defamatory words must be used and published. The main element of defamation is when these defamatory and false statements are published to a third party. Malice here means intentionally with ill feeling defaming a person without lawful justification. Therefore, defamation destroys the stature, character, honor, prestige and position of a person in public.

4. Internet Defamation

Defamation is a publication of a false statement which lower's one's own reputation which is made negligently and maliciously. Online defamation is defamation of a person on blogs, websites, and social media and by any competitor, customer, employee or anyone anonymously hiding behind with fake accounts or names. But a person cannot sue social media or any website for defamation. Section 230 of communication decency act protects social media or any other websites from defamation. No computer service provider or user shall be regarded as the publisher or speaker of any information given by another information content provider. In other words, bloggers are not liable for the acts or comments left by the readers or any person. So, the person who has been defamed on social media on any website can file a lawsuit against the defamer asking for damages

5. What Is Me Too Movement?

Me Too movement is a social movement which is against sexual harassment or abuse committed by a very popular or prominent men. It was firstly initiated by a sexually harassed survivor and an activist Tarana Burke in the year 2006. She is an American who helped woman to stand up for themselves. She is said to be the leader and worker of the movement. Even though the movement was initiated earlier it was given importance little late. In 2017 this #ME Too became viral by a woman named Alyssa Milano when she began to tweet about the Harvey Weinstein sexual abuse allegations. Alyssa Milano was an actress, producer and even author who gave an attempt to draw attention to sexual harassment and abuse. This hashtag developed and was recognized across the world. They were many women coming out from different corners of the globe who filed cases against men.

International MeToo movement in India has begun in late 2018 in areas including the media, Bollywood industry centered in Mumbai. Actress and Indian former model Tanushree Dutta who appears in films accused a famous Indian film actor, writer, philanthropist Nana Patekar. This led many women to speak out bringing statement of sexual harassment against many numbers of perpetrators. This soon became a phenomenon when powerful men were being accused for sexual harassment and abuse. It spreads virally in social media with a hashtag. Millions of people started using that phrase and hashtag on social media which made this movement international. It gives courage to woman who have been abused and can stand up and speak about their traumas.

6. History Of Sexual Harassment

Sexual harassment of women at work has been for a long time, going back to the period when women were emancipated and ventured out of the safety of their homes to work alongside men. Males who believed these women were available and unrestricted with their favors and that they belonged within the four walls of their houses and in the kitchen did not readily accept this. Women's roles were primarily defined as that of a procreator and a housewife. Women's attitudes changed, while men's attitudes remained unchanged. There were no laws or standards in place at work that defined what constituted Sexual Harassment or what women could do about it.

If a woman was harassed at work, she might file a complaint under Section 354 of the Indian Penal Code 1860, which dealt with criminal assault of women to outrage a woman's modesty, and Section 509, which punishes anybody who uses words, gestures, or acts to insult a woman's modesty. However, because we live in a male-dominated culture, women were afraid to take such a bold move because it may backfire and cause them to lose their employment and reputation.

7.Misuse Of Me-Too Movement Leading To A Case Of Defamation

Me Too movement is a worldwide sensation as many women are empowered to speak out in public across the world. But sometimes this movement is subjected not against the sexual abuse but to defame a person. Which is diverting the movement from the actual purpose. The main reason of defaming a person by a woman can be for money, publicity or by political influence. This hashtag in social media and the coverage that most of the news channels give against the accused is not stopping the violence against woman but rather leading to defamation. Most of the news channels target the popular men not because these people abused a woman but for the increase in the TRP rating which is quite disappointing.

Moreover, if we observe only the rich popular men are targeted in this Me-Too movement. The question is why the middle class or poor men not targeted or punished; it clearly shows that this movement is misused by many who target only the prominent men to defame them. There are many cases where women target a man on social media with a hashtag who is rich, destroying his reputation, career, leading to mental stress and then we get to know that there was no sexual abuse. If it is not a sexual abuse then why is the women targeting that man? It is clear that few women want to destroy the reputation and defame the person for money or with any other influence.

After this movement turned international and famous that is from October 2017, many women came forward with allegations of sexual assault and harassment. In the same way many men filed a suit against those women for defamation. Before this movement there were very few cases filed against defamation but after this movement has come to light, dozens of men filed cases for justice. The cases of sexual harassment increased but in the same way cases of defamation increased at a faster rate.

With so many cases coming forward it becomes difficult to judge who is right and genuine. The society cannot assume that every woman who files a case against a man is genuine. Unfortunately, many people think the woman is always correct and it is not wrong on part of the general public but those who showcase as if woman was only right. This makes the society think only one side of the case that is in favor of the woman. The main problem is social media and few specific news channels. These news channels focus more on their TRP rating rather on the case details and facts.

Even after the judgement is given in favor of the accused, still the respect, honor and reputation which is lost never comes back. It is a right of a person to live with dignity, respect in the society. Most of the cases are those filed against only the rich, this shows people are not at all bothered of men who commit crime but on money and influence. The idea and purpose of this movement is to stop the violence against the woman and it is not being utilized the way it has to be. It is quite disappointing to know that people defame the person so easily in society without any proof and just with a statement of a woman on social media with a hashtag. Even it is useful for few or not, it is clearly shown that this movement is being misused in many ways.

8. Important Cases Of Me Too Movement

1. Alok Nath who is a very famous Indian film actor and was accused of rape by Vinta Nanda, Navneet Nishan and Sandhya Mridul have also accused him of sexual harassment. Nath did not accept these allegations and filed a defamation case against Vinta Nanda. Nath received a show cause notice from Cine and TV Artistes' Association. Indian Film and Television Directors' Association (IFTDA) also sent a notice seeking his stand on the allegations.
2. Vikas Bahl who is an Indian film director, producer and screen writer was accused of sexual misconduct by one of the Bombay Velvet crew member and actress Kangana Ranaut. He denied all allegations and sent a legal notice to his former business partner Anurag Kashyap and Vikramaditya Motwane for making defamatory statements. Phantom has announced its dissolution with Vikas Bahl.
3. Anu Malik who is a very famous music composer was accused of sexually harassing a singer Shwetha Pandit during her teenage. Malik did not accept his allegations but took a moral responsibility and left the duty of being a judge on Indian Idol.

4. M.J. Akbar who is journalist and minister of state for external affairs where Sixteen females who worked with him accused him of sexual harassment. He did not accept the allegations and filed a defamation case against a journalist Priya Ramani. Later he resigned from the post of minister of external affairs of the state.

5. Vinod Dua who is an editor was accused by Indian film maker Nishita Jain, documentary film maker Sunita Thakur, television anchor Janvani of sexual harassment. He refused all his allegations and now The Wire (Vinod is a consulting editor) formed internal complaints committee to investigate the matter thoroughly.

6. Satadru Ojha who is an editor was accused of sexual harassment by two female journalists who worked with him. He did not accept the allegations and condemned for defamation. The Times of India formed an inquiry to investigate the allegations.

9. Anti Slapp Law

Strategic lawsuit against public participation (SLAPP) suit is designed to censor the speech of critics as opposed to asserting valid claims of defamation. In other words, it is said to be a slap on the face of anyone who speak against the power. The idea behind this suit is that some kind of contents which are spoken or published maliciously which is harming the reputation, dignity and status of a person which is concerned. Any person who has been defamed in public can file a suit under a slapp suit. The plaintiff files a defamation suit against the defendant by establishing all the necessary details which is likely to succeed. Here the defendant makes a motion to dismiss the suit because it may sometimes involve the matter of public concern and freedom of speech. The court after going through the facts of the case and reveals the judgement either for the plaintiff or for the defendant and may award cost and fees to the winning party. This slapp suit can sue defamer or a critic for criminal interference or for defamation. These Slapp laws are state laws and are not federal laws. It is unclear whether the state slapp law will apply in a federal case. These Anti – slapp law defenses protect the speech that is made in connection with any issue of public interest.¹ In few Anti slapp law is to protect the detractors or the critics from the SLAPP lawsuit providing them with a remedy.

¹ Shaina Weisbrot, "The impact of the #MeToo Movement on Defamation Claims Against Survivors" <<https://academicworks.cuny.edu/cgi/viewcontent.cgi?article=1506&context=clr>> accessed on 22 December 2021.

Few people argue that they need anti slapp law so that they are protected and not made precedents for future generations of free speakers.

In India, there is no such provision called as anti - Slapp laws. The concept of Slapp suits in Indian jurisprudence is not at all present. These Anti slapp laws are applied in few states like in California it exercises on free of speech where the law here is considered to be broad. In Pennsylvania this law is considered to be narrow as it applies on environmental matters or licensing. Some are broad as well as narrow like Maryland, Virginia applies to governmental or public concerns and interests.

In India such harm is checked under the provisions in both civil and criminal defamation laws of IPC section 499 and 500. According to Section 499 of IPC, whoever speaks or by words or by signs or by visible interpretations publishes knowingly with intention to harm another person's reputation to defame that person. Section 500 of IPC deals with the punishment of defamation that is whoever defames a person will be punished with imprisonment which can extend to two years or with fine or both. The supreme court stated in the year 2016 in *Subramaniam v. Union of India*,² "The right to freedom of speech will not be an absolute right but a person's right to freedom of speech and expression must be balanced with other person's right to reputation"

10. Posh Act

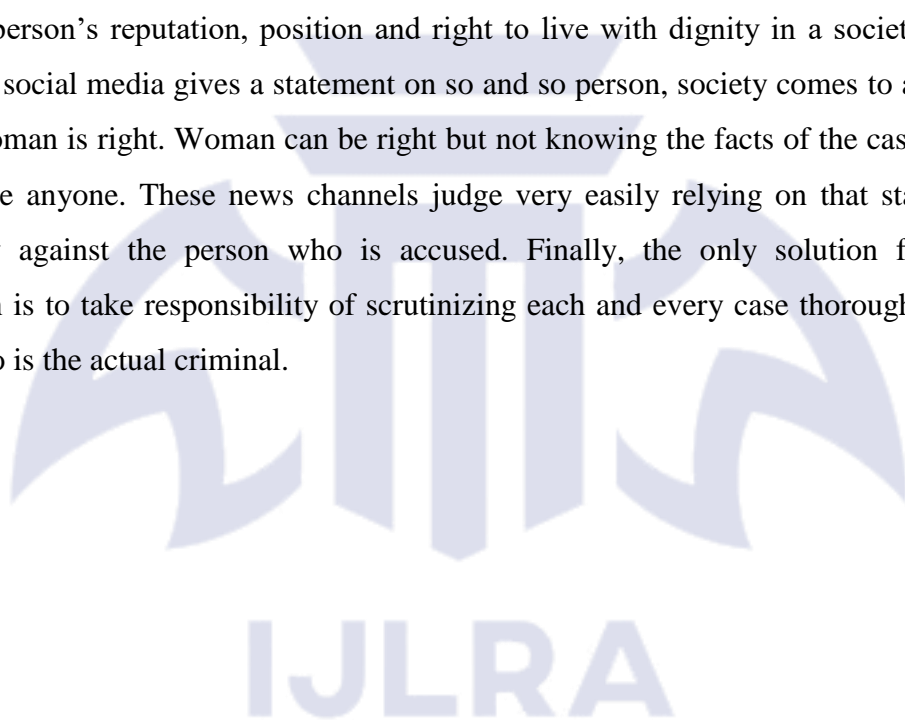
The "Prevention of Sexual Harassment of Women at Workplace Act" was passed in 2013. The Ministry of Women and Child Development was in charge of enacting it. Sexual harassment not only produced an uneasy and uncomfortable workplace, but it also had an impact on the woman's job performance. It also harmed their social and economic development, as well as putting them under a great deal of physical, emotional, and psychological strain. This Act was more detailed than the Vishaka Guidelines, defining the terms Sexual Harassment, Employee, Workplace, and the Employer's role and obligation. All companies with ten or more workers were required to establish an Internal Complaints Committee. In the event of disobedience, action may be taken.³

² 2007 15 SCC 631.

³ . Kanchan Verma; "Impact of "METOO" Movement on Implementation of POSH Law"; <<https://blog.ipleaders.in/metoo-movement-implementation-posh-law/>> accessed 23 February 2022.

11. Avoiding Defamation And Serving The Actual Purpose Of Metoo Movement

Me Too movement is actually a very great initiative taken, but most of the times it is not serving the actual idea of this movement. The main purpose of this movement is to stop the violation against sexual harassment or abuse against woman and also men. It is misused in many ways as we discussed like for money or to defame a person. The problem here is the society thinks only one way but does not try to go deep and investigate the true facts of the case and then come to a conclusion. Social media and news channels are the once who defame a person's reputation, position and right to live with dignity in a society. Once the woman on social media gives a statement on so and so person, society comes to a conclusion that the woman is right. Woman can be right but not knowing the facts of the case we should never judge anyone. These news channels judge very easily relying on that statement and completely against the person who is accused. Finally, the only solution for avoiding defamation is to take responsibility of scrutinizing each and every case thoroughly and then decide who is the actual criminal.



12. Conclusion

Inequal power distribution between men and women limits women's personal liberties and prevents them from fully participating in society. As a result, women still suffer stigma and traditional gender standards while using their right to freedom of speech to tell their story and speak out against sexual abuse. As a result, women and men do not have equal access to exercising their freedom of speech rights. As previously stated, the #MeToo movement was a tremendous and game-changing campaign by women throughout the world in 2017 to condemn sexual assault against women. #MeToo provided a forum for women to use their right to free speech and break the silence around sexual violence. It also increased awareness and challenged gender norms and institutions that disproportionately harm women.⁴

This essay focused on defamation and MeToo movement and also the impact of social media, news channels misleading the society. The importance of a deep investigation of each and every case analyzing on the true facts of the case. The role of Anti – Slapp laws are also been discussed in brief. It gives a complete idea on how the MeToo movement is being misused with money, publicity and political influence. The actual purpose of MeToo movement has to be understood and utilized. Finally, it gives complete idea on misleading facts of MeToo movement leading to defamation.

⁴ Lovisa Damström; “#MeToo, Men’s Sexual Violence against Women and the Chilling Effect of Defamation Lawsuits: A Feminist Critique of the Swedish Criminal Justice System”; <<https://lup.lub.lu.se/luur/download?func=downloadFile&recordOid=9025798&fileOid=9025799> > accessed 23 February 2022.

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