



"Sexual Harassment against Women in Bangladesh: An Overview on Legal Context"

A thesis submitted in the fulfillment of the requirements for Degree of
Master of Laws.

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Letter of Transmittal

Dr. Kudrat-E-Khuda Babu

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Dear Sir,

It's a great pleasure for me that I have been able to make research on "**Sexual Harassment against Women in Bangladesh: An Overview on Legal Context**". During concluding this research I have given all of my best effort to form the useful research and by collecting all the relevant information from different sources that it can fulfill your expectation.

Therefore, I shall remain grateful to you if you pass through this research paper for your evaluation and I would be like that if any valuable recommendation is formed from your part in this matter.

I am always available for any further clarification of any part of this paper at your convenience.

Sincerely yours.

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Letter of Approval

This is to certify that the work is done "**Sexual Harassment against Women in Bangladesh: An Overview on Legal Context**" is a real work done by Meher Afrose, ID: 212-38-420, batch: 35th, Department of Law, Daffodil International University, done under my supervision in the partial fulfillment for the research, work is done for the fulfillment of course requirements of Law-812, 812 from the Department of law, Daffodil international University.



Dr. Kudrat-E-Khuda Babu
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Declaration

I, hereby, declare that the work, present in this research is performed by me under the supervision of **Dr. Kudrat-E-Khuda Babu (Professor and Head of Department of Law, and Daffodil International University)**. I also assure that this research or no part thereof is being submitted anywhere for the award of any degree.

Meher Afrose

Meher Afrose

(Candidate)

ACKNOWLEDGEMENT

It is a great pleasure for me to thank that person who supports me to complete this research like family and teachers. To begin with, I would like to express my deep gratitude to my supervisor **Dr. Kudrat-E-Khuda Babu (Professor and Head of Department of Law, Daffodil International University)**, who was a source of ideas, and provider of suggestions.

I also grateful to the authors, journals, and webs mentioned in the references, but I bear the responsibility of errors, omission and discrepancies, if there any.

Dedication

Firstly I am showing very much respect and gratitude to my Allah. I would like to express my gratitude and love to my parents for their sacrifice and to provide me the opportunities for higher education. They are still guiding me being a good human being and motivated me to dedicate myself benefit of the country.

Abstract

The unannounced and inappropriate promise of benefits in exchange for sexual favors, as well as the use of explicit or implicit sexual overtones, is all examples of sexual harassment. This is an important subject since it is a distressing subject for women because it includes a violation of their rights.¹

We live in 21st century where most of the Human Rights and other Civil & Political rights were established and developed in 14 to 18 centuries. Human rights are such rights which inalienable and develop circumstantially though ages and it is such kind of rights which doesn't vary territorially or institutionally. Now there are quite a good numbers of Laws and regulations and treaty establishing rights of individuals in different spares of life as well as in working sectors. But my aim is on the simple concept on: Title VII of the Civil Rights Act of 1964: Makes it illegal to discriminate against someone on the basis of race, color, religion, national origin or sex. Employees are also protected from retaliation if they file a discrimination claim in the workplace under this statute.²

We can consider this law as the key root of protection over sexual harassment on working place. And my aim is to find out what are key points of not letting this law being enforced or implemented and our generation of laws and rules.

¹ *Human Resource Management (6th Edition) Edit edition, Problem 5F from Chapter 3.3.1.*

² *Title VII of the Civil Rights Act of 1964 (Title VII).*

I want to do this research but because of being a Human I want to do this research. And another reason of my selecting this topic is I want to find out why or what keep women silence. I want to find out the reasons that why women said as equal but treated as weak.

So actually, this research topic is based on the questions of several girls, females, women who want to break this silence but before that they need to know or ensure on that there is no reverse impact on being loud when they get harassed and also my research will help those who keep silence rather than protest during the commencement of sexual harassment and should support them.

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Abbreviation

GBVH	Gender-Based Violence
IDIs	Six in-depth interviews
FGDs	Four focus group discussions
UDHR	Universal Declaration of Human Rights
ICCPR	Convention on Civil Political Rights
ICESCR	Convention on Economic, Social and Cultural Rights
ASK	Ain o Salish Kandra
BD	Bangladesh
OCC	One-Stop Crisis Cell
BNWLA	Bangladesh National Women Lawyers Association
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CrPC	The Code of Criminal Procedure, 1898
HCD	High Court Division

Chapter: One

Introduction

1.1 Introduction:

Sexual harassment has been a major source of concern in Bangladesh, with alarming reports of women and girls being harassed on the rise.³ Sexual harassment, both verbal and physical, has been perpetrated against them. According to a recent Action Aid Bangladesh study titled "Freedom to Move: Women's Experience of Urban Public Transportation in Bangladesh," 84 percent of women commuters polled said they had experienced verbal and physical sexual harassment.⁴ According to the report, 88 percent of women have suffered verbal or physical harassment while out running errands, and 62 percent say they limit their movement and stick to strict timelines while they are alone.⁵ Unfortunately, 81 percent of them said they would not complain to the authorities because they were powerless and had no respect for women in the community.

The statistics on rape astound the general population, indicating that sexual harassment should not be viewed solely as a female issue. It's a matter of human rights, labor rights, and human resource management. Harassment has a variety of outcomes.

Harassment is a fatal obstacle to women's integration into the job market from a macro standpoint, from social and economic to physical and emotional. In this way, it stands in the way of attaining gender equality and economic progress.

1.2 Literature Review:

Catharine MacKinnon's study was the first in-depth legal analysis of sexual harassment. In this book, MacKinnon distinguishes between "quid pro quo" sexual harassment and "workplace harassment," a distinction that the Supreme Court later recognized.

³ *Workplace sexual harassment remains unreported, ignored Nawaz Farhin (Published at 12:50 am May 21st, 2018).*

⁴ *Sexual Harassment against Women (Md. Razidur Rahaman) 11 June, 2017. - Daily Sun.*

⁵ *No to sexual harassment of women | 2017-01-15 - Daily Sun.*

She reviewed the legal precedents and concluded that sexual harassment amounted to sex discrimination because it represented and sustained women's social imbalance in comparison to men.⁶

Sexual Harassment of Female Workers in Bangladesh's Manufacturing Sectors:

The Asian Institute of Research is the publisher of this book (Muhammad Faizul, Sarker, Md. Atiqur Rahman, Md. Syfur) The goal of this essay is to assess the current situation and nature of sexual harassment against female workers in Bangladesh. Female workers in Bangladesh's tannery, RMG, and leather footwear manufacturing industries were interviewed in six in-depth interviews (IDIs) and four focus group discussions (FGDs). Both IDIs and FGDs are interactive, allowing participants to participate in open debate. As Yin implies, both IDIs and FGDs are interaction-based, with participants invited to engage in free debate without interruption (2003). Working women are continually terrified of losing their sexual safety and security, according to the survey's findings. In general, female workers in Bangladesh are not protected by management.⁷

In Bangladesh, there are laws, regulations, and practices regarding gender-based violence and harassment in the workplace.

Taslina Yasmin of the University of Dhaka's Department of Law did the research.

The legal and regulatory framework in Bangladesh for dealing with workplace gender-based violence and harassment, including sexual harassment, is examined in this paper. Despite the government's progress in addressing these concerns through legislation and normative frameworks, they continue to be a major source of concern for women in the private and public sectors, particularly at work.⁸

⁶ Catharine A. MacKinnon; Foreword by Thomas, (September 10, 1979). *A Text Book on Sexual Harassment of Working Women Volume 19 of Yale Fastback Series.*

⁷ *Sexual Harassment of Female Workers at Manufacturing Sectors in Bangladesh, September 2019 Journal of Economics and Business* 2(3):934-940.

⁸ *Taslina Yasmin, (First published 2020) Overview of laws, policies and practices on gender-based violence and harassment in the world of work in Bangladesh.*

I studies books and articles and journals talks about sexual harassments their silence but they don't or can't describe the reason behind this silence.

As a result, sexual harassment has a negative impact on women's job performance and productivity, as well as creating a hostile work atmosphere. In reality, sexual harassment in the workplace can sometimes result in death. As a result, despite the fact that males are extraordinarily effective in both the public and private sectors, many women despise working alongside them. The majority of women in the workplace face or are subjected to sexual harassment and physical violence by their peers. As a result, women's working conditions and environments have grown perilous and dangerous.

1.4 Objectives:

- a) To raise awareness about sexual harassment and the consequences of it.
- b) To raise awareness that sexual harassment is a crime that can be prosecuted.
- c) To initiate an effective mechanism for prevention and restrictions of Sexual Harassment at Organization.
- d) Put sexual harassment at the top of the agenda and mandate the duty of the citizens under appropriate laws and regulations
- e) Provide an appropriate identification of women under the Constitution.
- f) Figure out an appropriate legal way for ensuring justice to the women.
- g) Highlight the causes that tend to sexual harassment of women at workplace.
- h) Make some suggestions that address the incidents of sexual harassment of women at workplace.

1.4 Research question:

- 1) What are the continuities and disjuncture's between harassment outside the workplace and such conduct inside the workplace?

- 2) What kind of knowledge do women workers have about their legal rights with regard to harassment?

- 3) In the absence of effective measures for redress, what steps should women's take to protect themselves?

- 4) What measures could the state and human rights groups take to combat sexual harassment?

- 5) What is the reason why girls are silent?

- 6) Where is the lack of efforts that we cannot ensure justice to them who are the victim of sexual harassment in day-to-day life?

1.5 Methodology:

The study examines important legislation and regulations on GBVH and Harassment, Supreme Court of Bangladesh judgments on sexual harassment and associated concerns, news stories, reports or studies done by national and international organizations, as well as relevant scholarly papers and books. The current research, titled " Sexual Harassment and Elimination: An Overview on Legal Perspective in Bangladesh," is based on both primary and secondary data gathered from various sources.

1.6 Significance:

It is noteworthy that many women experience first-hand sexual harassment at a young age. Here a young girl has to fall victim to leers and pinches while walking through the crowded market like Dhaka. It has become common for unmarried women, young women, women with disabilities and single mothers to have sex; because, opportunists think they are helpless and unable to defend themselves. Moreover, women in Bangladesh have been defined and limited by conventional sexual roles and so male dominance and superiority has always been there and it seems difficult to maintain the environment of women who dare to raise their voices. So, my research has inspired women to know and fight for their rights and dignity and to show a society

where we fail to protect our daughters our sisters our mothers exploit like this. I hope my research will help both men and women understand the legal consequences of sexual harassment and what is needed to prevent it.

1.7 Conclusion:

In Bangladesh, sexual irritation or harassment has become a serious problem that needs to be addressed immediately. We must first make conscious people, the primary perpetrators of sexual harassment, aware of the negative aspects of sexual harassment. We must instill moral and religious values in our children so that they will reconsider harassing a woman. There should be educational classes against sexual harassment in schools and religious institutions to accomplish this. There should also be an educational community for young females to make them aware that they should report sexual harassment to the authorities.

Chapter: Two

Primary Concept of Sexual Harassment

2.1 Definition of Sexual Harassment:

Laws against sexual harassment may only be effective if the activity to be prohibited can be clearly identified.

Sexual harassment, according to Louise Fitzgerald and Alayne Omerod⁹, (1) involves the sexualization of a professional relationship; (2) frequently occurs in the context of an organizational power differential (e.g., supervisor-employee); (3) consists of unwanted and unwelcome behavior, both verbal and non-verbal in nature; and (4) can be viewed along a continuum, from sexist remarks to non-verbal sedation. Researchers in the fields of human resource management and psychology gathered data to give us an idea of the types of harassment experienced by respondents.

For example, Frank Till¹⁰ categorized the replies to an open-ended sexual harassment survey of undergraduate women and came up with the following sexual harassment categories, which are listed in order of increasing severity:

- i. Gender harassment — broad sexist words and conduct intended to express insulting, humiliating, or sexist sentiments about women rather than to compel sexual cooperation;
- ii. Seductive behavior — unwelcome, improper, and offensive sexual approaches;
- iii. Sexual bribery — the promise of a monetary benefit, such as a raise or promotion, in exchange for sexual intercourse or other sex-related behavior;
- iv. Sexual coercion — the threat of penalty, such as failure to award a promotion or being fired, in exchange for sexual participation; and

⁹ Louise F Fitzgerald & Alayne Omerod, “Sexual Harassment in Academia and the Workplace” in *Psychology of Women: A Handbook of Issues and Theories* (F Demark & M Paludi eds, 1993) at 556, cited Anne Levy & Michele Pahidi, *Workplace Sexual Harassment* (1996) at 48.

¹⁰ Frank Till, *Sexual Harassment: A Report on the Sexual Harassment of Students* (1980), cited in Levy & Paludi, *ibid* at 47.

- v. Sexual imposition or assault – this includes rape, assault, and extreme sexual imposition.

On the subject of sexual harassment, we might come to the following conclusions:

- i. Sexual harassment occurs when a person utilizes his or her authority to intimidate, force, or humiliate another person because of their sexuality. It inserts an improper sexual aspect into what should be a professional relationship when it occurs in the office.
- ii. Sexual harassment is characterized by its uninvited nature. When two individuals freely form a close, intimate connection with each other, there can be no sexual harassment.
- iii. Sexual harassment can take a variety of forms, including both verbal and physical assault. Sexual innuendos, statements, and remarks; suggestive, vulgar, or offensive noises; implicit or overt threats; and sex pressure are all examples of verbal harassment. Leering or ogling; exhibiting objectionable photographs; making obscene gestures; touching, squeezing, or brushing up against the victim's body; assault; and compelled sexual intercourse are all examples of physical harassment.

The legal and social understanding of sexual harassment, however, varies according to culture. In the context of our employment, the victims of harassment may be supervisors, supervisors from other regions, colleagues or any male or female victim who is not an employee of any employer.

Sub-Article (1) of Article 19 of the Constitution provides that the State shall endeavor to ensure equality of opportunity for all citizens.¹¹

Article 10 of the Constitution states that measures will be taken to ensure the participation of women in all spheres of national life, which is not possible unless we stop sexual harassment. Such participation cannot be guaranteed unless they are protected from this obvious and pervasive practice.¹²

¹¹ *The Constitution of the People's Republic of Bangladesh, (ACT NO. O 1972).*

¹² *The Constitution of the People's Republic of Bangladesh, (ACT NO. OF 1972).*

Article 26 of the Fundamental Rights Chapter states that all citizens are equal before the law and are entitled to equal protection of the law.¹³

In paragraph 29, the same chapter states, among other things, that all citizens shall have equal opportunities in employment or office in the service of the Republic, and that no citizen shall be discriminated against in any employment or office in the Republic on the basis of religion, caste, creed, gender, or place of birth. Can Women should have equal rights with males in all aspects of state and public life, according to sub-article (2) of Article 26. Nothing in this paragraph of Article 26's sub-article (4) prevents the state from forming in favor of women or children. Special provisions are made for the advancement of any citizens who are disadvantaged.

Article 31 provides, among others, that every citizen's right to enjoy the protection of the law and to act in accordance with the law, and to act only in accordance with the law, and in particular the life and liberty of the organization, shall not be infringed upon.¹⁴

Article 32 states that no one's life or personal liberty may be taken away by law. The fundamental rights provided in Bangladesh's Constitution's third chapter are sufficient to cover all aspects of gender equality, including sexual harassment and torture avoidance. The judiciary's independence is an essential component of our constitutional project. International sessions and norms should be interpreted as fundamental rights if there is no disagreement between them. When there are no discrepancies or gaps in domestic law, judicial constructions are increasingly often used to interpret municipal law in line with international law and agreements.¹⁵

The right to education and dignity, as well as protection against sexual harassment, is internationally acknowledged as fundamental human rights. The general minimum conditions

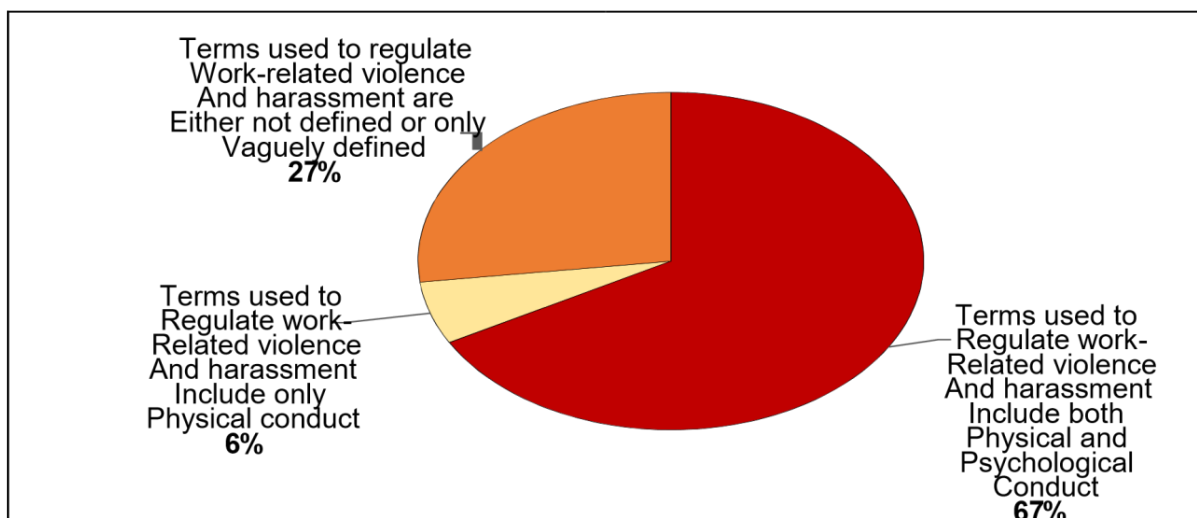
¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ *Ibid.*

for these rights have been widely accepted around the world. As a result, worldwide conferences and policies are critical in developing recommendations to achieve this goal.

The establishment of the Universal Declaration of Human Rights' Fundamental Rights was particularly overwhelming for the Constitution's peasants. When we compare the Universal Declaration of Human Rights (UDHR) to Part III of the Constitution, we can observe that most of the rights established in the Declaration are recognized in Part III in some form or another, while some are acknowledged in Part II. The International Covenant on Civil and Political Rights (ICCPR) and the United Nations General Assembly Convention on Economic, Social, and Cultural Rights (ICESCR), both ratified in December 1996, rendered the UDHR's inclusive rights binding on all nations signed. Article 7 of the Universal Declaration of Human Rights states that all people are equal before the law and are entitled to equal protection under the law without discrimination.¹⁶

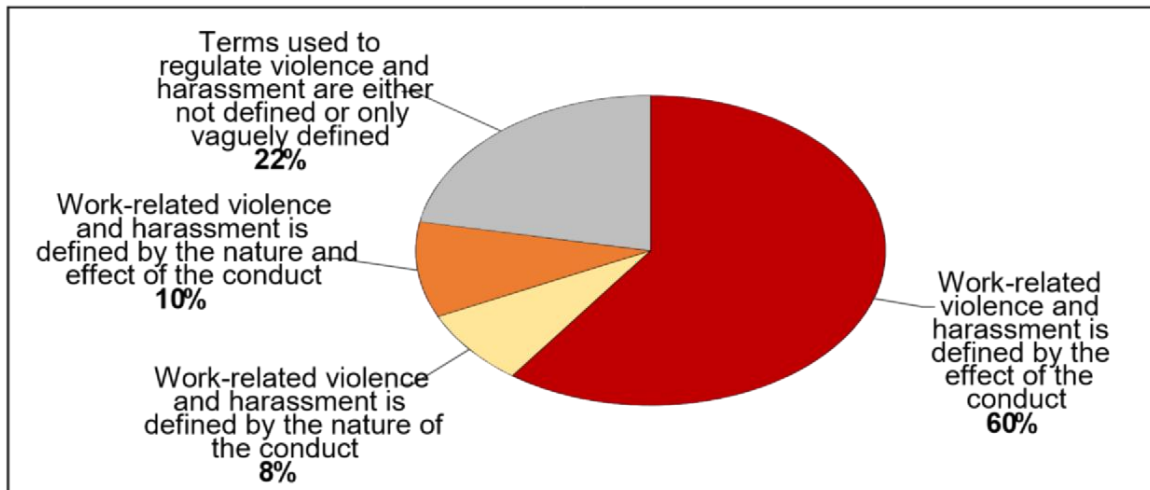


Note: The sample consists of 60 countries: 15 countries from Africa; 11 from the Americas; two from the Arab States; ten from Asia and the Pacific; and 22 from Europe and Central Asia.

¹⁶ *Universal Declaration of Human Rights (UDHR), December 10, 1948.*

Source: ILO 80-country research on the law and practice of dealing with workplace violence and harassment against women and men.

Figure 1: Components of violence and harassment



Note: The sample consists of 60 countries: 15 countries from Africa; 11 from the Americas; two from the Arab States; ten from Asia and the Pacific; and 22 from Europe and Central Asia.

Source: ILO 80-country research on the law and practice of dealing with workplace violence and harassment against women and men.

Figure 2: Components of violence and harassment

2.2 Sexual Violence in the Workplace:

The three types of sexual assault are as follows:

- (1) Whether a law has been adopted requiring the use of physical force against a person's will to participate in sexual conduct;
- (2) To engage in or attempt to engage in sexual conduct with a person who does not understand the nature or conditions of this Act, refuses to participate, or is not interested in sexual activity,

such as contact due to illness, disability, or the effects of alcohol or other drugs, or fear or stress, and

(3) Offensive communication: Because many employees lose their jobs or fear retaliation from an employer, the pressure to provide a work environment, the ability to co-worker or supervise, or to intimidate, sensitize, or engage in sexual activity against her in the workplace will unfortunately occur. If they reject the existence of sexual violence.¹⁷

2.3 Various forms of sexual harassment

- Being sexualized in public.
- Experiencing offence and disrespect as a result of inquiries and rumor.
- Stress causes poor performance or attendance at school; absenteeism rises as a result of the dread of being harassed again.
- Personal and professional defamation.
- The impacts on sex and relationships can place a lot of strain on other people's relationships, which can lead to divorce.
- Job dismissal and rejection can result in the loss of a job or a career, as well as a loss of income.
- Encouraging the public to look into one's private life - the victim gets scared as a result of harassment or stress.
- Dropping out of school, altering academic plans, or dropping out of school (loss of education) due to repeated harassment and/or stress.
- The victim is "accused," and his dress, way of life, and personal life are frequently questioned.
- Relocating to a new city, a new career, or a new school;

¹⁷ August 17, 2015 by Jerry, *How to Deal with a Bullying Boss*.

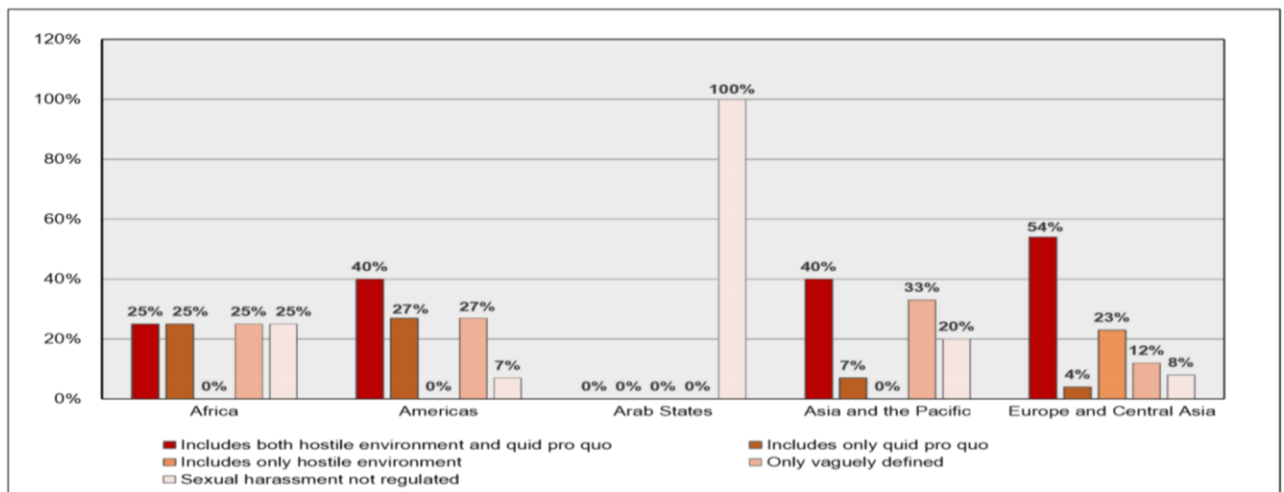
- Loss of references/recommendations.
- Harassment has the same effect on the environment as harassment.
- Loss of confidence among persons in similar positions to the harasser or his coworkers, particularly if they do not give support, difficulties, or pressure on the coworker connection.
- Stress and health issues cause people to lose touch with their support networks or withdraw from professional and academic groups.

2.4 Sexual harassment and violence in schools and at work

Sexual violence and harassment, including lewd behavior, much of the time happens in establishments thought to be 'sheltered', for example, schools, where culprits incorporate companions and instructors. In ponders from around the globe, including Africa, south Asia, and Latin America, examines have archived that significant extents of young lady's report encountering inappropriate behavior and maltreatment while in transit to and from school, just as on school and college premises, including study halls toilets and residences, by peers and by educators. For instance, in an examination among elementary schools in the Machinga locale of Malawi, grade school young ladies announced encountering different sorts of lewd behavior and maltreatment at school, including sexual remarks (7.8%), sexual touch (13.5%), 'assault' (2.3%), and 'constrained or undesirable' sex (1.3%). That equivalent investigation found that educators at 32 out of 40 schools announced knowing a male instructor at their school who had propositioned an understudy for sex; while instructors at 26 out of 40 schools revealed that a male instructor at their school had got an understudy pregnant.

For instance, from a high-salary setting, a national agent investigation of understudies in US center and 17 secondary schools found that out of 1002 female respondents, a lion's share of young ladies detailed encountering some type of inappropriate behavior at school during the 2010–2011 school years.

Research on lewd behavior in the work environment is in its earliest stages, yet starting investigations demonstrate that it is broad, particularly as more ladies enter the workforce. Overviews have discovered that 40–half of ladies in the European Union report some type of lewd behavior or undesirable sexual conduct in the working environment.



Source: ILO 80-country study on the law and practice addressing violence and harassment against women and men in the world of

Figure 3: Sexual harassment definitions by location (within group percentage)

2.5 The Nature and Incidence of Sexual Harassment in the Workplace

1. How Frequently Does Sexual Harassment Occur in the Workplace?

The vocabulary of improper behavior is relatively recent, despite the reality that the various activities it encompasses are far from new. In the 1970s, American women's activists were the first to make a socially perceived language available to describe explicit gendered interactions as obscene conduct. The concept arose legitimately as a result of the expansion of social freedoms legislation in the United States. Catherine MacKinnon, a women's activist and legal researcher, was a pioneer in identifying improper behavior as a proclamation of male supremacy and a kind of sexual segregation.

Mackinnon highlighted Title VII of the Civil Rights Act of 1964, which prohibits segregation. In the context of religion, race, and gender.

As a result, unacceptable behavior creates a form of sex segregation in the United States and other countries. Ordinary residents in Bangladesh are totally shocked to learn of the continued assault.¹⁸

According to data from Bangladesh Mahila Parishad, the number of assault occurrences increased significantly from January to September 2015; a total of 3,336 ladies and minor young ladies were coldheartedly assaulted and misled, with 158 of the 826 assaults including assault episodes that are completely terrible occurrences to be despised. It is also a near certainty that there were 111 cases of attempted assault and 71 exploited persons who died as a result of the attack; there were 27 cases of sexual mistreatment and 79 instances of improper behavior, and 29 women were victims of corrosive assault.

In addition, 45 women were burned in a fire, with 17 of them dying later; 65 females were apprehended, with 61 cases of dealing with ladies and minor young ladies; and a total of 302 ladies were subjected to agony for share, with 161 being executed for payment. According to the study, roughly 87 percent of girls in Bangladesh are subjected to improper behavior by their relatives at home, thus family awareness of lewd behavior should come first.¹⁹

According to data released by the Ain o Salish Kandra (ASK) and other BD papers in 2016 (January-September), the total number of self-destructive cases in Bangladesh is 6, with no male exploited people; the total number of homicides due to dissent is 11, according to the Ain o Salish Kandra (ASK) and other BD papers (including 5 female people and 6 male). 94 females and 17 males have been hurt by stalker attacks, with 61 males unable to attend class as a result of the stalkers' actions. In addition, four female students will surely finish their schooling. As a result, a total of 193 persons (109 females and 84 males) became victims of

¹⁸ Title VII of the Civil Rights Act of 1964.

¹⁹ Mahila Parishad, the number of assault occurrences increased significantly from January to September 2015.

lewd conduct lawfully and inadvertently in 2016 here in Bangladesh, which is a horrific scenario by any stretch of the imagination.²⁰

However, we also have a comparable report (Jan-Oct, 2016) on violence against women and children released by the One-Stop Crisis Cell (OCC), which excels the previous three years

by the sign of awful highlights. There were 6282 physical ambushes, 681 rapes, 47 incidents of eating, 59 corrosive throwing, 715 mental maltreatment, and 238 other crimes in 2016 (January to October), totaling 8022 cases. In 2015, 2014, and 2013, entire infringements were reported as 6016, 7440, and 4391, respectively. It indicates that patterns of violence against women are rapidly growing, indicating that we are on the verge of a social disaster that must be addressed now.

2. Who is harassed, and who is harassing them?

As you can see from the preceding section, both men and women are subjected to sexual harassment. Women, on the other hand, make up the majority, particularly in junior positions or professions that require serving or caring, such as administrative staff, manufacturing employees, nurses, receptionists, sales assistants, secretaries, social workers, and teachers. According to a 1991 Alfred Marks Bureau survey, 62 percent of sexual harassment victims are women, whereas less than 7% of working males are harassed, according to the Industrial Society.

As a result, the author may be forgiven for using male pronouns to refer to harassers and female pronouns to refer to those harassed in this article. Homosexuals are more likely than heterosexuals to be harassed sexually. One out of every two homosexual men and women has been harassed at work, with 48 percent of those targeted expressly because of their sexual

²⁰ *Ain o Salish Kandra (ASK) and other BD papers in 2016 (January-September), the total number of self-destructive cases in Bangladesh.*

orientation. Among them, 79% were subjected to jokes or mocking, 51% to homophobic abuse, 41% to aggressive questioning, 14% to threats, and 5% to physical assault.²¹

Harassers are often males of similar or greater status than the harassed, whether male or female, according to research. According to a 1988 Fortune magazine poll of 160 of America's top 500 firms, 36% of sexual harassment allegations were directed at the woman's immediate supervisor, 26% at another individual of superior level, and 38% at coworkers of equal status.²²

These findings are similar to those of the Alfred Marks study, which found that 43% of respondents had been harassed by their immediate employers, 59% by senior employees other than their immediate bosses, and 55% by coworkers in the United Kingdom.²³

Percentage of ever-partnered women aged 15–49 years who reported sexual

Intimate partner violence ever, after the age of 15 years 3)

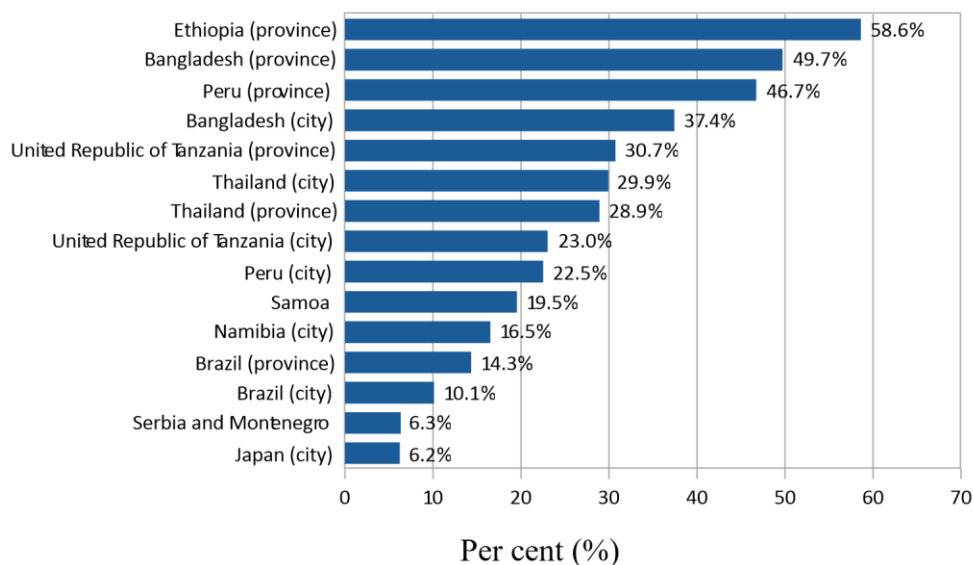


Figure: 4

²¹ Stonewall, *Less Equal than Others: A Survey of Lesbians and Gay Men at Work* (1993), cited in Collier, *ibid.*

²² *Seagrave, supra n 16 at 203.*

²³ *Alfred Marks Bureau, cited in Collier, supra n 20 at 11.*

3. It's not only supervisors and coworkers that harass employees.

We discovered that sexual harassment is committed by more than simply managers, supervisors, and individuals in positions of authority in practically every industry. Harassment can be perpetrated by coworkers, as some hostile work environment allegations allege. Third-party sexual harassment is also widespread.

This is true for low-wage fast-food employees who may be harassed by customers, as well as nurses, physicians, and other healthcare professionals who may be harassed by patients. It's also true for well-paid lawyers, who may face sexual harassment from opposing counsel, clients, and judges.²⁴

2.6 Sexual Harassment's Consequences

The victim's capacity to function efficiently and maintain personal connections outside of work is severely harmed by sexual harassment. According to a poll conducted by the Industrial Society, sexual harassment is one of the most distressing, embarrassing, and harmful situations an employee may have. According to the employees who reported being sexually harassed in the survey, 37% said it affected their thinking and judgment, 24% said it made them less cooperative and productive, 18% said it made it difficult to concentrate, 8% said it led to behavioral changes and more frequent accidents, and 5% said it made them more prone to absences or lateness. Loss of focus, headaches, nausea, sleeplessness, anorexia, mood swings, panic attacks, loss of libido, and melancholy are among the physical symptoms claimed by sexual harassment victims.

Sexual harassment has a physical impact on employees, which therefore has an influence on their employers' enterprises. According to a survey done by the US government in 1988, between 1985 and 1987, over 36,000 US federal government employees departed their

²⁴ *Sexual Harassment: A Severe and Pervasive Problem. What Drives This Unwanted, Costly, and Damaging Behavior Across Industry Sectors by Wage and Gender*, By: Alieza Durana, Amanda Lenhart, Roselyn Miller, 2 more Last updated on September 26th, 2018.

positions due to sexual harassment on the workplace, costing the federal government US\$267 million in turnover, sick leave, and lost productivity.²⁵

According to a 1994 poll by USA Today of Fortune 500 businesses, sexual harassment costs employers US\$6.7 million (about S\$10.1 million) each year in increased absenteeism, employee turnover, weak morale, and poor productivity.²⁶

The survey also discovered that the majority of the harassed women were under the age of 35 (85.5%), with the majority being between the ages of 20 and 29. (73.6%). Their harassers, on the other hand, were predominantly in their 30s and 40s (33.9 and 32.2 %, respectively), and had done so previously (42.4%). Administrative (30.2%), executive (24.5%), and clerical (24.5%) positions were held by the majority of the women. 56.7 % said their superiors sexually harassed them, while 39.1 % said coworkers harassed them.

Avoiding the harassers (28.0 %), brushing off the harassment with jokes (18.3 percent), telling the harassers clearly that their behavior was unacceptable (14.9 percent), and consulting relatives and friends (14.3 %) or other people working in the company, such as a boss, personnel officer, or colleague were the most common responses to sexual harassment (11.4%). When women addressed their harassers, the majority found that the harassment ended (53. %7). However, a considerable number of people (27.8%) continued to be harassed after that. 25.4 percent of those who did nothing believed that reporting the harassment would lead to further problems at work, while 21.1 % said they were too ashamed to tell anybody and/or didn't know what to do. No one would believe them, according to 15.5%.

2.7 In public transportation, 94 percent of women are sexually harassed.

According to a research conducted by the development organization BRAC, 94% of women travelling in public transportation in Bangladesh have encountered sexual harassment in the form of verbal, physical, and other forms. Males in the comparatively older age bracket of 41-60 years have been identified as the biggest culprits, which is a rather surprise finding of the

²⁵ Aggarwal, *supra* n 19.

²⁶ "Office Problem Can Also Affect Business Profitability, Says Study", *Business Times*, 4 August 1994 at 12.

study. For 66% of such cases, this group has been recognized as the culprits. Sexual harassment on highways and public transit, particularly buses, is also caused by concerns such as lax enforcement of legislation, overcrowding in buses, and little or no monitoring, according to the research.

The research took place across three months between April and June of last year (2017). In total, 415 women participated in the study's quantitative and qualitative rounds as respondents.

The study included women from low- and middle-income families who go to work and other locations by public transportation or on foot in urban, peri-urban, and rural areas. The study's geographical regions were Gazipur, Dhaka, and Birulia in the Savar upazila of Dhaka district.

According to the study, 35% of those who use public transportation say they have been sexually harassed by men between the ages of 19 and 35. Around 59% of respondents said they had been harassed by males between the ages of 26 and 40. Deliberate touching of the victim's body with the chest and other parts of the body, pinching, and standing too close to the victim and pushing, touching of the victims' hair, putting hand on their shoulder, and touching private parts of the victims are examples of sexual harassment experienced by the respondents. In response to the question, "What do women do when they are harassed like this?" 81% of women said they remained silent, while 79% said they moved away from the harasser.

The current education system, in which male and female pupils attend different institutions, limits the opportunities for learning gender equality teachings as well as developing the attitude and habit of treating both sexes equally and with respect, according to the study. It also points out that sufficient teacher and counselor training and counseling are required to assist youngsters develop such attitudes.

While the country has achieved significant progress in terms of women's education and professional involvement, women's feelings of insecurity are widespread. To address the

problems, they called for tighter enforcement of legislation as well as public awareness campaigns.²⁷

Chapter: Three

Women Stay Silent about Sexual Harassment

²⁷ *Women victims of sexual harassment in public transport, BRAC, 25 March 2018.*

3.1 Why Women Stay Silent about Sexual Harassment?

1) Helplessness:

Many women assume that speaking up will help them only a little. Many people choose to remain silent rather than take action that is thought to be ineffective.

2) Fear of blame:

Despite the fact that sexual harassment is never the victim's fault, it is typical for women to blame themselves for the improper behavior they are seeing.

3) Fear of injuring the aggressor:

Sexual harassment is a terrible thing to do to another person. Despite this, many female victims do not wish to hurt, disgrace, or lose their jobs because of their attacker.

4) There are several more factors to consider:

Many women believe they must undergo sexual harassment in order to advance in their careers. Many people are afraid of penalties if they speak out about sexual harassment, such as losing their work, being demoted, or being humiliated.²⁸

5) Sometimes the remedy is part of the problem:

Women are subjected to disproportionately high levels of sexual harassment and are charged with the obligation of speaking up. She moves from being a regular employee to being referred to as the sexually harassed girl. Coworkers who see women as victims and fail to help them become part of the problem.

6) You're asking someone to tell you about their worst suffering:

Women who have encountered such a devastating event have experienced a tidal surge of emotions. They become perplexed, unhappy, and worried. Colleagues and members of the IC must use caution while asking women to express their greatest grief. A one erroneous remark might exacerbate her suffering.

7) They ask insensitive and insensitive questions:

Members of the IC have been known to ask disrespectful and insensitive questions regarding circumstances. It is not impolite to inquire. Of course, it is a necessary aspect of the operation for the ladies to discuss it. The tone, style, and wording of the questions, on the other hand, are of concern. Women should not feel embarrassed answering the questions if they are sympathetic and thoughtfully crafted. Most importantly, one must be a good listener.

3.2 What Happens After Women Come Forward?

²⁸ *On Behalf of Bononi Law Group, LLP/ Oct 26, 2020 /Sexual Harassment.*

3.2.1 Retaliation

Most women are afraid of reprisal or persecution if they file a complaint.

Workplace retaliation can occur in response to any form of complaint, but some issues are more likely than others to result in retaliation. Retaliation in the workplace is often or often the outcome of a harassment and discrimination complaint, according to (53%) of HR experts, followed by concerns about income or working conditions (44%), a conflict of interest (39%), and a request for accommodation (30%).

When we investigated what motivates retaliation against a coworker, we discovered that emotions and preconceptions play a role. Personal sentiments of anger, shame, pain, or betrayal account for 61 percent of workplace retaliation, while considering the individual as disloyal, a troublemaker, or not a team player accounts for 59 percent.

The notion that the complaint was made with malicious purpose or was deliberately untrue is far less prevalent (28%).

Retaliation can take many forms, including the rejection of important projects and responsibilities. They may also be asked to attend earlier and stay later than necessary, while having no reason to do so. In extreme circumstances, they may be forced to leave the company.

While retaliation in the workplace may affect anybody, certain individuals are more vulnerable than others. According to the majority of HR experts who responded, low-performing workers (63%) and women (62%) are sometimes or frequently targets of retaliation in the workplace, compared to high-performing employees (36% and males 47%). While the findings do not explain why these differences exist, it is plausible that unconscious (or conscious) prejudices based on gender or performance level impact a respondent's judgments of employee loyalty and purpose, and hence their own response to a complaint.

Meanwhile, employers generally believe that workplace retribution is mostly carried out by managers against their direct subordinates, despite evidence to the contrary. Nearly half of those polled (46%) believe the person retaliating is a leader in the complainant's chain of

command, (35%), a leader outside the complainant's chain of command, and (51%), a peer-level employee. Employees retaliating against their supervisors account for a third of all workplace retaliation (35%). Because retaliation can be perpetrated by anybody, businesses must have a comprehensive anti-retaliation strategy that includes developing a strong non-retaliation policy, providing training, and conducting rigorous monitoring.²⁹

3.2.2 Colleagues' Negative Attitudes

Furthermore, because they do not want to get into a problem, women feel alienated by their colleagues' unsupportive conduct.

Redressing Sexual Harassment Is Time Consuming

Another aspect is that when women are involved in such occurrences, many investigations and procedures must be followed. The majority of their time is spent following up on the complaints' progress.

3.2.3 Redressing Sexual Harassment Is Time Consuming

Another consideration is that when women are involved in such incidents, a variety of inquiries and processes must be carried out. The majority of their time is spent tracking down the status of complaints.³⁰

²⁹ Retaliation could be the next "#MeToo".

³⁰ *Femina & Rainmaker, have partnered to spread awareness about harassment at workplace for the second phase of the #ActAgainstAbuse campaign, March 31, 2021.*

3.3 What Should You Do If You've Been a Victim?

3.3.1 The Harassment Must Not Be Ignored.

Don't overlook the situation if you suspect you've been the victim of sexual harassment at work. According to studies, persons who sexually harass others at work do not cease because their victim does nothing. Ignoring such conduct may encourage the harasser to become more aggressive.

Although discussing sexual harassment might be uncomfortable, you can empower yourself by speaking up and communicating with other employees who may be suffering harassment as well.

3.3.2 Make it clear to the harasser that his or her behavior is not acceptable.

The act must be "unwelcome," which is a key component of a sexual harassment claim. Harassers frequently claim that their victims accepted, invited, or liked their acts and remarks. Although objecting might be uncomfortable or even terrifying, you must urge the harasser to cease harassing you in plain and unequivocal words. There is no unique manner to accomplish this or special words to utilize; you simply need to make it plain that the conduct is not acceptable. You might wish to write out your objections, perhaps in an email. If the harassment continues, you will have proof that the behavior was undesired.

3.3.3. Under the law, not all offensive behavior is considered sexual harassment.

Various legislation and hundreds of court judgments that interpret those statutes define what constitutes unlawful sexual harassment. These standards change as a result of legislative changes and new judicial rulings. Sexual harassment is not always defined as offensive behavior. The totality of the facts is evaluated when determining whether specific objectionable

behavior constitutes sexual harassment. It's especially difficult to know where to draw the line when you're dealing with irritating, repulsive, or terrifying conduct at work. This emphasizes the need of speaking with a lawyer who is familiar with sexual harassment legislation and can assist you on how to cope with such behavior.

3.3.4. Require careful notes on what occurred, but not on equipment owned by the employer.

Keep any notes, memoranda, letters, presents, or other tangible evidence from the harasser, and store them in a secure location away from the employer's supervision. Keep a journal or make notes about any incidences or other material that may be related to your sexual

harassment concerns. However, be cautious about how and where you document your evidence. You should be aware that any conversations you have on corporate devices are public and can be used against you. Many firms keep track of their workers' work interactions, including papers created on corporate computers, emails and text messages sent and received, websites visited, and even phone numbers dialed.

Also, keep in mind that your employer, like anybody else, has access to any public website containing your personal information. If you accessed your account through the employer's server, even personal emails written from your own account may be tracked by your employer. As a result, always assume that you are being watched at work or while using company-owned equipment off-site. You may wish to keep track of your experiences in handwritten notes or on your own computer, but don't leave them at your workplace.

3.3.5. Make a report on the behavior.

Although reporting sexual harassment might seem intimidating and disruptive, it is critical for numerous reasons. It provides your employer a chance to fix the situation, i.e. cease the harassment; and if the harassment continues, you have documentation that your employer is aware of the problem.

Once your company is aware of the harassment, it should investigate and, if necessary, take immediate corrective action to resolve the issue. However, if you do not notify your employer about the harassment, it may claim that it was unaware of the situation and hence is not liable for the harasser's actions; this is especially true if the harasser is a coworker rather than a supervisor. Despite how difficult and inconvenient it may be, you must comply with the employer's inquiry. Fear of reprisal is seldom a good enough reason to keep quiet about harassment or cooperate with an employer's inquiry.

3.3.6. Review your employee handbooks or policies.

Consult any employee manuals or policies that your employer has provided or displayed. Most well-known companies have explicit sexual harassment policies that set out who you

should contact if you have a complaint. If that's the case, stick to it. If the harasser is the person to whom you are meant to report, go to his or her supervisor or Human Resources instead. If your organization lacks a sexual harassment policy, file a complaint with someone you feel has the power to resolve the issue, such as the company's president, head of human resources, or another high-ranking executive.

3.3.7. Remember:

Any information you provide to Human Resources may be shared with others in the company. Human resources staff may appear to be your champion or ally. But bear in mind that they work for the firm and are loyal to it.

Don't expect that whatever you say to them will be kept private. They may inform their bosses and other management personnel about your concern.

3.3.8. Don't Quit Your Job.

It is against the law to harass someone sexually. You are not forced to work in a sexually hostile environment; your employer is legally obligated to put an end to it. Don't just go because you're tired of being in an offensive situation. Resigning might allow your employer to argue that you didn't give them enough time to address the situation; quitting could hurt your chance to recoup lost wages; and quitting could make it more difficult to obtain unemployment benefits since your employer could claim you abandoned your job. Before making any decisions, consult with an employment lawyer if you believe the harassment is unbearable. Taking sick or disability leave as an alternative to resigning might be an option while the matter is being resolved. An impartial, educated lawyer can assist you in developing the best strategy for dealing with the circumstance.

3.3.9. Retaliation Is Illegal - And Can Be More Difficult To Prove Than Harassment.

Even if you can't prove that unlawful sexual harassment occurred, you may have a strong retaliation claim if you file a reasonable good faith harassment complaint and your employer then takes any "adverse action" against you or any action that would discourage you from filing a discrimination or harassment claim. A demotion, a wage cut, a negative change in your performance assessments, a relocation to a less desired location/department or less desirable tasks, more harassment or abuse by your coworkers, or termination of your job are all examples of adverse actions.

3.3.10 keep going to do a good job.

You may have a genuine allegation of sexual harassment, but don't let that stop you from doing your work successfully! Making a sexual harassment complaint does not provide you license to cease performing your work to the best of your abilities or exempt you from the same standards you had to achieve before the harassment began. You or your lawyer may need to bargain with your boss to get what you want, and you should keep all of your options open until the problem is handled.

3.3.11 Take legal advice from someone who is familiar with sexual harassment legislation.

If you believe you are being sexually harassed, speak with a lawyer who has handled sexual harassment cases before. If you're thinking of quitting your work, this is very vital. Meeting with an attorney does not imply that you will file a lawsuit against your current or previous employer.

An employment lawyer can advise you on what constitutes unlawful sexual harassment in the eyes of the law, how to address the problem, and what legal alternatives you have if things get out of hand.³¹

³¹ Attorney Advertising. Prior Results do not guarantee a similar outcome. 2021 Work Harassment Outten & Golden LLP.

Chapter: Four

The State of the Law in Bangladesh

4.1 Sexual harassment in Bangladesh:

Sexual harassment has become a common occurrence in the modern world. Bangladesh is not exempt from this as well. Because it is a social disaster for our country, it is classified as a social offense, like all other crimes in Bangladesh. In Bangladesh, there are several sorts of sexual harassment, as listed below:

➤ **Physical demeanor**³²

1. Harmful physical contact
2. Physical contact, such as touching or pinching
3. Using threats or rewards tied to one's employment to get sexual favors

➤ **Behavior verbally**

1. Remarks on a worker's looks, age, personal life, etc.
2. Sexual jokes, tales, and remarks
3. Proposals for sexual relations

³² *Direction in Sexual Harassment Law. R. B.Siegel co-editor. MacKinnon, Catherine. New Haven, Conn.: Yale Univ. Press, 2004.*

4. Invitations to social gatherings on a regular basis
5. Discrimination based on the worker's gender
6. Remarks that are condescending or paternalistic

➤ **Nonverbal communication**

1. The display of material that is sexually explicit or provocative.
2. Gestural cues that are sexually suggestive.
3. Whistling.

4.2 The Sexual Harassment Problem in Bangladesh:

Sexual harassment is a serious problem in Bangladesh. Women in our nation are subjected to a variety of forms of harassment. The most common venues where women are harassed include public spaces, shopping malls, buses, streets, organizations, and institutions. In Bangladesh, we can safely state that women are harassed in almost every sector. It's difficult to identify an area where harassment isn't occurring. "EVE Teasing" is the most terrible form of sexual harassment that women must face.

Eve Teasing: Eve teasing is a term for public sexual harassment, street harassment, or molestation of women by males in India, Pakistan, and Bangladesh. Eve is a reference to the biblical Eve. Even though many feminist writers refer to it as "small rapes," eve-teasing is famously difficult to establish since attackers often invent clever ways to harm women. It typically occurs in public areas, streets, and public transportation.³³ Eve teasing has evolved into a severe kind of sexual harassment that may cause permanent physical and psychological

³³ http://en.wikipedia.org/wiki/Sexual_harassment.

harm as well as drastically affect a girl's life. Harassment takes many forms, ranging from verbal abuse and sexual innuendo to kidnapping, acid-throwing, and rape.

As a result, some parents prefer to keep their daughters at home rather than sending them to school, or they marry off their daughters at a young age in order to safeguard their honor and safety.

The Bangladesh government, led by a woman, Sheikh Hasina, has taken measures in response to rising cases of sexual harassment and public outrage in protest. In the most recent instance, which occurred on Friday, August 28, locals in Talupara village, Sirajganj district, roughly 110 kilometers northwest of Dhaka, set fire to the homes of some accused stalkers.

Another incidence occurred on Wednesday, when at least eleven members of a family were assaulted for resisting stalking, and one of them died, according to The Daily Star.³⁴

The presence of various women in public life has inspired a desire to raise public awareness. "In a country where the prime minister (Sheikh Hasina), foreign minister (Dipu Moni), home minister (Sajeda Khatun), agriculture minister (Motia Chowdhury), and opposition leader (Begum Khaleda Zia) are all female, women and girls cannot walk down the street, take public transportation, or go to school, shops, parks, or other public places without being ogled, taunted, harassed, humiliated.

According to the Bangladesh National Women Lawyers Association, sexual harassment affects nearly 90% of girls aged 10 to 18.³⁵

College students and unemployed youth are among the perpetrators, as are street vendors, rickshaw drivers, bus drivers, fellow passengers, coworkers, and supervisors.³⁶

"Patriarchal attitudes, biases, cultural norms, double standards, and discriminatory laws that devalue women and deny them their rights fuel sexual terrorism." The publication stated that "eradicating it will necessitate revolutionary societal reform."

³⁴ Alpha Arzu, *Mahbuba Zannat And Farhana Urme*, Mon Mar 8, 2010.

³⁵ . 'Eve Teasing in Bangladesh' -Causes and Remedies. (2016, Oct 03).

³⁶ *The Daily Star, You're Right To Know*, November 29, 2013.

4.3 Bangladeshi Law against Sexual Harassment:

Women's economic empowerment and long-term sustainability rest on their participation in the economy. Sexual harassment in the workplace, on the other hand, discourages women from continuing to work. Despite being a long-standing problem, sexual harassment in the workplace has recently become a major concern in Bangladesh. It is increasingly seen as a violation of human rights and dignity, affecting equality of opportunity and treatment between men and women. Sexual harassment is an issue that must be handled as women's participation in the workforce grows, in order to maintain a safe and healthy working environment. The widespread acceptance of women into the paid labor market in Bangladesh has resulted in an increase in sexual harassment.

In Bangladesh, a number of efforts have gradually emerged to address sexual harassment. In Bangladesh, sexual harassment is punishable by Section 10 of the Nari O Shish Narjaton Domon Ain (2000), which states that any man who, in order to satisfy his lust in an improper

manner, outrages a woman's modesty or makes obscene gestures has engaged in sexual harassment, and for this, the above mentioned male will be sentenced to rigorous imprisonment of not more than seven years and not less than two years, and will be subjected to monetary fiduciary.³⁷

4.4 Bangladesh High courts contribution against sexual harassment:

In April 2010, the High Court ordered the Ministry of Education to take immediate steps to implement the Guidelines on Sexual Harassment, which were previously declared in *BNWLA v Bangladesh*, and to ensure that no woman working in any educational institution, public or private, is forced to wear a veil or cover her head, and that she has the option of doing so. 1 The Court further stated that Section 27A of the Government Servants Discipline and Conduct

³⁷ *Bangladeshi Women Workers and Labour Market Decisions: The Power to Choose. Dhaka: UPL, 2001.*

Rules 1979 must be read in conjunction with these Guidelines to guarantee that public employees are held accountable for any sexual harassment they may commit.³⁸

"It is a woman's personal choice to wear a veil," the Court noted. Anyone who tries to force a woman to wear a veil against her will is infringing on her basic rights, which are established in the Constitution."

Existing Rules on Sexual Harassment and Government Officer Discipline

- The High Court's Guidelines on Sexual Harassment Prevention, which were issued on 14.5.2009 in **Bangladesh National Women Lawyers Association v Government of Bangladesh (2009) 14 Bangladesh Law Chronicles**, directed the government to immediately enact legislation to address the issue, pending which the Guidelines would have legal effect.
- Government Servants Discipline and Conduct Rules 1979, Rule 27A; Guidelines, Rule 4(i) Sexually colored verbal expression; Rule 4(1)(f) Sexually colored comment or gesture No

Government servant shall use improper language or interact with his female colleagues in any way that is in violation of the official decorum and dignity of female colleagues.³⁹

4.5 Where is the problem with sexual harassment and the law?

The #MeToo Movement has been growing throughout the world since its beginning in 2017, bringing to light the serious extent to which women from all walks of life endure sexual harassment on a daily basis. In this scenario, one could question how Bangladesh's legislative structure addresses sexual harassment. Unfortunately, there is no legislation in Bangladesh that expressly criminalizes "sexual harassment." That is not to argue that sexual harassment has

³⁸ Dina M. Siddiqi "New Trends in Violence: Sexual Harassment and Obstacles to Mobility in Bangladesh." Position paper prepared for NGO Coalition on Beijing Plus Five, Bangladesh (NCBP), 2003.

³⁹ International Labour Organization, "Combating Sexual Harassment at Work. Conditions of Work Digest, Vol.11, No. Geneva 19.

gone untouched in our laws; there has been some significant legal progress in this area, which we must appreciate.

For example, some (although outdated) laws can potentially be utilized to punish acts of a male sexually harassing a woman. Acts, words, and gestures that "outrage the modesty of a woman" are punishable under Section 509 of the Penal Code 1860, which carries a one-year prison sentence as well as penalties. Needless to say, this colonial law's flawed language fosters sexist prejudices and inappropriate conversations about a woman's "modesty," which might wind up victimizing her rather than protecting her. In addition, section 10 of the Nari-O-Shishu Nirjatan Daman Ain 2000 created the jounopiron offense, which makes it unlawful to touch a woman or child or "violate a woman's modesty" in order to "illegally fulfill one's sexual impulses."

As can be observed, Section 10 is quite similar to Section 509 in that "modesty" for women is still a critical topic. However, Section 10 prescribes a sentence of two to ten years in jail, which is significantly more than Section 509 maximum sentence of one year. This is yet another example of our legislators' tendency to implement legal reform on violence against women by simply increasing the penalty while keeping the offence's archaic substance and definition.

After a writ petition was filed by the Bangladesh National Women Lawyers Association (BNWLA) challenging the widespread prevalence of sexual harassment of women in university campuses and office spaces, the High Court issued 11-point directives on the prohibition, prevention, and redress of sexual harassment in the workplace and educational institutions in 2009. The court based these instructions on Bangladesh's duties under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the positive safeguards on gender equality and women's rights in our Constitution. It outlined 11 different circumstances that would constitute acts of sexual harassment, ranging from unwanted physical contact to coerced sexual relations through abuse of power, as well as unsolicited sexual remarks, advances, and gestures made in person, in writing, or over the phone, among other things.

All universities were required to organize Sexual Harassment Complaint Committees, which would register and evaluate sexual harassment complaints lodged by women, and then take appropriate disciplinary action against the perpetrator if the charges were proved to be genuine.

The aforementioned legal laws punish the perpetrator for individual acts of sexual harassment, but the High Court directions emphasize on institutional responsibility for preventing and redressing sexual harassment of women in the workplace and educational institutions.

Following the orders given in 2009, the government did take specific actions to prevent sexual harassment, according to a 2011 High Court ruling emerging from a later petition filed by BNWLA disputing the incidence of stalking and "eve-teasing." One of these moves was a proposed change to the 2000 Act that included a new sub-provision to Section 10 titled "Penalty for Sexual Harassment," which defines sexual harassment as a separate offense that carries a sentence of one to seven years in jail as well as a fine. As a result, the Court noted in its orders for this case, "Government should, on an urgent basis, complete its initiative to introduce a new provision in the Nari-O-Shishu Nirjaton Daman Ain, 2000 defining the mischief of 'Sexual Harassment' in light of the term given by us." The government has yet to enact this law reform, which it was ordered to do on an "urgent basis" eight years ago.

While the BNWLA decisions are well-known, *Shamsun Nahar vs. British American Tobacco Bangladesh* (66 DLR AD 80) is a much older and less well-known case involving sexual harassment in which a female employee sued the company for failing to protect her from and respond to complaints about ongoing sexual harassment she faced from two of the company's managers, and for dismissing her rather than the alleged perpetrators. Although the complaint was filed in 2004, the trial is still ongoing owing to several technical issues on which BATB has appealed to the Supreme Court, arguing that the case should be dismissed based on the Code of Civil Procedure.

In 2018, the BNWLA and eight other organizations filed a draft law to the law ministry titled *Sexual Harassment at Workplace Act 2018*, which formalizes the 2009 principles and makes it a legal requirement for all organizations to create Sexual Harassment Complaint Committees. The need for a specific sexual harassment law has grown in the wake of Nusrat Jahan Rafi's heinous murder, as many argue that the lack of a Sexual Harassment Complaint

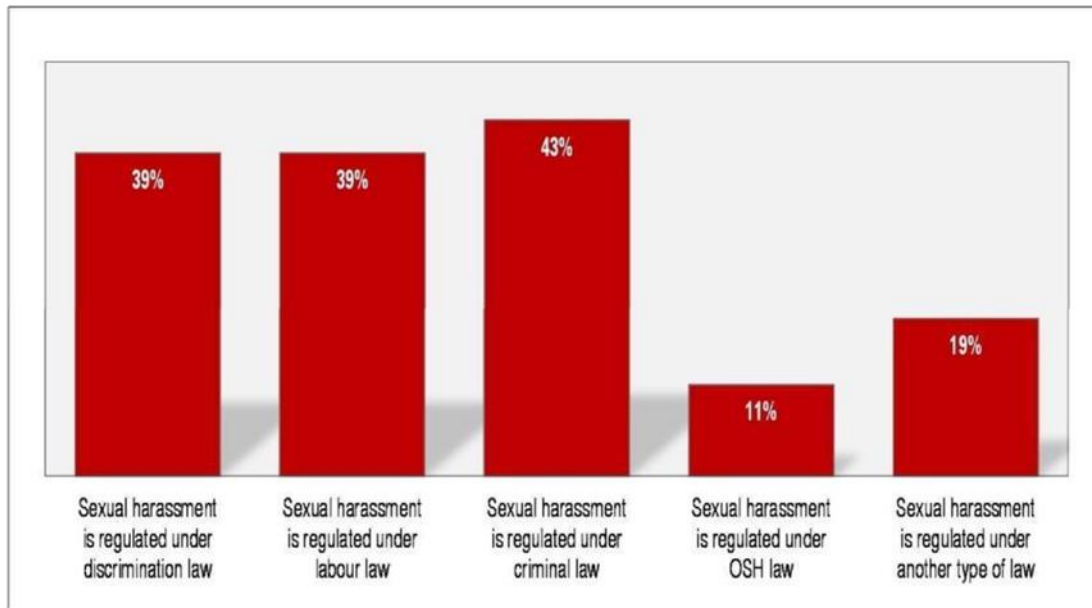
Committee in the Sonargaon Madrasa hampered Nusrat's ability to seek recourse against the accused principal, prolonging her ordeal. How many years will it take after Nusrat's death for the sexual harassment bill to eventually be approved and enforced so that victims of sexual harassment do not have to go through the ordeal that Nusrat went through?⁴⁰

4.6 Overviews of Laws Relating to Sexual Harassment in Bangladesh

4.6.1 The existing sexual harassment laws primarily consist of:

1. The Constitution of Bangladesh
2. The Prevention of Women and Children Repression Act, 2000.
3. The Penal Code, 1860
4. The Evidence Act, 1872
5. Domestic Violence (Prevention and Protection) Act, 2010
6. The Code of Criminal Procedure, 1898 (CrPC)

⁴⁰ *Taqbir Huda is a Research Specialist at Bangladesh Legal Aid and Services Trust (BLAST). Thu Jun 27, 2019 12:00 AM Last update on: Thu Jun 27, 2019.*



Source: ILO 80-country study on the law and practice addressing violence and harassment against women and men

Source: ILO 80-country study on the law and practice addressing violence and harassment against women and men in the world of work.

Figure 5: Sexual harassment regulation (Type of Law)

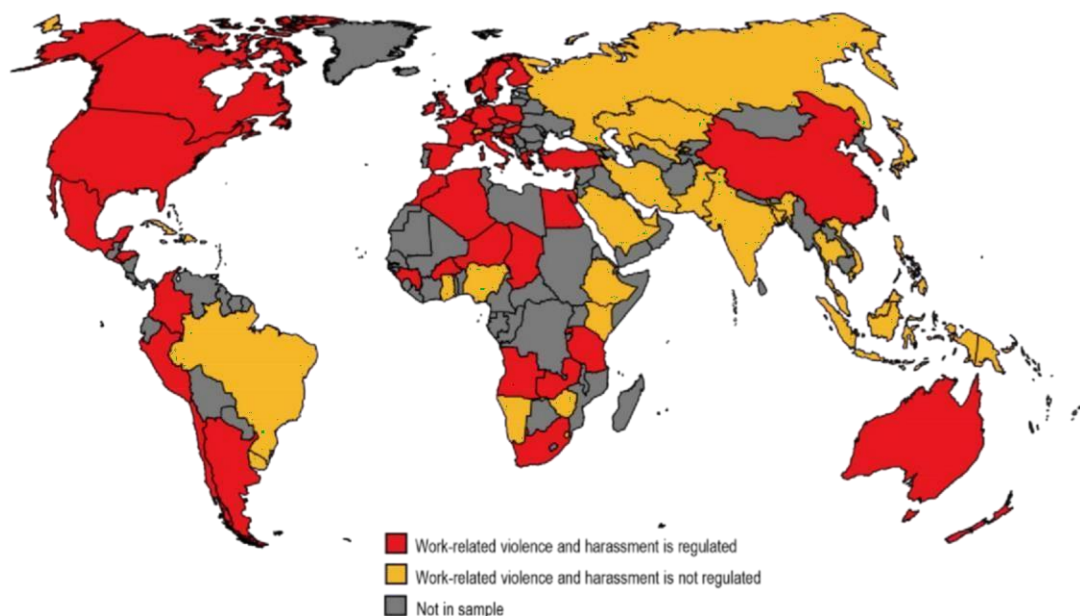


Figure 6: Regulations on workplace violence and harassment

4.6.2 The Constitution of Bangladesh:

According to Article 10 of the Constitution, actions must be done to ensure women's involvement in all aspects of national life. According to Article 19 (1) of the Constitution, the state must make every effort to guarantee equal opportunity to all residents. According to Article 26, all citizens are equal before the law and have the right to equal protection under the law. Article 29 declares that all citizens shall have equal opportunity in work or office in the service of the Republic, and that no citizen shall be discriminated against in employment or office in the service of the republic merely on the basis of religion, race, caste, sex, or place of birth. In all aspects of the state and public life, women shall enjoy equal rights to males, according to Article 28 (2). Nothing in this article prevents the State from adopting special provisions in behalf of women or children, or for the progress of any backward sector of people, according to Article 28 (4). Article 31 states that every citizen has the inalienable right to be protected by the law and to be treated in accordance with the law, and only the law, and that

no action damaging to a person's life, liberty, body, reputation, or property will be done unless it is in conformity with the law. Article 32 states that no one may be deprived of their life or personal liberty unless it is done in accordance with the law. As a result, the Fundamental Rights mentioned in Chapter III of the constitution are adequate to cover all aspects of gender equality, including the prohibition of sexual harassment and abuse.⁴¹

4.6.3 The Prevention of Women and Children repression Act, 2000

Apart from the laws listed above, which are still in effect in Bangladesh, the Penal Code was the first to define sexual offense. The Cruelty to Women Ordinance of 1983 was established with the purpose intention of better protecting women from criminal offenses such as sexual harassment. The Prevention of Cruelty to Women (Special Provision) Act, 1995 was established in response to an increase in the number of cases of violence against women. Finally, in 2000, Parliament passed.

The Prevention of Oppression against Women and Children Act, which featured a few provisions, such as harsher punishments for rape and provisions connected to victim medical examinations.⁴²

4.6.4 The Penal Code, 1860

The basic element of rape, according to the penal law, is when a male has sexual intercourse with a woman against her will and without her permission. According to the Penal Code, the maximum punishment for rape is life imprisonment or a sentence of imprisonment of either type for a period of 10 years, as well as penalties, making this the minimum punishment for rape. Moreover, under the 'unnatural offences' provisions of Section 377 of the Penal Code, anyone who voluntarily engages in carnal intercourse against the order of nature with any man,

⁴¹ *The Constitution of the People's Republic of Bangladesh, (ACT NO. OF 1972).*

⁴² *The Prevention of Women & Children Repression Act 2000: A Study of Implementation Process from 2003 to 2013.*

woman, or animal shall be punished with life imprisonment or imprisonment of either description for a term up to ten years, as well as a fine. According to Section 493 of the Penal Code, anyone deceives any woman who is not lawfully married to him into believing that she is lawfully married to him and cohabits or has sexual intercourse with him is punishable by imprisonment of either kind for a time up to ten years, as well as a fine.

Section 509 states that anyone who intentionally insults a woman's modesty by speaking, making a sound or gesture, or displaying any objects with the intension that such word, sound, or gesture will be heard or seen by such woman, or intrudes upon her privacy, shall be punished with simple imprisonment for a term up to one year, a fine, or both.⁴³

4.6.5 The Evidence Act, 1872:

According to the Evidence Act, expert opinion evidence is regarded relevant facts. Thus, in the instance of sexual harassment, a doctor's view will be regarded an expert opinion and will be used as evidence in the specific case. Moreover, under section 23 of the Prevention of Women and Children Repression Act of 2000, a medical report is acceptable in court even if

the doctor or medical official who conducted the examination is unable to deliver the testimony. The specific clause further declares that the court would not convict somebody as an accused based on a medical report. Furthermore, the individual who argues the presence of such facts has the burden of evidence under the Evidence Act, and he must establish that those facts exist. When a man is charged with rape or attempted rape, the Evidence Act allows it to be demonstrated that the claimed victim had a generally immoral character.⁴⁴

4.6.6 Domestic Violence Act, 2010:

The Domestic Violence (Prevention and Protection) Act, 2010, is based on the principles of the UN Convention on the Elimination of All Forms of Discrimination Against Women (1979) and the UN Convention on the Rights of the Child (1989), as well as the Constitution of the

⁴³ *The Penal Code, 1860, (ACT NO. XLV OF 1860), 6th October 1860.*

⁴⁴ *The Evidence Act, 1872, (ACT NO. I OF 1872), 15th March, 1872.*

People's Republic of Bangladesh's guarantee of equal rights for women and children. In addition, the Domestic Violence Act contains rules concerning physical, psychological, or sexual abuse of a woman or a child.

Explanation: "Sexual Abuse" refers to any sexual activity that abuses, humiliates, degrades, or otherwise damages the victim's dignity.⁴⁵

4.6.7 The Code of Criminal Procedure, 1898:

Almost all criminal trials are regulated by the Code of Criminal Procedure, which contains fundamental procedural rules. It outlines the complete process from the initial report through the investigation and arrest of suspects, as well as all phases of the trial, including conviction, sentencing, and appeal. Further, sexual offenses are to be considered as non-compoundable offenses, and police can make arrests without a warrant. Further, under the Code of Criminal Procedure, such offenses are non-bailable.⁴⁶

4.7 Contribution:

Sexual harassment is now the most talked about issue not only in the country but in the whole world. Rarely in our country have we seen a woman who is not sexually harassed by their being. I don't think there is any effective tool to solve this problem. To eliminate sexual harassment in our lives especially at work remove I think we need to take the following steps.

First, we think women are women, we don't evaluate them. They are nothing more. We should change our attitude and thinking. We have to imagine that women are just like other people. They have the same rights and opportunities as men.

⁴⁵ *Domestic Violence (Prevention and Protection) Act 2010.*

⁴⁶ *The Code of Criminal Procedure, 1898, (ACT NO. V OF 1898), 22nd March, 1898.*

Secondly, there are provisions to address the issue of sexual harassment or such behavior. Our Labor Act, 2006 AST Section: 109 states that no woman shall be allowed to enter the world from 10 a.m. to 6 p.m. without her consent.⁴⁷

Third, women are not aware of their right they are shy by nature. Imagine that if they take any action against the offender then the society also ignores him, there are many cases in our country where a girl, child or woman is raped or sexually harassed but the offender cannot take any action against the offender because the offender is very much in the society High class people or victims do not want to create any problem with the subject.

Fourth, our country does not have a separate and effective committee to take the necessary steps. Every organization, workplace and organization must have appropriate committees who are aware of this information and can take effective action against any of your crimes.

In addition to these I also learned that our women are not concerned about the punishment of the woman who sexually abused them.

There is a lot of writing about sexual harassment but it is very rare to find such a device written about ways to make people aware of the punishment for sexual harassment.⁴⁸

4.8 To prevent workplace sexual harassment, we need a global convention:

For the most part, the #MeToo Movement, is against improper behavior and rape at work. Sexual troubles not only affect women's self-assurance, but also have a detrimental impact on the wider population. With the passage of time, improper behavior in the workplace has become more prevalent, resulting in its own set of uncomfortable repercussions for women.

⁴⁷ Bangladesh Labor Act, 2006, (XLII of 2006).

⁴⁸ Theory of Change on women's rights and gender equality, Autumn 2018.

The "#Me Too" was created by Tarana Burke, an American social activist and network coordinator, in 2006 on the My space informal community, and gained widespread recognition in October 2017 after Alyssa Milano, an American actress, used it in a tweet against Harvey Weinstein. "If every one of the females who have been overtly hassled or harassed wrote 'Me as well' as a status, we may give people a sense of the scope of the issue," she tweeted, and they did. Before the end of the day, the phrase had been used over 2,00,000 times and had been tweeted over 5,00,000 times the next day, October 16, 2017.

Faria Shahrin, a former Lux Channel I Superstar, confessed to Prothom Alo that on-screen characters are frequently invited to lie down with them by the producers. "They come up to me right immediately and ask how much money I'd be willing to part with!" the on-screen character said. With the exception that it was not the #metoo variety, the piece created a shitstorm via web-based networking media. The media circle leaped on her for the charge of "summing up" because the on-screen character would not identify and shame anybody, claiming "dread of punishment."

A significantly later model exists: just a week ago, a prominent Bangla daily met with a rising female performer and a past Lux Channel I Superstar Runner-Up to discuss if the #Metoo movement is relevant to Bangladesh's media business. "The males don't have any flaws," she stated.

"The females consent to their bodies being abused." Our ladies have successfully concealed male centric society to the point where even their "women's activist" arguments fit inside the boundaries and lines imposed by males and cautiously toed by the ladies. They gather for the purpose of assaulting exploited individuals since assault provides perfect, indisputable documentation, but anything less than a fauzdari offense is ignored. The unmistakable message is that in order for their voices to be heard, women must shed blood.

When everything is said and done, Bangladesh's activism scene in this division fights the cause but there hasn't been much uproar about the everyday and particular interactions of women that stages like #Metoo are meant to shed light on. A 2015 inquiry by the Humanities and Social Sciences blog interviewed a hundred female authors in our sector and discovered that 71 of them had to deal with obscene conduct and sexual orientation discrimination on the job.

Despite the fact that several laws restrict assault in Bangladesh, the Penal Code of 1860, the Prevention of Oppression against Women and Children Act of 2000, and the Special Act 2003 (Nari O Shishu Nirjatan Daman Bishesh Ain 2003) and the current legitimate casing work that helps an assault unfortunate casualty are limited and outdated. The definition of assault may be traced back to the national corrective code of 1860. It should be changed in this direction. The most severe punishment for submitting the offense of assault is life detention, according to section 376 of the Penal Code of 1860. Regardless, the Prevention of Oppression against Women and Children Act of 2000 goes above and beyond the Penal Code in terms of assault punishment. Under this Act, the punishment for assault is a maximum of life imprisonment and a fine. However, if the injured person dies later, or if the attack is committed by more than one man (for example, assault), the death sentence is the most severe punishment that may be imposed. Previous Justice Nizamul Huq stated that changing the law alone will not solve the problem; judges' mindsets must be changed, he added.

The fundamental idea that may be formed by looking at the accumulation of women on the disappointment of not being able to obtain enough equality is just for the purpose of endowing our women with a sacred character. Our constitution has a "HE" issue, according to

Dr. Educator S.M Masum Billah. Furthermore, numerous state guidelines and open officials have been provided in male tern under the constitution. Along these lines, the question arises as to whether male explicit language will in general exclude women from the established network.

However, there is a fairness provision force with positive depiction, but regrettably, this cautious methodology of perplexing expression guarantees for 'positive segregation,' but shockingly, this cautious methodology of confusing expression cannot completely override the constitutionalism condition of male disorder. Despite the fact that The Constitution adheres to the masculine norm of translation, which states that male terms should be translated as female ones unless the situation requires different.

Our constitution has a "HE" syndrome, according to Dr. Professor S.M Masum Billah. Many state principles and public authorities have been implemented in male tenure under the constitution. As a result, the question of whether male-specific language tends to keep women

out of the constitutional community arises. On the other side, while there is an equality clause compelled by the positive description, this defensive tactic of oxymoron promises for 'positive discrimination' sadly cannot totally transcend the masculine syndrome constitutionalism setting. Despite the fact that the Constitution supports the masculine rule of interpretation, which states that male phrases include feminine terms unless the context dictates differently.

The usage of He in terms of She is a confusing canon of legislative regulations, according to Dr. S.M Massum Billah's research, because this norm neither looks lovely nor seems literally or physiologically tenable. Though Bangladesh has had women Prime Ministers in succession since 1991, she has done so in a patriarchal manner by pronouncing 'he' as opposed to the constitutional gendered syndrome, and no question has ever been raised during the election of a woman as Bangladesh's Prime Minister. The example of Hillary Clinton in the American context in the recent past, when she looked to be a strong candidate for the US presidency, has been used frequently to highlight this issue.⁴⁹

However, this example does not represent the dominance of receptive gendered legalism in Bangladesh. As the Bangladeshi Constitution is disproportionately skewed toward masculine-specific language in expressing different constitutional ethos, such as the usage of the terms 'he' 24 times, himself 4 times, 'his' 88 times, and 'man' 4 times, as contrasted to the use of the word 'woman' 8 times. Interestingly, the feminine pronouns 'she' and 'her' have never been utilized.⁵⁰

So, in general, the topic above focuses around the use of masculine language in the writing of our constitution. As a result, it is understood as a male-dominated constitution in which women are denied and disregarded essential rights and dignity, and as a document that approaches positive discrimination in an environment where the majority of constitutional players are males. However, it somewhat supports the masculine norm of interpreting male as a feminine noun unless the context dictates otherwise.

⁴⁹ 21 Richard Saphire, 'Judicial Review in the Name of the Constitution' [1983] 8 *University of Dayton Law Review* 745. See also, Robert Natelson, 'A Woman as President? The Gender Neutral Constitution' (*Washington Post*, 28 October 2015).

⁵⁰ I have counted the numbers by using the 'find' option of the Microsoft Word in a soft copy of the Bangladesh Constitution.

The answer to this question may be affirmative, given the nature and goals of a Constitution. A Constitution has a structural as well as a psychological element that, while seemingly unimportant, determines many of the Constitution's functioning concerns.

The constitutional psychology is exhibited via the antifeminist worldview of the constitutional framers, which causes them to refrain from acting. However, linguistic precision is difficult to achieve, but from the discussion, it appears to be an important medium of representation. If linguistic precision is achieved, many unintended consequences follow, with gender implications, especially in a society where constitutional and political actors are assumed to be male.

The election of Shirin Sharmin Chaudhury as Speaker of the Jatiyo Sangsad in 2013 may be an excellent instance of constitutional mentality.⁵¹ Members of Parliament, on the other hand, did not pursue the issue seriously because Ms Chaudhury's election was arguably unchallenged, as the Prime Minister, herself a woman, so magnanimously wished.

From Helen Irving's analytical perversion, we commonly state that the 'Fathers of the Constitution,' where the word 'father' is associated with the concept of 'giving birth' to a

constitution. As 'fathers,' constitutional creators may have an underlying meaning in our legal sense of symbolically excluding women from our constitutional society. These instances demonstrate that the legislative assertion of male-terms' inclusiveness of female terms is a contradiction, and that the historical evolution of gender roles implies that masculine words are not meant to be neutral.

As a result, the worry over the use of male-specific wording in the constitutional text has historically been accompanied with a non-discrimination clause, resulting in the oxymoron known as "positive discrimination."

4.8.1 How did the he syndrome come to be and how has it been employed in Bangladesh's constitution?

⁵¹ 'Speaker's Appointment Challenged' (Dhaka, 24 Dec 2013) 24 August, 2017.

- It's true that the Constitution is based on the majestic elegance of the equal protection clause.⁵² It outlawed discrimination based on sex, among other things, and pushed the government to adopt affirmative action for women's progress.⁵³ It bans exploitation, requires the state to provide equal opportunity for all, and favors women by retaining provisions for women-only reserved seats in Parliament, ensuring women's political empowerment.⁵⁴ However, the graphic shows how far this thinking has progressed: To comprehend the masculinity of constitutional language, we must consider the constitution-making process, which included the formation of a 34-member Drafting Committee.

Begum Razia Banu was the only female member of the group. We are unable to analyze Banu's independent opinions on women's concerns since her involvement and comments in the constitutional making process were not clearly documented. Even taking into account the circumstances of the 1970s, this was an unsatisfactory depiction of women.

These well-intentioned measures do not show that the constitutional wording was purposefully chosen in a gender-sensitized manner, but such absence probably was a public complacency to women's nonparticipation in the event of constitutional creation.

- Though the Constitution appears to utilize harmless terminology such as "person," "human," and "they," it nonetheless uses masculine pronouns such as "he," "his," and "man" to describe citizens' rights, constitutional principles, and official traits (ie Prime Minister, President) It further claims that the unintentional use of the term "person" in conjunction with the pronoun "he" in presenting governmental offices shows a gender bias.⁵⁵ As a result, constitutional actors frequently provide women-related provisions in men language. Gender prejudices among the drafters are reinforced by this use.⁵⁶

⁵² *Constitution of Bangladesh, article 27.*

⁵³ *Constitution of Bangladesh, article 28.*

⁵⁴ *Constitution of Bangladesh, preamble read with articles 14, 19, 29 and 65.*

⁵⁵ *For example, article 95 (2) of the Constitution of Bangladesh states: "A person shall not be qualified as for appointment as a Judge unless he is a citizen of Bangladesh" (emphasis added).*

⁵⁶ *I have used 'constitutional framers' and 'drafters' interchangeably.*

- "A socialist economic system should be built with a view to achieving the realization of a just and equal society, free from the exploitation of man by man (emphasis added)," according to Art 10 of the 1972. The HCD judgements that article 10 aspires to develop an equitable society free of exploitation by not directly alluding to the exploitation of women by men was a contentious death of an item of a constitution. It is only concerned with the exploitation of man by man.

In the context of the 1972 constitution, however, the framers intended the term 'man' to include the term 'woman' in a generic sense, since they were inspired by the phrasing of the Universal Declaration of Human Rights, which used the term 'man' in underlining the importance of human rights protection.⁵⁷ However, it's hard to believe that such terms were still used as indeterminate gender pronouns in 1972.

4.8.2 Does Gender Contribute in the Drafting of a Constitution?

The Constitution is the state's ultimate law, and it serves as the foundation for all interpretations. As a result, gender neutrality should be included in the constitution. Women are frequently exhorted to get on with fighting the "real" injustices rather than obsessing about insignificant phrases. Deborah Cameron put it succinctly when she said, "It's not a choice: we can demand equal pay and non-sexist language as well." As a result, Petersson observes that attaching male pronouns to gender-neutral nouns generates a mental distinction between the gender-neutral term and the masculine. Gender equality does not appear to be redundant, in our opinion.

It does two things: first, it recognizes language as a type of representation, and second, it highlights the fact that the way words are used, or even the sequence in which they are used,

⁵⁷ See, *Universal Declaration of Human Rights 1948 (General Assembly Resolution 217A, 10 December 1948), Preamble, Para 3.*

may express privilege or priority. Its lack contributes to women's historical invisibility in many social strata. In the long term, it feeds stereotypes in social psychology, such as the assumption that political and constitutional players are male. The he syndrome in the Bangladesh Constitution when it comes to recommending public officials is proof of this.

On a grammatical level, Dickerson argues that male phrases aren't always sexist.⁵⁸

The general consensus is that the male phrases merely represent proper English syntax. The male pronoun should be used to refer to all people in proper English use. However, it has been demonstrated that the use of 'he' rather than 'them' in the construction of the grammatical norm was arbitrary.⁵⁹

The most common justification for male terminology is because the masculine gender encompasses the feminine. The context rule underpins this masculine norm, which is subject to judicial interpretation. 'Unless opposite to gender is clearly specified,' the ancient British legal stance was that male words also included women. The 1897 General Clauses Act, which is still in effect in Bangladesh, ratified the British rule over the Indian subcontinent.

The masculine rule extends male phrases to women; however, the context rule confirms that they are exclusively used to refer to males. As a result, it's difficult to say with certainty which sense is intended in a given situation.

4.9 Complaints:

As a complaint method, the following procedure must be followed:

- a) The identity of the complainant and the accused person shall not be discovered until the allegation is proven;
- b) The security of the complainant must be ensured by the concerned authority;

⁵⁸ Reed Dickerson, *The Fundamentals of Legal Drafting* (Little Brown 1986) 237.

⁵⁹ Dale Spender *Man Made Language* (Pandora Press 1994) 148.

- c) The complaint may be lodged in person or by post, SMS, or e-mail to complain@blast.org.bd by the victim or through a relative, friend, or lawyer.
- d) The complainant has the option of filing a second complaint with a female member of the Complaints Committee;
- e) A complaint box should be kept in a visible location at all BLAST offices, including the Head Office, where the complainant may drop her complaint. The Complaint Box may be opened and examined by any member of the complaint committee/responsible officer, and if any complaint is found, the complaint will be deemed received on the date of receipt;
- f) The complaint may be filed in writing or verbally to the Complaint Committee or any member of the complaint committee as formed under Clause 9 of this Policy. The person who receives the verbal complaint must reduce it to writing and send it to the Member Secretary of the Committee.

4.9.1 Complaint Committee:

- a) The organization's responsible authority must form a Complaint Committee to accept complaints, conduct investigations, and make recommendations;
- b) The Complaints Committee must have a minimum of 5 members, with the majority of them being women. If at all possible, the Committee's chairman will be a woman;
- c) Outside the organization, a minimum of two members of the Complaints Committee must come from any community that focuses on gender and sexual violence;
- d) The Complaints Committee shall provide to the Organization an annual report on the execution of this Policy, and the Organization shall send the report to the Government in a timely manner.
- e) The names, e-mail addresses, and addresses of the Committee members must be placed in a public location at BLAST's Head Office and other local offices.

4.9.2 Complaints Committee Working Procedures:

A complaint must be filed with the Complaints Committee within 30 working days of the occurrence in most situations. If a complaint is not filed within the specified time frame, an explanation of the delay will be required. To verify the truth of the complaint, the Committee shall:

- a) In cases of minor harassment, the Complaint Committee shall resolve the complaint with the consent of both parties and send a report to the organization's concerned authority;
- b) In all other cases, the Complaints Committee shall investigate the matter;
- c) The Complaints Committee shall have the authority to serve notice on both parties and witnesses by registered mail, courier service, or e-mail, to hold hearings, to gather information and evidence, and to review all relevant documents.
- d) In the case of such allegations, further circumstantial evidence should be considered in addition to oral testimony. The organization's responsible authority is obligated to give all necessary assistance to the Complaints Committee upon its request in order for it to function effectively. The complainant and witnesses' names will be kept anonymous by the Complaints Committee.

The identity of the people named in the complaints will not be revealed unless the guilt is established throughout the inquiry. Demeaning, disrespectful, and harassing questions should not be asked of the complainant during their oral testimony.

- e) The testimony must be recorded in camera;
- f) If the complainant wishes to withdraw the complaint or halt the inquiry, the cause for this must be explored and documented in the report.
- g) The Complaints Committee must provide its findings and recommendations to the organization's competent authority within 30 days. If necessary, the time limit of 30 working days might be increased to 60 working days.

h) If it is determined that a fake complaint was filed on purpose, the Complaints Committee will recommend that appropriate action be taken against the complainant to the organization's relevant authorities.

D) The Complaints Committee shall make its conclusions based on the majority view of its members.⁶⁰

4.10 In the workplace, how to avoid sexual harassment

Sexual harassment is harmful to both the body and the mind, and it should not be tolerated in any situation, including the job. To avoid sexual harassment, it is vital to promote inclusive and supportive environments where sexual harassment is plainly not tolerated. It's also critical to dismantle the culture of impunity that frequently surrounds it, as well as the gender, cultural, and societal standards that enable violence and harassment. Employers must make steps to avoid violence and harassment proportionate with their level of power in order to build a culture of mutual respect and dignity at work. In some workplaces, sexual objectification of women and mistreatment of lesbian, gay, bisexual, trans, intersex, or gender-nonconforming workers is accepted or even encouraged, and if not addressed, this can become ingrained in the culture.

Providing information and training on sexual harassment to workers and other individuals affected, as well as establishing – and prominently displaying a workplace policy or code of conduct that explicitly identifies and bans sexual harassment, are all important preventative policies or measures. Misconduct should be clearly defined, as should the consequences and disciplinary processes that follow. It's also critical to include sexual harassment in workplace risk assessments and to ensure that reporting and complaint procedures are safe, fair, and effective. These processes must be properly described and contain safeguards against retribution, such as adequate confidentiality restrictions.

This comes at a time when states are cracking down on workplace and other forms of sexual harassment. To prevent and redress workplace violence and harassment, the Convention

⁶⁰ *Bangladesh Legal Aid and Services Trust (BLAST) Sexual Harassment Elimination and Prevention Policy, 14.05.2009 of the High Court Division of the Supreme Court of Bangladesh, 2009.*

provides that key workplace principles and rights, particularly the right to non-discrimination, must be recognized, promoted, and applied. Specific measures, such as workplace risk assessments that take into account hazards and risks arising from discrimination, abuse of power relations, and gender, cultural, and social norms that support violence and harassment, are required under the instruments in the context of gender-based violence and harassment. Victims must also have access to gender-sensitive, safe, and effective complaint and dispute resolution procedures, as well as aid, resources, and remedies, according to the Convention.

Information on available support, services, and remedies for victims of gender-based violence and harassment, such as assistance in re-entering the job market and counseling and information services, is included in the Recommendation. Sexual harassment is still commonplace in the workplace, and further cultural change is required.

The Convention recognizes that the underlying causes and risk factors must be addressed in order to address gender-based violence. Gender stereotypes, various forms of discrimination that overlap, and unequal gender-based power relationships are only a few examples. In developing gender-responsive workplace cultures, workers and employers, as well as their organizations, play a critical role.

This can be accomplished by legislation, collective bargaining agreements, and other measures aimed at reducing the climate of impunity and sexism that surrounds sexual harassment, as well as providing training and awareness-raising and assisting victims.⁶¹

⁶¹ ILO, 2019, *Sexual harassment in the world of work*, 1211 Geneva 22, Switzerland.

Chapter: Five

Recommendations.

5.1 What it truly takes to stop lewd behavior:

A social action can be seen in the eyes of the general public, citing the increased compulsion about obscene behavior in the workplace as the number of notable men accused of inappropriate behavior or strikes increases. However, behind the intimate entrance, various associations and foundations have done very little to combat inappropriate behavior, which has only added to the hostile work environment for the disruption of obscene behavior like other pedestrian workers. 60% of American women voter said they have experienced prurient conduct, as demonstrated by a continuous Quinnipiac University review. Nearly 69 percent of women who were persuaded said it worked better than any other organization. Also, the study found that 89% of male and female voters do not acknowledge the appropriate treatment of women. Some common risk factors for patient behavior are a deadly dynamic energy dynamic joining work situation where men will take the shadow of women and most of the chairmen are men. Receiving more women in the position of activity and creating an ideal, respectful culture for all workers can help to examine the matter.

Instructions to stop inappropriate work and through them we should expose them in the same way that they should be careful about their partners and their managers. Numerous behaviors occur locally and we should arm our adolescents. I can't imagine telling this to my special kids in their first businesses - but they're gradually getting ready now. They revealed to me that their supervisors were enthusiastic and probably had a touch group. Directly, one in every five adolescents has developed some place in the scope of the 15th and 17th reports, unequivocally annoying at any event once in the last five years.

This new study from the Australian Human Rights Commission and the National Press Club's Sexual Discrimination Commissioner Kate Jenkins pushed on Wednesday, relying on an investigation of 10,000 people depicted in the Australian workplace. A portion of the stories told by Jenkins are frustrating, especially because of the activity of HR departments who engage with harassers rather than protect employees.

No doubt, Jenkins revealed the story of a young man who cried about barbaric behavior and HR asked him what he was wearing. Our workplaces are a disaster area. One in three authorities has reported that women and men have been clearly harassed for the past five years. The growing horror is that one in five masters protested being agitated and half of them did not change anything after the state disagreed with them. Two of the three sat lazily and sat next to them and stared at their faces. They allow insulting the weak person without mediation, verification or field. They did not report. Also, some have said that they did not report it as they have identified that it would be disruptive to mention it to any person. That's right. Just as being calm about the assassin now begins to panic. One in six of us had very few briefings when it happened invisible behavior - and five of these bridges have been named for creating trouble, misdirected or ignored by partners. In the same way, eventually, some will leave; some will be forced out of their obligation to help someone because of their use.

5.2 Avoidance of Sexual Harassment:

A. Employers' Responsibility: The weight of maintaining a strategic distance from indomitable behavior depends on the business. In the United States, Canada, and some European Union member states, heads of state are responsible for equipping delegates in an environment that is not isolated and free of provocation. Observers are thus legally required to know how to test and supervise stimuli in the workplace. If the business does not determine how the stimulus and persuasion can be monitored in the workplace, the business may be committed to any progress, paying little attention to being aware of whether the persuasion is happening. Clearly, there is an internal and external value indicator of liability for misconduct assembled by an expert in the United States. The best preventive strategies and plans for indomitable behavior require establishing relationships with each person involved and an intelligent verbalization to the point. The point declaration should reflect a recognized obligation of all recipients to insist on seeing the need to combat misconduct in the workplace. It usually joins using a created method. Explain what the detective is, tell all delegates that provocation will not work without actual results, and determine how managers and workers should respond to the scene of barbarism.

A more organized device should be prepared in a friendly manner towards the guilty police by which agents can protest in case of indecent behavior. Opposing a threatening plan does not presume that there will be no persuasive division. Regardless, having a convincing strategy and tactics, joining against provocative training of all staff, will help to avoid harassing and supporting people who are being harassed to go, and will ensure that the issue is tilted quickly and effectively. Courts in the United States have ruled that the condition determines how to balance future provocations and that businesses that respond to protests quickly and adequately will not be committed to a comparable degree, if any and all means.

B. Improve workplace enforcement and monitoring of the 2009 guidelines:

In the absence of explicit legislation to handle sexual harassment in the workplace, it is critical to properly enforce and monitor workplace norms. To do this, enforcement and monitoring mechanisms must be established. The lack of such a mechanism is one of the primary reasons why the recommendations are currently underutilized. By forming a National Monitoring Committee or Cell in consultation and coordination with other government entities, employers' and workers' organizations, CSOs, the ILO, and other relevant stakeholders, the Ministry of Labor and Employment can play a critical role in developing workplace enforcement and monitoring mechanisms. Workplaces should report to the committee on a regular basis, and workplaces should be audited on a regular basis.

Within the Ministry of Labor and Employment, the monitoring authority may consider developing a separate Complaint and Conciliation Cell. Workers might direct their complaints to this unit, which would then act as a mediator between the parties involved. 68 This would provide an external alternative dispute resolution option for parties to employ before filing a formal internal complaint. The composition of an internal Complaint Group or complaint system may be examined and discussed to address important informant issues, such as employers' resistance to putting external representatives on such a committee.

5.3 Ways to aware women: -

Government should take necessary steps to arrange monthly or half yearly seminar in job sector of women to increase their awareness about sexual harassment and its punishment.

In educational institution students may get proper knowledge about this. In every work sector, a legal booth can be set up where any victim lady can complain about the accident and through the booth; she will be able to get legal shelter.

5.4 Conclusion:

To end violence against women in Bangladesh, one must question men's vested 'rights' and 'roles,' as well as the societal control mechanisms that maintain men's superiority and women's subordination. Due to uneven power relations, domination is frequently expressed through violence. The feminization of poverty, which is not just a condition of deprivation but also a process of vulnerability, physical weakness, isolation, and helplessness, is a crucial component in such nations. Consequential unemployment, pay discrimination, and structural adjustment policies all contribute to the escalation of violence against women and children by increasing the frequency of violence and making women and children more vulnerable. The most critical precondition for remedies to materialize is more public awareness to modify gender-biased attitudes. Legal remedies must be in place in addition to a more gender-sensitive socialization process.

Chapter: Six

Reference

6.1 Case Reference:

- 1) **Micari v Mann (126 Misc 2d 422 [Sup Ct, N.Y. County 1984])** awarded \$100,000 to \$150,000 in compensatory damages to several minor plaintiffs for sex abuse by a teacher over a four-year period.
- 2) **David Dotchin V. Saskat Chewan (Workers' Compensation Board)**. The plaintiff sought damages for unfair dismissal while working as a consultant for the WCB from March 1995 to March 1996. The plaintiff's discharge was justified, according to the defendant, because she did not follow the code of conduct on sexual harassment. HELD: The action was dismissed with the defendant receiving taxable costs. The defendant was right in summarily terminating the plaintiff's job. The plaintiff worked in a management/supervisory capacity and was well aware of the defendant's zero-tolerance policy for sexual harassment. The plaintiff was not an especially convincing or trustworthy witness. In the circumstances, his testimony that the episodes did not occur and his explanation for his actions were not reasonable. The plaintiff's behaviors of leering, looking at female employees in an uncomfortable manner, and making sexually suggestive comments, according to the two agencies referenced, constituted sexual harassment.
- 3) **Vishaka and Others Vs. State of Rajasthan, AIR 997 SC 3011**. Vishaka said in her writ petition that sexual harassment at work is frequent, and that employers typically get away with it because of a lack of effective legislation. Such acts are in violation of Articles 14, 15, 19(1)(g), and 21 of the Indian Constitution, which protect women's fundamental rights.
- 4) **APPAREL EXPORT PROMOTION COUNCIL V. A.K. CHOPRA**. The first case in which the Apex court affirmed the Vishakha Judgement was "Apparel Export Promotion Council v. A.K. Chopra," in which it upheld the finding that sexual harassment of women in the workplace violates Article 14, 19, and 21 of the Constitution. Due to the lack of domestic law at the time, the Court upheld the validity of various international conventions such as CEDAW (Convention on the Elimination of All Forms of Discrimination Against Women), the Beijing Declaration, and ICESCR (International Covenant on Economic, Social, and Cultural Rights), which advocate for

several provisions for women. Now, the Supreme Court's directions issued during the Vishakha decision have created the groundwork for the POSH, 2013, which attempts to safeguard women from sexual harassment at work.

- 5) According to the case details, **Tahsina Zaman**, who is a 13th batch student of Finance Department Claims that her **course teacher Salauddin Chowdhury** sexually harassed her when she visited his room alone for submitting a report on internship. Salauddin Chowdhury is working as an internship teacher of Bachelor of Business Administration (BBA) department at Dhaka University.

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