

Prevention of “Sexual Harassment” at the Workplace—Can Training Help?

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Abstract

With the workforce becoming increasingly diverse, a variety of ethical issues crop up at work. One of the biggest challenges is sexual harassment. “Sexual Harassment” is characterized by annoying sexual advances, gestures, communications and other acts aimed at others. The recipient feels that these actions are a violation of their rights and hamper their work. Since the past decade, there has been a universal awareness and acknowledgement that “Sexual Harassment” does exist and is widely prevalent at the workplace. There have been several measures which have been introduced at the workplace by Governments, employers’ and workers’ associations all over the world. Legislations, awareness campaigns, counselling and training of employees have been some of the measures to fight and prevent “Sexual Harassment” at the workplace. The Me-too movement has brought several skeletons out of the closet. Though validity of all cases have not and cannot be established, such situations push the case for stronger awareness programs regarding what acts could be construed as “Sexual Harassment”. This conceptual paper aims at highlighting how training employees and employers can help in the prevention of “Sexual Harassment” at the workplace. Based on the analysis of literature, this conceptual paper aims to present a theoretical framework indicating the importance of training as a preventive intervention to stem sexual harassment. Hence a conceptual framework to depict the frequency, duration, methodologies and target audiences of various training interventions and the expected outcomes of the same has been developed.

Keywords: Anti “Sexual Harassment” Training, Sexual Harassment, Training

JEL Classification: M5 Personnel Economics, M53 Training

1. Introduction

Since the past decade, there has been a universal awareness and acknowledgement that “Sexual Harassment” does exist and is widely prevalent at the workplace. There have been several measures which have been introduced at the workplace by Governments, employers’ and workers’ associations all over the world. Legislations, awareness campaigns, counselling and training of employees have been some of the measures to fight and prevent “Sexual Harassment” at the workplace.

This paper aims at highlighting how training employees and employers can help in the prevention of “Sexual Harassment” at the workplace. Training

here refers to training people from the following categories:

- Employees in general - about awareness, complaints and consequences.
- Victims in specific - about how to raise complaints, whom to approach, their rights, etc.
- Employers - about managing such behaviour, prevention measures, creating a “safe” workplace and how to handle complaints.
- Internal Complaint Committee (IC or ICC) members- Steps in handling complaints, using tact and attitude required, creating a conducive environment for the victim to come out fearlessly.

2. Background

With the workforce becoming increasingly diverse, a variety of ethical issues crop up at work. One of the biggest challenges is sexual harassment at the place of work. “Sexual Harassment” is characterized by annoying sexual advances, gestures, communications and other acts aimed at others. The recipient feels that these actions are a violation of their rights and hamper their work.

The results of a survey conducted by SHRM in 2018 (Society for Human Resource Management (SHRM), 2018) brought out a serious, startling fact where organizations have recorded an upsurge in the number of “Sexual Harassment” complaints over the past two years. Both male and female employees had complained of sexual harassment. 37% of the organizations who had participated in the survey claimed that they had some kind of training given every year to employees about “Sexual Harassment” at the workplace. 8% of the organizations had plans to train their employees about the same issue in the coming year. 25% of the organizations declared that there had been a steady increase in the number of complaints about “Sexual Harassment” being filed, recently. According to the ILO, “Sexual Harassment”, especially when it happens at the place of work, becomes a hurdle in the way of providing safe and decent environment for all its employees. Research has indicated that the magnitude of the problem of “Sexual Harassment” at the workplace has increased because of ineffective policies, lack of commitment amongst managers as well as trained manpower to deal with cases of workplace sexual harassment (Sharma, 2010).

In 2018, a survey conducted by SHRM (Society for Human Resource Management (SHRM), 2018), reports that though 94% of the respondents say that their company has a policy in place to protect its employees against “Sexual Harassment”, and 72% of the employees in the US, are happy with the company’s efforts to prevent harassment, yet more than 1/3 of them believe that their workplace offers many situations and opportunities for harassment. The survey further brings out that constant awareness programs can educate the team about behaviors are correct, and which behaviours must be avoided at the workplace.

Kristin Smith, Sharyn Potter, and Jane Stapleton analysed the data presented by the Granite State Poll in 2018 (Kristin Smith, 2019). The report indicates that more than 50% of the women and at least 25% of the men in New Hampshire have experienced some sort of “sexual

Harassment” or the other at their place of work. The wide spread prevalence of such incidents of Sexual harassment all over the world indicate that, sexual harassment is not confined to any one particular country or culture.

The “#MeToo”¹ movement which has caught momentum like a raging inferno has brought many skeletons tumbling out of many unlikely closets. Though validity of all cases have not and cannot be established, such situations push the case for stronger awareness programs regarding what acts could be construed as “Sexual Harassment”. Many cases which have stemmed from “ignorance” and “lack of awareness” by the organisation, the perpetrator or the survivor could have been avoided if structured awareness programs, or training (on how to file complaints, how to handle complaints and malicious complaints) had been conducted.

Therefore, the objectives of this paper are as follows:

- Present the conceptual clarity about “sexual harassment”, types, impact and the legal framework.
- Identify the essentials of a comprehensive training intervention, suggesting frequency, duration and contents for the same.
- Present a framework based on an analysis of existing literature how training employees and employers can help in the prevention of “Sexual Harassment” at the workplace.
- To depict the frequency, duration, methodologies and target audiences of various training interventions and the expected outcomes through this framework.

3. What is “Sexual Harassment”?

According to the Supreme Court of India, “Sexual Harassment” refers to “any unwelcome, sexually determined

¹ It was in 2006, that a movement called as the “Me Too Movement” or #MeToo was started by Ms. Tarana Burk, to assist the victims of “sexual harassment” and violence. It was started as movement to instill confidence in the survivors of “sexual harassment” to let them know they were not alone in their fight. Harvey Weinstein was one of the largest names to come out in this movement. The movement made women and some men come out of their silence and speak about their abuse and the violence they had faced. 12 million posts were uploaded on Facebook by about 5 million people using the hashtag #MeToo. This movement spread to India too and saw the likes of M.J. Akbar, Alok Nath, Anu Malik, Nana Patekar and several others being called out publicly on allegations of “sexual harassment”.

physical, verbal, or non-verbal conduct” (Supreme Court of India, 2013). The court has cited certain examples which range from “sexually suggestive remarks about women, demands for sexual favours, and sexually offensive visuals in the workplace. (Supreme Court of India, 2013) According to Nemy (1975), the phrase “Sexual Harassment “was used by Lin Farley at a public forum in New York in April 1975, when she was putting forward her deposition related to women and workplaces to the Human Rights Commission of New York.

Since the term “Sexual Harassment” is very subjective, the Equal Employment Opportunity Commission² of the United States of America, came up with a very appropriate explanation which not only defined the act but also the nature of such actions. “Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature”(U.S. Equal Employment Opportunity Commission {EEOC}, 2009). The commission further went on to indicate that sexual harassment is generally characterized by:

- Any act or behaviour which is explicit or implicit and sets any terms or conditions for an individual’s employment.
- When an individual reject such an act or behaviour, this rejection is used as the justification for any job related decisions which affect the individual, most often in a negative manner.
- These act’s or behaviour result in creating a hostile and insecure workplace for the individual, he/she ends up feeling intimidated and insecure, thus leading to an adverse impact on productivity and behaviour.

This definition led to a universally accepted explanation of the term Sexual Harassment. Following this, the World Bank defined “Sexual Harassment” as “any unwelcome sexual advance, request for sexual favor or other verbal, non-verbal or physical conduct of a sexual nature which unreasonably interferes with work, is made a condition of

² The U.S. Equal Employment Opportunity Commission (EEOC) is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person’s race, color, religion, sex (including pregnancy, gender identity, and sexual orientation), national origin, age (40 or older), disability or genetic information. According to the EEO, “Sexual Harassment” is a form of sex discrimination that violates Title VII of the Civil Rights Act of 1964. , <https://www.eeoc.gov/eeoc/publications/fs-sex.cfm>, retrieved on 4/08/17 at 3.39 pm.

employment, or creates an intimidating, hostile or offensive environment.” (Nachison, 1996) “Sexual Harassment” at workplace is said to occur when personnel decisions are based on gender, instead of an employee’s qualification or performance (Haspels, 2001). It has been viewed that workplace “Sexual Harassment” is an unfair treatment of women and a form of blatant gender discrimination. On the other hand, we can see that there are several occasions where males have been the victims.

Business Dictionary comes up with a comprehensive definition of “Sexual Harassment”, explaining it as “Workplace harassment (employment discrimination) consisting of unwelcome and repeated sexual advances, comments, looks, physical contact, stereotyping, request for sexual favors; or any such act not clearly sexual in nature when (1) submission to such act is (whether explicitly or implicitly) made a term or condition of employment, (2) submission to rejection of such conduct is used as a basis for employment related decision affecting the individual, or (3) such conduct has the purpose of unreasonably interfering with an individual’s performance, or of creating an hostile, intimidating, or offensive work environment” (Web Finance Inc., 2019)

Therefore, we can understand that “Sexual Harassment” is an act which is not welcome or encouraged, which focusses on request of sexual behaviour, an act which is demeaning and not appreciated by the receiver and makes him/her feel offended, insulted and in many circumstances, scared.

4. Common Types of “Sexual Harassment” at Work

It was in 2013 that ‘The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act’ was passed. This act has provided a comprehensive definition of what is “Sexual Harassment”. (Supreme Court of India, 2013) Defining sexual harassment as any “unwelcome, sexually determined physical, verbal, or non-verbal conduct” (Supreme Court of India, 2013), the handbook released indicates that sexually coloured remarks, sexual suggestions, demand for any kind of sexual favours, sexual photographs, pictures, jokes and gestures, come under the ambit of sexual harassment. In the same act, the court also highlights that creating a situation or environment where the woman feels threaten and insecure at her workplace also constitutes sexual harassment.

The act has also defined the concept of workplace. Workplace has been defined as "private sector organisation/private venture/undertaking/enterprise/institution/establishment/society/trust/non-governmental organisation/unit or service provider and places visited by employee (arising out of or during the course of employment, including transportation provided by employer for undertaking journey)." (Supreme Court of India, 2013). The workplace does not refer to just any physical space or room or premises, it refers to the circumstances where such unwelcome acts or behaviour is committed, refers to the environment created. Most importantly it expands the term "workplace harassment" to refer to any kind of harassment during lunch times, or even when travelling to and from work, during the course of work, and even outside the physical office space.

It is important to understand that harassment does not refer to any one single act or incident; it may refer to a series of acts, in the same or varying forms. Generally, people looking into the complaints of sexual harassment tend to discuss and refer to one act or event or incident. The reality is that whether it is one act of any of these (sexually coloured remarks, sexual suggestions, demand for any kind of sexual favours, sexual photographs, pictures, jokes and gestures) in isolation or in combination, the impact on the victim is overlooked (Dang, 2017)

In general, acts of "Sexual Harassment" at the workplace can be classified into two types, "quid pro quo" and "hostile work environment." (U.S. Equal Employment Opportunity Commission {EEOC}, 2009).³ In the handbook released by the Supreme Court of India in 2013, the two types of behaviours which amount to sexual harassment are further explained as follows.

³ In 1979, Catherine MacKinnon classified sexual harassment at work into two broad types. "condition of work" (referred commonly as "hostile environment") and "quid pro quo" (sexual harassment in "quid pro quo", "sexual compliance is exchanged, or proposed to be exchanged, for an employment opportunity"). "Hostile environment" refers to a work environment which is made unbearable and uncomfortable for the woman because of "unwanted sexual attention". "Quid pro quo" refers to a situation where the woman is forced to give in to or agree to give sexual favours in return for some work/employment related benefits, or forgo work/employment benefits if she does not give certain sexual favours to her boss/colleague. MacKinnon in her book brought out several situations when both forms of sexual harassment may happen simultaneously (Mackinnon, 1979).

- "Quid Pro Quo (literally 'this for that') - Implied or explicit promise of preferential/detrimental treatment in employment - Implied or express threat about her present or future employment status." (Supreme Court of India, 2013).
- "Hostile Work Environment - Creating a hostile, intimidating or an offensive work environment - Humiliating treatment likely to affect her health or safety." (Supreme Court of India, 2013).

Regardless of the geographical context, "Sexual Harassment" is manifested in any of these three main types.

- Unwelcome behaviour of a sexual nature. Such an act is purposeful and is done with the objective of demeaning, intimidating or offending a person with his/her sexual behaviour. It insults the dignity of a person, making the victim feel uncomfortable. Example: Showing nude pictures, making offensive sexually explicit gestures, sending sexually explicit jokes by email, commenting on a person's body parts, persistent and aggressive request for dates, and "lewd" double meaning conversation.
- The second type is sex-related harassment; such conduct is also unwelcome and unwanted. It stems from the aggressive behaviour of a person who makes the victim feel small and undignified because of his/her gender. Examples are: - discussing about the paternity of an unborn child, comments about female employees who have to leave their child in day care, comments about women employees who have to go home early to care for their children. With many transgender employees joining the work force this would become all the more challenging.
- The third category of "Sexual Harassment" is the treatment of an employee who has rejected or accepted a sexual advance of an employee. For e.g. if an employee has rejected a sexual advance made by her boss, he may in turn treat her unfavourably and harass her by giving more work, or tasks not related to her job. Or a male employee, who responds to a sexual advance made by his female boss, later gets insulted and jeered by her.

5. Impact of Sexual Harassment

"Sexual Harassment" in organisations has adverse consequences both for the organisation as well as to the victim. The consequences can be of an immediate nature as well as have a long lasting impact on both.

It leads to emotional, physical and psychological upheaval in the victim. The victim feels shamed, demotivated and emotionally scarred. Female victims have often reported financial losses because of being demoted, unable to perform well, being fired or leaving their jobs as a result of the harassment (Kristin Smith, 2019). Victims of sexual harassment often blame themselves and experience a feeling of guilt, suffer from sleep related disorders, and end up being restless and depressed (Kristin Smith, 2019). Women who have been subject to sexual and gender harassment suffer a significant setback in their work and emotional wellbeing (Emily Leskinen, 2011).

On the other hand, it leads to several costs to organizations. “The costs to organizations include increased turnover and absenteeism, lower individual and group productivity, loss of managerial time to investigate complaints, and legal expenses, including litigation costs and paying damages to victims” (Welsh, 2000). A study covering 8108 employees of three Latin American countries namely, Argentina, Brazil and Chile indicated that employees feel increased tendency to leave their jobs and the absenteeism increases (Merkin, 2008). Research has indicated that sexual harassment is damaging for the organisation since it resulted in reduced workforce morale, increased absenteeism and reduced productivity (Merkin, 2008). When the news of any sexual harassment incidents spreads, it becomes “viral” in no time thanks to social media and technology. Such bad news about the organisation severely damages the image of the organisation especially when it comes to partnerships, good will and more so when it comes to its reputation as a good/safe place to work (Kanjamala, 2019).

6. Literature Review

A survey of the literature described below, indicates that training programs about “Sexual Harassment” may reduce its occurrence. Research has provided evidence that training goes a long way in sensitizing people about the issue of “Sexual Harassment” and its consequences. Training also creates awareness of what acts could be construed as sexual harassment.

Schneider, Kimberly T. Swan, Suzanne, Fitzgerald, Louise F, have indicated that the extent of “Sexual Harassment” is very high, pointing out that 1 out of 2 women has been harassed at one time or the other during her academic or professional life (Schneider,

1997). This research has brought out the negative impact of “Sexual Harassment” on the victim. In addition, they have suggestions on various measures to prevent “Sexual Harassment” at the workplace. The research states that training people (both employees and employers) regarding “Sexual Harassment” could lead to awareness of the consequences on the accused and the victim and help in containing this menace.

Hersch in her research indicated that “Sexual Harassment” at the workplace has long lasting effects on the organisation as well as the victim, it proved costlier to the victim because they suffer from a range of emotional and physical side effects from such harassment. The researcher further explains that, “widely accepted best practices involve the promulgation of a strong policy prohibiting sexual harassment, workplace training, and a complaints process that protects workers from retaliation” (Hersch, 2015).

Antecol H. and Cobb-Clark D, in their research brought out important evidence that “Sexual Harassment” training programs may be useful in leading workers to be more sensitive to the issue of sexual harassment” (Antecol, 2003). It indicates that there is an enhanced understanding, especially in men, what kind of acts constitute “Sexual Harassment” and therefore they would abstain from it.

Ali F. and Kramar R. in their study of “Sexual Harassment” in Pakistani organizations bring out the fact that “even when there are formal policies designed to prevent SH, cultural factors influence policy implementation” (Ali, 2015). This is an indication that it is necessary to bring about a cultural change in organisations through training and other such interventions.

In a research conducted by Punam Sahgal and Aastha Dang, across the country a questionnaire was sent to more than 750 female managers. From the 200 responses they received they concluded that the number of sexual harassment cases experienced by women was very alarming. According the researchers support staff, staff from lower hierarchical positions suffer more incidences of workplace sexual harassment. A very dismal fact brought out by this survey was that when women are in lower ranks or positions, they are usually hesitant and nervous but when they women rise to senior levels giving them power, they become unconcerned and unwilling to support or understand the problems of their female colleagues (Dang, 2017). However, the researchers indicate that many organisations are taking proactive

stances towards sexual harassments. Some organisations have developed an organizational support to protect women not just by taking immediate action against the offender but also providing emotional support by way of counselling to help the victim overcome the trauma.

Results of several surveys and researches by Antecol H. and Cobb-clark D, Steven V. Cates and Lynn Machin, have shown that "Sexual Harassment" training programs may make employees more sensitive to the issue of sexual harassment (Steven V. Cates and Lynn Machin, February 2012) (Antecol, 2003).

A study of the available research on "Sexual Harassment" indicates that there are strong recommendations for developing comprehensive policies in organisations to prevent "Sexual Harassment". Going further there are ample researches to indicate that it's not just enough to have a policy, organisations must develop interventions to communicate the policy across all levels (Livingston, 1982). Employees hesitate to report incidents of sexual harassment, in organisations which have informal procedures of dealing with "Sexual Harassment" ((Biaggio, 1990) (Gadlin H. , 1991) (Lach, 1993) (McKinney, 1988)). These studies have demonstrated that if individuals are informed properly about the policies regarding sexual harassment, the victim is more likely to report it and the perpetrator may hesitate to indulge in such acts, knowing that the organisation has a stringent mechanism in place to deal with the offenders. Research by Gruber, Gwartney-Gibbs and Lach has indicated that if organizational environment does not discourage acts of sexual harassment, victims may actually feel inhibited to report such behaviour.

Based on the analysis of literature, this conceptual paper aims to present a theoretical framework indicating the importance of training as a preventive intervention to stem sexual harassment. Hence a conceptual framework to depict the time frame and target audiences of various training interventions and the expected outcomes of the same has been developed (Figure 1).

7. Need for Training in Prevention of "Sexual Harassment" at Work and Current Status

As can be understood from the literature survey, several reports and researches have put forward the fact that incidences of "Sexual Harassment" at workplaces are not new and that discussions have been going around how to

combat this menace since the 1970s. Globally, it has been viewed as a kind of discrimination and violence against women. Since the late 1990s, countries have been working towards coming out with specific legal measures on the basis of which they can declare that "Sexual Harassment" is a civil and criminal offence. The ILO report highlights that employers are being viewed as responsible for the enforcement of such legal measures at the workplace through creating policies to prevent sexual harassment. The employer cannot abdicate his responsibility in making the workplace a safe place to work. Just as he is liable if any accident takes place, he is also liable if an act of "Sexual Harassment" takes place. Therefore, employers are obliged to design Anti "Sexual Harassment" policies based on the Government framework, create awareness and ensure that these policies are implemented. The employer is also required to create an environment where the victim does not hesitate to voice his/her complaint. Employees, NGOs, and Employers organizations are designing sample policies, guiding organisations on compliance as well as carrying out research and training. Nevertheless, the onus of sensitizing employees about the issue of "Sexual Harassment" rests on the employer, so that incidences of "Sexual Harassment" at the workplace can be prevented.

Though Anti "Sexual Harassment" training of employees is not statutory, many countries have incorporated the clause in the laws where specific training regarding sexual training is compulsory. In India, Prevention of "Sexual Harassment" at the Workplace, commonly known as POSH, is founded on a statute passed in December 2013. Chapter VIII, Section 19 of the act makes it mandatory for the employer to "organize workshops and awareness programmes at regular intervals for sensitizing the employees with the provisions of the Act and orientation programmes for the members of the internal Committee in the manner as may be prescribed" (Ministry of Women and Child Development, GOI, 2013). This is to ensure that no one can claim "ignorance" as an excuse.

This Act requires every company to form an Internal Complaint Committee (ICC). The objective of this committee receives and enquires into any complaints regarding "Sexual Harassment" in the organization. It is mandatory that the ICC members must be trained to handle complaints and be fully aware of the procedure to look into such matters, which are referred to them. Along with this, the Act has also stressed upon the role of the Government, and said that wherever possible, the Government must provide training materials, awareness

workshops and other measure to create awareness on how to deal with the prevention of this menace as well as how to handle complaints.

In a survey conducted by E and Y in 2015, it was found that 21% of the respondents' organizations had not conducted any awareness campaigns for its employees regarding sexual harassment. 44% of the employees who responded expressed that they were not aware of the penal consequences of "Sexual Harassment" and neither had their organisation put up any signs/posters etc. regarding the same (EY Forensic & Integrity Services, 2015). Amongst the 27% of the MNCs surveyed and 50% of the SMEs which responded to the survey had not conducted any training for their ICC members. Further the survey revealed that across all sectors there was very little or no training conducted for employees especially for the new employees. It was also revealed that even in IT companies, 46% of the companies have not capitalized on their IT expertise to provide online modules to create awareness amongst new comers (EY Forensic & Integrity Services, 2015).

8. How can Training Prevent or Reduce "Sexual Harassment" at the Workplace?

Most employers develop well worded policies related to anti-sexual harassment. Research has however indicated that employers believe that their responsibilities start and end with bring a policy into a place as well as setting up the compulsory (Haspels, 2001) (Dang, 2017) (Sharma, 2010). Many organisations develop an anti-sexual harassment policy. However, it can be seen that employers adopt an almost indifferent attitude towards sexual harassment and therefore assume their responsibilities end with drafting a policy and setting up the mandatory ICC or Internal Complaint Committee which is a must as per the act. They do not recognize that training can provide the vital bridge between the anti-sexual harassment policies and perceived positive outcomes. In short, employers must realize that even the best policy, without the support of training would remain nothing but a paper tiger (Lindenberg, 2003).

Thus the responsibility of an employer according to the "Sexual Harassment of Women at Workplace Act, 2013", is not just to set up a complaint committee but to ensure that the employees are aware of the ways to seek redressal, how to raise a complaint, and understand the penal provisions under the act. All these have made

training and awareness sessions the need of the hour, so that employees understand the law and the consequences of violation and non-conformity.

Employers or employees can no longer claim ignorance when they are faced with cases of sexual harassment. It is often seen that "Sexual Harassment" is more likely to occur in workplace environments that tolerate bullying, intimidation, yelling, innuendo and other forms of discourteous behaviour" (Orser, 2000). Going beyond just the mandatory training, the employer must invest in interventions that change the mindset of employees focusing on inclusion and gender sensitivity. Training employees not to be mute bystanders through such interventions and supporting victims to complain fearlessly would help to develop an atmosphere where people understand they cannot get away easily after sexually harassing a colleague. (Kristin Smith, 2019).

8.1 Given below are some of the most important ways in which training can prevent or reduce "Sexual Harassment" at the workplace

8.1.1 Create awareness: Awareness can help in the following ways

- **Curtailement of such behaviours which may be viewed as "sexual" and punishable.** When the author described 20 behaviours/acts to men and women, there were about 9 acts which both viewed as offensive or inappropriate, while there were 14 acts which only women perceived as offensive. This is a clear indication that amongst many men, there is a lack of awareness and a gap amongst the understanding of men and women as to how various actions/gestures could be viewed. For example, placing an arm around a woman could be taken as a sexually intimidating gesture by the woman. When awareness is generated that certain acts are those which could be termed as sexual harassment" males may desist from such acts.
- **Awareness of how to react in such situations.** In the unfortunate circumstances if such an act/event occurs, the victim must know whom to complain to and what should be his/her reaction. Such awareness would create an environment where the victim is facilitated to speak fearlessly. This in turn would ring a bell of caution to stall/prevent any other further such incidents.
- **Awareness to the employer:** The employer also becomes aware of how to handle such situations, how

to design concrete policies and how to implement them. It helps in legal compliance. Employers must be aware that it is not just the aggressor who is liable for punishment. If the victim can prove that the employer did not have the proper mechanism in place to prevent and redress "Sexual Harassment" complaints, the employer is also liable for punishment. Added to this would be the damage it could cause to the reputation and goodwill of the company.

8.1.2 *Enhancing Diversity Management*

The employee of today needs to move away from narrow, conservative thinking to broader, inclusive mindsets. Whatever his personal views on gender, sexual orientation, dressing etc., he cannot carry them to the workplace and endanger the workplace. With more number of LGBT's at the workplace, sensitization of employees is very essential. We must learn to accept that our teams may be completely different from us in various ways and stop being judgmental. Therefore, training regarding diversity must include anti "Sexual Harassment" training. Teasing or ridiculing people because they are transgender, lesbians or gays are viewed as acts of "Sexual Harassment" globally. Diversity and "Sexual Harassment" training must go hand in hand to build inclusive organisation.

8.2 **How Training can Help in Managing Complaints?**

The POSH Act has stipulated certain conditions for an employer to comply with. One important requirement is the formation of an Internal Complaint Committee often referred to as the ICC or IC. (Supreme Court of India, 2013). This is the body which is supposed to receive and handle the complaints from the woman and conduct enquiries according to the norms laid down in the Act as well as the company policy. Any organisation having ten or more employees must have an ICC which has been set up by the employer. The names of these members have to be prominently displayed at prominent places of the organisations. The ICC usually constitutes of

- A chairperson, who is a senior women employee in the organisation.
- Two women employees- who have knowledge of the law and are committed to the cause of women.
- One external member from an NGO or any woman who is passionate about the cause of women.

While the description of the qualifications of the members of the ICC is very vague in the act, it is very clear in the Act that the ICC is mandatory. As evinced from the case at Novasoft technologies the absence of a Complaints Committee or an ICC violates the fundamental right of the woman to a free and fair working place. (Ms. G v. ISG Novasoft Technologies Ltd. Madras High Court (Crl.R.C.No.370 of 2014 order dated 02.09. 2014. Original Petition No.463 of 2012), (Indiankanoon.org, 2019) The victim was awarded a sum of R.1.68 crores in damages because the company had not constituted a Complaint Committee in line with the Vishaka Judgement⁴.

To ensure that the ICC members can do their jobs responsibly, it is required to train them about the law, the procedures and the required skills to handle an issue as delicate as sexual harassment.

The two most important skills for which ICC members must be trained are discussed below.

8.2.1 *Handling Complaints Sensitively*

The ICC members must be trained to look into all complaints and matters referred to them objectively and sensitively. Probing incidents, asking questions, and trying to gather more information about reported incidents require a lot of tact and skill. Bias and judgmental stances do a lot of damage and can weaken the protective social fabric of the organisation. Facts must be gathered without taking sides, and in such situations empathy is the key.

8.2.2 *Handling Malicious Complaints*

The flip side to strict policy implementation to deal with acts of "Sexual Harassment" is that it also attracts malicious complaints. Such complaints are filed with a mala fide intent to discredit and harm a person, even

⁴ It was in 1997 that an NGO Vishaka and other women's organisations filed a PIL against the Government of India and State of Rajasthan. The objective of this petition was to pressurize the Government to ensure that Articles 14, 19 and 21 of our Constitution were enforced and women were protected from sexual harassment at the workplace. This PIL was filed in the aftermath of the gang rape of Bhanwari Devi, for fighting against the practice of child marriage. The result of the PIL was the formulation of the Vishaka Guidelines, where Justice J.S. Verma, Justice Sujata Manohar and Just B.N. Kirpal passed a stringent judgement focusing on what sexual harassment at the workplace meant and guidelines to deal with the menace.

though no such act has occurred. Malicious complaints related to “Sexual Harassment” increase post appraisals or performance assessments. (E and Y report, 2015). Making everyone aware of what “Sexual Harassment” is and what would happen if complaints are found malicious, could reduce the incidences of false complaints.

8.3 When should such Training Programmes be Conducted?

8.3.1 During the Induction

The induction program is the perfect time to educate the new hires about all the policies of the organisation. The socialization of the employee must start with not just the vision and mission statements but also the values of the company. This is the ideal time for the employees to be informed about the company’s stance towards sexual harassment. It is the responsibility of the HR department and the organisation to drive home the view that “Sexual Harassment” is a serious offence. The company policy regarding “Sexual Harassment” must be clearly explained to employees, making them aware of what “Sexual Harassment” is, what are the consequences of such actions, how to face such situations, who to complain to and so on.

8.3.2 Compliance Management Programs

Compliance management refers to the manner in which an organisation seeks to educate and enforce on its employees the various internal policies/regulations as well as the government rules and regulations that the employee and the organisation has to follow. Research has shown that employees who receive compliance training are more productive, have lower turnover rates, are more efficient, and need less supervision. Most employees know what are the do’s and don’ts at the workplace, but all are not aware of what kind of acts of omission or commission would be viewed as improper and more importantly, illegal. There are many minute and subtle issues, which employees may not understand but which may violate company policy. Making it mandatory for all employees to attend compliance management programs would ensure that employees have no misunderstanding of company’s norms. When employees understand their compliance responsibilities, the result is an ethical workplace where employees develop a productive and respectful relationship.

8.3.3 Pre Departure on International Assignments

Training an employee before he takes on an expatriate assignment should be aimed at increasing the employees understanding about the host country, the society he would live in, the culture, the values and most important the dos and don’ts. Conducting such training before he leaves would help in a better cross cultural experience as well as a reduction in misunderstandings.

9. How to Ensure that the Company’s Anti-Sexual Harassment” Training is Effective?

Ideally anti-sexual harassment training programs must begin right from the onboarding process. The company must make it very clear that acts of bullying intimidation and any form of sexual harassment is a grave offence. During the induction programme the company must have a comprehensive introduction to the code of conduct of all employees, what actions could constitute harassment and the dos and don’ts at work, even outside the physical premises of the organisation. The usage of more participative methods like case studies, role plays, videos for the training would be more effective to help employees understand the company’s stance on sexual harassment. Training should be conducted across all levels, so that there is awareness as well as a caution that any kind of behaviour which even borders on sexual harassment will not be tolerated. Regardless of how effective the induction training is, periodical campaigns, awareness through posters, emails must be an ongoing process, so that there is a reinforcement of learning.

- The compliance management program has to be communicated effectively. Stories/incidences which have happened must be used. It is the most effective way of attracting your employees’ attention. The program has to be delivered in simple language without using too much of legal terminology.
- Learning has to be reinforced at periodic intervals. Change will be slow and cannot be achieved overnight. Ideally employers must communicate clearly, consistently and firmly what kind of behaviours are acceptable and what kind of behaviours, language, gestures, etc. are inappropriate for the workplace.

- Pictures and images have to be used to make the training more effective. Posters, pictures in mails and circulars may make the understanding of delicate yet important issues, much easier. The training program can be supplemented with handouts of slides.
- A blend of online and offline training may be used to make the learning more effective.

10. Conclusion

The Vishaka judgement no doubt clarified the meaning of sexual harassment, the meaning of workplace and made it mandatory for every employer to have a code of conduct at the workplace. While issuing guidelines to deal with sexual harassment, the Court pointed out the fact that it was an issue of human rights violation and therefore organisations must take up this issue very seriously.

Employment-related "Sexual Harassment" imposes large costs on both workers and their employers. Many organizations have responded by implementing formal policies, grievance procedures, or training programs. Organizations must have proactive well defined policies, rather than those aimed at just satisfying compliance management requirements. Organisations must hold training programmes for the employees as well as hold seminars and skill building programmes for the members of the Internal Complaint Committee (ICC), which must be part of the Anti-Sexual Harassment team. If any policy has to have an impact and effective implementation, supportive training is a must (Lindenberg, 2003).

It is mandatory under the Prevention of "Sexual Harassment" at the Workplace Act that members of the ICC must undergo an orientation to understand their role and responsibilities. The employer can enhance awareness in the employees by inviting external facilitators belonging to other women's groups, NGOs and legal bodies. Employers can involve any of these external facilitators to orient and sensitize their employees. The government has published enough content which can be used in the employers' efforts to disseminate the company's policy about "Sexual Harassment".

Proactive organisations can help themselves by training its employees not just understand what sexual harassment is, but also sensitize all employees on the effects of sexual harassment on the victim and his/her families. There are instances when sensitive employers have conducted 'Bystander training' so that perpetrators

think twice before indulging in such acts and the others do not remain as mute bystanders/observers (Kristin Smith, 2019). Employers cannot just wash off their hands off such incidents, because they are not just one time incidents, they are persistent behaviour which cause trauma. Counselling the victim to face the trauma and reassuring her /him that they are not alone. Employers could identify women and develop them to become mentors to such women.

Organisations which have spent considerable effort and resources to develop ethical work practices and an inclusive culture can develop extra commitment in their employees. Training is one of the most effective ways to develop a comprehensive approach to the prevention of sexual harassment and any kind of misappropriate behaviour. It must be made mandatory for all employees to participate in the training to obtain the necessary knowledge and skills to contribute towards a safe and healthy workplace (Traliant, 2018) When organisations depict a true sense of commitment to employees, employees too would go that extra stretch to be more productive and result oriented (Dang, 2017) (Lindenberg, 2003). This is where training can bridge the gap between actual behaviour and expected behaviour.

11. References

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