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### **Identity Crisis and Occupational hazards of women: Some Explorations**

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#### **Abstract:**

Article 21 of the Indian Constitution envisages rights of protection of life and liberty of every citizen of India and various judgements of Hon'ble Supreme Court of India also advocates the right to protect employees health under article "right to life". This health does not only means physical health, it covers mental and psychological health also. Despite that, it is a matter of great shame that the workforce who are striving hard to make their existence is facing various occupational hazards particularly the women workforce. Though all over the world it is relatively prevailing issue but affecting mostly in developing or under developed countries. It is quite evident that from the ancient time or in our present era women were actively performing dual roles of production and reproduction, but they are confronted with multiple challenges like sexual harassment, gender based discrimination, physical hazards, bullying at their workplaces. This results in an adverse impact not only in their professional life but in personal and social life also. Organizations like ILO (International Labour Organization, National Safety and Council of India, National legislation on Occupational safety and health (OHS) etc are acting to ensure safety to the workers at workplaces. Govt. Of India has introduced several policies and laws for women empowerment, like The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (which superseded the Visakha Guidelines introduced by Supreme Court of India) to safeguard the dignity and professional life of women employee. In this paper I try to analyze the root cause of occupational hazard for women at workplace in India with special emphasis on sexual harassment and also discuss the legal framework in India, and propose some measures to make safe atmosphere at workplaces for women.

**Keywords: Occupational hazard, sexual harassment, POSH Act, 2013.**

**Introduction:** India is one of the fastest growing economies of the world as the IMF (International Monetary Fund) forecasts 6.8% growth for India this year compared to just 1.6% growth for the United States. By 2030 India will be the third largest economy of the world as per forecast. It is a clear fact that most of the developed countries possess a large

number of female participations in their work force. Though its true for India also as from 1990 to 2000- India's economy grow robustly and female labour participation also grew albeit from very low levels, but they are still very low. According to 2011 Census, 587 million women in India causes 48% of population but among them only 29% of women over the age of 15 participated in Indian workforce. In 2021-22 29.4% of women (aged 15 to 59) in India's labour force in contrast to 80.7% of male labour participation (as per Labour Force Participation Rate data). Not only the proportion of women in India's workforce is low but its notoriously declining. Despite all kinds of struggles still they are being persistent in their efforts and endeavour to make their presence noticeable in the male dominated Indian society. Most of the women are performing strenuous household works but this goes unrecognized as this doesn't fit in any specific term of occupation. If we consider it a single shift job then when a woman also works outside home, she is then doing a double shift job. But instead of complementing their efforts in development of our nation, they are being shamelessly honoured with various kinds of occupational hazards at their workplaces like physical, psychological or sexual abuses etc. Though Article 21 of the Indian constitution envisages rights of protection of life and liberty of every citizen of India and various judgements of Hon'ble Supreme Court of India also advocates the right to protect employees health under article "right to life". In the case of Consumer Education Research Centre vs Union of India, the judgement says "Therefore, we hold that right to health, medical aid to protect the health and vigour to a worker while in service or post retirement is a fundamental human right under Article 21, read with Articles 39(e),41,43,48A and all related articles and fundamental human rights to make the life of the workman meaningful and purposeful with dignity of person". Now let discuss the hazards that our woman workforce faces in their day to day working life

**Physical hazards:** In a single line we may say physical hazard implies conditions causing injury or harm to a person's physical health. This may include exposure to materials which are hazardous in nature, working in high risk conditions with high risk equipments etc. It is a proven fact that malnourished women when engaged in the work of heavy manual labour must suffer from various health issues and musculoskeletal problems are very common. Cumulative Trauma Disorders (CTD) which results from work related musculoskeletal disorders of neck and shoulders. Though it is a common fact that chemical, physical agents have the same impact on both male and female workers, but its also a fact that women possess a smaller stature than a man, physical strength is also low comparing to a man. Even in mechanical jobs, most of the tools, machines and work stations have been designed for average male and are unsuitable for women from an ergonomic angle. Owing to this, the female workers may experience long term health problems like chronic illness, physical disabilities etc. Exposure to chemical hazardous atmosphere sometimes effect their reproductive system even effecting to their unborn child.

**Ergonomic Hazards:** Ergonomic hazards which is nothing but working in uncomfortable and painful working areas without having proper safety is another matter of concern for our female workforce. Injuries are regular occurrence in various workplaces like Brick Industry,

Mines, Construction works etc. In tea industry the female workers play a vital role of plucking the right leaves which is considered to be a very cumbersome job. But very often they fall victims of bites of snakes or insects or even attack of wild animals. Now a days the female workers in some tea gardens are made to spread pesticides in tea gardens without giving necessary protection, due to which the women workers are facing skin diseases and even skin cancer. The picture of women doing the job of plucking tea leaves carrying their baby fasten in cloth is very usual, but in this way the baby is also exposed to pesticides and insecticides and also to heat and rain.

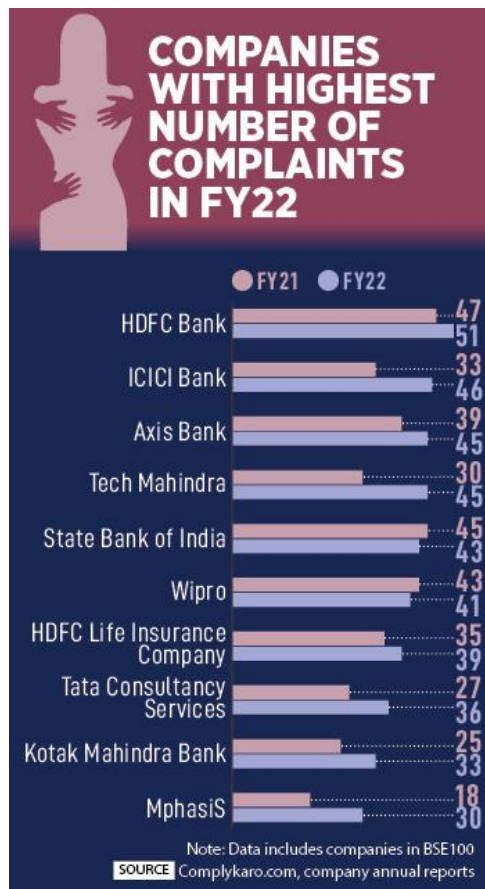
- 1) **Psychological Hazard:** Not only physical, psychological hazards relating to occupational harassment and abuse is a matter of concern for the female workers in India. Sometimes harsh behaviour from their male colleagues make them even to leave their jobs or live in isolation. This prohibits the opportunity to become a successful one in job in their respective field.
- 2) **Gender Based Discrimination:** Very often, Women in workplace face discrimination based mainly on gender like unequal treatment and limited opportunity of growth in career, promotion and pay scale. A male dominated work culture and social dogmas are the main contributors to this discrimination, which prohibits a woman from reaching to her full potential.
- 3) **Workplace Bullying:** Workplace bullying includes verbal abuse, intimidation, negative behaviour. An atmosphere of negativity prevails in the workplace and it diminishes the self-respect and self confidence of female employees resulting adverse effect in their career advancement.
- 4) **Safety while commuting:** Safety issues during commuting to and from work is a matter of significant concern. There are many instances where woman were harassed and insulted in Public transport.
- 5) **Maternity Leave:** In spite of having separate rules for taking maternity and other leaves for women employee, there are many instances where the employer didn't comply with the rules and this makes hard for the female employee to make a balance in office work and home. According to the Indian Maternity Benefit Act, 1961 (amended in 2017) new mothers or pregnant women are entitled to have 26 weeks full paid leave for their first two children and for each subsequent child she can take three months or 12 weeks full paid leave. The employer may extend this benefits if they want but in many cases there are instances where a pregnant employee is being terminated without following the Act.

**Sexual Harassment:** Now among all the hazards that I mentioned above, the most pervasive, perilous and alarming is the sexual harassment at workplace for women. A survey conducted by Indian Bar Association in 2019 clearly stated that around 68% of working women in India reported experiencing of sexual harassment at their workplace which is very distressing and it needs immediate attention. In west Bengal only, according to NCRB data, there were 2189 cases of sexual harassment under Section 509 of the Indian Penal Code.

Various NGOs working in this field in West Bengal has submitted their datas in this regard which is quite alarming, like

- a) 68% of working women in Kolkata surveyed by NGO Sanlaap reported experiencing some form of sexual harassment at workplace.
- b) Pratyashi Trust another NGO reported that out of 332 working women in Kolkata they have surveyed; over 80% had faced sexual harassment.
- c) Swyam, the Women’s helpline, shows a staggering data that it received 2879 sexual harassment complaints from working women between 2016 to 2020.

If we consider the anti-sexual harassment advisory Complykaro.com annual report for theFY 2021-2022 which is based on company annual reports of the BSE 100 index companies , the complainton sexual harassment at work place in private companies has increased 27% compare to the previous Financial year.It showed that these companies registered 759 cases in FY 2022 compared to 595 cases in 2021.The famous #MeToo movement has also contributed largely in empowering the women to report misconduct against them. Its quite astonishing to find that these formal sectors where the employees are mostly well educated and belong to a class of their own, this kind of reports seems unpleasant.



Sexual harassment at workplace to the female employees can be divided traditionally in two broad category.

- i) **Quid pro Quo:** It is a latin phrase which implies “ something for something”. It is one kind of sexual harassment where there is an action for exchanging sexual favors for something like salary hike, getting promotion or to avoid detriment. the exchange in favour may be implied or suggestive from a superior to a junior employee e.g. sexual favours otherwise to be terminated from job or promotional opportunity or hike in salary, creating an unhealthy environment for an employee only to accept sexual advances
- ii) **Hostile work environment:** It is one kind of sexual harassment in the workplace as it includes physical, verbal or visual sexual harassment like
  - a) Showing sexual visual material or pornographic materials.
  - b) Gender based disparaging sexual comments, sexual jokes or even commenting on a person’s appearance.
  - c) Unwelcome physical contact like patting, stroking grabbing or pinching one’s body
  - d) Obscene phone calls, messaging, email with sexual innuendo.
  - e) Promoting rumours or lies about a person’s personal or sex life.
  - f) “Using sexually- suggestive nick names or terms of endearment.”
  - g) “Blocking a hallway or doorway”
  - h) “Staring, following or stalking”
  - i) “Rape or attempted rape” or so on

The cases on Sexual harassment is recorded under Section 354A of Indian Penal code and according to the data collected from National Crime Reports Bureau (NCRB), these cases are increasing despite the fact that many cases go unrecorded due to the fear of disgrace and dishonour by our very own society, lack of awareness and also less faith in country’s legal system. According to a survey conducted by National Commission for Women (NCW) most of the reported cases of sexual harassment at workplace 53% were verbal in nature, 27% were physical gestures and 13% involved unwelcome written or electronic commission.

**Consequences of Sexual harassment at work place:** Sexual harassment of any kind at workplace may result in Post Traumatic Stress Disorder (PTSD) and depression which also leads to diminished self esteem and job satisfaction leading to decrease in productivity. Even women employees experience grave results like job loss, demotion or even transfer.

**Laws and Regulations to ensure safety for female workers:**

*“The meaning and content of the fundamental rights guaranteed in the Constitution of India are of sufficient amplitudes to encompass all facets of gender equality.”*

**[“Late Chief Justice J.S. Verma, Supreme Court of India, Vishaka v. State of Rajasthan”]**

Government of India is in favour of equal rights and favourable working condition for working women and hence has introduced several policies, organizations and laws for women empowerment, like *Labour and Employment in safety and health, Occupational Health and Safety Management Systems, National Safety and Council of India (NSCI)*, India and International Labour Organisation (ILO), National Legislations on Occupational Safety and Health (OHS), The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 was passed by the Indian Parliament in 2013, following the landmark judgment of the Supreme Court of India in the Vishaka and Others vs. State of Rajasthan case, which established guidelines for the prevention of sexual harassment at the workplace named Vishakha Guidelines. As per *Handbook on sexual harassment at workplace*, the emergence of Visakha guidelines goes like this: “in 1992, a rural level change agent, Bhanwari Devi, was engaged by the state of Rajasthan as a Sathin<sup>3</sup> to work towards the prevention of the practice of child marriages. During the course of her work, she prevented the marriage of a one-year old girl in the community. Her work was met with resentment and attracted harassment from men of that community. Bhanwari Devi reported this to the local authority but no action was taken. That omission came at great cost – Bhanwari was subsequently gang raped by those very men. The Bhanwari Devi case revealed the ever-present sexual harm to which millions of working women are exposed across the country, everywhere and everyday irrespective of their location. It also shows the extent to which that harm can escalate if nothing is done to check sexually offensive behaviour in the workplace. Based on the facts of Bhanwari Devi’s case, a Public Interest Litigation (PIL) was filed by Vishaka and other women groups against the State of Rajasthan and Union of India before the Supreme Court of India. It proposed that sexual harassment be recognized as a violation of women’s fundamental right to equality and that all workplaces/establishments/institutions be made accountable and responsible to uphold these rights/Economically, empowered women are key to the nation’s overall development and this can only be achieved if it is ensured that women’s workspaces across all sectors and all over the country have a safe and secure environment for work. It is important as well to ensure that the emphasis is on prevention rather than punitive act” (*Handbook on sexual harassment at workplace*). According to the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act of 2013, every commercial or public organisation with 10 or more employees must have an internal complaints committee (ICC). An LCC (Local Complaint Committee) has to be constituted in every district only to enable women in the working in unorganized sectors where less than ten workers are working. Minimum 50% members of these committees should be woman including the chairperson and these committees help the victims to complaint about their harassment without having fear of retribution. A healthy workplace environment where female employees feel safe from such incidents is the main objective of enactment of this act. But it is hard to believe that this law has been followed or maintained in every public or

private establishment. The procedure to get relief through POSH Act can be very lengthy and cumbersome. It discourages the victims from pursuing their complaints. Through The POSH Act Govt. should try to expedite legal proceedings, protect the victims and also to ensure severe punishments for the culprits. But our deep seated societal norms and stigmas after harassment often discourage victims from reporting incidents.

In a landmark judgement on 12<sup>th</sup> may 2023 (Aurellu Fernandes vs State of Goa and others), the Supreme Court of India says, “being a victim of such a deplorable act not only dents the self esteem of a woman, it also takes a toll on her emotional, mental and physical health. It is often seen that when women face sexual harassment at workplace, they are reluctant to report such misconduct. Many of them even drop out from their job, “Justice Kohli observed. “However salutary this enactment may be, it will never succeed in providing dignity and respect that woman deserve at the workplace unless and until there is strict adherence to the enforcement regime and a proactive approach by all the State and non- State actors. If the working environment continues to remain hostile, insensitive and unresponsive to the needs of women employees, then the Act will remain an empty formality”. If the authorities/ managements/ employers cannot assure them a safe and secure work place, they will fear stepping out of their homes to make a dignified living exploit their talent and skills to the hilt. It is , therefore, time for the Union Government and the State Governments to take affirmative action and make sure that the altruistic object behind enacting the POSH Act is achieved in real terms.”The Supreme Court of India also directs The Union Government of india, all state Governments and union territories to “undertake timebound exercise to verify as to whether all the concerned Ministries , Departments, Government Organizations, authorities , PSUs, Institutions , bodies etc have constituted ICCs/ LCs/ Cs, as the case may be accordng to the POSH Act.”It also directs that similar exercise shall be undertaken by all “*the statutory bodies of professionals at the Apex level and the State level ( including those regulating doctors, lawyers, architects , chartered accountants, cost accountants, engineers, bankers and other professionals), by universities, colleges, Training Centres and educational institutions and by government and private hospitals/ nursing homes.*” It also directs the Central and State Governments and the Union territories “*to undertake a timebound exercise to verify as to whether all the concerned Ministries, Departments, Government Organizations, authorities, Public Sector Undertakings, institutions, bodies etc, have constituted ICCs/LCs/ ICCs as the case may be and that the composition of the said committee are strictly in terms of the provision of the PoSH Act.*” The authorities need to conduct orientation programme, workshops, seminars to upgrade the members of ICCs/LCCs/ICs and also to the woman employees about the provision of this act.

**Conclusion:** From the above discussion it is quite evident that there are many challenges for women in workplaces across various sectors making the occupational hazard a grave social and economical issue and hence government, regulatory bodies and private sectors must step forward and extend their hand to exterminate this social predicament. A supportive work environment should be created where women’s health, safety, and welfare

are the top priorities. Many private companies in India have already begun to introduce gender sensitive policies such as flexible working hours, free and safe transportation and childcare provision, which are helpful in creating an inclusive working culture and breaking the gender based traditional roles, fostering equal dignity for women. The Prevention of Sexual Harassment Act at work places plays a significant role in empowering victims, punishing the culprits and in this way it's not only helping the victims but also safeguarding the organizations from legal consequences and reputational damage. The POSH act enforces organizations to appraise their work culture and make necessary changes to make a work environment free from harassment. But to implement this act uniformly and effectively, it needs to be monitored consistently, Comprehensive awareness campaigns should be conducted to educate employees about different forms of harassment, its impact, and the rights and responsibilities of individuals. Regular programs in this regard may arrange for employers, managers, and employees so that a healthy culture of sensible working atmosphere prevails. India can **undertake stronger national campaigns** and awareness raising activities for workers and employers. Their day-to-day efforts to improve safety and health at work can directly contribute to explore the potentialities of women workers and can play a vital role in sound socioeconomic development of India. Intersectoral collaboration is needed most for protection of Occupational health and medical officers of concerned areas need to be oriented with the occupational diseases of his area.

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