



GENDER BIAS AT WORKPLACE IN INDIA: ITS CAUSES, EFFECTS AND CONSEQUENCES

By Nishtha

From Khalsa College of Law, Amritsar

ABSTRACT-

In developing world, women are better off than ever. We stand on the shoulders of the women who fought for the rights, we now take for granted. But knowing that things could be worse should not stop us from betterment. But the truth is Men still run the world. Women hold just 20% of the seats in the parliaments globally. This means that when it comes to making decisions that affects the world, women's voices are not heard equally.

The principle of gender equality had been enshrined in our Preamble, Fundamental rights, Fundamental duties and Directive Principles. The Constitution not only grants equality of women but also empowers the state to adopt measures of positive discrimination in favor of women.

Globally, over 2.7 billion women are legally restricted from having the same choices of jobs as men. Of 189 economies assessed in 2018, 104 economies still have laws preventing women from working in specific jobs, 59 economies have no laws on sexual harassment in the workplace. Women comprises of 40% of the workforce today. If India, closes the labor work gender gap by half, our GDP will improve drastically. I believe conditions for all women will improve when there will be more women in leadership roles. But how are we going to

take down the barriers that prevent women from getting at the top?

1. A woman faces real problems including prejudice, discrimination and harassment.
2. We make compromises for partners and children who may not even exist yet.
3. The Gender Stereotypes introduced in childhood are reinforced through our lives and become self-fulfilling prophecies.

This discourages girls from pursuing different careers and leadership. We hinder ourselves – by lacking confidence and pulling back cause of distress of being judged.

BRavery is something our society forgets when it comes to girls. By teaching girls bravery, we tend to raise a generation who knows how to hold power and be dauntless.

INTRODUCTION-

Globally, over 2.7 billion women are legally restricted from having the same choices of jobs as men. Of 189 economies assessed in 2018, 104 economies still have laws preventing women from working in specific jobs, 59 economies have no laws on sexual harassment in the workplace and in 18 economies, husband can legally prevent their wives from working.¹ We need to acknowledge the fact that our condition is far better than women in countries where basic civil rights are not available to women and we stand on shoulder of the suffragettes, who protested for our rights. But knowing that things could have been obnoxious should not stop us from achieving higher and moving forward. The verity is that men still run the

¹ World Bank, Women, Business and the Law 2018



world. All top industries, C- level jobs, governments of evolved and advancing countries are being lead by men that manifests that when it comes to making real impactful decisions in the world, women voices are not being heard². Women face hindrances like chauvinism, sexual harassment and discrimination at workplaces, which are the evil social practices that had been prevailing in our society for so long. When law recognizes the harms inflicted by social practices, it is intervening in the social world it is describing, both enabling and constraining challenges to the social order of which the practices are a part. For this reason, the language of discrimination is a specialized language, one that describes the social world in selective ways.

The *recent periodic labour force survey* by the ministry of statistics have shown that the unemployment rate was the highest among urban females at 10.8% while it was at 3.8% among rural females in the financial year 2019. Women face harder choices between professional and personal life access. Recent studies showed that, of married senior managers, 2/3rd of married men have children and only 1/3rd of married women have children. So the question is how are we going to fix this and how are we going to change these numbers? There are many significant factors that contribute to this problem but what I really want to emphasis is on how Law can assist in doing this and what we need legally to succour them at individual level and as a society. Under stereotypical roles men and women are often socialized in as breadwinner and homemaker respectively, these social roles contribute only half of our population and talent to be utilized. And as a

² 'The legendary investor Warren Buffet - states generously that one of the reasons for his great

nation, how are we going to succeed if half of the resources and talent have never been discovered or given opportunity to come forward?

Imagine if Career is nothing but a Marathon Race, a long tiring but a rewarding sport. There are two players in this race man and woman, who starting initially by arriving a starting line with equal potentials, stamina and zeal to succeed. The gun runs off and both of them starting running side by side. Male marathoner is being routinely cheered on "looking strong! On keep going" but female runner hear a different message "you know you don't have to do this!" or "good start but you probably won't be able to complete this". The farther the race goes, the louder these cries grow for man to "keep going!" "You can do this". But women hear more doubt about their efforts along the way. The voices repeatedly questioning them and their decision to keep running and then turn hostile along the way "why are you running when your child need you at home?" And if this continues whom do you think will succeed and quit under pressure?

The Constitution of India, 1950

We had won our freedom struggle in 1947, and India had been declared republic for more than 69 years. Our Constitution came into force on 26th January, 1950. Since then various provisions has been enacted for providing the Rights of Women. **Article 14** states "*State shall not deny to any person equality before law and equally protection of the laws within territories of India*", this article unfolds that all persons and things in similar circumstances shall be treated alike both in privileges conferred and liabilities

success was that he was competing with only half of the population'.



imposed. Hence it forbids all kinds of discrimination between persons employed under substantially in similar conditions and circumstances. *Bhagwati, J., in Maneka Gandhi case*³ observed the principle of reasonableness in article 14 as “*Article 14 strikes at arbitrariness in state action and ensure fairness and equality of treatment. The principle of reasonableness, which logically as well as philosophically, is an essential element of equality or non-arbitrariness, pervades Article 14 like a brooding omnipresence.*” Article 14 read along with Article 15 and Article 16 embody facets of magnified grandeur of equality⁴.

Article 15 (3) explains “*Nothing in this article shall prevent the state from making any special provision for women and children*”. This provision is evidence that our Constitution makers realize the need to protect women and strengthen their status in society. The apex court in *Dattatraya Moiram more v. State of Bombay*⁵ held that “as a result of the joint operation of Article 15 (1) and Article 15(3), the State may discriminate in favour of women against men, but I may not discriminate in favour of men against women”.

Article 16(2) explicate “*No person shall, on grounds only of religion, race, caste, sex, decent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or*

office under the state”. The court recognized the need to bridge the gap between the constitutional prohibitions on sex discrimination in Article 16 and the actual law in practice⁶. Feminist critiques of violence against women suggest that the issue of sexual harassment at work place should be seen in the larger context of patriarchy and gender hierarchies which women are constantly subjected to⁷.

Article 19(1) (g) states “*Right to practice any profession or to carry on any occupation, trade or business*”. The Supreme Court in *vishaka’s case*⁸ held that one of the logical consequences of incidents of sexual harassment at workplace is the violation of the woman’s fundamental rights. This exposes them to hazard and places them at an unfair position Vis-à-vis other employees.

Article 21 elucidates “*No person shall be deprived of his life or personal liberty, except according to the procedure established by law*”. Gender bias has been recognized as an obstacle to the full realization of right to life under Article 21. Supreme Court held that offences like rape were acts of aggression which aims to degrade and humiliate women to make them feel inferior. These acts were crimes against basic human rights. The court further held that “*the dignity of women cannot be touched or violated*”, and therefore this article include the right of women to live with dignity and to lead a peaceful life⁹. Yet

³ *Maneka Gandhi v. Union of India*, AIR 1978 SC 597

⁴ *Velamuri Venkata Sivaprasad v. Kothuri Venkataswaralu*, AIR 2000 SC 434

⁵ AIR 1953 Bom. 311, in this case, reservation of women in the election were challenged constitutionally.

⁶ *C.B. Muthamma, IFS v. Union of India*(1979) 4 SCC 260, in this case married women were discriminated

under service rules under Indian Foreign Services (Conduct and Discipline) Rules(1961)

⁷ D.D. Basu Commentary on The Constitution of India Vol. 2(ed.8th 2011)

⁸ *Vishaka and Others v. State of Rajasthan*, AIR 1997 SC 3011

⁹ *Bodhisatwa Gautam v. Subhra Chakroborty*, (1996) 1 SCC 90, in a case man married a girl under a false marriage and compelled her to undergo abortion twice,



in another case *Subha Rao, J.*, held that “Right to personal liberty in Article 21 can be defined as a right to be free from restrictions or encroachments on the person, whether those restrictions or encroachments are directly imposed or indirectly brought about by calculated measures.”¹⁰

CAUSES AND ITS EFFECTS-

The provisions under our Constitution can safeguard career-oriented women and will expedite an ambitious woman to start her own business and encourages all others to join them in the work field. But once she entered into workplace there are a lot of predicament that she faces regularly, (consciously or unconsciously), which creates hindrances in her career path. Despite all the initiatives women are not making at the top of any profession anywhere in the world. A woman faces complex choices between professional success and personal achievements.

CATEGORIZATION OF THE PROBLEM

She faces numerous complications which can be broadly categorized into the *Three heads*:-

1. GLASS CEILING: it is a metaphor that represents a barrier that prohibits women from advancing toward the top of a hierarchical corporation. While women continue to outstand men at educational levels, women after graduation often choose the fields that pay low incomes. Psychological difference between men

and women often account up to 10% of wage difference. Then house chores and child care often falls more on women than men which lead to more gap between their wages.¹¹

2. GLASS ESCALATORS: This can be expound as how more men are joining fields that were previously occupied mainly by women, such as nursing and teaching, and within these job fields, the men are riding ahead of women and going straight to the top, similarly as if they were on an escalator and a woman was taking stairs. Men are being offered more promotions than women and even though women have worked just as hard, they are still not being offered the same chances as men are in some circumstances.¹²

3. SEXUAL HARASSMENT: The behaviour characterized by the making of unwelcome and inappropriate sexual remarks or physical advances in a workplace or other professional or social situation. It's a social practice that had corrupted our lives.¹³

HISTORICAL PROSPECTIVES ON THE PRACTISE, PROTESTS AND REGULATION OF GENDER BIAS-

Since the antebellum period, there has been public discussion of women's vulnerability to coerced sexual relations at work. Women are often judged and responsible for their own 'downfall' because of they were promiscuous by nature¹⁴. This socio-economic understanding of sexual relations shaped the movement's response to the trial of domestic

¹⁰ Chairman, Railway Board v. Chandrima Das, (2000) 2 SCC 465

¹¹ Federal Glass Ceiling Commission. *Solid Investments: Making Full Use of the Nation's Human Capital*. Washington, D.C.: U.S. Department of Labor, November 1995, p. 13-15.

¹² "A New Obstacle for Professional Women: The Glass Escalator". *Forbes*. Retrieved 2015-10-23.

¹³ Black's Law Dictionary, 7th ed., p.1379

¹⁴ "Ain't I a Woman: Black Women and Feminism", By Bell Hooks (1981)



servant Hester Vaughn in the aftermath of the Civil War. Vaughn was fired by her employer when she became pregnant by him; she gave birth alone, ill, and impoverished, and was found several days later with her dead infant by her side, adjudged guilty of infanticide, and sentenced to death¹⁵. As Elizabeth Cady Stanton, Susan B. Anthony, and other woman's rights advocates publicized the Vaughn case, they pointed to a variety of gendered injustices that cumulatively sealed Vaughn's fate. For the woman's rights movement, the *Vaughn case*¹⁶ presented an occasion to protest the economic arrangements and social understandings that visited the judgment of death on Vaughn for a predicament the woman's movement judged society as a whole—and men in particular—culpable. The woman's rights movement responded to Vaughn's case with wide ranging social critique and an equally wide-ranging remedy. The movement drew on Vaughn's case to protest the injustice of women's exclusion from jury service and suffrage and, after persuading the governor of Pennsylvania to pardon her, turned the Vaughn episode in the direction of its larger quest for political empowerment.

The fusion of labor and feminist advocacy agendas in the progressive era bore critical fruit. For example, in 1916 socialist-feminist Emma Goldman elaborated the “legal

prostitution” in her influential essay “*nowhere is woman treated according to the merit of her work, but rather as a sex. It is therefore almost inevitable that she would pay to keep a position in whatever line, with sex favors*”. Sexual harassment is ‘discrimination on the basis of sex’¹⁷ (*The doctrine of sex-plus*)¹⁸. In *Harris v. Forklift systems*¹⁹, here the plaintiff worked as a manager of a company that rented heavy equipment to construction companies. And continually made the plaintiff the target of comments such as: “*You're a woman, what do you know*” and “*We need a man as the rental manager.*” These comments were interspersed with a variety of sexualized interactions. Hardy occasionally asked Harris and other female employees to get coins from his front pants pocket. He threw, objects on the ground in front of Harris and other women, and asked them to pick the objects up. He made sexual innuendos about Harris ‘and other women's clothing.’ And the Apex court acknowledged that sexual harassment is discriminatory practice. Harassment at workplace is a practice that had negatively influenced our lives, institutional lives and semiotic lives.

In *India* before 1997, the law against sexual harassment *non entia*, any women facing sexual harassment at workplace had to lodge a complaint under either **Section 354**²⁰ or

¹⁵ Ellen Carol DuBois, *Feminism and Suffrage: The Emergence of an Independent Women's Movement in America*.

¹⁶ *Hester Vaughn v. U.S* (1868)

¹⁷ Catharine MacKinnon's analysis in *Sexual Harassment of Working Women*

¹⁸ *Doctrine of Sex-Plus*: If the law against sex discrimination means anything, it must protect employment opportunities for those groups of women who most need jobs because of economic necessity. *Judge Carswell*, justified discrimination against such women by a peculiar doctrine of “sex

plus,” which claimed that discrimination which did not apply to all women but only to women who did not meet special standards--standards not applied to men--was not sex discrimination.

¹⁹ *Harris v. Forklift Systems* 510 U.S. 17

²⁰ Assault or criminal force to woman with intent to outrage her modesty.—Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.



Section 509²¹ of the **Indian Penal Code, 1860. *Medio Tempore, Bhanwari Devi case*²²**, in which a woman of low caste tried to prevent child marriage as a part of her work but was raped by the landlords of Gurjar community and didn't get justice. After which Vishakha and other women's group filled the PIL²³ in Supreme Court resulting in ***vishakha guidelines*** regarding workplace. It was for the first time in Indian judicial history, the court has recognized sexual harassment at workplace is a reoccurring phenomenon. The hon'ble Supreme Court took initiative to define it in a formal legal manner in *Vishaka v. state of Rajasthan*²⁴. These guidelines were to be implemented until legislation is passed to deal with this significant issue. The aim of apex court was to ensure '*Rule of Law*²⁵' at work environment on one hand and completely eliminate situations or possible where the protector could abuse his trust and turn predator on the other. The person in charge of the workplace, in public as well as private sector, was directed to take appropriate steps to prevent sexual harassment. The guidelines are as following-

1. *Duty of the Employer or other responsible persons in work places and other institutions:* It shall be the duty of the employer or other responsible persons in work places or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution,

settlement or prosecution of acts of sexual harassment by taking all steps required.

2. *Definition:* For this purpose, sexual harassment includes such unwelcome sexually determined behaviour (whether directly or by implication) as:

- a) Physical contact and advances;
- b) a demand or request for sexual favours;
- c) Sexually coloured remarks;
- d) Showing pornography;
- e) Any other unwelcome physical verbal or non-verbal conduct of sexual nature.

Where any of these act is committed in circumstances where under the victim of such conduct has a reasonable apprehension that in relation to the victim's employment or work whether she is drawing salary, or honorarium or voluntary, whether in government, public or private enterprise such conduct can be humiliating and may constitute a health and safety problem. It is discriminatory for instance when the woman has reasonable grounds to believe that her objection would disadvantage her in connection with her employment or work including recruiting or promotion or when it creates a hostile work environment. Adverse consequences might be visited if the victim does not consent to the

²¹ Word, gesture or act intended to insult the modesty of a woman.—Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

²² Smt. Bhanwari Devi v. State of Rajasthan, 1997(1)WLC 42

²³ Public Interest Litigation

²⁴ AIR 1997 SC 3011

²⁵The authority and influence of law in society, esp. when viewed as a constraint on individual and institutional behaviour; (hence) the principle whereby all members of a society (including those in government) are considered equally subject to publicly disclosed legal codes and processes.



conduct in question or raises any objection thereto.

3. *Preventive Steps:* All employers or persons in charge of work place whether in the public or private sector should take appropriate steps to prevent sexual harassment. Without prejudice to the generality of this obligation they should take the following steps:

(a) Express prohibition of sexual harassment as defined above at the work place should be notified, published and circulated in appropriate ways.

(b) The Rules/Regulations of Government and Public Sector bodies relating to conduct and discipline should include rules/regulations prohibiting sexual harassment and provide for appropriate penalties in such rules against the offender.

(c) As regards private employers steps should be taken to include the aforesaid prohibitions in the standing orders under the Industrial Employment (Standing Orders) Act, 1946.

(d) Appropriate work conditions should be provided in respect of work, leisure, health and hygiene to further ensure that there is no hostile environment towards women at work places and no employee woman should have reasonable grounds to believe that she is disadvantaged in connection with her employment.

4. *Criminal Proceedings:* Where such conduct amounts to a specific offence under the Indian Penal Code or under any other law the employer shall initiate appropriate action in accordance with law by making a complaint with the appropriate authority.

In particular, it should ensure that victims, or witnesses are not victimized or discriminated

against while dealing with complaints of sexual harassment. The victims of sexual harassment should have the option to seek transfer of the perpetrator or their own transfer.

5. *Disciplinary Action:* Where such conduct amounts to mis-conduct in employment as defined by the relevant service rules, appropriate disciplinary action should be initiated by the employer in accordance with those rules.

6. *Complaint Mechanism:* Whether or not such conduct constitutes an offence under law or a breach of the service rules, an appropriate complaint mechanism should be created in the employer's organization for redress of the complaint made by the victim. Such complaint mechanism should ensure time bound treatment of complaints.

7. *Complaints Committee:* The complaint mechanism, referred to in (6) above, should be adequate to provide, where necessary, a Complaints Committee, a special counselor or other support service, including the maintenance of confidentiality. The Complaints Committee should be headed by a woman and not less than half of its member should be women.

Further, to prevent the possibility of any under pressure or influence from senior levels, such Complaints Committee should involve a third party, either NGO or other body who is familiar with the issue of sexual harassment.

The Complaints Committee must make an annual report to the government department concerned of the complaints and action taken by them. The employers and person in charge will also report on the compliance with the aforesaid guidelines including on the reports



of the Complaints Committee to the Government department.

8. *Workers' Initiative:* Employees should be allowed to raise issues of sexual harassment at workers meeting and in other appropriate forum and it should be affirmatively discussed in Employer-Employee Meetings.

9. *Awareness:* Awareness of the rights of female employees in this regard should be created in particular by prominently notifying the guidelines (and appropriate legislation when enacted on the subject) in suitable manner.

10. Where sexual harassment occurs as a result of an act or omission by any third party or outsider, the employer and person in charge will take all steps necessary and reasonable to assist the affected person in terms of support and preventive action.

11. The Central/State Governments are requested to consider adopting suitable measures including legislation to ensure that the guidelines laid down by this order be also observed by the employers in Private Sector.

12. These guidelines will not prejudice any rights available under **the Protection of Human Rights Act, 1993.**

The definition was closely in *pari material* with that of CEDAW²⁶. In view of vishaka guidelines, **National Commission for Women (NCW)** formulated a code of conduct for work place in 1998. This code was circulated amongst the apex bodies of the

corporate sector like FICCI, ASSOCHAM, etc and to media.

AFTERMATH OF THE CASE-

Referring to vishaka guideline of sexual harassment, the Question of Fact was- Does an action of the superior against a female employee which is against moral sanctions and does not withstand test of decency and modesty not amount to sexual harassment? Is physical contact with the female employee an essential ingredient of such a charge? Does the allegation that the superior tried to molest a female employee at the place of work, not constitute an act unbecoming of good conduct and behaviour expected from the superior? These are some of the issues besides the nature of approach expected from the law courts to cases involving sexual harassment which come to the forefront and require our consideration. The apex court in *Apparel Export Promotion Council v. A.K. Chopra*²⁷, held that “*There is no gainsaying that each incident of sexual harassment, at the place of work, results in violation of the Fundamental Right to Gender Equality and the Right to Life and Liberty the two most precious Fundamental Rights guaranteed by the Constitution of India*”. And court accepted that even an attempt to molest meant sexual harassment and that outrageous behavior of the employee is sufficient enough to constitute sexual harassment and actual assault or touch is not necessary to prove it²⁸.

RECENT INCIDENTS-

²⁶ United Nations Convention on the Elimination of All Forms of Discrimination Against Women, 1979

²⁷ AIR 1999 SC 625

²⁸ Sexual Harassment at Workplace-Detailed Analysis of the Sexual Harassment Of Women At Workplace (Prevention, Prohibition And Redressal) Act, 2013



*Tarun tejpal's case*²⁹: Tehelka editor-in-chief Tarun tejpal has been booked under section 354-A, Section 376 and 376(2) (k) of IPC. A female colleague had complaint of sexual assault and rape upon tejpal. Police recorded the statements of victim, three witnesses and Tehelka's former editor Shoma chadhury, sworn before a judicial magistrate.

*Justice A.K. Ganguli's case*³⁰: A young lawyer on her blog accused a recently retired Supreme Court judge of sexually harassing her while she was interning with him in Delhi 2012. The chief justice of India took immediately actions. Constituting a three member panel. The panel submitted its report which indicted justice for "unwelcoming behavior" and "conduct of sexual nature" towards the intern.

*Chief Justice of India alleged case*³¹: The biggest event which shook the court this summer was the sexual harassment case of Chief Justice of India Ranjan Gogoi by a former court staff. After drawing criticism for the initial procedure adopted by the court in reacting to the allegations, the apex court constituted a committee to probe the allegations. Though the complainant chose to withdraw from the proceedings, citing lack of confidence in its impartiality, the panel continued the proceedings to give a *clean chit* to the CJI.

Sexual Harassment at Workplace Act 2013-
As per the old maxim "*Ubi jus ibiremdium*"³², the women rights against sexual harassment were given remedy when finally this act was formed. The act came into

force in 2013, almost after 13 years after vishaka guildelines came into existence. The highlight of the act are :-

- The Act defines sexual harassment at the work place and creates a mechanism for redressal of complaints. It also provides safeguards against false or malicious charges.
- The Act also covers concepts of "*quid pro quo harassment*" and "*hostile work environment*" as forms of sexual harassment if it occurs in connection with an act or behaviour of sexual harassment.
- The definition of "*aggrieved woman*", who will get protection under the Act is extremely wide to cover all women, irrespective of her age or employment status, whether in the organised or unorganised sectors, public or private clients, customers and domestic workers as well.
- An employer has been defined as any person who is responsible for management, supervision, and control of the workplace and includes persons who formulate and administer policies of such an organization under Section 2(g).
- While the "*workplace*" in the Vishaka Guidelines is confined to the traditional office set-up where there is a clear employer-employee relationship, the Act goes much further to include organizations, office, branch unit etc. in the public and private sector, hospitals, educational institutions, sports institutes, sports complex and any place visited by the employee during the course of

²⁹ Tarun Tejpal v. State of Goa (2012)

³⁰ Justice Asok Kumar Ganguly is the former Chairman of the West Bengal Human Rights Commission and a former Judge of the Supreme

Court of India who delivered judgment in some high-profile cases like the 2G spectrum case.

³¹ <https://www.livelaw.in/top-stories/sexual-harassment-allegations-against-cji-144404>

³² Where there is right, there shall be a remedy.



employment including the transportation, etc.

- The Committee is required to complete the inquiry within a time period of 90 days. On completion of the inquiry, the report will be sent to the employer or the District Officer, as the case may be, they are mandated to take action on the report within 60 days.
- Every employer is required to constitute an Internal Complaints Committee at each office or branch with 10 or more employees. The District Officer is required to constitute a Local Complaints Committee at each district, and if required at the block level.
- The Complaints Committees have the powers of civil courts for gathering evidence.
- The Complaints Committees are required to provide for conciliation before initiating an inquiry, if requested by the complainant.
- The inquiry process under the Act should be confidential and the Act lays down a penalty of Rs 5000 on the person who has breached confidentiality.
- The Act requires employers to conduct education and sensitization programmes and develop policies against sexual harassment, among other obligations.
- Penalties have been prescribed for employers. Non-compliance with the provisions of the Act shall be punishable with a fine of up to rupees 50,000. Repeated violations may lead to higher penalties and cancellation of licence or deregistration to conduct business.

- Government can order an officer to inspect workplace and records related to sexual harassment in any organization.
- Under the Act, which also covers students in schools and colleges as well as patients in hospitals, employers and local authorities will have to set up grievance committees to investigate all complaints. Employers who fail to comply will be punished with a fine of up to 50,000 rupees.

LOOPHOLES OF THE ACT-

This act if implemented well would go a long way in protecting woman employees. Media coverage of the complaint against Tarun Tejpal, Justice Ganguly or CJI alleged case have brought home the fact that most people are clueless about the stringent new provisions of sexual harassment of women at workplace act. The veracity is that several times repeated complaints about sexual harassment to immediate seniors and human resource department yield no interest. Frequently these complaints are pay no heed to, and on the odd junctures encourages as well. These complaints are even at occasions backed and supported by the companies by footing their 'legal bills'. The definition of 'aggrieved woman' in the act doesn't make a reference to victimization on part of the employer of the employee who has made the complaint, which is very common in such circumstances.

Some words like '*verbal, textual, physical, graphic, or electronic actions*' should have been added in the definition of sexual harassment as the world is also covered with cyber crimes³³.

³³ Sexual Harassment at Workplace Act, 2013- Understanding Pros and Cons for Women

**CRIMINAL AMENDMENT-**

Following 16TH December Delhi gang rape and subsequent protests, the government brought acts of sexual harassment under the criminal law. In **Indian penal code, 1860** amendments for sexual harassment were made in **Section 354(A)**: which states sexual harassment and punishment for sexual harassment-(1) a man committing any of the following acts-

- (i) Physical contact and advances involving unwelcome and explicit sexual overtures; or
- (ii) A demand or request for sexual favours; or
- (iii) Showing pornography against the will of a woman; or
- (iv) Making sexually coloured remarks;

Shall be guilty of the offence of sexual harassment.

(2) Any man who commits the offence specified in clause (i) Or clause (ii) Or clause (iii)

Of the sub-section (1) shall be punished with rigorous imprisonment for a term which may extend to three years, or with fine, or with both.

(3) Any man who commits the offence specified in clause (iv) of sub-section (1) shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

GOVERNMENT INITIATIVES-

The MSME³⁴ ecosystem in India is an overflowing well of innovative ideas and creative solutions to a number of problems. But the aggregate of women entrepreneurs and business owners is much lower than male

entrepreneurs. Governments at the central and state levels have launched financial schemes for micro units, which could go a long way in boosting women entrepreneurship like:-

1. Mudra Yojana Scheme

This general government scheme for small units is also applicable to women who want to start a small enterprise such as a beauty parlor, tuition center, tailoring unit, etc. It is also useful for a group of women who want to startup together. Loans from Rs 50,000 onwards and up to Rs 50 lakh are sanctioned under this scheme. Collateral and guarantors are required only if the loan amount exceeds

2. Mahila Udyam Nidhi Scheme

Offered by Small Industries Development Bank of India (SIDBI), this scheme provides financial assistance of up to Rs 10 lakh to set up a new small-scale venture. It also assists with upgrading and modernization of existing projects.

3. Stree Shakti Package for Women Entrepreneurs

It is offered to women who have majority ownership (over 50 percent) in a small business. The women also need to be enrolled in the Entrepreneurship Development Programmes (EDP) organized by their respective state agency. Under the scheme, an interest concession of 0.05 percent can be availed on loans above Rs 2 lakh.

4. Udyogini Scheme

Women entrepreneurs between the ages of 18 and 45, who are involved in agriculture, retail and similar small businesses, can avail loans up to Rs 1 lakh under this scheme. Further, her family's annual income should be below Rs 45,000 in order to avail the loan.

³⁴ Ministry of Micro, Small and medium Enterprise

**ANALYSIS-**

There are miscellaneous factors that lead us women to lean back rather than leaning in and focus on our career success. In all ways, (micro and macro), we hold us back and making it harder for women voices to be heard. The panacea I think to the problem is that “*MORE WOMEN IN POWER*”. But the question is how are we going to encourage women to pursue more leadership roles?

BRAVERY- Career progression depends upon taking risks and advocating for oneself traits that girls are discouraging from exhibiting, that explains why women academic results doesn't translate into more women in top level jobs. ‘Trepidation’ is the root of so many barriers that women face. “Anxious of not being liked, distress of being judged, horror of failure, fear of being a bad draughts/mother/wife, timidity of not standing on the expectations of the society” is some examples. It's more often observed that women are not focusing on having it all rather they are worried about losing it all, like losing their jobs, children's health, families which creates a regular indecisiveness between becoming a good employee and a responsible parent. This trepidation is created from a norm that is infused in us since childhood to be phenomenal and to play safe. In a survey it was seen that men apply for job only if they meet 60% of qualifications while women apply for jobs only if they meet 100% qualifications.

I solely believe that teaching a girl bravery early in their lives and careers when they have the most potential to create an enormous impact to their lives and lives of others is an answer. BRAVERY is something our society forgets when it comes to girls. By teaching girls to be audacious, we tend to raise a generation who knows how to hold power and be fearless.

Sheryl Sandberg, in this book ‘*Lean In: Women, Work and the Will to Lead*’ provides solution to the various pressing issues like race, caste, gender identity and guides women on how to find the perfect balance in life. She describes specific steps women can take to combine professional achievement with personal fulfillment, and demonstrates how men can benefit by supporting women both in the workplace and at home.

She delineate that we are centuries ahead of countries where women are denied their civil rights. But knowing that things could have been worse should not stop us from trying to make them better. When suffragettes marched on the streets, they envisioned a world where men and women would be truly equal. But the reality is that men still run the world. Of 195 independent countries, only 17 are led by women. Women hold 20% seats in parliament globally.

In spite of wonderful educational achievements, women had ceased to make real progress at the top of any industry. This proposes that when it comes to making the decisions that most affect the world, women's voices are not being heard.

The BOOK deals with the question as how to put more women in power. Her strategies incorporates advocating for oneself traits, taking risks, sit at the table, don't leave before you leave, mentorship, and so on.

And I think at so many levels *Lean In* is a revelatory, inspiring call to action and a blueprint for individual growth that will empower women around the world to achieve their full potential.

In an another book by Sophia Amoruso, the founder of Nasty Gal and the founder and CEO of Girlboss. Sophia was never a typical



CEO, or a typical anything, and she's written **#GIRLBOSS** for other girls like her: outsiders (and insiders) seeking a unique path to success, even when that path is windy as all hell and lined with naysayers. **#GIRLBOSS** proves that being successful isn't about where you went to college or how popular you were in high school. It's about trusting your instincts and following your gut; knowing which rules to follow and which to break; when to button up and when to let your freak flag fly.

CONCLUSION-

Incertitude is a common concerning factor that affects women's performances. Women needs to learn how to negotiate for themselves or else with the current trend of glass ceiling it will take women 150 years to fulfill the goal of 'equal pay for equal work'. Being undaunted and venturous are the qualities she needs to get her hands on.

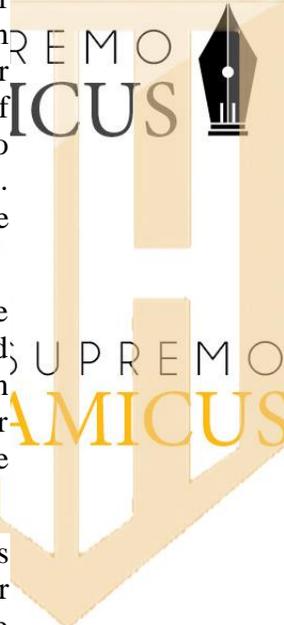
A flexible parental policy can help increase the efficiency of all employees at work. And; women actually need to learn to apportion household responsibilities equally with their spouse, in order to achieve "work-life balance".

Women need to help each other in this revolution to make women reach at career heights and leadership roles. Moments like "**#METOO**"³⁵ had been a great success to expose the sexual harassment women faces at Workplaces.

When more women work, an economy grows. Women economics empowerment boasts productivity, increase economic

diversification and income equality in addition to other positive development outcomes³⁶.

True equality is long overdue and will be achieved only when more women rise to the top of every government and industry. For this we need to encourage women to *Dream Big, forge a path through obstacles and achieve their Full Potentials*. In order to make law work in their favour, women need to be vigilant about their rights and fight for themselves *ex aequitate*, (As per the old maxim "**Vigilanibus, non dormientibus, jura subveniunt**")³⁷.



³⁵ The **Me Too movement** (or **#Me Too movement**), with a large variety of local and international alternative names, is a movement against sexual harassment and sexual assault

³⁶ IMF(2018): Pursuing Women's Economic Empowerment

³⁷ The law assists the vigilant and not those who sleep over their rights.