



**ANALYSING THE CAUSE AND  
EFFECT OF SEXUAL HARASSMENT  
AT WORKPLACE WITH SPECIAL  
REFERENCE TO STATE OF  
MAHARASHTRA**

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**Abstract**

The United Nations Convention on the Elimination of all types of Discrimination against Women (CEDAW), which was received by the UN General get together in 1979 and which is sanctioned by India, frequently portrayed as a global bill of human rights for women<sup>1</sup>, it advocates for the balance of women and men as well as human rights and essential opportunities in the political, conservative, social and common circles. It underlines that separation and assault on women's respect disregard the rule of equality of rights. Besides no uncertainty has been there with reference to the pace of women work, in organised sectors in wide-extending employments and in numerous folds with the appearance of fast industrialization, modernization, financial turn of events and globalization. In any case, it has prompted numerous insidious practices, for example, physical and mental harassment, discrimination in the gender and all the more explicitly offensive sexual behavior at work place. Women give an arm and assume a noteworthy job in country's turn of events while thinking about their endeavours in financial support, local exercises and enthusiastic properties which significantly upgrade the monetary fortunes

of family, society and country. Along these lines while playing out these jobs she ought to be drawn closer to sheltered and make sure about condition at work environment. Moreover, offensive sexual behaviour influences the social and mental conduct of women inside and outside the working environment. It is pertinent to note that offensive sexual behaviour ruins the professional stability of women and compromises their procuring potential. This paper shall analyse the cause and effect of sexual harassment at workplace with special reference to state of Maharashtra.

*Keywords: Maharashtra, Sexual harassment, CEDAW.*

**Introduction**

Inappropriate behaviour is an undesirable interruption in the individual space of a person. Amongst the protests, a huge number of the protests are by women. Inappropriate behaviour isn't constrained to women alone. Men and kids likewise face offensive sexual behaviour, yet the extent of women who endure inappropriate behaviour is surprising. There have been instances where even men have succumbed to sexual harassment by women. A few investigations show that each Indian woman faces a type of inappropriate behaviour sooner or later in her life. This offensive sexual behaviour can happen at the work environment, at an open spot or even at the person's home. It tends to be through harsh words, lustful words or tunes, grabbing in an open spot, attack, innuendos, hand or

<sup>1</sup> Convention on the Elimination of All Forms of Discrimination against Women,,

<https://www.un.org/womenwatch/daw/cedaw/> (last visited Jul 27, 2020).



other body signals, sexual allusions or assault<sup>2</sup>.

Inappropriate behaviour of women in the working environment is one appearance of the more extensive issue of the abuse of women. Sexual harassment at the workplace is, I would argue, an analogous problem. It is consistent, systematic, and pervasive, not a set of random isolated acts. There is also a discriminatory practice which takes place because of the mindset of few men. Some men believe that the place for women is confined only to the home, not realising the fact that the women as an employee have left their homes and comfort to work and to be an equal.

Words, gestures, comments can be used as threats of violence and to express dominance. Harassment often depends on this underlying violence — violence is implied as the ultimate response. Harassment is "little rape," an invasion of a person, by suggestion, by intimidation, by confronting a woman with her helplessness. It is an interaction in which one person purposefully seeks to discomfort another person. This discomfort serves to remind women of their helplessness in the face of male violence. To offer such a model is to suggest that it is not simply an individual interaction but a social one; not an act of deviance but a societally condoned mode of behaviour that functions to preserve male dominance in the world of work.<sup>3</sup>

<sup>2</sup> MyLegalWork, *Understanding Sexual Harassment Law in India*, MYLEGALWORK, <https://mylegalwork.com/guides/sexual-harassment> (last visited Jul 27, 2020).

<sup>3</sup> Id

## DEFINITION OF SEXUAL HARASSMENT

The International Labour Organisation defines Sexual Harassment as:<sup>4</sup>

*“Sexual harassment is unwelcome conduct of a sexual nature which makes a person feel offended, humiliated and/or intimidated. It includes situations where a person is asked to engage in sexual activity as a condition of that person’s employment, as well as situations which create an environment which is hostile, intimidating or humiliating for the recipient”.*

Sexual harassment can involve one or more incidents and actions constituting harassment may be physical, verbal and non-verbal. Examples of conduct or behaviour which constitute sexual harassment include, but are not limited to<sup>5</sup>:

### Physical conduct

1. Unwelcome physical contact including patting, pinching, stroking, kissing, hugging, fondling, or inappropriate touching
2. Physical violence, including sexual assault
3. Physical contact, e.g. touching, pinching
4. The use of job-related threats or rewards to solicit sexual favours

### Verbal conduct

1. Comments on a worker’s appearance, age, private life, etc.
2. Sexual comments, stories and jokes
3. Sexual advances

<sup>4</sup> ILO: New Treaty to Protect Workers from Violence, Harassment, HUMAN RIGHTS WATCH (2019), <https://www.hrw.org/news/2019/06/21/ilo-new-treaty-protect-workers-violence-harassment> (last visited Jul 27, 2020).

<sup>5</sup> Id



4. Repeated and unwanted social invitations for dates or physical intimacy
5. Insults based on the sex of the worker
6. Condescending or paternalistic remarks
7. Sending sexually explicit messages (by phone or by email)

#### **Non-verbal conduct**

1. Display of sexually explicit or suggestive material
2. Sexually-suggestive gestures
3. Whistling
4. Leering

The U.S. Department of Justice, Office on Violence Against Women (OVW) defines sexual assault as “*any non-consensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks the capacity to consent*”<sup>6</sup>. While sexual assault is a criminal offense, the law also recognizes sexual harassment as a form of employment discrimination. The U.S. Equal Employment Opportunities Commission (EEOC) states that “*unwelcome sexual advances, request for sexual favors, and other verbal or physical harassment of a sexual nature constitutes sexual harassment when this conduct explicitly or implicitly affects an individual’s employment, unreasonably interferes with an individual’s work performance, or creates an intimidating, hostile, or offensive work environment*”<sup>7</sup>. Such harassment may include unwelcome verbal, visual, nonverbal, or physical conduct that is of a sexual nature or based on someone’s sex. Case law has established that

to meet the legal standards for action, workplace harassment must be “severe or pervasive” and affect working conditions.

According to Lin Farley, —Sexual harassment means unsolicited nonreciprocal male behaviour that asserts a woman’s sex role over her function as a worker. It can be any or all of the following: staring at, commenting on, or touching a woman’s body, requests for acquiescence in sexual behaviour; repeated no reciprocated propositions for dates, demands for sexual intercourse and rape. These forms of male behaviour frequently rely on superior male status in the culture, or the threat of higher rank at work to exact compliance or levy penalties for refusal.<sup>8</sup>

The United State Equal Employment Opportunity Commission, defines —sexual harassment as, —unwelcome sexual advances, requests for sexual favours and other verbal, non verbal or physical conduct of a sexual nature when submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment, submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual or such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating a hostile, intimidating or offensive work environment.<sup>9</sup>

<sup>6</sup> Sexual Assault, (2019), <https://www.justice.gov/ovw/sexual-assault> (last visited Sept 27, 2020).

<sup>7</sup> Supra note 2

<sup>8</sup> Lin Farely, *Sexual shakedown: The Sexual Harassment of Women on the Job*, 14-15(New York: McGraw Hill, 1978).

<sup>9</sup> US Equal Employment Opportunity Commission (EEOC), *Guidelines on Discrimination Because of Sex*, 29 CFR1604, 11 (1985)



The Committee of the Convention on the Elimination of All Forms of Discrimination against Women<sup>21</sup> in January 1992 adopted General Recommendation No. 23, respect of Art 11 giving clarification on sexual harassment as under: —*Sexual Harassment includes such unwelcome sexually determined behaviour as physical contact and advances, sexually coloured remarks, showing pornography and sexual demands whether by words or action.* Such conduct can be humiliating and may constitute a health and safety problem. It is discriminatory when the woman has reasonable grounds to believe that her objection would disadvantage her in connection with her employment, including recruiting, promotion or when it creates a hostile working environment.<sup>10</sup>

### CAUSES OF SEXUAL HARASSMENT

A daughter's birth in India, in some places causes great sadness and disappointment. Our society is patriarchal society. Indian people feel that they will achieve Moksha, through their sons only. They think that 'Bringing up a girl is like watering a neighbour's plant, which shows the feeling of wasted expenditure on raising a daughter. This discriminative thought is responsible for crime against women. But today women come out of their homes and faced many problems during this period i.e. at their workplace. The attitude of men towards women at workplace is not good. When the women went out of their home to work, they felt a new kind of humiliation by their counterpart called "Sexual Harassment"<sup>11</sup>. If

<sup>10</sup> The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted by the United Nations General Assembly on 18 December 1979, and was subsequently ratified in July 1993.

there are problems, there must be some causes. Because everything that spreads has some base on which it grows. The reasons for growing of the problems are:

- a) **Psychological factors**
- b) **Social factors**
- c) **Family and other social systems**
- d) **Family honour and sexual purity**
- e) **Poverty**
- f) **Physical environment**
- g) **Economic factors**
- h) **Religious Inequality**
- i) **Legal Obstacles and Lack of Awareness**
- j) **Fear of Stigma**
- k) **Lack of Support from Colleagues**

We shall consider all of them in the present chapter.

### Psychological factors

Sexually violent men have been shown to be more likely to consider victims responsible for the rape and are less aware about the impact of rape on victims. They may have coercive sexual fantasies, and overall are more hostile towards women than are men who are not sexually violent. In addition to these factors, sexually violent men are believed to differ from other men in terms of impulsivity and antisocial tendencies. They also tend to have an increased sense of masculinity<sup>12</sup>.

### Social factors

There are various variables working at a cultural level that impact sexual brutality. While the different variables work generally

<sup>11</sup> Sexual Harassment - Causes of Sexual Harassment, <http://hrlibrary.umn.edu/svaw/harassment/explore/3causes.htm> (last visited Sept 27, 2020).

<sup>12</sup> Id



at neighbourhood level, inside families, schools, work environments and networks, there are likewise impacts from the laws and standards working at national and even worldwide level<sup>13</sup>.

### **Family and other social systems**

There is a lot of evidence which suggests the fact that sexual abuse in some cases can be a situation of “learned behaviour”. There are studies which suggest the fact that 1 in every 5 children continue to molest children themselves when they grow up or even when they are growing up. Men who are raised in strong patriarchal family structure, also tend to become violent, and use sexual coercion against women, abuse their partners, than those men who are not controlled in their family structure.<sup>14</sup>

### **Family honour and sexual purity**

Another factor including social connections is a family's reaction that accuses women without rebuffing men, focusing rather on re-establishing lost family respect. Such a reaction makes a domain wherein assault can happen without risk of punishment. While families will often try and protect female members from rape and will also put their daughters on contraception to stop visible signs of pregnancy (if it occurs), there's rarely much social pressure to regulate young men or persuade them that coercing sex is wrong.

### **Poverty**

Children who belong themselves in poverty have a greater risk of being raped in their daily course than people who are not in the clutches of poverty. For example: when girls walk home on their own from work late at night, or work in the fields, or collect firewood alone.

Children of poor women may have less parental supervision when not at school, since their mothers could also be at work and unable to afford child care. The youngsters themselves may, in fact, be working and thus liable to sexual exploitation. It also creates a lot of pressure to find jobs and to pursue trading activities which may render them vulnerable to sexual coercion from those women or girls who can promise such things.<sup>15</sup>

### **Physical environment**

While dread of assault is ordinarily connected with being outside the home, the larger part of sexual violence really happens in the home of the person in question or the victimizer. The social condition inside a home is, notwithstanding, generally more significant than the physical encompassing. For example, in certain spots, assault can even happen in broad daylight, with bystanders declining to interfere. Grievances of assault may likewise be dealt with mercifully by the police, especially if the attack is submitted during a date or by the casualty's significant other.<sup>16</sup>

### **Economic factors**

<sup>13</sup> Helen Remick et al., *The Power and Reasons behind Sexual Harassment: An Employer's Guide to Solutions*, 19 PUBLIC PERSONNEL MANAGEMENT 43–52 (1990).

<sup>14</sup> Id

<sup>15</sup> Sexual Harassment - Causes of Sexual Harassment, *supra* note 16.

<sup>16</sup> BalanceGirl, *What Causes Sexual Harassment?*, THE WOMEN'S CODE (2018), <https://thewomenscode.com/causes-sexual-harassment/> (last visited Sept 27, 2020).



A large number numbers of the variables working at a national level have a universal measurement. Throughout the world, what we see right now is that there is an increase in commerce because of globalisation. Because of this, there is an expansion in the development around the globe and women have ambitiously carrying out their careers actively, and also becoming world leaders. Because of cheap labour and capital available in developing countries like India, there are few countries where the problem of joblessness occurs. As a result of this, there is also an increase in the sexual assault and sexual violence, something especially noted in Central America, the Caribbean and parts of Africa.<sup>17</sup>

### Religious Inequality

Each religion accepts that everything is the production of God. Each religion lectures love, generosity and leniency for each living being. Despite this reality, strict books and sacred texts of each religion contain a few components, which are corrupting and prejudicial in nature. Individuals follow these standards for the sake of religion. In general, public situation of women change with time to time. In vedic period the situation of women was superb. They were given opportunity and fairness. The man was not capable to perform strict obligations without his better half. Be that as it may, in post vedic period the situation of women had changed. The incomparable Hindu law provider Manu says a ton regarding women and her status. As indicated by him “*Pitha Rakshathi Knowmare Bhartha Raskhathi Yowane Rakshanthi Sthavire Puthra Nasthri Swathanthra Harhathi*” which implies a

women is secured by her dad in her adolescence, by spouse in her energetic days for example after marriage and by youngsters in mature age. Accordingly, a woman isn't qualified to remain free and autonomous. In medieval period position of women experienced a lot many negative changes. Islam likewise gave equivalent status to man and lady. In any case, it too embraced oppressive mentality towards her by denying her from being designated as Imam or Kazi.<sup>18</sup>

### Legal Obstacles and Lack of Awareness

The Indian law isn't sufficient to offer assurance to the women. Our introduction of the Indian constitution discusses Secularism, however as a general rule we are not mainstream secular. The individual laws of Hindus, Muslim, and Christians and so on straightforwardly influence women' status. Subsequently we can say that our current legitimate framework has a tilt towards male centric framework regardless of balance among each resident in our constitution. Today, a specific law has been passed for working women in the Indian legal system, however there is likewise brutality against women at working environment. It is also pertinent to note that the Act doesn't encompass the women from the unorganised sector, which causes a two layered discrimination for them. First is, the assault rendered to them in the workplace and secondly the violation of Article 14, 15(3) and 21 of the Constitution of India. Some respondent didn't know about the Supreme Court rules and the law identifying with inappropriate behavior at working environment.<sup>19</sup>

### Fear of Stigma

<sup>17</sup> Id

<sup>18</sup> Supra note 16

<sup>19</sup> READ “SEXUAL HARASSMENT OF WOMEN: CLIMATE, CULTURE, AND CONSEQUENCES IN ACADEMIC SCIENCES, ENGINEERING, AND MEDICINE”



A large number of women plainly distinguish social disgrace as the significant obstruction in their family life. For instance, for the most part when you don't react to man passes, they spread rumours that they were having an unsanctioned romance. At that point the women feels so discouraged and embarrassed which further keeps her from grumbling. Few people also believe that if they complain about offensive sexual behaviour, the regard and pride of women and their family are tested. It also impacts their mental wellbeing and are forced to succumb to the discrimination. She generally has a dread of renunciation by the general public in the wake of submitting question. Position in the public, family and individual setting, workplace setting, fear of rejection from the loved ones and the spouse, may keep a women from revealing such sort of episodes<sup>20</sup>.

**1) Lack of Support from Colleagues**

The feeling of solidarity in the working environments appears to be exceptionally helpless when it identifies with offensive sexual behaviour of women partners. The administration frequently threatens partners, who wish to help women who have been sexually assaulted. The dangers can extend from move to postpone in endorsing of advances or leeway of retirement benefits, etc. Finally, we can say that social conduct, dread of losing employment, absence of mindfulness, absence of authentic help, dread of anxiety, dread of media, troubles in demonstrating the wrongdoing and social

weight are primary purpose behind non-announcing of the offenses. Women can spare themselves by announcing such kind of inappropriate behaviour/ambush. In this way, the quietness/non-reporting of casualties cause again occurrences of inappropriate behaviour at work environment.<sup>21</sup>

**ANALYSIS OF DATA RELATING TO SEXUAL HARASSMENT IN MAHARASHTRA**

In this part of the chapter, the researcher is critically analysing the data which was found for the state of Maharashtra, using a doctrinal form of study. In this, the women were asked to state their perception about the nature of "sexual harassment". The option which were given to the women were following:<sup>22</sup>

CODE NO.	DETAILS
01	Physical Contact & Advances of Sexual Nature.
02	Request or demand for sexual favours.
03	Sexually coloured remarks
04	Showing Pornography
05	Unwelcome physical conduct of Sexual nature.
06	Unwelcome verbal or nonverbal conduct of sexual nature.

AT NAP.EDU, <https://www.nap.edu/read/24994/chapter/9> (last visited Sept 27, 2020).

<sup>20</sup> Id

<sup>21</sup> Supra note 16

<sup>22</sup> Yugantar Education Society, A Research Study On The Nature, Incidence, Extent And Impact Of Sexual

Harassment Of Women At Work Place In The State Of Maharashtra, [http://ncwapps.nic.in/pdfReports/A\\_Study\\_on\\_Impact\\_Of\\_SH\\_At\\_Work\\_Place\\_In\\_Maharashtra.pdf](http://ncwapps.nic.in/pdfReports/A_Study_on_Impact_Of_SH_At_Work_Place_In_Maharashtra.pdf) (last visited Oct 7, 2020).



The following responses were reported by the organisation:

**Nature of Sexual Harassment**

Nature Code	Organised Sector	Unorganised Sector	Total
01 (%)	200 (33.33%)	193 (32.17%)	393 (65.50%)
02 (%)	177 (29.50%)	170 (28.33%)	347 (57.83%)
03 (%)	144 (24.00%)	121 (20.17%)	265 (44.17%)
04 (%)	111 (18.50%)	90 (15.00%)	201 (33.50%)
05 (%)	133 (22.17%)	111 (18.50%)	244 (40.67%)
06 (%)	177 (29.50%)	134 (22.33%)	311 (51.83%)

**Physical Contact & Advances of Sexual Nature.**

The information investigation uncovered that a vast larger part of around 65.5 percent of the respondents out of 600 had seen offensive sexual behaviour as physical contact and advances of sexual nature; these respondents were similarly conveyed in compressed and disorderly division. Why the remaining 34.5% of the respondents didn't treat such conduct of male individuals in the working group as offensive sexual behaviour was the inquiry before the investigation group. It was hard for women labourers to distinguish the expectation of the colleagues furthermore, to charge them as harassers.<sup>23</sup>

**Request or demand for sexual favours.**

Around 29.5% percent of the respondents expressed that request or demand for sexual favour was as offensive sexual behaviour<sup>24</sup>. The remaining 28.3% percent of the respondents didn't regard such ask for or

request as offensive sexual behaviour since it was dependent upon them to react on the same in consonance or against the same. Nobody could compel them to such requests or demands. It was dependent upon the women to endure or not to endure it.

**Sexually coloured remarks**

The respondents who saw offensive sexual behaviour as explicitly discriminatory and sexually oppressive/ coloured remarks were around 44 percent (24 percent from organised sector and 20 percent from un-organised sector)<sup>25</sup>.

**Showing pornography**

Indicating sex entertainment was additionally rewarded as offensive sexual behaviour by almost 19 percent of the respondents from organised sector and around 15 percent from un-organised sector making it an aggregate of around 34 percent. The remaining respondents didn't regard erotic entertainment as offensive sexual behaviour on the ground that nobody could force the women to see the photos or pornography with sexual stances. A portion of these respondents were uninformed about the group sex entertainment furthermore, consequently couldn't communicate their assessment on this point.<sup>26</sup>

**Unwelcome physical conduct of Sexual nature.**

Unwanted physical direct of sexual nature was accounted for to be the impression of offensive sexual behaviour. Around 41 percent of the respondents were against this notion, out of which 22% were from the organised sector while the other 19% were

<sup>23</sup> Id

<sup>24</sup> Id

<sup>25</sup> Supra note 22

<sup>26</sup> Supra note 22



from the unorganised sector.<sup>27</sup> Rest of the respondents couldn't distinguish such lead and henceforth wanted to keep away from giving any answer. It was additionally noticed that women from urban zones were progressively straight to the point and intense in communicating their perspectives on this issue.<sup>28</sup>

**Unwelcome verbal or nonverbal conduct of sexual nature.**

Around 52 percent of the absolute respondents saw inappropriate behaviour as unwanted verbal or non-verbal conduct of sexual nature. Around 30 percent of these respondents were from organised sector and remaining 22% were from unorganised sector<sup>29</sup>.

Remaining 48 percent respondents didn't find such conduct as offensive sexual behaviour on the ground that it was because of character issue of certain people and there may not be any aim of sexual harassment in their conduct.<sup>30</sup>

Taking everything into account, lion's share of the respondents portrayed inappropriate behavior as (a) physical contact and advances of sexual nature, (b) solicitation or interest for sexual kindness, (c) explicitly hued comments, (d) demonstrating erotic entertainment (e) unwanted physical direct and (f) unwanted verbal or non-verbal conduct of sexual nature. The view of respondents matches with the legitimate meaning of offensive sexual behavior<sup>31</sup>

**INCIDENCE OF OCCURRENCE OF SEXUAL HARASSMENT IN WORKPLACE**

The frequency of occupational sexual assault was found more in educated sector than the uneducated. The frequency of sexual assault at Place of employment was found to be more in married women than the other categories like single, divorced and separated widows. It is because flirting with a married woman is considered to be safe. 129 (about 58 per cent) of the 224 respondents were married women.

**The data also reveals an astonishing figure:<sup>32</sup>**

**Incidence of Sexual Harassment at Work Place**

	Organised Sector			Unorganised Sector			Total (Org.+Unorg. Sector)		
	Urban	Rural	Total	Urban	Rural	Total	Urban	Rural	Total
Yes (%)	56 (9.33)	49 (8.17)	105 (17.50)	66 (11.00)	53 (8.83)	119 (19.83)	122 (20.33)	102 (17.00)	224 (37.33)
No (%)	94 (15.67)	101 (16.83)	195 (32.50)	84 (14.00)	97 (16.17)	181 (30.17)	178 (29.67)	198 (33.00)	376 (62.67)
Total (%)	150 (25%)	150 (25%)	300 (50%)	150 (25%)	150 (25%)	300 (50%)	300 (50%)	300 (50%)	600 (100%)

The arranged information uncovered that around 37 percent of the respondents out of 600 revealed that they had been explicitly annoyed at work place. Out of these around 20 percent are from urban area and 17 percent are from rural area; correspondingly 20 percent from urban and 17 percent from rural area. This shows the occurrence and degree of inappropriate behaviour was more in organised sector and urban zone in

<sup>27</sup> Supra note 22

<sup>28</sup> Supra note 22

<sup>29</sup> Supra note 22

<sup>30</sup> Supra note 22

<sup>31</sup> Supra note 22

<sup>32</sup> Supra note 22



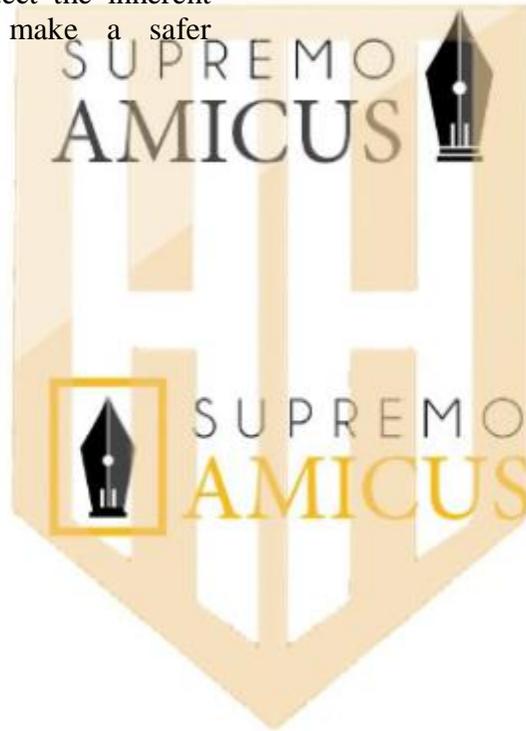
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comparison to unorganised sector and rural area.<sup>33</sup>

**Conclusion**

In this article we saw the nature of sexual harassment at workplace and also the impact with special reference to state of Maharashtra. We also saw that the sexual harassment takes place at both the organised as well as the unorganised sector. The incidences and impact of sexual harassment is different levels and that is why it becomes imperative to apply the sexual harassment act in true spirit so as to protect the inherent dignity of women and make a safer workplace for them.

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<sup>33</sup> Supra note 22