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RESEARCH ARTICLE

UNDERSTANDING SEXUAL HARASSMENT IN WORKPLACE: A NEED FOR DIFFERENT APPROACH FOR COLLECTION OF DATA AND ANALYSIS

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ABSTRACT

While the constitution of India aims to create an equitable and equal environment for those who were denied their rightful place in the previous government and social structure, this includes protection of women from harassment in various spheres. In the unorganized sector where women are more vulnerable, there is the need to take a different approach rather than a traditional questionnaire approach or the so called survey approach. The vulnerability of the women is very high because they are in severe financial difficulties, needing work for survival and it is so intense that fighting for one's right for dignity, has least importance. The study shows a different approach to collect and analyze the data. The approach was to give emphasis to create trustworthiness and commitment by the researcher. It took sustained requests, going to them number of times in spite of their refusal to entertain any request, talking to women workers those having some control over others and convincing them about the confidentiality of the data. The approach emphasized personal level discussions, highlighted as inter-personal information interchange. The study analyses the behavior which indicates the presence of sexual harassment.

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INTRODUCTION

India is the seventh largest and second most populous democratic country in the world, where over 1.27 billion people live, among whom 614.4 million are female and 655.8 million are male. Even after 65 years' of Constitution of India and several judicial pronouncement and enactments the women across the country struggle for survival let alone lead a life with dignity. They are facing several problems in every sphere of life whether it is family, employment, health care or property rights etc. They are victims of crime directed specifically at them like, eve-teasing, molestation, trafficking, kidnapping, sexual harassment, rape, forced to prostitution and work place harassment, irrespective of their class, caste and educational status. The crimes against women in India are growing in number. Whether it reflects reality or is because there is more reporting, the fact is sexual harassment in workplace is there. Government of India had ushered in the new millennium by declaring the year 2001 as 'Women Empowerment Year' to focus on a vision 'where women are equal partners like men'. Government policies are there to promote women's participation in political, social and economic life of the nation and identical access to health care, quality education, career and vocational guidance, employment, equal remuneration,

occupational health and safety, social security and public office etc. But, in a male-dominated Indian society, women often face discrimination. Every day in newspapers and television, we have stories of sexual harassment against women. Considered as soft targets, they often have to face sexual innuendo, unwelcome passes and lewd remarks and jokes, and the fact that there are very little awareness of Indian laws for women against sexual harassment worsens the scenario. The majority of working women face sexual harassment at some point or the other. The equality of opportunities for men and women in the labor force is jeopardized by the sexual harassment of women in the workplace, which is a violation of the right to equitable and satisfactory working conditions, as well as the right to sexual freedom.

Counseling approach being developed and used in the department of psychology, Utkal University emphasizes every individual's right to life with dignity. This includes one's right to love, respect and to accept oneself as s/he is. This is irrespective of his/her achievement, creativity, leadership or anything that the society values as important. But sexual harassment to women violates all these.

Definition of sexual harassment

While perceptions on what constitutes sexual harassment vary among and within societies, depending on whether individuals

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are born and socialized as men or women in a specific socio-economic class in a society and on their position in the work hierarchy, universal consensus exists on the key characteristics of definitions on sexual harassment. Generally speaking, definitions used in laws, codes, policies, court decisions and collective agreements throughout the world may differ in details, but contain the following key elements:

- a) conduct of a sexual nature and other conduct based on sex affecting the dignity of women and men, which is unwelcome, unreasonable, and offensive to the recipient
- b) a person's rejection of, or submission to, such conduct is used explicitly or implicitly as a basis for a decision which affects that person's job
- c) conduct that creates an intimidating, hostile or humiliating working environment for the recipient.

The definition most commonly cited comes from the European Commission's Council Resolution on the protection of the dignity of men and women at work, 1990: 'Sexual harassment means unwanted conduct of a sexual nature, or other conduct based on sex, affecting the dignity of women and men at work. This can include unwelcome physical, verbal or non-verbal conduct' (CEC, 1993).

The essential characteristic of sexual harassment is that it is unwanted and unwelcome by the recipient. An ILO survey of company policies on sexual harassment (Reinhart, 1999) revealed this to be the centerpiece of the policies. This is what distinguishes it from friendly behavior which is welcome and mutual. The intent of the harasser is not determinative. It is the recipient who determines whether the conduct, of a sexual nature, is welcome or not. Most courts infer in this determination an element of reasonableness. In recent times, some courts have opted for the 'reasonable woman's' viewpoint as to whether the behavior was welcome or not.

Most definitions rely on criteria on whether the recipient considers the behaviour as 'welcome' or 'offensive', because it is difficult to compile an exhaustive list of harassing conduct that should be prohibited. Some acts are readily identifiable as 'sexual' harassment, for example, kissing, fondling of breasts, and physical contact with the genital areas, but many kinds of verbal, non-verbal, physical conduct or display of objects or pictures can also be considered as sexual harassment. This can vary according to cultural and social practices and according to the context in which it occurs. In some cultures, physical touching upon greeting will be normal behavior, whereas in other cultures it might be interpreted as insulting or a sexual advance. In some workplaces, sexually suggestive posters might be seen as offensive, whereas they would be tolerated in other places. Behavior acceptable between friends at work may be offensive if displayed by newcomers or outsiders.

Thus, there is a whole range of acts which are not necessarily always of a 'sexual' nature, for example, placing an arm around another's shoulders, stroking a person's hair, touching their clothes or earrings, comments about a person's looks or body. Such acts may still constitute sexual harassment if the acts are unwelcome and unwanted. What is considered 'sexual', therefore is not contingent upon what part of the body is

involved but more importantly, the context within which an act is perpetrated and the character of the conduct. Sexual harassment conduct is when the sex or sexuality of the person and everything culturally related to it – from her/his body, to her/his manner of dress, to her/his intimate relations – is made the object or target of the conduct, as something desired to be obtained, or appropriated, or trivialized with, whether through physical, verbal or other forms of conduct (Ursua, 2001).

Sexual harassment of women working in informal/unorganised sector

A great majority of people in the developing nations are under the line of poverty. They are deprived of adequate access to the basic needs of life such health, education, housing, food, security, employment, justice and equality. Issues of sustainable livelihood, social and political participation of these groups exists as the major problem in the developing nations. In these people, particularly in the case of women the struggle for survival is so intense that fighting for one's right for dignity, has least importance and thus, they are more vulnerable to sexual harassment.

The sexual harassment of women at workplace (prevention, prohibition and redressal) act, 2013, India

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 is a legislative act in India, which seeks to protect women from sexual harassment at their place of work. It was passed by the Lok Sabha (the lower house of the Indian Parliament) on 3 September 2012. It was passed by the Rajya Sabha (the upper house of the Indian Parliament) on 26 February 2013. The Bill got the assent of the President on 23 April 2013. The Act came into force from 9 December 2013. It has been two years since the enactment, but the overall awareness has not been very high and when it comes to actually effecting a change in the lives of women in work place, there is much to be looked into. Thus, the study is an attempt towards this.

MATERIALS AND METHODS

Sampling

In India, Ganjam District is one of the underdeveloped districts in the state of Odisha, with a large labor force of which a substantial portion are women. In this part of the study a total of 100 women workers were contacted. But only 50 women agreed to spend time in different occasions to talk to the researcher. The approach emphasized that the researcher was keen on looking at their lives with empathy to understand them rather than to somehow collect some information which would subsequently be used against them. The discussion included things about their lives, future plans, children and other family members and their own dreams etc. They were never directly asked about sexual harassment but the less anxiety-provoking "bad behavior" was used. The sample consisted of domestic helps and the daily-wage labourers, particularly belonging to the rural areas of the district. The age group chosen was women 20-50 years. The samples included both from married and unmarried category.

Methods of data collection

Both the case study & survey method have been used to collect data from the respondents for the study. The case study methods are used to collect data in detail pertaining to various cases related to sexual harassment of rural women work force in the Ganjam District. The survey method has been adopted to collect information from the rural women work force regarding their knowledge, exposure & awareness of various sexual harassment enactments.

Process of execution

The study was planned to be executed in two stages, the unorganized labor force are the worse sufferers, simply because they are not organized. That being to be women in the unorganized sector are the worst sufferers. A denial of payment or other physical torture can be seemed and too apparent machinery such as the labor department etc., a redress is seemed to be possible. In the case of sexual harassment, women take it as a part of their destiny as they are born women. Right to life with dignity as reflecting physical and mental privacy of the person is something that the abusers refuse to accept. They also yield the power to hire and fire. Therefore, a woman worker almost accepts this (sexual harassment) as a part of need to survive.

The fact that the researcher will be denied access to the stakeholders was well appreciated. The researcher was keeping track of all the mannerism, as looking down, avoiding eye contact, not responding, running away, and looking at the supervisor or leader while responding are all taken as indicative that something is not right. Given the nature of the study and that researcher herself is a woman, all this behavior can be analyzed as strong indicators of presence of sexual harassment.

Instruments developed

The author was well aware of the fact that, collection of the data from a group of women who are in a survival mood, on sexual harassment is almost impossible. But if nobody dares than facts of sexual harassment will never come to picture. Instead of having any pre-conceived idea, the researcher tried to generate a questionnaire from the grassroots level. This was however, not used for generating response through the instrument, but merely to record their response, which was elicited by individual personal contact and interaction in a convenient and comparable format. The questionnaire included both open-ended and close-ended questions. Respondents were assured that their response will be kept completely confidential and will never be used to reveal it to anyone. However, if the majority opines that difficulties are there then remedial measures can be planned only as a consequence of their response. So, the questionnaire was used as a framework or guideline to interact with the respondents. The local language Odia, was used to prepare the questionnaire.

Analysis of the data

Analysis of the frequency of stakeholders' response

The Frequency of Stakeholders' Response is analyzed in three categories. They are:

- a) The stakeholders refused outright
- b) The stakeholders cooperated after much persuasion
- c) The group who cooperated without any persuasion

The stakeholders who refused outright

From among the stakeholders, 50% refused in a straight forward manner that they do not want to discuss any matter related to sexual harassment (actually "bad behavior" as used).

The stakeholders who cooperated after much persuasion

The group that needed going to them a number of times (viz., 4 to 8 times) was that group which responded in a way that was more as a sign of sympathy to the researcher (as a woman) rather than complete overcoming of their own fear. Most of them expressed it that way (you are woman and yet you are taking pains to come to us for such a number of times. If we do not respond to you then it will be an injustice done to you.)

The group who cooperated without any persuasion

Their response was more like they were angry, they were completely fade off and they didn't care. They were also willing to speak in front of the camera and even use the vulgar words, verbatim as being used by the contractors or the supervisors. All these are strong research evidence that, all the 100 persons who were contacted for the purpose have accepted directly or indirectly that sexual harassment is a part of their lives.

Qualitative analysis of the data

The thrust of the study is based on qualitative data as it reflects the changes in the behavior as shown and expressed not through a questionnaire but as free expression as one does in real life. The responses availed through data collection and discussion, are analyzed as falling under three different categories:

- i) Running Away
- ii) Understanding Resistance to Respond
- iii) Straight Forward Response

The Analysis of the Running Away

A number of persons ran away from the researcher. Many of them completely avoided eye contact and kept their face down, when the researcher asked about it. When she used the word harassment (bad behavior) it must be emphasized that, "bad behavior" truly means bad behavior as opposed to much anxiety provoking sexual harassment and even when a simple bad behavior, was very surprising it could well be that in their own life experience. It is what implies sexual harassment or it could well mean that, since they have been ignoring the experience and trying to force it out of their conscious memory, any discussion in this area could lead to greater anxiety. In either case, the researcher is justified in accepting all such behavior as indicative of the stakeholders' exposure to some kind of sexual harassment. The majority of stakeholders came up with the idea that the researcher was being financed by

some NGO or other agency and doing some study which has less relevance for their own better quality of life. It is more of publicity stunt. It was not having any long-term plans or sincerity about making a difference in their lives. It is repeatedly number of times the researcher had to go and spend time with them, the attitude changed a little. A background check that was done by them also helped in changing the attitude and subsequent change.

Analysis of Understanding the Response to Avoidance

The group that agreed to respond to the questionnaire, after going to them for a number of times, was the group that still was not forthcoming in their answers. While the researcher was keen on taking the discussion towards harassment, while emphasizing like 'Right to live with dignity', the stakeholders appeared to be avoiding any such references. While praising the Government for different Laws to protect them, they didn't like to spell out what they are all about.

Analysis of the Straight Forward Response

This group was more forthcoming in their expressions; on the face of it the behavior showed an absolutely devil-may-care attitude but, the expressions still indicated a fear of what can again happen. The use of verbatim vulgar languages was expressed very hurriedly when asked about the harassment that takes place. In this group, even some expressed categorically that they have been sexually harassed and abused. Their solution was in running away from such situation. They also agreed that this may not be possible for others. Some of them agreed to have their discussion video recorded.

DISCUSSION

This kind of analysis would not have been possible if merely some questionnaires were given to the contractors or workers. Firstly, they are not educated to respond to questionnaires. The buildup of the trust that was possible through repeated attempts to solicit their help was the only way to get their response. The importance of the fifty percent of the samples who ran away from responding is another eye-opener for the need to be more sensitive while doing research in this area. In the so called quantitative analysis only this data would have been thrown as non-data. Finally the recording of the mannerisms yielded valuable data for analysis as the respondents somehow refused to answer the question of harassment in a direct way.

The analysis however clearly shows that harassment is taking place and to uncover this more sensitive qualitative approach is required.

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