

**SEXUAL HARASSMENT OF WOMEN AT
WORKPLACE IN SIKKIM- A HUMAN RIGHTS
PERSPECTIVE (2000-2015).**

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Certified that the Thesis entitled

“Sexual Harassment of Women at Workplace in Sikkim- A Human Rights Perspective (2000-2015)” submitted by me for the award of the Degree of Doctor of Philosophy in Arts at Jadavpur University is based upon my work carried out under the Supervision of Dr. Bijaya Kumar Das, Associate Professor, Department of International Relations, Jadavpur University and that neither this thesis nor any part of it has been submitted before for any degree or diploma anywhere/ elsewhere.

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PREFACE

Every year, the 16 Days of Activism Against Gender-Based Violence begin on the International Day for the Elimination of Violence Against Women. Human rights groups like Unifem, Women Won't Wait, Women for a Change, Women's Aid, and others band together to speak out against gender violence and to advance the rights and tenets of the Declaration on the Elimination of Violence Against Women. Because society views men as powerful and capable of dominating everything, including women, gender disparity between men and women can make women more susceptible to violence. One's experience with violence at home, in the family, or in society can be linked to this power struggle. The type of oppression women experience daily can be attributed to the patriarchal system that is prevalent in society at all levels.

In the name of customs and cultural abuse, South Asian women have been facing many injustices. Additionally, these cultural restrictions and religious interpretations have an impact on their overall development. But issues like sexual harassment in the workplace deter women from leaving their homes. The fact that South Asia has a sizable female labor force further explains the region's emphasis on women's safety. All of the member states of SAARC signed the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution in 2002 to address numerous issues related to the outlawry of trafficking in women and children for prostitution within SAARC countries. South Asian women are fighting their battle against patriarchy, societal norms, traditions, etc., and their voices have never been uniform.

Her obligations have doubled in this time since women's employment rates are rising. Women have made significant progress in juggling work and playing several roles in the domestic household. The women's community in Sikkim is crucial to the state's growth. According to the Sikkim Human Development study, the northeastern state has the best gender parity performance, with female labor force participation at 40%, significantly higher than the national average of roughly 26%. The women of Sikkim have been able to advance in society thanks to the assistance of the government. According to the National Family Health Survey, 2016 (NFHS 4), 41% of women in the state have completed 10 years of education or more,

which is much higher than the national average of 36%. But since the time of the monarchy, violence against women and patriarchal traditions has persisted in Sikkimese society. A developing nation like Sikkim is not too far from the problem of gender-based violence, which has its roots in the idea of male supremacy.

The issue of sexual harassment at work exists everywhere. Although sexual harassment in the workplace occurs frequently both in India and elsewhere, this is the first time that it has been acknowledged as a violation of a woman's fundamental rights under Article 19(1)(g) of the Indian Constitution, which states that every individual in India has the right "to practice any profession or to carry out any occupation, trade, or business". In all of the state's top publications, stories about cases like Seema Lepcha v/s the State of Sikkim & Ors and a student from the Department of Mass Communication of Sikkim University who was sexually harassed reached the front pages. The general public is left to wonder whether women in the state are safe and secure in light of all these occurrences. Being employed as a woman has long been viewed as being powerful. If women are to be empowered, their protection and safety must be prioritized. However, the absence of any reports of violence against women does not provide a solid justification for claiming that the state's safety index is high. When sexual harassment occurs, the victims often choose not to report it out of fear that doing so will prevent them from receiving promotions, force them to relocate, foster a hostile work atmosphere, and have a variety of other negative impacts.

The organizations do not adhere to the guidelines outlined by the Supreme Court in Vishaka v. Union of India. Contrary to some men's perceptions, sexual harassment is a subjective social interaction to which only excessively sensitive women would protest. To analyze harassment from the victim's point of view, it is necessary to examine the many perspectives held by both men and women. The best method for ending sexual harassment is prevention. Employers should be urged to take the appropriate precautions to stop sexual harassment. All staff members should be informed that any type of sexual misbehavior will not be accepted. All staff members must be informed of the organization's rules and expectations for behavior. There must be a specified procedure for complaints to be resolved and for what will happen if someone is found guilty. The defense of women's human rights is inextricably linked to the

acknowledgment of the right to protection against sexual harassment. Additionally, it is a step towards granting women independence, opportunity, equality, and the right to respect at work.

ABBREVIATION

- **BMI** BODY MASS INDEX
- **CEDAW** CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN
- **CMB** CONDITIONAL MATERNITY BENEFIT
- **CPIM** COMMUNIST PARTY OF INDIA MARXIST
- **CSIS** CENTRE FOR STRATEGIC AND INTERNATIONAL STUDIES
- **DLSA** DISTRICT LEGAL SERVICE AUTHORITY
- **EUS** EMPLOYMENT- UNEMPLOYMENT SURVEY
- **EWUCS** EDUCATED WOMEN UNEMPLOYED CO-OPERATIVE SOCIETY.
- **FAOW** FORUM AGAINST OPPRESSION OF WOMEN
- **FCC** FAMILY COUNSELLING CENTRE
- **GDI** GENDER DEVELOPMENT INDEX
- **GSCASH** GENDER SENSITIZATION COMMITTEE AGAINST SEXUAL HARASSMENT.
- **HLCSW** HIGH LEVEL COMMITTEE ON THE STATUS OF WOMEN
- **HRCP** HUMAN RIGHTS COMMISSION OF PAKISTAN
- **IC** INTERNAL COMMITTEE
- **ICDS** INTEGRATED CHILD DEVELOPMENT SERVICE
- **IGMSY** INDIRA GANDHI MATRIKA SAHAYOG YOJANA
- **ILO** INTERNATIONAL LABOUR ORGANIZATION

- **IPC** INDIAN PENAL CODE
- **LC** LOCAL COMMITTEE
- **LGBTQ IA+** LESBIAN GAY BISEXUAL TRANSGENDER QUEER INTERSEX
 ASEXUAL
- **LOSHA** LIST OF SEXUAL HARASSERS IN ACADEMIA
- **MFF** MARTHA FARRELL FOUNDATION
- **MGNREGA** MAHATMA GANDHI NATIONAL RURAL EMPLOYMENT
 GUARANTEE ACT.
- **MOU** MEMORANDUM OF UNDERSTANDING
- **NEC** NORTHEAST COUNCIL
- **NFHS** NATIONAL FAMILY HEALTH SURVEY
- **NGO** NON-GOVERNMENT ORGANIZATION
- **PIL** PUBLIC INTEREST LITIGATION
- **PNDT** PRE- NATAL DIAGNOSTIC TECHNIQUE
- **POSH** PREVENTION OF WORKPLACE HARASSMENT
- **POW** PROGRESSIVE ORGANIZATION OF WOMEN
- **PRIA** PARTICIPATORY RESEARCH IN ASIA
- **SAARC** SOUTH ASIAN ASSOCIATION FOR REGIONAL
 CO-OPERATION.
- **SCS** SPECIAL CATEGORY STATES
- **SWC** SIKKIM WOMEN’S COMMISSION
- **SDF** SIKKIM DEMOCRATIC FRONT

- **SEWA** SELF EMPLOYED WOMEN’S ASSOCIATION
- **SGIB** SAARC GENDER INFO BASE
- **SHG** SELF HELP GROUP
- **SHW** SEXUAL HARASSMENT AT WORKPLACE
- **SPACE** SOCIETY FOR PROMOTION OF ARTS, CULTURE,
EDUCATION, ENVIRONMENT EXCELLENCE.
- **SSWC** STATE SOCIAL WELFARE BOARD
- **TLA** TEXTILE LABOUR ASSOCIATION
- **UDHR** UNIVERSAL DECLARATION OF HUMAN RIGHTS
- **UN** UNITED NATIONS
- **UNFPA** UNITED NATIONS FUND FOR POPULATION ACTIVITIES
- **UNIFEM** UNITED NATIONS DEVELOPMENT FUND FOR WOMEN
- **UNRISD** UNITED NATIONS RESEARCH INSTITUTION FOR SOCIAL
DEVELOPMENT

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MAP OF SIKKIM



INTRODUCTION

Nature made no distinctions between men and women other than those related to anatomical and biological differences; everyone was created as beings of equal worth. It also doesn't distinguish between the distinct duties and responsibilities that men and women, in particular, fulfill. Women have historically been treated less favorably than men in society's patriarchal social structure, where men predominate and women are viewed as inferior beings in every sense.

The gender imbalance in society may have its roots in male supremacy or control. Women may be more vulnerable to violence as a result of gender imbalance since society has given men the authority to rule over everyone and everything, including women. The type of violence that one has experienced or witnessed at their place of residence, within their family, or in society might be linked to this power play. The type of oppression women experience on a daily basis can be attributed to the patriarchal system prevalent in the society. In a broader sense, however, men are also impacted by patriarchy, which means that its effects are not just limited to women. The patriarchal system dehumanizes males by forbidding them from expressing their feelings out of concern that they would be viewed as feminine.

GLOBAL SCENARIO

In the global context, women's role in society varies in a number of ways, but one general perception about women that persists is that they are seen as the caretakers. The majorities of women are restricted within the four walls of their own homes, where caring for the family—including the children and cooking for them—is their main duty. Women have always been expected to perform a variety of roles. Roles that society deems appropriate for her.

Histories of Third World countries as reported in United Nations conference held in Tunisia, Portugal and New Delhi in 1982-83 and western experiences are the basis for identification of constraints in the development of women's movements and alternatives for participation of women in a new world order. Women has always contributed to the life and economic development of their countries, often in activities not recognized as economic, but

they are excluded from the processes of institutionalization and their presence is very rare at the highest levels of the social hierarchy.¹ Gender norms and roles have been created due to tradition and they act as barriers for both women and men.

Deprivation in some form or the other has always been prevalent, and this deprivation is not a random victimization but an outcome of gender inequality between men and women. The UN Women Gender Equality in the 2030- Agenda for Sustainable Development Report states that- the gender wage gap is estimated to be 23 percent. This means that women earn 77 percent of what men earn, though these figures understate the real extent of gender pay gaps, particularly in developing countries where informal self-employment is prevalent.² Therefore, women can be expected to earn significantly less in their entire career than men. Women also tend to spend around 2.5 times more time on unpaid care and domestic work than men.³ The firmly established social construct has forced women to see themselves as inferior to males and to suppress their aspirations to the point where they are nearly invisible.

Each year, the International Day for Elimination of Violence against Women marks the start of 16 Days of Activism against Gender based Violence. Human Rights Organizations such as Center for Women's Global Leadership, Unifem, and Women Won't Wait, Women for a Change, Women's Aid and other groups join together to speak out against gender violence and to promote the rights and principles of the Declaration on Elimination of Violence against Women.

A striking step that was taken to end the violence that women face was in 2008 and is known as the "Unite to End Violence against Women". This aims to raise public awareness to the problem and in ending the violence women and girls face all around the world. With there still being so much room for change today only 2 out of 3 countries that exempt sex perpetrators from being prosecuted if they are either married to the victim or will soon be married to the victim. There are also 49 countries who till this day have no laws that will protect women from domestic violence.⁴ Domestic violence usually occur inside the four walls of a house, which also indicates that domestic violence is rarely reported because women have internalized being beaten by their husbands as normal.

UN's effort to transform what was once a domestic problem, into an issue of human rights which required major attention, was made through a series of world conferences in a view to address problems related to women. The UN has set the stage for some important strategies to be adopted in the international and domestic level through-

1. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted in 1979 by the UN General Assembly, is often described as an international bill of rights for women. Consisting of a preamble and 30 articles, it defines what constitutes discrimination against women and sets up an agenda for national action to end such discrimination. The Convention defines discrimination against women as “...any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”⁵
2. Declaration on the Elimination of Violence against Women in 1993 by the United Nations General Assembly: Article 1 of the declaration lays emphasis on the term “violence against women” which means “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life”.⁶ The UN definition of violence is not limited. According to the Declaration, women faces violence just because they are women and are considered a weaker sex compared to men. This is deeply rooted in the historical power dynamic between men and women.
3. The United Nations Commission on Human Rights created an office of UN Special Rapporteur on violence against women in 1994. Sri Lanka’s Ms. Radhika Coomaraswamy was appointed as the first rapporteur, she was mandated to receive information on violence against women and provide measures to curb them. In her reports she has covered, inter alia, military sexual slavery in wartime, rape in the community, domestic violence, trafficking and forced prostitution of women, women’s reproductive rights.⁷
4. The Beijing Platform for Action, adopted at the Fourth World Conference on Women in Beijing in 1995⁸, asks all governments to:
 - a) Enact and reinforce penal, civil, labor and administrative sanctions in domestic legislation to punish and readdress the wrongs done to victims;

- b) Adopt, implement and review legislation to ensure its effectiveness in eliminating violence against women, emphasizing the prevention of violence and the prosecution of offenders; and
- c) Take measures to ensure the protection of women subjected to violence, access to just and effective remedies, including compensation and indemnification and healing of victims, and rehabilitation of perpetrators.

This call was reiterated during the five-year review of the Beijing Platform for Action in 2008.⁹

OTHER INTERNATIONAL AND REGIONAL INSTRUMENTS:

1. Universal Declaration of Human Rights (UDHR) - is a document adopted by the United Nations General Assembly that outlines the rights and freedom of all human beings.
2. Palermo Protocol- to prevent, suppress and punish trafficking in person especially women and girls.
3. The Rome Statute- established four core international crimes; such as genocide, crime against humanity, war crimes and crimes of aggression.
4. The Inter- American Convention on the Prevention, Punishment and Eradication of Violence against Women- also known as the Belem do Para Convention, focuses on the rights of women to be free from violence in both private and public sphere.
5. The Protocol to the African Charter on Human and Peoples' Rights- also known as the Maputo Protocol, it ensured that rights of African women and girls are protected.
6. Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence- also known as the Istanbul Convention, focuses on sexual harassment, rape, honor killings and other such forms of violence which violates a basic human right of a women.
7. The 2030 United Nations Agenda for Sustainable Development- adopted by all the members of the United States in 2015, to eliminate all forms of violence against women and girls in the public and private sphere.

8. The South Asian Association for Regional Cooperation (SAARC) adopted Convention on Preventing and Combating the Trafficking in Women and Children for Prostitution etc.

All these conventions have adopted the legal and policy framework laid down by the international conventions in order to strengthen the legislation to combat violence against women all over the world.

SOUTH ASIAN SCENARIO

The South Asian region is known as the fastest growing regions of the world. The region comprises of seven countries namely Bhutan, Bangladesh, India, Maldives, Nepal, Pakistan, Sri Lanka and Afghanistan became the eight countries to join the South Asian Association for Regional Co-operation in 2007. According to a World Bank report, the economic growth is forecast to gradually accelerate from 7.1 percent in 2016 to 7.3 percent in 2017.¹⁰ This sub-continent is home to several groups of languages, followers of all the major religions of the world, members of innumerable ethnic groups, some of which have histories older than the nation-states listed above, and several of its regions have governed themselves independently and even as autarkies¹¹ (a self sufficient country or state).

SAARC countries meet once a year as according to the SAARC Charter, and hold discussions on various issues relating to socio-economic and cultural growth of the region yet there was no mention on the issue of violence faced by women and girls in any of the SAARC declaration until 1998. In the 10th SAARC declaration in Colombo in 1998, the situation of women and children was discussed and condemned by the member states. In the summit, the SAARC Member States endorsed the need for a gender- disaggregated database to catalyze the formulation of national and regional policies and programs with regards to women and the girl child.¹² In the year 2002, the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, was signed by all the member states in order to collectively deal with various aspects of prohibition on illegal trafficking of women and children for prostitution between SAARC nations.

The women in the region have been fighting different forms of atrocities in the name of traditions and cultural malpractice. And this cultural constraint and religious interpretations affect their overall development. However, problems such as sexual harassment at workplace

discourage women to step outside their homes. The presence of a large women labor force in South Asia also accounts for the safety measures the region has for its women. International Labor Organization data from Nepal suggest that slightly more than half (53.8 percent) of women employees have faced workplace sexual harassment (ILO 2004). Studies in Pakistan of women in different professions report that 58 percent of women nurses faced sexual harassment by patients and their relatives, colleagues, and doctors, whereas almost all women (93 percent) working in private and public sectors were sexually harassed by supervisors or senior colleagues. In Bangladesh, at least one-quarter of women in electronics and garments industries have experienced sexual, physical, or verbal abuse. Across studies in Sri Lanka, more than two-thirds of women reported physical and sexual harassment in the workplace or on the way to work. In India, 17 percent of women respondents in a survey by Oxfam in eight cities reported some sexual harassment at work; the most unsafe jobs for women were as laborers, domestic help, and in small-scale manufacturing.¹³

The Human Rights Commission of Pakistan (HRCP) investigated a report that on 3 May 2000, at around 11.20 p.m., seven young female factory workers were raped on their way home from work. They were travelling in a transport provided by their employers and accompanied by three men (one was the driver and other two were brothers of some of the girls), when their bus was stopped by assailants who gagged and tied the men and raped the seven girls. One of the HRCP's finding is that the girls had been at work later than they are legally permitted- Pakistan's laws do not permit women to work after 7 p.m. When asked why they had not filed a police report, the families told the investigator, '...they were uneducated people. They had neither money nor influence and were therefore scared of approaching the police'.¹⁴

In February 200, yet again, it was reported that over 230 housemaids returning from the Middle East had been sexually harassed. Many of these women return pregnant and bureau officials are quoted as saying that far from improving their situation, these women return worse off, having been subject to mental and physical abuse. The same report concludes, 'Lankan housemaids are one of the island nation's largest foreign exchange earners.'¹⁵

In Bangladesh sexual harassment was made punishable by Section 10 (2) of the Nari O Shish Narjaton Domon Ain (2000) states that any man who, in order to satisfy his lust in an improper manner, outrages the modesty of a woman, or makes obscene gestures, will have

engaged in sexual harassment and for this, the above mentioned male will be sentenced to rigorous imprisonment of not more than seven years and not less than two years and beyond this will be subjected to monetary fines as well.¹⁶

In Nepal a research conducted by the International Labor Office and Forum for Women, Law and Development, in 2004 revealed that the problem of sexual harassment is highly prevalent in workplaces, as 53.84 percent of women employee/workers reported that they have faced the problem of sexual harassment in their workplaces, 57.14 percent of male and 23.08 percent women employee/workers were of the view that they were aware of sexual harassment at the workplace.¹⁷ The presence of specific legal mechanism to address the problem in the workplaces is a need in Nepal.

In Pakistan, 80 per cent of women experience violence within their homes. Despite the fact that many incidents of ‘honor killing’ are not reported, in 2002, more than 450 Pakistani women or girls were killed by relatives in so-called ‘honor killings’, and at least as many were raped.¹⁸ The family of the victims of ‘honor killing’ justifies the act because they think the victim has brought dishonor to the family and jeopardized the family’s prestige. The act is mostly carried out by a male member of the family, probably the father or the brother of the victim.

Not only Pakistan but other countries like Afghanistan, India and Nepal has a large number of ‘honor killings’. In 2012, Afghanistan recorded 240 cases in which women were the victims of honor killings. Of the reported honor killings, 21 percent of them were committed by the victims’ husband, 7 percent of them were committed by their brothers, 4 percent of them were committed by their fathers, and the rest of them were committed by other relative of the victim.¹⁹ In Afghanistan, there is a significant incidence of rape, forced marriage, abduction, and assaults. Women are also attacked and imprisoned by armed groups without due process, for not complying with their Taliban-style edicts on dress and behavior. Statistics are scarce, but in 2003, an Amnesty International Report indicated a high incidence of such violence.²⁰

In case of Nepal, there are no accurate figures to indicate sex-trafficking of women and girls from the country. The UN Population Fund’s annual report estimated in 2000 that at least 60 million girls are ‘missing’ from the world’s population as a result of sex-selective abortions and infanticide (UNFPA, 2000a). And most of the girls belong to different parts of

Asia. The same report also estimated that 47 percent of Bangladeshi women faced assault by men, in which India followed soon after with a 40 percent.

Women in South Asia are fighting their respective battles, whether it is against patriarchy, social norms and customs etc., their voices have never been homogeneous. Table 1 below reflects upon the amount of physical and sexual violence faced by women within a year and over a lifetime in different countries across South Asia.

TABLE 1
PHYSICAL AND SEXUAL VIOLENCE AGAINST WOMEN 2015

Country	Prevalence of Physical Violence against Women (%)		Prevalence of Sexual Violence against Women (%)	
	<i>Lifetime</i>	<i>Last 12 months</i>	<i>Lifetime</i>	<i>Last 12 months</i>
Afghanistan	..	..	..	..
Bangladesh	64.6	46.4	36.5	24.1
Bhutan	..	..	..	..
India	35.1	21.4	10.0	7.2
Maldives	17.9	5.7	6.7	2.0
Nepal	23.1	10.4	14.3	7.7
Pakistan	26.8	18.0	..	..
Sri Lanka	..	..	..	..

Source: United Nations, 2015. The World's Women 2015: Trends and Statistics. New York: United Nations, Department of Economic and Social Affairs, Statistics Division. Sales No.E.15.XVII.8, Statistical Annex.

Male child are breast fed longer than the girl child as a result, girls are under-nourished. The biasness is exacerbated more with the fact that most of the population in South Asian region lives in poverty. Surviving birth guarantees nothing to the little girls. Strong preferences of a male child also translate into discrimination in feeding practices.²¹ Table 2, below indicates trends in breastfeeding in South Asia between 1986 -2002.

TABLE 2

TRENDS IN BREASTFEEDING IN SOUTH ASIA. 1986-2002

% of Children Who Are						
Countries	Exclusively breastfeed (<6 months)		Breastfeed with complementary food (6-9 months)		Still breastfeeding (20-23) months	
	1986-94	1995-02	1986-94	1995-02	1986-94	1995-02
India	51	37**	31	44	67	66
Pakistan	25	16**	29	31	52	56
Bangladesh	54	46	...	78	...	87
Nepal	83*	69	63*	66	88*	92
Sri Lanka	14	54**	47	...	46	62
Maldives	8*	10	...	85	...	...

Source: UNICEF 1996, 1998, 2001c and 2003b. **Notes:** * refers to 1990-96, ** refers to exclusive breastfeeding for 4 months.

The Human Development in South Asia report for the year 2000 outlines other equally appalling statistics when it comes to discrimination and violence:

1. Nineteen per cent of rural Bangladeshi women surveyed were assaulted in the year preceding a 1992 survey, while 47 per cent had at some time been assaulted by an intimate partner. Seventy-two per cent of women surveyed in 1998 were severely beaten by their husbands but only 10.5 per cent of them had filed cases against their husbands. Fifty per cent of all murders in Bangladesh are attributed to marital violence.
2. In India, 40 per cent of the rural women surveyed in 1993-94 were physically assaulted by their current male partners and 28 per cent of the married men surveyed in 1996 admitted to forcing sex on their current wives.
3. In Pakistan, every third household sees some form of domestic violence and 80 per cent of the women are subjected to it. Further, of the 1000 women surveyed in Punjab province, 35 per cent of the rural women and 55 per cent of the women in small towns said that their husbands had beaten them. More than two-thirds of the men and women felt that disobedience was an adequate cause for such beatings

and 75 per cent of the women did not think it constituted enough reason to walk out of a marriage.

4. A 1993 study showed that 60 per cent of Sri Lankan women suffer domestic violence but only 25 per cent of these cases are reported.²²

The pervasive culture of gender based violence in South Asia has eroded women's fundamental rights to life, health, security, bodily integrity, political participation, food, work, and shelter. It has severely limited their choices in practically all spheres of life, and explains the uniformly poor gender-related development indices in crucial sectors like health, nutrition, education, political participation, and employment.²³ Women and girls worldwide experience various forms of harassment and oppression, including female feticide, acid attacks, eve teasing, rape, molestation, domestic violence, and dowry deaths. Numerous socio-political and legal changes haven't been able to improve the status of women, and it's still getting worse. Particularly, the working class women are greatly subject to sexual abuse and criminal exploitations. The persistent phenomena of violence against women in all phases of her life, demonstrates the deep underlying problems which is pervasive in the society.

INDIAN SCENARIO

In India, male domination over women has been continuing since ancient times. Women have silently suffered and are suffering even today. Everywhere women have been subjected to inequalities, indignities and discrimination.²⁴ Even though women perform two-third of world's work, they receive only one-tenth of the income and own less than one-hundredth of the property.²⁵ An International Labour Organization (ILO) study revealed that Indian women spend 312 minutes per day in urban areas and 291 minutes per day in rural areas on such unpaid care work as compared to men, who spend only 29 minutes in urban and 32 minutes in rural areas. Around the world, women spend two to then times more time on unpaid care work. In the paper published by the United Nations Research Institute for Social Development (UNRISD) that analyzed time-use surveys of six countries, India has the largest gender gap, and women in India spend ten times more time on care activities than men.²⁶

In the 2001 Indian Census, several states have female sex ratios in the low 900s, but many of the states where it has fallen below 900 are in the northern half of the country: Jammu and Kashmir (892), Punjab (876), Haryana (861), Delhi (821) and Uttar Pradesh (898). Particularly shocking are the rates for Chandigarh (777) and Daman and Diu (710); Chandigarh has one of the highest per capita incomes in the country.²⁷ A decline in the sex ratio has other adverse effect in the society. Hudson and Den Boer (2002)²⁸ discuss the implications of ‘surplus males’ for a society, described evocatively in Chinese as ‘bare branches’. Based on current situation they anticipated that in 20 years there would be 28–32 million young men between the ages of 15 and 35 who will be unable to find partners for marriage.

Indian national and local daily newspapers often carry reports about young women being burnt alive or dying due to unnatural causes or in unnatural circumstances. Most such deaths are attributed to inadequate dowry given by the parents of young brides to the families of their in-laws.²⁹ Dowry deaths are mostly carried by the victims in-laws or husband, or she herself might end her life due to mental and physical tortures.

Violence can be visible, invisible, camouflaged in moral terms, but the underlying power is the threat of penalties, of coercive power, of increasing the vulnerability of the victim in many subtle ways that deny options or autonomy for her own well-being.³⁰ Violence against women is time and again considered to be the most under-reported form of violence. According to table 3 stated below, the National Crime Records Bureau of India, recorded a steep increase in crime against from the year 2008 to 2012, and their 2012 report also states that in India crime against woman is committed every three minutes.³¹

TABLE 3
CRIME AGAINST WOMEN 2008-2020

Year	Reported Violence
2008	195,856
2009	203,804
2010	213,585

2011	228,650
2012	244,270
2013	309546
2014	337922
2015	327394
2016	338954
2017	359849
2018	378236
2019	405326
2020	371503

Source: National Crime Records Bureau Report., 2020.

According to the Fourth National Family Health Survey, NFHS-4, 2015-2016 (refer table 4), one-third (33 percent) of ever-married women (aged fifteen to forty-nine years) have experienced spousal violence. Physical violence as most common, followed by emotional and sexual violence.³² Women reported have been slapped by their husbands, being pushed, shaken or having something thrown at them; having their arms twisted or hair pulled; being punched or kicked, dragged, or beaten; 2 percent were choked or burnt and 1 percent were threatened or attacked with a knife, gun or any other weapon. About 6 percent reported that their husbands had physically forced them to have sex even when they did not want to, and 4 per cent reported that their husbands forced them with threats or other ways to perform sexual acts they did not want to perform.³³

TABLE 4

NATIONAL FAMILY HEALTH SURVEY 2005-2006 & 2015-2016

Forms of Violence	NFHS-4 (%)2015- 2016	NFHS-3 (%) 2005-2006
Any form of spousal violence	33	37
Spousal physical violence	30	35
Spousal sexual violence	6.6	10
Spousal emotional violence	13.8	15.8

Source: <http://rchiips.org/nfhs/NFHS-4Reports/India.pdf> (Mumbai: IIPS, 2015-2016), pp. 507, 585.

The National Family Health Survey conducts its research in every ten years. The above table 4 shows, NFHS-3 conducted in 2005-2006 and NFHS-4 conducted in 2015-2016. The figures in the table clearly indicates that spousal violence; be it physical, sexual or emotional have reduced to a certain extent in the span of ten years. However, spousal violence experienced in the last 12 months preceding the survey is constant at 24 percent across both surveys. Pregnant women, too, have not escaped violence.³⁴

The Constitution of India has given certain social, political and economic rights to women through various provisions in order to protect and empower women in the country:

- Article 14 guarantees the right to equality before law.
- Article 15 (1) (2) prohibits the state from discrimination on the basis of religion, race, sex, place of birth or any of them.
- Article 15 (3) allows the state to create special provision for protecting the interest of women and children.
- Article 16 guarantees the right to equal opportunity in matters related to employment.
- Article 21 guarantees right to life.
- Article 23 prohibits trafficking in human being and forced labor
- Article 39 (a) guarantees right to adequate means of livelihood for both men and women.
- Article 39 (d) guarantees equal pay for equal work for both men and women.
- Article 51 (A) (e) promotes harmony amongst all the people of India and renounce practices derogatory to the dignity of women.

Apart from the constitutional provisions there are many legal provisions to protect women from different forms of violence:

- Dowry Prohibition Act, 1961.
- Indecent Representation of Women, 1986.
- Sati Practices (Prevention) Act and Rules, 1987.
- National Commission for Women Act, 1990.
- Women Protection from Domestic Violence Act, 2005.

- Sexual Harassment of Women at Workplace, 2013.

Though various measures are taken to protect women from crimes against women, yet the reality is very different. According to a global poll conducted by Thomson Reuters, India is the “fourth most dangerous country” in the world for women.³⁵ In May, 2013, a High-Level Committee on the Status of Women (HLCSW) was established by the Government of India (Ministry of Women and Child Development) in May 2013 on the advice of the Committee of the Governors, which had been constituted by the president of India. The committee was tasked with conducting an extensive analysis of the state of women since 1989 and developing suitable policy responses based on a current evaluation of women's socio-cultural, educational, legal, and economic requirements.

The committee members’ assessment on the status of women in India was pretty alarming, and the report stated that:

“India is a male-dominated society in which the economic, political, religious, social and cultural institutions are largely controlled by men. This control over women’s livelihood choices and sexuality has existed and evolved over centuries through various discriminatory social practices and institutions. A combination of family, caste, community, and religion reinforce and legitimize these patriarchal values. Stereotyping of women and their roles continues in public and private institutions. Media, both state and private, with its huge potential to influence and change mindsets unfortunately has not been harnessed for this.

This paradoxical situation of women in India is alarming. On one hand they are worshipped as goddesses, while on the other burnt for dowry. Boys are more desirable and seen as a support for parents in their old age and as necessary to continue the family lineage. Girls are considered an unwanted burden yet used to support their brothers and men and suffer in silence atrocities such as abuse, violence, rape and early marriages. When and if they break their silence, the repercussions are immense.

*Discriminatory practices such as child marriages, dowry, honor killing, witch hunting and gender-based sex selection indicate profound vulnerability of, and inequality towards, girls and women in Indian society. Child marriage is a denial of childhood, with irreversible consequences, especially for girls. Dowry devalues women. Witch hunting is a way to control women who does not conform. Gender-based sex selection eliminates girls from families and societies, altering the social fabric and causing further vulnerability to abuse and violence for those who live. Honor killing is a barbaric violation and humiliation of girls and women”.*³⁶

But in India, there are such places where women’s position in the society is far better than the rest of the country. And that is the north-eastern states of India. The north-eastern

states consists of Meghalaya, Manipur, Mizoram, Arunachal Pradesh, Nagaland, Tripura, Assam and Sikkim.

SIKKIM SCENARIO

The north-eastern states of India differ largely with mainland India in terms of its culture and language. And one such state is Sikkim. Sikkim is known as one of the most beautiful states in India, nestled between the mountains, its progress in every field have been very steady. Sikkim has recorded several significant gains in the human development indicators after merging with India as a 22nd State of Indian Union:

1. The infant mortality rate dropped from 60 in 1991 to 51 in 1997.
2. Literacy rate went up from 7 percent in 1951 to almost 70 percent in 2001.
3. Close to 83 percent of 6-17 year old children attend school.
4. In 1998-99 as against the national average of 47 percent, 21 percent of children below 3 years were malnourished, the lowest among all the Indian states and Union Territories.
5. Per- capita net state domestic product is more than double in real terms between 1980 -1990 rising from Rs. 1571 in 1980-81 to Rs. 9472 in 1995-1996. This was 63 percent higher than income reported in Bihar.
6. Physical indicators of quality of life also suggest reasonable provisioning of many basic amenities in Sikkim according to the National Family Health Survey for 1988-89.
7. Over 80 percent of household have electricity as against 60 per cent for all India.
8. Almost 85 percent of household have drinking water that is piped or is hand pumped as against 78 percent for India as a whole.
9. Closed to 73 percent of household have a toilettes or latrine facility as against 36 percent for the whole country.³⁷

The women folk of Sikkim play an important role in the development of their state. The Sikkim Human Development revealed that the state has the best gender parity performance among the north-eastern states, with female labor force participation at 40 percent, much higher than the national average of around 26 percent. With the support of the

government the women in Sikkim have been able to uplift themselves in the society. According to the National Family Health Survey, 2016 (NFHS 4), 41 percent women in the state have 10 or more years of schooling- much better than the country's average of 36 percent. Only 15 percent women, age 20-24 years, were married before the age of 18 years as against the national average of 27 percent. All the data however signifies that women in Sikkim are more empowered than women in other parts of the country.

Sikkim's women enjoy a large amount of freedom and space, but their struggle cannot be overlooked. During the monarchical rule, the Chogyal of Sikkim had issued a royal proclamation which stated that Sikkim's women would lose their citizenship rights if they married a non- Sikkimese. This later became null and void due to Sikkim's merger to the Union of India. The existence of gender inequality can be determined also in terms of inheritance of property where many Sikkimese women have challenged the Sikkim Succession Act, 2008 which does not allow a Sikkimese woman married to a non- Sikkimese or those who have acquired a foreign citizenship, to inherit any ancestral property, movable or immovable. In Sikkim, neither the Hindu Succession Act 1965 nor the Indian Succession Act 1925 has been extended or enforced pertaining to succession of properties (movable and immovable), because most of the women are tribal.

SIGNIFICANCE OF THE PROBLEM

“Women rights are human rights”, a phrase first used by Hillary Rodham Clinton, the First Lady of the United States, on 5th September 1995, at the United Nations Fourth World Conference on Women in Beijing. Women enjoy various rights as according to the law yet women are never treated equal because of their gender. Women are human too but the society and its deep rooted patriarchy as always treated women as lesser human than men.

To raise women's social standing, economic independence, political participation, and professional development, numerous laws have been passed. The majority of the rights for women's empowerment are provided by the Indian Constitution, international agreements, and the Universal Declaration of Human Rights. To improve the status of women, the government has introduced a number of welfare programmes. In spite of all of this, crimes against women are on the rise and growing alarmingly. Civil and penal laws in India fall

short to provide for adequate protection. The guidelines given by Supreme Court in Vishaka vs. Union of India are not adhered to by the organizations. There are no effective legislative measures to combat sexual harassment. Till today, in India the problem is not recognized by the legislature except the Supreme Court verdict in the Vishaka case.

In Sikkim, cases of sexual harassment at workplace is seldom reported which gives a false indication that this kind of violence against women does not exist in the State. But, one must understand that sexual harassment is coercive and mostly lacks evidence. Thus, it does not occur in an open space with too many witnesses; hence, making it hard for the victim to prove that she has been sexually harassed. There is a necessity for an exclusive study of sexual harassment at work place in India in view of a diverse socio-economic, political, legal and cultural sphere.

REVIEW OF LITERATURE

The review of literature is a vital step to conduct any research in order to build knowledge in a particular topic of study. There are various aspects of sexual harassment and extensive amount of work have been published regarding various issues relating to women in various journals, books, newspapers, blogs etc. The literature for the study was collected keeping in mind the objective of the study. Firstly, to understand the kinds of violence women face in their day to day lives it was very important to study the status of women overtime. Meera Seth in her book, *“Women and Development: The Indian Experience”*, has comprehensively analyzed the changing status of women based on regional and religious lines. Seth also attempts to highlight about women’s development programs since independence. Slowly and steadily women became aware of their rights and privileges. Education and political participation brought women to the forefront of the nationalist struggle and other movements for social change. Geraldine Forbes in her book *“Women in Modern India”*, have meticulously researched and written about the reforms that were undertaken in the nineteenth century to modernize women in India.

Gender being another important aspect of violence against women, the study on gender based violence and sexual harassment of women at workplace in particular is analyzed

through authors like Dr. Martha Farrell, who had extensively worked on the construction of the concept of sexual harassment from a layman's view to a much wider idea of it in legal terms. Dr. Farrell's, *"Engendering the Workplace: Gender Discrimination and Prevention of Sexual Harassment in Organizations"*, gives a vivid detail of gender mainstreaming in institutions and also provide rationale preventive measures on sexual harassment in organizations. Dr. Martha Farrell along with Feisal Alkazi, and Priti Jain has also incorporated various methods and illustrations to help its readers reflect and analyze the deeply rooted beliefs and old aged customs related to gender in a training manual titled *"Gender on the agenda"*. The manual acts as a handbook for consultation and workshops on sexual harassment of women at workplace and should be read along with the POSH Act 2013. *"Gender and Politics in India"*, edited by Nivedita Menon is a collection of essays reflecting upon key issues of gender and environment, gender and work structure, gender and law, and largely on women's movement in India. It deals with a wide range of issues relating to women and its impact at different level but unlike Nisha Agrawal's , *"Her Right to Equality- From Promise to Power"*, Menon has failed to highlight the reality of gender equality enshrined in the Constitution of India and its applicability in real life situations where patriarchal norms prevent women from exercising their rights.

Romana Asmat and Sidra Mehboob in their article *"International Laws and Policies for Addressing Sexual Harassment in the Workplace"*, published in International Research Journal of Interdisciplinary and Multidisciplinary Studies (IRJIMS), elaborately discuss about sexual harassment as a global issue and not as a private issue between the harasser and the victim. It emphasizes on the legal measures each nation has drawn to regulate harassment. Dr. H.O. Agarwal's book *"International Law and Human Rights"* is divided into two parts. Part I deals with International Law and the second part discusses about various international conventions and treaties on human rights. R.C. Jiloha's, *"Sexual Harassment of Women at Workplace: Mental Health and Social Aspects"*, discusses the crucial subject of mental health and social aspect of sexual harassment of women at workplace. The discussion about legal aspect is also looked into but the issue of psychological consequences which are hardly touched is explored logically. Dr. Arundhati Bhattacharya's article, *"Indian Women in the Workplace"* looks over the issues women face in their day to day life and at workplace in particular. Bhattacharya emphasizes on the discrimination at workplace and the safety issue at public spaces and tries to highlight the rights conferred to women as a citizen of India in order to protect them from being victims if such abuse. An article by Punam Sahgal and

Astha Dang, “*Sexual Harassment at Workplace Experience of Women Manager and Organizations*” attempts to explore the dynamics of sexual harassment of women managers at workplace. It seeks to explore the adequacy of the existing provisions of law in the protection of women against sexual harassment and study about the experience those women managers go through in a personal level when their dignity is jeopardized.

Since sexual harassment is a wide topic, so studying it in the regional context felt important. South Asia is home to various kinds of faith, ethnicity and social practices and the women in the region also have evolved with time. Crimes against women is not a new phenomenon in the region and “*Women, Security, South Asia- A Clearing in the Thicket*” edited by Farah Faizal and Swarna Rajagopalan , addresses a number of issues relating to women in general but most importantly, it explores women’s perspective on security in South Asia. The book emphasizes on the nature of security and its difference in understanding by women and men at large and seeks to address this question in the South Asian context. Crimes against women are also rampant in academic spaces, bullying, ragging and sexual harassment at university, schools and colleges are now and then reported by the media. “*Sexual Harassment is Endemic in Academic Spaces: An Insiders’ Perspective*”, by Leena Pujari in Economic and Political Weekly talks about the culture of misogyny and sexism which is endemic in academic spaces and she also argues that most of these forms of sexism are so subtle and implicit that they are difficult to recognize and thus, easily pass off as innocuous statements, comments or actions. The law on sexual harassment in India mandates every institution to constitute internal committee to look into matters of harassment in the academic spaces. It is the University’s onus to conduct workshops and seminars on sexual harassment to spread awareness among the staffs, teachers, and the students.

Legally, sexual harassment has been recognized by the judiciary and without the proper understanding of the Indian Penal Code it is impossible to examine legal provisions in a correct perspective. K. D. Gaur’s, “*Textbook on Indian Penal Code*” is an important book to look at the judicial provisions present in the ambit of law in India. Gaur discusses landmark judgments with each provision which is helpful in the understanding of the law and furthermore will be helpful in the formulation of future policies. “*Sexual Harassment: The Conundrum of Law, Due Process, and Justice*”, by Monica Sakhrani in Economic and Political Weekly reflects on the loopholes of the legal system of India and how the law aims to provide a safe working environment for women but have failed to keep Bhanwari Devi

outside the scope of the current law, whose gang rape led to the petition being filed in the Supreme Court. “*Sexual Harassment and the Limits of Speech*”, by Rukmini Sen in Economic and Political Weekly deeply analyzes various perspective on consent, Sen argues that not speaking does not mean remaining silent, and neither does silence mean consenting to a certain act.

“*Handbook on Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal Act, 2013)*”, Government of India, Ministry of Women and Child Development, November 2015, and the “*Handbook for Internal and Local Committees on Prevention, Prohibition and Redressal of Sexual Harassment of Women at Workplace*” prepared by Martha Farrell Foundation for Social Justice, Empowerment and Welfare Department, Government of Sikkim (2016), provides a comprehensive analysis on the genesis of the act, the definition of each term related to sexual harassment of women, the procedures to be followed while dealing with cases of sexual harassment of women at workplace. It also includes scenarios related to harassment of women at workplace for the better understanding of the problem. “*Some General-Social, Economic, History, Geo-Political and Cultural Aspects of Sikkim (India): A Review*”, by Bishnu K Sharma and Lokesh Chettri, published in the International Journal of Arts and Social Science, Volume 3, Issue 5. The review shows data on the amount of research work published in the context of Sikkim, by different scholars on different fields, like history, geography, politics, economy etc., from the year 2000 to 2020. “*Women ‘Pursuit’ for Rights and Empowerment among Sikkimese Society*”, an article by Neelam Rai highlights the status and women in Sikkim and recommends suggestions to empower women from both rural and urban areas to become self reliant. “*The Gazetteer of Sikkim*”, published by Sikkim Nature Conservation Foundation provides valuable information on the rich cultural heritage of the state. In-depth knowledge of the erstwhile kingdom of Sikkim it’s physical and geographical positions, the customary laws and religious traditions has been explained thoroughly in this book.

Annual Reports from Home Department, Rural Management Development Department, Health and Family Department, Labor Department, Social Justice and Welfare Department and various reports and data from the State and District Legal Service Authority and the Women’s Commission, Sikkim provided valuable information on the State’s commitment in eliminating various forms of violence against women.

RESEARCH GAP

A review of the existing literature on sexual harassment at work place reveals that though other forms of violence against women have been addressed fairly, there is a major lacuna in the study on sexual harassment at workplace in Sikkim. So far, the literature on the topic is scarce. Hence the researcher felt that, there is an immense need for the study of sexual harassment of women at work place in the context of advancing the understanding of the problem through a socio-cultural and legal perspective.

OBJECTIVES OF THE STUDY

The specific objectives of the present study are:

1. To trace the historical, constitutional, legal and international instruments on violence against women in India and Sikkim in particular.
2. To examine the presence of sexual harassment as a form of violence against women at all levels of society in India and Sikkim in particular.
3. To examine the factors responsible for sexual harassment at workplace as a basic human right violation in India and Sikkim in particular.
4. To examine the roles played by NGOs and other statutory bodies in curbing workplace harassment in India and Sikkim in particular.

RESEARCH QUESTIONS

1. How do the societal restrictions, customary laws and tradition lead to harassment of women in general and working women in particular in Sikkim?
2. How responsive is the Indian legal system to deal with the issue of harassment of women at workplace in Sikkim?
3. Does the Government of Sikkim consider women rights as basic human rights issue?
4. What are the existing mechanisms implemented by the government of Sikkim to address the issue of sexual harassment of women at workplace?
5. What roles do the NGOs play on the issue of sexual harassment of women at workplace in Sikkim?

METHODOLOGY

The problem is selected with a great interest keeping in mind the significance and impelling needs to study the prevalence of workplace sexual harassment against women in Sikkim. The study is empirical in nature, as the researcher has analyzed the existing legal provisions and landmark cases to develop a theoretical understanding. Beside this, the problem deals with the socio-cultural and legal dimensions of sexual harassment of women at workplace only. Material and information were collected from various sources. Official documents and reports published by the government have been considered as primary source and scholarly journals, books, and media publications have been considered as secondary source. Web sources have also been accessed to collect data from public domain. The researcher has adopted ethnographic method to deal with the core dynamics of the study. The research was conducted through interviews with officials' of various departments; the questions asked were open-ended with a few leading questions to keep the respondents on track. The researcher took notes of the answers in a notebook and the medium of language used was English and Nepali. Since the researcher was familiar with both the languages it was not difficult to conduct the interview. Permissions were also taken to access data and observe the work culture of organizations in the state which was vital for the research. A questionnaire survey in the four district of Sikkim was also conducted exclusively with women employees of the State. Analysis was carried out on the basis of collected data in the light of research question.

CHAPTERISATIONS

The present study will be divided into five chapters dealing with different dimensions of the problem.

Introduction

Chapter 1- Sexual Harassment in India- A Theoretical Perspective

Chapter 2- Nature of Sexual Harassment of Women in Sikkim

Chapter 3- Existing Constitutional Provisions and Laws on Sexual Harassment of Women at Workplace.

Chapter 4- Role of the Government of Sikkim and NGOs in the Protection of Sexual

Harassment of Women at Workplace.

Chapter 5- Field Visit Report and Concluding Analyses.

OVERVIEW OF THE CHAPTERS

Introduction- in the introduction of my thesis I have distinctly described about my area of research with an extensive literature review. The literatures are of eminent researchers, social activists and policy makers of Sikkim and India at large who have extensively worked on the field of women empowerment, gender and law. I have also mentioned the research gap that I have analyzed from the literature review and have pointed out some major research questions which have been vividly discussed in the following chapters.

Chapter-1 examines the theoretical perspective on sexual harassment of women. The historical background on the nature of harassment against women in India, the status of women in ancient India and the development of the concept of harassment in India will be discussed briefly in this chapter. The recognition of the problem and different forms of harassment present in ancient India such as Purdah, Sati, Devadasis, and Child Marriage etc., will be analyzed. An attempt will be made to inquire into causes that are responsible for harassment of women in ancient India till today where women's participation in workforce of the country is increasing day by day. Also the role of SAARC in combatting violence against women will be analyzed in purview of a regional scenario of sexual harassment. An attempt will also be made in this chapter to explain sexual harassment taking in account different theories. Theories of why crime, atrocities and violence against women occur; which provide insight into the changes necessary to prevent and eradicate them. Sexual harassment at work is a complicated phenomenon, because it cannot be explained solely as the result of individual psychopathology. Sexual harassment is a multi-dimensional problem that is prevalent at the workplace.

Chapter-2 examines the nature of sexual harassment of women in the state of Sikkim. This chapter contains discussion on the history, geography, economy and culture of the state

to understand the status of women in Sikkim in general. The role of women during the monarchical period, their rights and traditional norms of village panchayat in places like Lachen and Lachung in North Sikkim known as the 'Dzumsa', will be studied in this chapter. The chapter also discusses about the difference between sex and gender. The term sex and gender are often used interchangeably, but in reality they are two different terms. It should be remembered, however that there is a huge difference between allegations of sexual harassment, sexual abuse and sexual assault. Sexual abuse and assault have a clear and concise line of demarcation which define the offense and leave little doubt when a violation upon a person has been committed.

Chapter-3 will deals with the existing constitutional provisions and laws on sexual harassment of women at workplace. The guidelines prescribed by Supreme Court in *Vishaka* case are tested in detailed. Response of the judiciary is discussed through the detailed analysis of the case laws. The principles of gender equality are enshrined in the Indian Constitution in its preamble and fundamental rights under Articles 14, 15 and 16. Article 21 of the Constitution guarantees the dignity of women. Apart from constitutional provisions, India also ratified various International Conventions and Human rights instruments to secure equal rights of women. Several commissions have been set up by the government to look into the matter of status of women in the Indian society. There are provisions under sections 509, 294 and 354 of the Indian Penal Code dealing with obscenity, eve-teasing and sexual harassment of women. Though sexual harassment at work place is an age-old problem, women have been left to deal with it on their own or sometimes with the support of women's organizations. Increasing participation of women in all fields of work, changes in social attitudes towards women have not shown much progress. The effective legal measures taken by the judiciary to counter sexual harassment of women at workplace will be studied in detail in this chapter.

Chapter-4 critically examines the role of NGOs and Statutory Commissions in curbing sexual harassment. The efforts of Government of India and the Government of Sikkim and various women's organizations and NGOs, to enlighten the women about sexual harassment, legal measures and research are highlighted. It will also covers the assistance extended by National and State Women's Commission, and National and State Human Rights Commission in prevention, prohibition and redressal of sexual harassment act in the state of Sikkim. The Sikkim State Women's Commission work hand in hand with the Social Justice, Welfare and Development Department to organize workshops and trainings for women on various kinds

of violence against women in the State. The State's Legal Service Authority provides free legal aid and counseling to the aggrieved.

Chapter-5 evaluates the entire study and draws the conclusions based on the research questions. There is no doubt that Sikkim has been working towards making workplaces safe for women. Compared to other states in India, Sikkim has time and again proved to be the best state in many areas of state development but as the finding goes deeper as what is on records is not implemented in action. An extensive field survey was carried out through interview, field study and a questionnaire form of enquiry in the four towns of the four districts of Sikkim namely- Gangtok in East District, Soreng in West District, Mangan in North District and Namchi in South District; with two hundred respondents who worked in both the organized and the unorganized sectors. The study was carried out over the span of four months starting from 18th of April, 2019 till 10th of August, 2019. The study started from the East District as it is also known as an administrative hub of the State. The respondents included government officials, lawyers, bankers, university students, journalists, and members of NGOs, factory workers, hoteliers, MGNREGA workers, ASHA workers and human rights activists. The study meted out how traditional and social restriction on women poses a problem for them in complaining against sexual harassment at workplace. Women belonging to the rural areas are a little hesitant to talk about anything that has a sexual connotation. A major understanding of what constitutes sexual harassment came into light as many women had an idea that sexual harassment is only about physical sexual abuse. The study highlights that women are considered a weaker section because in most cases the harasser is in a senior position. Hence, this signifies that there is a need to create awareness on the SHW Act, 2013, as most women are unaware of their rights and also the Act needs to be implemented as mandated by the law. The study clearly indicates that there is a lack of awareness among the employers and employees about the act. The compliance to the law is inadequate and no further course of action for penalty have been prescribed for employers not complying to the provision of the act. There are more organizations which still have to constitute committees like the hospitals and small enterprises having more than 10 employees. Since more and more women are joining the workforce, sexual harassment at workplace is still to be recognized as a serious issue in Sikkim. Sexual harassment at the workplace is a universal problem. Even though the occurrence of sexual harassment at the workplace is widespread in India and elsewhere, this is the first time it has been recognized as an infringement of the fundamental rights of a woman, under Article 19(1) (g) of the

Constitution of India ‘to practice any profession or to carry out any occupation, trade or business’. The safety and security of women should be considered vital if women are to be empowered. But the absence of report of any case of violence against women does not hold a valid reason to claim of the safety index being high in the state.

SCOPE AND LIMITATIONS OF THE STUDY

Since the scope of sexual harassment of women is wide, the study is confined only to workplace sexual harassment of women with reference to Sikkim and India at large during 2000 to 2015; as the problem deals widely with human behavior, which is too subtle and complex and is influenced by so many factors; physical, social and psychological. Hence the researcher limited the scope of the study only to socio-cultural and legal dimension.

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CHAPTER 1

SEXUAL HARASSMENT OF WOMEN IN INDIA- A THEORITICAL PERSPECTIVE

HISTORICAL BACKGROUND ON THE NATURE OF HARASSMENT AGAINST WOMEN IN INDIA

The status of women has never been static. Different societies look women in different ways. The religious scriptures depicted women being worshipped as Durga, Kali, Saraswati and many others. Women occupied a very important position, in the ancient Bharat Varsa, in fact far superior position to the men of the time. “Shakti” a feminine term means “power” and “strength”. Literary evidence suggests that kings and towns were destroyed because the rulers troubled a single woman. For example, Valmiki’s Ramayana teaches us that Ravana and his entire kingdom were wiped out because he abducted Sita. Veda Vyasa’s Mahabharata teaches us that all the Kauravas were killed because they humiliated Draupadi in public.¹

In the ancient time, women enjoyed both their freedom and their roles; as wives were considered ‘Ardhangini’ or the better half and ‘Swahadharmini’ or the equal partner. There is also a whole lot of philosophical significance attached to the concept of god as ‘Ardhanareeswara’, that is half man and half woman. As Radhanakrishnan puts it, “the image of ‘ardhanareeswara’ signifies the mutual relationship of man and woman, the idea of co-operative, interdependent, separately incomplete, but mutually complete masculine and feminine functions. This is the vision of ideal towards which both men and women strive”.²

The Rig Vedic Women in India enjoyed respectable position in the society. They were well educated and were free to take decision regarding their marriage through ‘Swayamvar’, an assembly held in ancient India where the bride had the liberty to choose her groom from a group of suitable men. There was no sati system or early marriage. But from enjoying free and esteemed positions in the Rig Vedic society, women started being discriminated since the later

Vedic period in education and other rights and facilities. Child marriage, widow burning, the purdah and polygamy further worsened the women's position.³ Girls were married off at the age of 8-10. They were not allowed access to education and were treated as the material being. The plight of women can be imagined by one of the shloka of Tulsidas where he writes "Dhol, gawar, shudra, pashu, nari, sabtadan keadhikari". Meaning- that animals, illiterates, lower castes and women should be subjected to beating. Thus women were compared with animals and were married off at an early age. The child marriage along with it brought some more problems such as increased birth rate, poor health of women due to repeated child bearing and high mortality rate of women and children.⁴

In medieval India living as a Hindu widow was a sort of a curse. It's a serious issue. Courts are flooded with cases related to death due to dowry harassment by husband and in laws. In ancient times women were given 'Stridhan' when they departed from the house of their parents. This amount of money was given to her as a gift which she can use on her and her children but her in-laws did not have any right on that amount. This amount was supposed to help the girl in time of need. Slowly this tradition became obligatory and took the form of dowry. If a girl brings large amount of dowry she is given respect and is treated well in her new home and if she does not bring dowry according to expectations of her in laws then she has to suffer harassment. Due to this evil practice many newly wedded women of India have to lose their lives.⁵

Purdah- with the Mughal invasion, they brought with them their culture and tradition which had a huge impact on the status of women then. Women were supposed to cover their body, and conceal their face with a veil. Some scholars argue that the purdah was initially designed to protect women from being harassed, but later these practices became a way to justify efforts to subjugate women and limit their mobility and freedom.⁶ There are references that some sort of pardah in shape of ghoonghat was observed in India even before the advent of the Muslims but in present form it emerged with their arrival.⁷

Sati- Smritis and Puranas encouraged the performance of sati (widow burning) rite. Brihaddharmapurana declares that widow, who followed her husband on the pyre though she

commits a great sin does well to the departed soul. The authorities however, prohibit those wives who have not attained the age of puberty or pregnant or have very young children from becoming a sati. But the widows of Brahman and Kshatriyavarana preferred sati than, experiencing the ill-treatment by her relations. Under the rules of Smritis, a widow had to lead an austere life. She slept on the floor and was not allowed to use a cot; she took only one meal a day.⁸ Sati was mostly practiced by Hindu women by sitting on the funeral pyre of her husband and sacrificing her life along with it.

Jauhar- Jauhar was mostly practiced by the Rajput women, in order to save their honor and pride after an attack by invaders when victory seemed impossible for them. The Rajput ladies cared more for their chastity than their lives. A large number of examples of Jauhar during the medieval period have been recorded by scholars e.g. Hamir Deva, the Chauhan warrior of Ranthambore, the strongest fort of Rajasthan where the women committed Jauhar when they found that Alaudin Khilji was likely to win a victory after a long siege of the fort for three months in 1301 A.D.⁹

Child Marriage- this was a common practice in medieval India, when girls were married at a very tender age because they were considered as a burden. Sometimes they were married in order to form an alliance with another kingdom. The birth of a daughter was received with disappointment and not celebrated like that of sons. A wife who gave birth to girls in succession was despised. This had naturally given birth to an evil custom of child marriage, which was given training in domestic affairs rather than education. In view of prevailing circumstances girls were married at an early age of 7-8 years. This naturally implied that the selection of the bride or bridegroom was made by the parents.¹⁰ Child marriage creates a lot of physical and mental problems to a girl.

Devadasis- Devadasis was a custom that was mostly practiced in southern part of India. According to this custom young girls were offered to temples as a servant to Gods and Goddesses. The Devadasis were supposed to dedicate their life towards the service of god and goddesses. They lived near the temples and were to carry out activities of cleaning the temple and taking care of it. In temples as a part of worship these devadasis used to sing and dance for

the god. Slowly some local landlords and kings began to invite temple dancers to perform for their pleasure at personal functions and sexually harass them.

By the second half of the nineteenth century there were reform groups in all parts of British India. They focused attention on sati, female infanticide, polygyny, child marriage, purdah, prohibition on female education, devadasis (temple dancers wedded to the gods), and the patrilocal joint family. Their activity acted as a stimulus and encouragement to reform-minded individuals in other areas, and gradually reformist organizations with an all-India identity began to emerge.¹¹ Reformers like Raja Ram Mohan Roy, Ishwar Chandra Vidyasagar, Jyotirao Phule, Savitribai Phule, Pandita Ramabai and many others have contributed towards the empowerment of women in India. Therefore, through their contribution, much important legislation came into force for the protection of women.

Namely-

- Sati (Prevention) Act, 1829
- Special Marriage Act, 1954
- The Hindu Marriage Act, 1955
- Widow Remarriage Act, 1856
- Hindu Succession Act, 1956
- The Hindu Adoption and Maintenance Act, 1956
- Dowry Prohibition Act, 1961 etc.

After India gained independence in 1947, the Congress government made partial attempts to fulfill the promises it had made to women by declaring in the Constitution the equality of men and women, setting up various administrative bodies for the creation of opportunities for women, and inducting a number of feminists into the government.¹² Woman began to acquire education and was free to participate in social, cultural, political and religious activities. But not all women were subjected to this change; many women in rural India still were illiterate and facing atrocities.

The feminist movements during the 50's and 60's lacked activity but the early 70's saw a rise in the movement through the Shahada and anti-price rise agitation in Maharashtra where

women were in the fore front and the Self- Employed Women's Association (SEWA) and Nav Nirman in Gujarat. The Shahada movement in Dhulia district of Maharashtra was a Bhil tribal landless laborers' movement against the exploitative practices of non-tribal local landowners.¹³ Accounts of Shahada movement say that women were more active than men and that as their militancy grew, they began to take direct action on issues specific to them as women, such as the physical violence associated with alcoholism.¹⁴ India is a country where men predominately control the social, political, religious, economic, and cultural institutions. This control over livelihood choices and sexuality has existed and developed over centuries through various discriminatory practices and institutions, particularly for women.

The first attempt at forming a women's trade union was made in Ahmedabad by Gandhian socialists attached to the Textile Labor Association (TLA). Formed in 1972 at the initiative of Ela Bhatt, who worked in the women's wing of the TLA, the Self- Employed Women's Association was an organization of women who worked in different trades in the informal sector but shared a common experience of extremely low earnings, very poor working conditions (most of them either performed piecework in their homes or toiled in the streets as vendor or hawkers), harassment from those authority (the contractor for home worker and the police for vendor), and lack of recognition of their work as socially useful labor. The aims of SEWA were to improve these working conditions through training, technical aid, and collective bargaining and to 'introduce the members to the values of honesty, dignity and simplicity of life goals reflecting the Gandhian ideals to which TLA and SEWA leaders subscribe.'¹⁵ The Nav Nirman Movement of 1974, which began as a student's movement in Gujarat, chiefly against soaring prices, corruption, and black marketing, became a massive movement joined by thousands of women. In the same year as the Nav Nirman movement developed and was subdued, the first women's group associated with the contemporary feminist movement was formed in Hyderabad. Comprising women from the Maoist movement, the Progressive Organization of Women (POW) exemplified rethinking within the Left, as in the Shahada movement. Maoist women were beginning to stress the existence of gender oppression and to organize women against it; but whereas in the former the question came up through the single issue of wife beating, the POW attempted an overarching analysis of gender oppression in its manifesto, which was largely influenced by Friedrich Engels and August Babel.¹⁶

Stree Mukti Sangathan (Women's Liberation Organization). March 8, International Women's Day was celebrated for the first time in India by both party-based and autonomous organizations in Maharashtra; the Lal Nishan (Red Flag) Party commemorated it with a special issue of the party paper. In August, a Marathi socialist magazine *Sadhana* brought out a special women's issue; in September dalits and socialists organized a conference of *devdasis* (literally, servants of the gods; or temple prostitutes); and in October a number of organizations that had developed out of the Maoist movement, such as the Lal Nishan Party and the Shramik Sangathana, organized a 'United Women's Liberation Struggle' conference in Pune. It was attended by women from all over Maharashtra, including some from left-wing political parties such as the CPI-M, the Socialists, and the Republicans.¹⁷ The declaration of the state of emergency in 1975 by Prime Minister Indira Gandhi interrupted the development of the fledgling women's movement. Many political organizations were driven underground, thousands of activists were arrested, and most that remained at liberty focused on civil rights, such as freedom of speech and association, the right to protest, and the rights of political prisoners. The lifting of the emergency in 1977 and the formation of the Janata Government in 1978 led to a renewal of some of the earlier movements. Women's groups were formed all over the country but mainly in the major cities.¹⁸

Sexual Harassment at the Workplace (SHW) has remained one of the central concerns of the women's movement in India since the early 80s. During the 1980s, militant action by the Forum Against Oppression of Women, (FAOW) Mumbai against the sexual harassment of nurses in public and private hospitals by patients and their male relatives, ward-boys and other hospital staff; of air-hostesses by their colleagues and passengers; of teachers by their colleagues, principals and management representatives; of PhD students by their guides and so on and so forth received a lukewarm response from the trade unions and adverse publicity in the media (FAOW, 1991). But this trivialization did not deter the women's rights activists. More and more working women started taking systematic action against SHW. Baailancho Saad ('Women's Voice') in Goa mobilized public opinion against the chief minister, who allegedly harassed his secretary, through demonstrations, rallies and sit-ins till the minister was forced to resign. In 1990, the same organization filed a public interest litigation to bring amendments in the antiquated rape law that defined rape in the narrowest sense of 'penile penetration into the

vagina'. Several women's groups came forward in support of a new concern about a variety of sexually violent acts against women, including SHW.¹⁹

WOMEN IN MODERN INDIA

Due to the upliftment of women's status in the society by various reformists there were improvements in the lives of women in general. They were educated and participated largely in the workforce of the country especially in agriculture. With the increase in the cost of living more women are taking up jobs to supplement their family's income. But the discrimination against women continues at home and workplace as well, the employers adopt a discriminating attitude towards women as regards to providing safety, equal opportunities, promotions, equal wages and various social benefits. At workplace, women are also suffering from sexual harassment, eve teasing and molestation in the hands of their colleagues, employers and friends.

In this era, where women's participation in the work force is growing, her responsibilities too have doubled. From performing multiple roles in the domestic household space, women have come a long way in balancing both work and home. Hence, there is an urgent need to prevent crimes against women. Despite stringent laws, patriarchal norms and social stigmas still dictates a women's life.

WOMEN AT WORKPLACE IN INDIA

As per Annual Employment- Unemployment (EUS) Surveys conducted by Labor Bureau in the year 2012-13, 2013-14 and 2015-16, the Worker Population Ratio for Female aged 15 years and above according to Usual Status basis are 25.0 percent and 25.8 percent respectively. State/ UT-wise details are given below. Small states like Arunachal Pradesh, Sikkim, Mizoram have fared well in the women employment index than the national capital. The women in Delhi constitute only 11.7 percent of the total worker population ratio for females where as Mizoram rates the highest with 59 percent.

Despite India's progress in every field, women are seen less in comparison to men in the workforce. There are many challenges a women face in the domestic sphere which does not allow her to venture out. And in many parts of India most women are engaged in agriculture and manufacturing jobs. The jobs that are offered to women mostly do not pay them well. And the social stigma attached to women working to contribute towards the family income, reflects the patriarchal mindset on the supremacy of a male as a bread winner. Most women leave jobs after they get married and more after they have children. And even if they work after marriage most of them prefer to find suitable jobs which are near to their homes where they can cater to their domestic work too.

TABLE 1.1

**STATE-WISE WORKER POPULATION RATIO FOR FEMALE AGED 15 YEARS &
ABOVE ACCORDING TO USUAL PRINCIPAL& SUBSIDIARY STATUS
APPROACH* UNDER THIRD, FOURTH AND FIFTH EUS (In %)**

Sl.No.	Name of State/UT/All India	2012-13	2013-14	2015-16
1	Andhra Pradesh	44.9	49.6	47.0
2	Arunachal Pradesh	45.7	56.1	51.6
3	Assam	27.0	33.9	24.5
4	Bihar	10.4	16.7	17.8
5	Chhattisgarh	48.8	51.0	54.2
6	Delhi	11.5	10.0	11.7
7	Goa	20.3	26.0	21.2
8	Gujarat	16.4	24.5	19.9
9	Haryana	15.4	16.5	18.7
10	Himachal Pradesh	56.6	59.4	15.1
11	Jammu and Kashmir	12.3	16.4	7.9
12	Jharkhand	28.4	45.7	48.2

13	Karnataka	32.2	34.5	33.3
14	Kerala	20.3	27.8	23.7
15	Madhya Pradesh	32.1	34.0	17.2
16	Maharashtra	32.8	34.6	32.8
17	Manipur	36.9	50.8	46.4
18	Meghalaya	47.6	58.9	49.9
19	Mizoram	51.7	61.3	59.0
20	Nagaland	33.8	34.7	55.9
21	Odisha	25.3	28.5	23.7
22	Punjab	11.8	9.4	9.4
23	Rajasthan	27.4	33.9	31.9
24	Sikkim	39.5	50.7	48.2
25	Tamil Nadu	35.0	39.6	39.3
26	Telangana	0.0	52.1	42.7
27	Tripura	32.1	31.4	45.3
28	Uttarakhand	20.6	26.4	20.5
29	Uttar Pradesh	11.4	14.0	12.0
30	West Bengal	20.6	17.2	20.5
31	A & N Island	18.5	32.5	25.1
32	Chandigarh	12.2	12.3	8.1
33	Dadra & Nagar Haveli	16.5	10.3	16.1
34	Daman and Diu	8.3	1.9	15.2
35	Lakshadweep	8.9	19.2	15.5
36	Pondicherry	20.9	25.7	28.1
	All India	25.0	29.6	25.8

*Usual Principal and Subsidiary Status Approach – if a person has engaged in any economic activity for a period of 30 days or more during the preceding 365 days, a person is considered as employed under this approach. (<https://textbook.com/question-answer/usual-principal-status-usual-subsi-6054a3e3a63ae287ac7b6c84/amp>)

ROLE OF SAARC IN COMBATTING VIOLENCE AGAINST WOMEN

South Asian Association for Regional Co-operation (SAARC) since its inception in the year 1985 had not given much importance to the issue of violence against women and girls. Only in the year 1997, they expressed their concern over trafficking of women and children. In the 10th SAARC Declaration in 1998, Colombo; the member states discussed on the need for a gender-disaggregated database to catalyze the formulation of national and regional policies and programs with regards to women and the girl child.²⁰ In the 11th SAARC Summit, held in Kathmandu on the year 2002, the member states signed the Convention on Preventing and Combating the Trafficking in Women and Children for Prostitution and collectively endorsed to resolve this issue regionally too.

In 2008, the SAARC Gender Info Base (SGIB) was launched by the SAARC Secretary General at the inaugural session of the Sixth Biennial Conference on Commemorating Beijing, in India with other member countries. SGIB is one of the key goals of the MoU signed between the SAARC and UNIFEM (United Nations Development Fund for Women). The SGIB aims at developing the Info Database by creating a single data and information pool on gender issues, a comprehensive Gender Info Bank.²¹ But, SAARC as an association of South Asian countries have failed to commit towards preventing other forms of violence against women in the region.

Atrocities against women in the South Asian region, in some form or the other are still prevalent. In ancient times it was through purdah, sati, jauhar etc, and in modern times it has been carried forward through sexual harassment, dowry deaths, acid attacks, trafficking etc. The fear of repercussion is understood to be a major reason that prevents women from reporting against her harasser.

THEORIES ON SEXUAL HARASSMENT

The theoretical explanations on sexual harassment of women cannot be summed up taking a single theoretical perspective in consideration. So, in order to have a better understanding, it is important to analyze the cause of the problem through other perspectives as

well. Below explained are some important theories through which sexual harassment of women can be explained and analyzed.

1. Natural or Biological Theory
2. Organizational Theory
3. Sex Role Spillover Theory
4. Feminist Theory
5. Socio- Cultural Theory
 - a) Patriarchy Theory
 - b) Resource Theory and
 - c) Social Learning Theory
6. Inequality Theory
7. Disparate Treatment Theory
8. Psychological Theory
9. Exchange Theory

1. Natural or Biological Theory

Those who belong to the Natural School interpret sexual harassment as a natural sexual attraction between people. According to this model, men have stronger sex drive, and are therefore, biologically motivated to engage in sexual pursuit of women. Thus, the harassing behavior is not meant to be offensive or discriminatory, but is merely the result of biological urges. Its assumptions include a natural, mutual attraction between men and women, a stronger male sex drive, and men in the role of sexual initiators. Biologically men has strong physiological urge for sexual activity hence may exert coercive powers towards women in order to satisfy the sex drive, whereas the other version proposes that, naturally men and women has mutual sexual attraction hence they both are responsible for sexual acts at workplace. This implies that a person may not have an intention of sexual harassment but still would involve in the act owing to the motivation provided by the opposite sex attraction which is a natural attribute, thus harassing behavior may not necessarily be interpreted as offensive or discriminatory. Therefore, according to this model the concept of sexual harassment is a

mistaken one because the relevant interactions are most appropriately viewed as courtship behavior. A key strength of the natural/biological perspective is that it acknowledges the innate human instincts potentially driving sexually aggressive behavior.²²

Critically, the natural or biological theory fails to recognize sexual harassment as a major personal or societal problem, and instead justifies it to be merely a natural sexual tendency in men towards women. The theory itself signifies that men are natural perpetrators and women, a victim.

2. Organizational Theory

This theory proposes that sexual harassment results from the opportunities presented by power and authority relations which derive from hierarchical structures of organizations.²³ Traditionally men held higher positions at home and that had been carried in the organizational structure as well, where women are most likely to be employed in subordinate positions. Hence, leading to asymmetric power relation in the organizational structure where sexual harassment by the senior towards a junior employee is more likely to be prevalent. However, organizational theory does not focus upon these power differentials as being gender specific. Thus, it could be predicted from the organizational theory, that although sexual harassment may be more frequently perpetrated by males (due to workplace gender inequality), it may also be perpetrated by females who occupy positions of power (signs of unifying power). Furthermore, some researchers whose research could be affiliated with organizational theory suggest that sexual harassment by peers or subordinates can be seen as an attempt to gain power or equalize the power differences between the harasser and the victim within the organization.²⁴

The theoretical literature underscores three salient features of organizations with implications for sexual harassment: worker power, workplace culture, and gender composition.

- Worker Power- three sources of worker power have significant potential implications for sexual harassment: self direction, formal grievance procedures, and job insecurity. Power differentials stemming from workers' relative significance in the labor process may

protect some employees from sexual harassment while rendering others more vulnerable. The dominant theory posits that women's subordinated organizational positions lessen their power in relation to potential harassers, rendering them vulnerable to sexual harassment.²⁵

- **Workplace Culture-** A second organizational foundation for sexual harassment is workplace culture. Cultural context and attendant normative expectations for behavior have significant implications for interpersonal dynamics within organizations, shaping behaviors and interactions of workers and management.²⁶
- **Gender Composition-** it is argued that women in male-dominated organizational settings are more likely to be at a greater risk for sexual harassment than a mixed or primarily a female centric workplace.

Weaknesses of the organizational theory revolve around its lack of attention to people's individual differences and how their everyday behavior, stereotypes, and expectations can influence the occurrence of the phenomenon (i.e., a lack of internal coherence and explanatory depth). Nevertheless, organizational theory has played a prominent role in directing professional focus towards the need for effective strategies to combat sexual harassment within the organization and its structural properties.²⁷

3. Sex Role Spillover Theory

This theory is based on the proposition of irrelevant gender-based role expectations that individuals bring to the workplace in guiding their interactions with women. Men hold role perceptions of women based on their traditional role in our culture. When women take jobs outside of these traditional areas to work in the male dominated workplace, men rely on these gender-based expectations when interacting with women therefore, perceiving women in their gender role over and above their work role. The result of the inappropriate expected role is male behavior which is perceived to be sexually harassing. On the other hand, in the female dominated workplace, sex role and work role overlap therefore; higher level of sexual inappropriate behavior is not reported. Therefore, men are more likely to sexualize their experiences, including work experiences, and are therefore, more likely to make sexual remarks or engage in sexualized

behavior, thus accounting for the fact that women experience more sexual harassment than men.²⁸

However, according to Gutek and Done (2001)²⁹ sex-spillover theory fails to make parallel arguments for both men and women, due to the fundamental differences between female and male sex roles. They suggest the need for more thorough analysis and refinement of the theory and more thorough empirical testing.

4. Feminist Theory

During the early 1970s, feminist groups like the National Organization for Women and Working Women's Institute began to raise awareness of the problems of unwanted sexual attention on the job. According to the feminist perspective, sexual harassment is linked to the sexist male ideology of male dominance and male superiority in the society. Therefore, feminists' theories view sexual harassment as the product of a gender system maintained by a dominant, normative form of masculinity. Thus, sexual harassment exists because of the views on women as the inferior sex, but also sexual harassment serves to maintain the already existing gender stratification by emphasizing sex role expectations.³⁰ According to feminist theory, the root cause of sexual harassment of women at workplace lies in gender inequality and asymmetric power dynamics present at the workplace.

MacKinnon, (1979)³¹ maintained that women's inferior position in the workplace and society in general, is not only a consequence, but also a cause of sexual harassment. For him, gender and sexuality are similarly identified as systems of power and domination, with adult men wielding sexual power to assert and maintain dominance over women. Therefore, men and women are likely to experience and perceive sexually harassing behaviors differently because of gender inequality and culturally prescribed expressions of sexuality.

5. Socio-Cultural Theory

This theory asserts that women's lesser status in the larger society is reflected at the workplace structures and culture; consequently, male dominance continues to be the rule.

Historically cultures and societal norms have socialized men into roles of sexual assertion, leadership, and persistence whereas women are socialized to be passive, submissive and gatekeepers. These socio-cultural roles are played out at the workplace, and sexual harassment is the result. Therefore, sexual harassment is a way for men to express dominance and hence they are more likely to be the perpetrators; whereas due to intrinsic physical weakness and submissive behavior, females are the most possible victims. Thus, sexual harassment is only one manifestation of a much larger patriarchal system in which men are the dominant group reflecting the larger society's differential distribution of power and status between the sexes. A woman is perceived as an object of enjoyment under the prevalence of patriarchal culture in the society. The perpetrators of sexual harassment have no regard for women as an equal human being. Therefore, molesting women is a part and parcel of male idea of fun in the society.³²

Tangri, Burt, and Johnson, (1982)³³ posit that sexual harassment serves to manage the male-female interactions according to accepted sex status norms, and therefore, serves to maintain male dominance occupationally, by intimidating, and discouraging women from work.

The socio-cultural theory can be studied widely through various other theories which has a link in the socio- cultural analysis like the Patriarchy Theory, Resource Theory, and Social Learning theory

- a) **Patriarchy Theory**- Patriarchy is described as a social system where men are in higher position in the social structure of a society. Dobash and Dobash (1979) have argued that patriarchy produces gender inequality in marriage and the family setting, and patriarchal norms are often linked to wife assault, and wife beating, which can be viewed as one form of men's exercise of control over women.³⁴
- b) **Resource Theory**- Resource theory suggests that male inflict violence against women to gain power if there is a lack of or an imbalance in key resources (e.g., income, education, occupation) favoring the other partner. For example, a male who wants to be powerful in a relationship but does not have high education, income or occupational prestige may use violence to maintain a dominant position in the household.³⁵
- c) **Social Learning Theory**- Social learning theory as propounded by Albert Bandura suggests that people learn from their surroundings through observation, imitation and

modeling other's behavior. For example, if a child observes violent behavior he or she is likely to imitate it, provided there is no negative consequence.

6. Inequality Theory

According to MacKinnon, practices which express and reinforce the social inequality of women to men are clear cases of sex-based discrimination in the inequality approach.³⁶ Women are sexually harassed because they are women, meaning- women are considered to be subordinate to men, women are vulnerable and considered weaker than men that is the reason women are harassed. Under the inequality approach, when women are harassed by a man they are harassed "because of sex," because it is the social and economic position of women that leaves them vulnerable to harassment.³⁷

7. Disparate Treatment Theory

As a practice, sexual harassment singles out gender-defined group, women, for special treatment in a way which adversely affects and burdens their status as employees. Sexual harassment limits women in a way men are not limited. It deprives them of opportunities that are available to male employees without sexual conditions. In doing so, it creates two employment standard: one for women that includes sexual requirements, one for men that does not.³⁸ This theory by MacKinnon asserts that sexual harassment is a discriminatory practice because it limits woman of the opportunity that a male employee would have without any sexual requirements.

8. Psychological Theory

Sexual Harassment is an unwanted sexual action which may lead to mental and physical stress. Psychological theory takes into account the socio-cultural gender factors of male dominance and the role traditional gender norms play in sexual harassment of women. The theory focuses on the mental and personality traits of the harasser. The theory states that, the desire for power and control often leads to sexual harassment and other kinds of violence against women.

9. Exchange Theory

Rechar J. Gelles feels that the Exchange Theory is the best theory of violence because it integrates the elements of the diverse theories of human violence. According to the Exchange Theory, interaction is guided by the pursuit of rewards and the avoidance of punishment and costs. In addition, an individual who supplies reward services to another obliges him to fulfill an obligation and thus the second individual must furnish benefits to the first. The exchange does not pertain to concrete or tangible things; rather, it involves intangibles such as esteem, liking, assistance and approval. If reciprocal exchange of rewards occurs, the interaction will continue, but if reciprocity is not received, the interaction will be broken off. Thus, actors expect rewards to be proportional to the investments (distributive justice). The costs and rewards are judged in the light of alternatives.³⁹ When the principle of distributive justice is violated the theory explains that resentment and frustration occurs hence leading to violent outcomes.

Hence, all these theoretical perspective accounts for the study of various factors that perpetrates sexual harassment of women at workplace and represents a positive step towards theory building of this problem. A single theory is not adequate to understand this multi-dimensional problem. Though, interpretations of these theories have focused on male dominance in the family, society and at workplace as large. Therefore, it can be said that women have always been victims of various kinds of violence and at workplace too; men consider it normal to harass women. But, the perception of what is deemed as normal can be purely individual.

POSITION OF THEORY IN THE STUDY

Sexual harassment at work is a complicated phenomenon, because it cannot be explained as solely the result of individual psychopathology or faulty communications.⁴⁰ Sexual harassment is multi-dimensional problem that persist in the workplace, the study on workplace harassment in the state of Sikkim can be well understood through the socio-cultural theory with a feminist orientation. Socio-cultural theories examine the problem of workplace harassment through a wider social and political context. It is impossible to understand violence against women without understanding the socio-cultural context in which this kind of violence prevail. According to feminist socio-cultural perspective, sexual harassment is a consequence of the

gender inequality and sexism that exists in the society since time immemorial. The status of women in the society determined their status at workplace as well. The pre-conceived notion of male supremacy has been carried through the domain of workplace which has led to the submissive treatment of women, hence leading to sexual harassment.

Women today have very important roles to play in the development of the country. Both in terms of career and household, women are actively taking up these roles simultaneously, women no longer are staying at home while men go out for work. In fact, a lot of women have taken over government and private sector jobs, which saw lesser women participation previously. This has brought about a power struggle in the family which often leads to disputes within the family and at workplace as well. Complex institutionalized social and cultural factors resulting in unequal power relations between men and women have made women vulnerable to various kinds of violence. The factors that have contributed towards this unequal power relation are socio-cultural factors, the family where power relations are enforced by inherent belief of male supremacy over a women and family at large, at workplace where men have mostly occupied the bureaucratic position. In Sikkim, most of the women in Government offices can be seen at a sub-ordinate position, having given menial responsibilities. According to the Sikkim Human Development Report, 2014, women represented only 12 per cent of workforce in the bureaucratic level in the state in the year 2011. Also the report highlights the presence of proxy panchayats in the state where the male member of the family takes decisions on behalf of a woman panchayat.

Perception plays a crucial role in sexual harassment at workplace, since they are affected by the extent to which individuals interpret signals as offensive or threatening. It is possible to conceptualize causal inference and perception as social processes by which people receive signals from other people and send their interpretations to others.⁴¹ Sexual harassment is a global problem. The sexually-oriented behavior in a workplace may endanger the victim's capability at job and may negatively affect the performance expected at the workplace. It may also undermine the victim's dignity by creating a hostile work environment. Sexual harassment is generally perpetrated by men, but that does not mean all men are perpetrators. The socio-cultural theory examines the behavior of a man through his individual perception of a woman. In Sikkim, almost all the cases studied have had males as perpetrators and females as victims.

CONCLUSION

In order to understand sexual harassment it is essential to understand the nature of the problem and its causes. An insight into background, thoughts, feelings, perceptions and attitude would help understand why this phenomenon does exist in the society and more prominently among men, as men at large are generally seen to be the perpetrators. Thus, multiple factors are needed to take into consideration in order understand the concept of sexual harassment. Hence, to conclude it can be said that the ability to truly understand sexual harassment lies in the understanding of interaction of different variables which results in different types of sexual harassment at workplace.

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CHAPTER 2

NATURE OF SEXUAL HARASSMENT OF WOMEN IN SIKKIM

HISTORY OF SIKKIM

Kingdom of Sikkim started in the 13th century on a formal basis. Guru Tashi, the exile prince of the Minyang Dynasty of Tibet, is generally accorded the status of being the founder of the kingdom in Sikkim. He assimilated the Lepchas and the resident tribes into a kingdom and his descendants formally initiated the rule of the Chogyal kingdom at Sikkim.¹

In the year 1642 Phuntso Namgyal, by proclaiming himself as the king of Sikkim, started the dynastic rule that was to last for nearly 330 years. Sikkim was ruled by Chogyals (kings) since 1642-1975. Chogyals were the monarchs of the former kingdoms of Sikkim which were ruled by the separate branches of the Namgyal family. The Chogyal or the divine ruler was the absolute potentate of Sikkim from 1642 to 1975, when monarchy was abrogated and its people voted in a referendum to make Sikkim India's 22nd state.²

Nestled in the lap of Kanchenjunga, Sikkim is situated in the north-east region of India and is surrounded by three international borders namely, the Tibet Autonomous Region of China to the north, Bhutan in the east and Nepal in the west. Previously a kingdom, Sikkim became a democratic state of India in 1975. Sikkim enjoys special status under Article 371F of the Constitution of India, which recognizes and provides safeguards to protect and preserve the State's unique ethnic character and traditional laws. The article guarantees several privileges to Sikkim including local autonomy in governance, laws restricting people of non-Sikkimese origin to settle in and conduct business in the State, and special provisions related to central taxation.³

GEOGRAPHICAL LOCATION

Sikkim is a tiny hilly state located between 27° 04' 46" and 28° 07' 48" North latitude and 88° 00' 58" and 88° 55' 25" East longitude in the North Eastern Himalayan region covering an area of 7096 Km². It stretches 112 Kms. from North to South and 64 Kms. from East to West.⁴ Sikkim is divided into four districts namely:

- East Sikkim
- West Sikkim
- North Sikkim
- South Sikkim

Completely landlocked and criss-crossed by green valleys, high peaks, and rippling rivers, decorated by a spectacular array of the most exotic and colorful orchids, Sikkim is referred to as *nye-ma-el* (heaven) by the Lepchas, which means 'new palace' in Nepali, and *denzong* (land of rice) by the Bhutias.⁵

A State with a small geographical area comes with its own advantages and disadvantages. Gangtok is the capital city situated in the East District, where all the major departments of the government are located. Connectivity is a major problem in Sikkim especially for the people from the North District. The geo-physical characteristic of Sikkim time and again calls for challenges for the government and its people. The State, being part of the Inner Himalayan mountain ranges, has elevations ranging from 300 to 7000 metres above Mean Sea Level (MSL). Nearly two-thirds of its territory consists of very high mountains, which are perpetually covered with snow from which glaciers like Talung and Zemu descend. These mountains, including the third highest mountain in the world—Kanchenjunga (8,598 m)—are located in Northwest Sikkim.⁶ The occurrence of landslides during the monsoon season and frequent earthquakes also creates havoc in the region. Roads are damaged, sometimes totally washed off, which makes it hard for the government to reach out for help in the affected areas.

DEMOGRAPHY

Sikkim, India's least populous state, reported a population of 610,577 in 2011. It is also the second smallest state in India in terms of land area- after Goa. Population is unevenly

distributed across the state over 7,096 square kilometers. As a result, population density varies enormously across the state. For instance, North Sikkim reports a population density of only 10 persons per square kilometer, as its population of 43,709 people is spread over 4,226 square kilometers. On the other hand, East Sikkim reports a population density of 297, as 46 percent of the state's population resides in this district which is spread over 954 square kilometers. Seventy five per cent of the state's population resides in rural areas, with the rural proportion being as high as 96 percent in Sikkim's West District.⁷ Sikkim is also a member of the Northeast Council. The States in the Northeast Council ((NEC) are characterized as Special Category States (SCS), mostly inhabited by the tribes.

TABLE 2.1

DEMOGRAPHIC FEATURES OF DISTRICTS OF SIKKIM, 2011

Districts	Population	% Urban	Population density (persons per sq km)
East	286,583	43	295
South	146,850	14	196
West	136,435	4	117
North	43,709	11	10
Sikkim	610,577	25	86

Source: Census of India, 2011

CULTURE

There are three main groups of people living in Sikkim, which are the Nepalese, Bhutias and Lepchas. The Lepchas claim to be the aboriginal inhabitants of Sikkim or Sukhim* as it was called in the early years. Sikkim has a diverse culture with the presence of different kind of religion, customs and tradition. Hinduism and Buddhism is the religion that is mostly practiced in the region though there is the presence of other religion as well. Nepali is the common language of communication along with different tribal languages spoken by each tribe.

The splendor and diversity of Sikkim's art, literature, rituals, culture and dances, with its lyrical appeal and richness are incomparable. Sikkim's ethnic communities and sub-communities have their own language and distinctive folk traditions as varied and beautiful as the people themselves. These have been further nurtured and allowed to flourish aided by a series of important initiatives by the state government through the Cultural Affairs and Heritage Department.⁸

ECONOMY

Economically, Sikkim is the fastest growing state in India. In 2012–13, Sikkim reported a per capita income (net state domestic product) of Rs 142,625—the highest among the Northeastern States, higher than all states and Union Territories with the exception of Chandigarh and Delhi, and more than double the all-India average of Rs 68,757. Between 2004–05 and 2011–12, Sikkim's real per capita income more than doubled—from Rs 26,690 to Rs 70,477. In 2004–05, Sikkim ranked 15th; by 2011–12, Sikkim ranked among the top five states in terms of per capita income. Between 2004–05 and 2011–12, Sikkim's real per capita income grew at an annual average rate of around 15 per cent—the highest among Indian states and more than twice the national average of 6.7 per cent per annum.⁹

The reopening of the traditional trade route between Sikkim and Tibet Autonomous region of China in 2006 is to transform the entire development process in and around Sikkim into a robust and flourishing system. For Sikkim, its geographical location has been the main constraint for development. However, the Nathu La trade route has made the same geographical location the most advantageous location. There are indeed very distinct advantages. The Nathu La Trade Study Group has estimated that on the higher side projection, trade flow through Nathu La will be \$48 million (Rs. 206 crore) by 2007, \$527 million (Rs 2266 crore) by 2015. On the lower side projection, trade volume passing through Nathu La route will be Rs. 353 crore in 2010, Rs 450 crore in 2015, and Rs 575 crore in 2020.¹⁰

The hydroelectric potential of Sikkim in Tista and Rangit river system is considerable. There are a few large hydroelectric stations and many smaller plants that provide energy to different urban cities and rural electrification has remained a government priority. Pharmaceutical companies are also inputs in the revenue generation body of state.¹¹

Agriculture and tourism are the main source of income in Sikkim, with unemployment on the rise; Sikkim has shifted to entrepreneurship than regular job market. The Government has also adopted various schemes to boost employment generation. Promotion of eco-tourism, organic farming, adventure tourism etc. is ways to improve the socio-economic status of the state. Apart from agriculture, rural women are involved in weaving, handicrafts, food processing, and crochet making which generates a decent amount of income.

In the Sikkimese society women play a pivotal role in the economic activities. Apart from agriculture, women are involved in trade and business. In the rural areas, women are involved in poultry farming, floriculture, handloom etc. In the urban areas major opportunities in public and private sector have seen a surge in women participation in the workforce. Women in Sikkim enjoy vast freedom which has a significant impact in the human development of the State. However, like any other women all around the world, women in Sikkim too face gender discrimination in one form or the other.

SEXUAL HARASSMENT AS A FORM OF GENDER DISCRIMINATION

DIFFERENCE BETWEEN SEX AND GENDER

Gender is an important analytical concept because it directs our attention towards social and cultural processes and interventions in terms of their differential impacts on men and women and on the relationships between women and men. Gender does not look at women in isolation, it sees men as being an integral part of the picture, and it enables differences between men and women due to class, age, ability or sexuality to become visible. It clearly sees that each individual does not exist as an individual but forms part of a family, then a community and finally part of a society. It should be remembered, however that there is a huge difference between allegations of sexual harassment, sexual abuse and sexual assault. Sexual abuse and assault have clear and concise lines of demarcation which define the offense and leave little doubt when a violation upon a person has been committed.¹²

The meaning of the word 'gender' refers to the definition of men and women in their socio-cultural context. Gender is thus the socio-cultural definition of girls and boys, men and

women given by society. Our societies define what a girl or a boy should wear, or how they should behave. Because societies create gender, their definition can vary from society to society and time to time. Sex is biological and thus, natural. It is given to us by nature and is constant. Except through hormonal treatment and surgeries nobody can change their sex. The term gender and sex are often used interchangeably, but in reality they are two different terms.

In 1945, the United Nations announced gender equality as a fundamental human right, but even today, the rural women are subjected to gender oppression and gender discrimination. The Vienna Declaration specifically condemned gender based violence and all forms of sexual harassment and exploitation. The Conference concluded that:

"The human rights of women and of the girl child are an inalienable, integral and indivisible part of universal human rights. The full and equal participation of women in political, civil, economic and social and cultural life at national, regional and international levels, and eradication of all forms of discrimination on grounds of sex are primary objectives of the international community.... The world governmental and nongovernmental organizations to intensify their efforts for the protection on human rights urge governments, institutions, intergovernmental and nongovernmental organizations to intensify their efforts for the protection and promotion of human rights of women and the girl-child".¹³

GENDER BASED DISCRIMINATION/ HARASSMENT IN SIKKIM

The very basis of gender-based discrimination lies deep within the framework of culture, traditions and beliefs. The presence of gender-based discrimination can be witnessed right from education to legal rights and health to nutrition. Despite the steps taken since the 1960s to reduce gender based inequality, it is estimated by the United Nations that women world-wide contribute 66% of the hours worked, and earn about 10% of the world's income and owns only 1% of the world's property (UNDP Report 2002). India has a very low GDI (gender related development index). The Human Development Report of 2003 places India 103rd in rank out of the 144 countries. Life expectancy, adult literacy, income and school enrolment ratio were the main parameters taken into account while analyzing this report.¹⁴ Gender is a neutral term, which refers to both men and women. And as human being evolved with time into various social, cultural and spiritual concepts, they constructed some social norms for themselves.

Gender is the most significant characteristic of harassment. This socially constructed notion has done more harm than good to the society. Harassment of any sort is totally unacceptable in a civilized society. Women's oppression in every part of the world is a well known fact and in India the purdah system, the practice of sati in the ancient time, female feticide and many more religious and customary laws has always devaluated women's status in society.

In India, a woman is sexually harassed every 12 minutes¹⁵, the figure is recorded may be only due to the rate of crimes that has been reported. Sexual harassment in simple terms is harassment having sexual connotation. Sexual Harassment can be directed towards men as well but in comparison with women, sexual harassment of men is rarely heard of. Mostly, women are the victims of sexual harassment, and in a society where women are looked down, women rarely come forward and speak out. When the case of harassment or any kind of abuse happens with a woman in a society, majority of it goes unreported. The reasons may be innumerable, resulting from victimization, family reputation to social stigma attached to women going to police stations etc. Gender discrimination led sexual harassment is a widespread problem which can occur with anyone but, women and people from LGBTQ community are targeted most often.

Examples of sexual and gender-based harassment:

- Demanding hugs
- Invading personal space
- Making unnecessary physical contact, including unwanted touching, etc.
- Using language that puts someone down and /or comments towards women (or men, in some cases), sex-specific derogatory names
- Leering or inappropriate staring
- Making gender-related comments about someone's physical characteristics or mannerism
- Making comments or treating someone badly because they don't conform with sex-role stereotypes
- Showing or sending pornography, sexual pictures or cartoons, sexually explicit graffiti, or other sexual images (including on-line)
- Sexual jokes, including passing around written sexual jokes (for example, by e-mail)
- Rough and vulgar humor or language related to gender

- Using sexual or gender-related comment or conduct to bully someone
- Spreading sexual rumors (including on-line)
- Making suggestive or offensive comments or hints about members of a specific gender
- Making sexual propositions
- Verbally abusing, threatening or taunting someone based on gender
- Bragging about sexual prowess
- Demanding dates or sexual favors
- Making offensive sexual jokes or comments
- Asking question or talking about sexual activities
- Making an employee dress in a sexualized or gender-specific way
- Acting paternally in a way that someone thinks undermines their self-respect or position of responsibility
- Making threats to penalize or otherwise punish a person who refuses to comply with sexual advances (known as reprisal).¹⁶

SIKKIM SCENARIO

Women constitute nearly 47 per cent of the total population in Sikkim. Table 2.2 shows the sex ratios in Sikkim since 1901. Sikkim's sex ratio (the number of females per 1,000 males) which had been declining in between 1931–1981 has begun to show improvement over the past three decades. In 2011, there were 889 women for every 1,000 men in Sikkim.¹⁷ Unlike other states, dowry death, female feticide, honor killings are not heard of in the state. The status of women in Sikkim is relatively better than the rest of India. Though there are incidents of violence against women, even if it is less in number than other states, its presence in the society cannot be denied.

TABLE 2.2

SEX RATIO- SIKKIM AND ALL INDIA, 1901-2011

Year	Sikkim	India
1901	916	972
1911	951	964

1921	970	955
1931	967	950
1941	920	945
1951	907	946
1961	904	941
1971	863	930
1981	835	934
1991	878	927
2001	875	933
2011	889	940

Source: Census of India, 2011

During the monarchical period, Sikkim had no schemes to empower women. Most parts of state was controlled by the landlords (the Kazis) who “acted as barons” in order to collect taxes for king and rule with an iron grip where no women hold the post of landlords and neither in the kings ministry and the people had to suffer the atrocities in the form of forced labor especially peasant women they were utilized for pleasure by the landlords with the aid of its henchmen. Socially they were exploited and legally they didn’t have any right.¹⁸

In the present scenario, political participation is denied to women in North Sikkim whereas there is 50 per cent reservation in panchayat for women in other parts of Sikkim. The panchayat in places like Lachen and Lachung in North Sikkim is known as ‘Dzumsa’*, where a woman cannot contest the election, neither can she take part in the decision making of the Dzumsa. The Dzumsa is mainly controlled by men and is headed by a Pipon (panchayat head) who also happens to be a man. It somehow is similar to the Khap Panchayats mostly found in North India in terms of women participation but unlike Khap it does not involve in honour killings or any kind of violence against women.

There is a marked difference in terms of women in rural and urban Sikkim. Women in rural area are illiterate as compared to their counterparts in the urban area. Due to which women’s role is limited only to domestic sphere. The burden of household responsibilities is a major factor in women not being able to use her capacity to the fullest. The enrollment of girl child in higher education is poor as many would drop out due to early marriage and once if the girls get married they didn’t have any chance to continue their studies as they would

enter into early motherhood and in the rarest cases the family of husband gave opportunities to their daughter-in-law to continue their studies.¹⁹ But unlike the national figure female literacy rate in Sikkim is higher.

TABLE 2.3

LITERACY RATE OF SIKKIM, 1981-2011

Year	% of population aged 7 and above	
	Males	Females
1981	46	22
1991	66	47
2001	76	60
2011	87	76

Note: Figures have been rounded off.

Source: Census of India, 2011.

It is clear from the below table 2.4, that there is a difference in the gender gap in literacy among the rural and urban population. In the year 1981 there was a gap of 22 per cent where as in 2011 the gap has decreased to 11 per cent. Slowly and steadily the gap is seen to be narrowing by each decade.

TABLE 2.4

GENDER GAP IN LITERACY (in per cent)

	1981	1991	2001	2011
Rural	22	17	16	12
Urban	16	11	8	8
Sikkim	22	10	15	11

Note: Figures have been rounded off.

Source: Census of India 2011.

Women's work is an important underpinning of society and economy in Sikkim as it is elsewhere. The fact that in 1999 the number of women headed households in Sikkim's rural

areas (143 per thousand) was higher than the national average indicates not only the impact of migration but also the status accorded to women in the State (refer Table 2.5).

TABLE 2.5

FEMALE HEADED HOUSEHOLD IN SIKKIM 1999 (Per 1000 Household)

Residence	Sikkim	India
Rural	143	104
Urban	83	99

Source: Government of Sikkim, Sikkim in Brief, Bureau of Economics and Statistics, Gangtok, June 1999.

In health care, Sikkim is better in comparison to other states of India. The practice of traditional medicine by the Jhakri, Bonbo, Dharni (faith healers) with their knowledge of various herbal medicines found in the mountains was the primary health care people used to avail and even today, they are widely respected. The Government of Sikkim spent Rs 1,082 per person every year on health as against the national average of Rs 242. A direct consequence of this has been the relatively lower burden of private out-of-pocket expenditures—28 per cent—as against almost 8 per cent for the average Indian in 2004–5.²⁰ The most important public hospital is Sir Thutob Namgyal Memorial Hospital, in Gangtok. In the year 2012, Sikkim’s infant mortality rate was reported to be 24 per 1000 live birth which was lower to the national average of 42. There is no discrimination in the feeding practices between a male and female child. Though, most of the women are found to be anemic. The Body Mass Index (BMI) for the year 2005- 2006 was also found out to be lower than the rest of northeastern states and India at large as indicated in the table 2.6.

TABLE 2.6

CHILD SURVIVAL AND WOMEN’S NUTRITIONAL STATUS: SIKKIM AND NORTHEASTERN STATES 2005-2006

	Female infant mortality rate, 2012	% women 15-49 years whose BMI is below normal 2005-06
Arunachal	35	16.4
Assam	57	36.5

Manipur	11	14.8
Meghalaya	50	14.6
Mizoram	37	14.4
Nagaland	22	17.4
Sikkim	27	11.2
Tripura	29	36.9
India	44	35.6

Source: Sample Registration System Survey and National Health Family Survey- 3, 2005-2006.

The major health concern in the state in the present scenario is substance abuse and alcoholism which directly or indirectly impacts the social fabric of the state. A study on the profile of substance abusers in the emergency services wing of a tertiary hospital in Sikkim shows that out of the 54 patients seeking emergency services, the age range of the substance abusing (all drugs) population was 19 to 68 years, with a median of 36 years. It was seen that the predominant substance abuse-related emergency attendance was related to alcohol (77 per cent). At the same time, alcohol withdrawal (57 per cent) has been the most common cause of attending the emergency ward. The study highlights that alcohol and drug abuse are important public health concerns for the state to tackle.²¹ The consumption of alcohol is common in Sikkim, the importance of the use of alcohol can be seen in the religious customs and tradition followed in Sikkim. Alcohol is easily available in the state and its consumption most of the time has led to violent outcomes. Same is with drug addiction.

An analysis of data on recovering addicts from three rehabilitation centers in Sikkim revealed that only 17 per cent of substance abusers seeking treatment were female, whereas a staggering 83 per cent were male. This shows that alcohol-and drug-related problems are male-centric in Sikkim. In terms of occupation, most of the recovering male addicts were unemployed, followed by those working in the lower end of the bureaucracy or some private business, drivers or, in a few cases, retired servicemen. Among females, around 66 per cent of the addicts were housewives, 14 per cent were government servants, 12 per cent were in private jobs and 6 per cent were students.²² The increasing number of crimes in the state can be attributed to the consumption of alcohol and drugs. Due to alcohol consumption people face domestic violence in Sikkim. Behind every closed door people face domestic violence and alcohol is one of the important factor that leads to domestic violence.²³

TABLE 2.7**EXPERIENCE OF DOMESTIC VIOLENCE 2005-2006**

	% of women age 15-49 who have experienced violence, 2005-06				
	Emotional violence	Physical violence	Sexual violence	Physical or sexual violence	Emotional, physical or sexual violence
Arunachal	16.6	37.5	9.5	38.8	43.0
Assam	15.6	36.7	14.8	39.5	42.7
Manipur	13.9	40.7	14.0	43.8	46.2
Meghalaya	7.1	12.6	1.6	12.8	15.0
Mizoram	11.0	22.0	2.0	22.1	25.1
Nagaland	12.6	14.0	3.0	15.3	21.3
Sikkim	10.2	14.8	4.8	16.3	18.8
Tripura	22.8	40.9	19.0	44.1	46.6
India	15.8	35.1	10.0	37.2	39.7

Source: National Health Family Survey 3, 2005-2006.

Data from the National Family Health Survey-3 shows that, domestic violence reported by women in the year 2005-2006 between the age group of 15–49 years was lower in Meghalaya with 15 per cent while Sikkim took the second position with 19 per cent among all the northeastern states. But compared to the national figure of 40 per cent, Sikkim has much lower figure.

An analysis of the 493 cases registered with the Family Counseling Center reveals the following about the profiles of victims:

- 94 per cent of victims of domestic violence are married.
- More than 90 per cent are aged 16–45 years. Only 7 per cent of victims are above 46 years.
- 15 per cent victims are illiterate, 20 per cent have studied up to the primary level, 27 per cent have studied up to Class VIII, 22 per cent are educated up to the secondary level and only 4 per cent of the total complainants are graduates.

- Housewives are the most vulnerable group and account for almost 65 per cent of the complainants. Another 9 per cent are government employees, mostly belonging to Class III and IV categories.
- 32 per cent of complainants belong to the Other Backward Classes (OBCs), 29 per cent to Scheduled Tribes (STs), 25 per cent belong to the Most Backward Classes (MBCs), 12 per cent to Scheduled Castes (SCs), and 2 per cent to the mainstream communities.
- 34 per cent of the perpetrators (often the victim's spouse or father) are government employees, mostly in Class III and IV categories.²⁴

TABLE 2.8

**CASES OF VIOLENCE AGAINST WOMEN REGISTERED IN THE
CRIME BRANCH, 2001 - 2011**

District	Molestation		Cruelty by husband/relative		Dowry		Total	
	No. of Cases	% of Total	No. of Cases	% of Total	No. of Cases	% of Total	No. of Cases	% of Total
East	68	33	22	52	0	0	90	36
South	75	37	10	24	0	0	85	34
West	54	26	8	19	1	100	63	26
North	7	3.4	2	4.8	0	0	9	3.6
Sikkim	204	100	42	100	1	100	247	100

Source: Crime Branch, Police Headquarters, Gangtok 2011.

The Crime Branch having its headquarters in Gangtok, which also lies in the east district of the state of Sikkim, has reported 90 cases of molestation and cruelty by husband or relatives (refer Table 2.8). There has been only 1 case of dowry death that has been reported from the west district in the span of 10 years. The minimum number of cases has been reported in the North district.

TABLE 2.9**TOTAL NUMBER OF CASES HANDED BY THE SCW, 2002–MAY 2012**

Year	No. of complaints Received	Settled	Referred to family court	Nature of cases
2002-03	13	13	-	<ul style="list-style-type: none"> • Desertion • Family Dispute • Matrimonial Dispute • Custody of Children • Maintenance of Allowance • Property Dispute
2003-04	103	103	-	
2004-05	159	159	-	
2005-06	100	100	-	
2006-07	162	159	3	
2007-08	110	100	10	
2008-09	115	110	5	
2009-10	101	96	5	
2010-11	122	110	12	
2011-12	94	94	-	
Total	1,079	1,044	35	

Source: Sikkim State Commission for Women, May 2012.

The above table 2.9 shows, only the cases that have been reported to the Sikkim Women's Commission (SCW). 1,079 cases were received between 2002- May 2012, out of which 1,044 were settled by the SCW and 35 were referred to the family court. Many cases were reported between the year 2000-2015 on sexual harassment and violence against women and girls. Newspapers, e-papers, online media etc. have reported horrific incidents of rapes, murders, molestation. Some of the cases are mentioned below:

CASES

1. NDTV, on November 02, 2010 had reported on a state-wide alert being issued in Sikkim for a 16 year old boy who was on the run after having allegedly raped a three and a half year old girl at Karek village in South Sikkim. The accused had allegedly fled from the village. Police said that the child was waylaid while returning home from an ICDS centre. The rape was confirmed by a medical examination.

(Source: <http://www.ndtv.com/cities/teen-rapes-3-year-old-flees-438031>. Accessed on 16 March, 2021, 8:04 pm)

2. India TV, on February 6, 2013 had reported about a 17 year old girl from Darjeeling was allegedly raped by four men at an unknown place near Gangtok late night. The girl who had come to meet her friend in Gangtok had boarded the luxury taxi with the four accused on board. All four accused were arrested.

(Source: <https://www.indiatvnews.com/crime/news/darjeeling-girl-gang-raped-inside-luxury-taxi-in-sikkim-2606.html>. Accessed on 16 March, 2021, 8:30 pm)

3. India TV, on 13 March, 2013 had reported about an 11 year old girl who was allegedly raped by a man in south district of Sikkim. The girl was allegedly raped by 22 year old Rakesh Gurung who was reportedly employed as a domestic help in her house at Palak Bermiok, South Sikkim on Monday. The girl had accompanied Gurung when he went to collect firewood in the forest Gurung allegedly raped the girl in the forest and fled when she became unconscious. The girl's mother found her and rushed her to Namchi hospital. The police arrested Gurung who was hiding in Pabong jungle.

(Source: <http://www.indiatvnews.com/crime/news/year-old-girl-raped-in-south-district-of-sikkim-crime-news-2878html>. Accessed on 16 March, 2021, 8:50 pm)

4. Sikkim Police in their face book page writes- As per the local news reports, a 12 year old minor girl was sexually assaulted by some unknown person(s) on 31/12/2014 evening at Burtuk, East Sikkim. The victim had gone out of the house to dispose of the garbage. However, when she did not turn up, her father started looking for her and finally found her crawling over the stairs near their residence in between 9:30 pm-10 pm completely wet and cold with blood clot in her nostrils. She was evacuated to Central Referral Hospital, Tadong, Sikkim wherein the doctor stated the possibility of sexual assault on the victim girl. A case u/s 376 IPC r/w Section 4 of the Protection of Children from Sexual Offence Act, 2012 has been registered at Sadar Police Station against unknown person(s) and efforts on to identify and arrest the offender (s).

(Source-

<http://www.facebook.com/348545705193638/posts/pfbid02DF2iG5oX3x6FEuj5gDhFBn4AdStYkWfjrb5iMFZAPwFJ3puZ9tdwFZyUH4l/?app=fbl>. Accessed on 27, November, 2022, 4: 54 pm)

5. The Voice of Sikkim on March 18, 2015 reported about a 17 years old school going girl raped by her own maternal uncle at Taluk in Lingdok, 9th mile below Pangthang in East Sikkim. The girl is eight months pregnant and is being kept in the shelter home. In that matter, the social welfare department got the information and immediately filed an FIR against the uncle. Similarly, another case of rape of a 19 year old, mentally challenged lady was also reported from the same locality when the first case came into highlight.

(Source:

<http://www.facebook.com/thevoiceofsikkim/photos/a.392310087528493/823155944443903/?type=3&app=fbl>. Accessed on 27 November, 2022, 5:11 pm)

6. News18 on November 23, 2012 reported about a 13 year old boy who has been arrested on charges of separately raping two minor girls, aged 5 and 9 years, at Gyalshing in West Sikkim. In another incident, a 19 year old boy sexually assaulted a 69 year old woman twice in her house in at Namchi in South Sikkim in the wee hours when she was alone by barging in.

(Source: <http://www.news18.com/news/india/sikkim-13-year-old-arrested-for-raping-two-minor-girls-523103.html>. Accessed on 23 November, 2022, 1:05 pm)

All the above cases are just few cases that have been taken as an example that the state of Sikkim though must be better for women than other states but have still a long way forward in implementation of a strict legal system for the safety and security of women and children specially- a girl child. Because of all the cases mentioned above there were only women and girls who were victims of such heinous crimes. Boys at a very tender age are committing such crimes indicates of the kind of socio-psycho environment they have been in.

EVOLUTION OF WORKPLACE SEXUAL HARASSMENT IN SIKKIM

There has been a shift in the occupational trends for both men and women. With the enhancement of educational opportunities and opening up of employment avenues in the state, the dependence on the primary sector has decreased drastically over the past forty years. The percentage of the working population in agriculture as cultivators has decreased

from 81 per cent in 1971 to 38 per cent in 2011. Similarly, the percentage of female cultivators has gone down from 92 per cent to almost 48 per cent during the same period. The increase in the proportion of the population engaged in the non-agricultural sector from 15 per cent in 1971 (taking household industries and the ‘other work’ category together) to around 54 per cent in 2011 makes it amply clear that there has been a shift to the secondary and tertiary sectors. This shift is also reflected in the rise of female workers in the non-agricultural sector from almost 5 per cent to 41 per cent in this period. The agricultural labor category which was 9 per cent in 2001 has increased to 12 per cent in 2011.²⁵

TABLE 2.10

DISTRIBUTION OF WORKERS IN SIKKIM BY PERCENTAGE, 2001 & 2011

Persons	Total worker		Main worker		Marginal worker		Non- worker	
	2001	2011	2001	2011	2001	2011	2001	2011
Total	49	51	39	38	9	13	51	50
Males	58	60	51	50	7	10	42	40
Females	39	40	27	24	13	15	61	60

Note: Figures have been rounded off.

Source: Census of India 2011.

Females in Sikkim form a total of 40 per cent in workforce. But it can be seen from the table above that males constitute 50 per cent as main workers* and women constitute only 24 per cent, but as marginal worker* women constitute 15 per cent than 10 per cent for men.

The emergence of private sector undertaking in Sikkim has opened up employment opportunities. The state government has also initiated schemes like “Educated Women Unemployed Co-operative Society” (EWUCS) administered by the Department of Co-operative Societies, for women to participate in construction and contractual works. Rural women are actively engaged in employment provided by MGNREGA, 47 per cent women are enrolled in this scheme. Self-help groups (SHGs) under the Swarna Jayanti Grameen Swarozgar Yojana are another scheme to help women improve their living condition. As more and more women are joining the workforce, strict legislation for their protection too shall be a priority.

Sexual harassment in Sikkim was relatively a new term. Until in the year 2008, a case of Sexual Harassment was reported by a woman, a peon and a widow aged 37, working in the Central Bank in Sikkim. She filed the case against her Chief Manager belonging to the same branch. According to the Vishaka Guidelines of Sexual Harassment at Workplace there needs to be a committee which deals with this kind of offence in the workplace which unfortunately the Central Bank in Sikkim did not have. The police filed a closure report in the case. A writ was filed in the High Court of Sikkim regarding the absence of an independent committee. The High Court then directed the respondents to create a complaint committee and have proper training to sensitize its employees and carve out policies to prevent cases of sexual harassment in the workplace. The order of the High Court was challenged in the Supreme Court where the Supreme Court gave the following guidelines:

- The State government shall provide comprehensive publicity to the notifications and orders issued by it in adherence to the Vishaka guidelines and the directions issued in the Medha Kotwal case by the Supreme Court and this should be done by publishing all the information in the newspapers having the most circulation in the state after every two months.
- Complete publicity should be given in Doordarshan about the several steps taken by the state government for enacting the guidelines laid down in the Vishaka case and the directions given by the Medha Kotwal case.
- Wide publicity should be given by the social welfare and the legal service authority of Sikkim to the notifications and orders given by the state government for both the government and private institutions.²⁶

Shri Karma Gyasto, Chief Secretary of Sikkim, in compliance with the above mentioned order, filed an affidavit dated 30:1:2012 detailing the steps taken by the State Government for implementation of the guidelines framed in Vishaka case and the directions contained in the orders passed by the Supreme court in Medha Kotwal case. These include the amendment of the Sikkim Government Service Conduct Rules, 1981 vide Notification dated 4:1:12 and sending communications to the private establishments to take steps for constitution of Complaints Committees, etc. Shri J.K Rai, Joint Secretary, Department of Social Justice, Empowerment and Welfare Department (Women and Child Development Division), Sikkim, has also filed affidavit dated 30:1:12 along with the copies of the letters

dated 6:9:2010 and 16:9:2010 issued by the Social Justice Empowerment and Welfare Department, copy of the letter date 13:1:2012 issued by the Department of Commerce and Industries and two other documents showing the steps taken for constituting the Complaints Committees.

Shri Colin Gonsalves, learned Senior Counsel for the petitioner fairly stated that in furtherance of the direction given by the Court on 2:1:2012, the State Government and others have taken steps for implementation of the guidelines framed in Vishaka case and the directions given in Medha Kotwal case. He then submitted that the State Government may be directed to give wide publicity to the notifications and orders issued by it. Shri A.K Ganguli, learned Senior Counsel appearing for the State of Sikkim submitted that his client is prepared to take all steps necessary for full compliance with the guidelines framed in Vishaka case and the directions given in Medha Kotwal case.²⁷

It took sixteen years for the enactment of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal Act, 2013. Like the Vishaka judgment, the law too opens by linking workplace sexual harassment to fundamental rights. It mandates that all employers must have a policy against workplace sexual harassment. This will contribute to realization of their right to gender equality, life and liberty and equality in working conditions everywhere. 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 behavior of sexual harassment. Act is unique due to the fact that it covers both the organized and unorganized sector. The Act includes Organizations, Government Departments, Office, Branch Unit etc. in the Public and Private Sector, Hospitals, Nursing Homes, Educational Institutions, Sports Institutes, Stadiums, Sports complex and any place visited by the employee during the course of employment including the transportation. Even non-traditional workplaces which involve tele-commuting and domestic workers are also covered under this law.

Under Section 4 of the Sexual Harassment of Women at Workplace Act, it is mandatory that every employer is required to constitute a Internal Complaint Committee at each office or branch with 10 or more employees and under section 5, a Local Complaint Committee is to be constituted where there are less than (10) Ten employees. The District Officer is required to constitute a Local Complaint Committee at each district, and if required

at the block level. Under Section 26 of the Act, employers who fail to comply with the provision of the said Act shall be punished with a fine up to Rs.50, 000/- (fifty thousand).

Sexual Harassment in Sikkim came into forefront with the case of Seema Lepcha v. the State of Sikkim. The appellant who became a victim of sexual harassment but could not succeed in getting the wrongdoer punished filed a writ petition under Article 226 of the Constitution for issue of a mandamus to the official respondents to implement the guidelines framed by the Court in Vishaka v. State of Rajasthan. By the impugned order, Seema Lepcha vs. State of Sikkim, decided on 29:10:2010 (Sikkim), the Division Bench of the Sikkim High Court disposed of the writ petition by simply relying upon the statement made by the learned Additional Advocate General of Sikkim that the State Government is prepared to bring a proper legislation in terms of the guidelines framed in Vishaka case.²⁸ As per the provisions of Section 4 and 5 of the said Act, the Social Justice, Emp. & Welfare Department of Sikkim (Nodal Department) has directed all the Government Departments, Government/Private Educational Institutions, Private Companies/Factories, Public Undertakings, Hotels, Banks to constitute the Internal Committee where the number of employees is more than 10 (ten) and a Local Committee where the number of employees are less than 10 (ten). Any aggrieved women i.e. the victim of sexual harassment may make a complaint before the Internal Committee or the Local Committee.

Further, the Social Justice, Empowerment and Welfare Department vide Notification No: 54/WCDD/2015-16 dated: 25.01.2016 has notified all District Collectors as District Officers to exercise the powers and to discharge the functions under the provision of Section 5 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act, 2013.

CONCLUSION

Apart from the crimes, Sikkim has certain areas of concern in order to uplift the status of women and girls in the State:

- Girls are denied higher education because most of the time they are required to move out of their homes and sometimes even out of the State in search for better educational institutions. Same is the case in terms of employment.

- Women continue to face discrimination regarding citizenship right, inheritance, marriage etc. A woman loses her Sikkimese citizenship if she marries a non-Sikkimese, whereas a Sikkimese man does not lose his citizenship or his inheritance even if he marries non-Sikkimese women.
- Domestic violence, suicide, rape, molestation, work place harassments are reportedly becoming common in Sikkim's society. In the domestic sphere though Sikkimese society is not known for women oppression in the form of dowry, sati, female infanticide etc. but there is widely presence of domestic violence and violence against women by the study conducted by Society for Promotion of Art, Culture, Education and Environment Excellence (SPACE) which emphasis "that 50 percent of women are battered by men and almost 4.8 percent by their in laws/relatives with the approval of their husband" (SPACE; 2002) and in their research strongly recommended for the constitution of body (Government and NGO's) which will ensure protection of women from domestic violence.²⁹

ENDNOTES

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⁵ Lama, Mahendra P. *Sikkim Human Development Report, 2001*, Government of Sikkim, Social Science Press, Delhi, p. 5.

⁶ Rai, op. cit., p. 5.

⁷ Sikkim Human Development Report, 2014, op. cit., p. 2.

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⁹ Ibid.

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¹⁹ Subba, Bitu. 2014. Women Quest' for Empowerment in Sikkim's Society, *International Journal of Scientific and Research Publications*. 4 (9), p. 2.

²⁰ Lama, op. cit., p 13.

²¹ Lama, op. cit., p. 61.

²² Lama, op. cit., p. 61.

²³ Lepcha, Passang. 2017. *Patterns of Alcohol Consumption and its Impact on Domestic Violence: A Case Study of Sikkim*, (M.Phil Dissertation), p. 72-73.

²⁴ Lama, op. cit., n. 3, p.64.

²⁵ Lama, op. cit, n.3, p. 53

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²⁷ Seema Lepcha v. State of Sikkim, Civil Appeal No. 132 of 2012, decided on February 3, 2012

²⁸ Seema Lepcha v. State of Sikkim & Ors, (2013) 11 SCC 641;2012 (2) SCALE 635.

²⁹ Op. cit., n.19, p. 3.

*Sukhim in lepcha language means the new house.

*Dzumsa means a gathering place.

CHAPTER 3

EXISTING CONSTITUTIONAL PROVISIONS AND LAWS ON SEXUAL HARASSMENT OF WOMEN AT WORKPLACE

Women face various forms violence throughout their life, starting from birth to old age. The consequences of this violence directly cause physical, sexual and mental trauma and if seen in a larger framework there are social and economical consequences to it. Sexual harassment can occur with anyone and it can be carried out by a man against a woman or vice versa and a man against another man, or a woman against another woman. But primarily it has reportedly occurred more against a woman than a man. The reason behind such act of violence is innumerable but most importantly the unequal power relation between a man and a woman plays an important role. In present times when violence against women are on a rise, it's important for a nation to provide women with a dignified life and what better than a proper legal system for the safety and security of its people.

The Sustainable Development Goals Report 7th July, 2022 shows some alarming facts which are-

1. More than 1 in 4 women (15+ years) have been subjected to intimate partner violence at least once in their lifetime.
2. Only 57 per cent of women (15 to 49 years) are making their own informed decisions on sex and reproductive health care.
3. It would take another 40 years for women and men to be represented equally in national and political leadership.¹

GLOBAL SCENARIO

Globally, over 2.7 billion women are legally restricted from having the same choice 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, and husbands can legally prevent their wives from working.² Over the years, sexual harassment at workplace has emerged as a topic of serious concern all over the world; and every nation has initiated legal reforms to address the issue according to its own legal capacity. In Germany, a survey indicated that 93% of working women were victims of sexual harassment as of 1998. Nearly 6 out of 10 nurses in Australia have experienced sexual harassment. In the United States over 50% of women employees had been sexually harassed. In Canada 51% of women reported having experienced sexual violence at least once.³

In many countries, provisions on sexual harassment have been included in their equality and sex discrimination laws, including in: Australia (Sex Discrimination Act); Austria (Equality of Treatment Act); Denmark (Gender Equality [Consolidation] Act); Finland (Act on Equality between Women and Men, 1995); Germany (Act to Establish Equality for Men and Women); Guyana (Prevention of Discrimination Act, 1997); Honduras (Law on Equal Opportunities for Women); Iceland (Act on the Equal Status and Equal Rights of Women and Men); Ireland (Employment Equality Act, 1998); Japan (Equal Employment Opportunity Act); Republic of Korea (Equal Employment Act); Lithuania (Law on Equal Opportunities); Malta (Equality for Men and Women Act); Mauritius (Sex Discrimination Act); Netherlands (Equal Treatment Act); Norway (Gender Equality Act); Romania (Law on equal opportunities); South Africa (Employment Equity Act); Sweden (Equal Opportunities Act, 1991); Switzerland (Law on Equality); and Venezuela (Organic Law on the Rights of Women to Fairness and Equality). The argument made is that, since sexual harassment is directed primarily at women, they are disproportionately subjected to detrimental treatment in the labor force and it is therefore a form of sex discrimination. The sex discrimination approach is particularly prevalent in countries in which equality or anti-discrimination legislation is the only route available to victims of sexual harassment.⁴ Sexual harassment at workplace is increasingly being recognized as a violation against women's dignity and her rights, and around the globe specific laws should be formulated in order to have a healthy working environment for its citizens.

SOUTH ASIA SCENARIO

South Asian women are both negative and positive agents of patriarchy. As most of the countries in the region share a common practice of patriarchy, women in the region can be

attributed in taking this culture forward. From serving food first to the men in the family, to abiding every decision taken by them; women have placed themselves as secondary to men with such practices. As mothers, they protect their daughters from any harm but as mothers-in law they try to establish their dominance over their daughters-in-law because in the hierarchy she finds herself to be in an authoritative position.

Women in South Asia are mostly engaged in agriculture. They are a diverse group and their experience varies from land preparation, seed transplantation, weeding etc. Women in Bhutan and Nepal are mostly engaged in agriculture (refer table 3.2), women constitutes half of the labor force in South Asia, but their work are considered menial. Most lucrative positions as trading are taken by men. The exploitation of women as cheap or un-paid labor is not new phenomenon. As seen in table 3.2, the percentage of female workers in Bangladesh and Nepal is 42 per cent and 40 per cent respectively, which is higher than other countries in the region. But in the industrial and service sector the participation of women are low in the region.

TABLE 3.1
WOMEN IN WORKFORCE IN SOUTH ASIA

SI No.	Women in the Workforce	Bangladesh	India	Nepal	Pakistan	Sri Lanka
1	Total labor force (millions)	64	431	11	49	8
2	Female labor force (% of total)	7.66	24.73	32.97	13.18	26.92

Source: 1. World Bank, <http://genderstats.worldbank.org/SummaryGender.asp>. 2. World Bank, 1996, Social Indicators of Development- Database Search Result, <http://www/ciesin>

TABLE 3.2**SECTORAL DISTRIBUTION OF LABOURFORCE IN SOUTH ASIA**

COUNTRY	PERCENTAGE LABOUR FORCE IN			PERCENTAGE OF FEMALE WORKERS
	Agriculture	Industry	Service	
India	62	11	27	32
Pakistan	47	20	33	27
Bangladesh	59	13	28	42
Nepal	93	1	6	40
Srilanka	49	21	30	36
Bhutan	92	3	5	32
Maldives	25	32	43	22

Source: Human Development in South Asia, 1997- 2000.

The Constitution of **Bangladesh** under Article 10, 19 and 27, provides its citizens, equal opportunities without any discrimination on sex, religion or race. Special provisions under Article 28 and 29 are provided for backward classes including women. Though Bangladesh has many laws but laws on harassment and violence are yet to be implemented strongly. Article 14 of the constitution of Bangladesh provides that, "it shall be a fundamental responsibility of the State to emancipate the toiling masses the peasants and workers and backward sections of the people from all forms and exploitation". Sexual harassment is also punishable under Bangladesh Penal Code 1860. Article 509 of the Bangladesh Penal Code provides that "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."⁵ Section 332 of the Labour Act, 2006 of Bangladesh also states that no person shall behave

inappropriately or indecently with any woman in any establishment. In 2009, the High Court Division of the Supreme Court of Bangladesh issued guidelines on sexual harassment.

In **Nepal**, the Sexual Harassment Prevention Act came into effect on February 20, 2015 and is integrated under the Labor Act, 2017. The act addresses sexual harassment at workplace with an objective of protecting the right of every individual at workplace and providing a safe working environment. Unlike India, the Sexual Harassment Prevention Act in Nepal is gender neutral.

In **Bhutan**, the Labor and Employment Act (LEA) 2007 governs the private and corporate sector while Civil Servant Act, 2010 (CSA) governs the civil service. Section 16 to 19 of LEA prohibits all forms of sexual harassment and defines sexual harassment as “making an unwelcome request for sexual favors to the other person; or engaging in any other unwelcome conduct of a sexual nature in relation to the other person.” The penalty for sexual harassment is a criminal offence attracting a petty misdemeanor and fine up to 3,000 days in based on minimum national wage.⁶

In **Pakistan**, the Protection against Harassment of Women at Workplace Act came into effect in 2010, to provide women with safe and secure working environment. A total 24119 of violence against women cases were reported in Pakistan during 2008-10 among of which only 520 workplace harassment cases were filed. Beside that the newspapers and electronic media portrayed few cases of sexual harassment at workplace, which showed that the workplace in Pakistan is not safe for women.⁷

In **Maldives**, the Employment Act, 2008 gives equal opportunity of employment without any discrimination on sex to its citizens. But a report of the Human Rights Commission of the Maldives, 2013 found that workplace harassment had occurred to at least one in five women surveyed. They were sexually harassed. The Sexual Harassment and Abuse Prevention Act, 2014 was passed by the Maldivian Parliament to address sexual harassment in workplace and educational institutions.

In **Sri Lanka** there are some laws related to sexual harassment. Unsolicited sexual propositions in the workplace which are linked to benefits and career advancement, or further harassment, dismissal, etc., can be prosecuted under the Bribery Act of 1954, since it falls within

the realm of bribery. The Constitution of Sri Lanka (1978) also provides for the non-discrimination of women and it is possible to file a fundamental rights application or public interest litigation, in order to obtain justice in the case of sexual harassment and subsequent victimization. Under Sections 345, 365A and 365B of the Penal Code, there is provision to prosecute persons who in public or in private commit or are party to the commission of any act of gross indecency with another person without his or her consent. Sri Lanka has also ratified all eight Core Conventions of the International Labor Organization which includes ILO Convention 111 on Discrimination (Employment and Occupation) ensuring decent work for all without discrimination UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).⁸

INDIAN SCENARIO

In India, the issue of sexual harassment came on the forefront with a brutal gang rape of Bhanwari Devi, in the state of Rajasthan. On 22nd September, 1992 Bhanwari Devi was working in the field with her husband Mohan Lal Prajapat, when she was sexually assaulted by five men. On 5th May that same year, she had stopped one of them from performing the wedding of his nine month old daughter girl child along with campaigning against child marriage, dowry, female feticide etc. The attackers were from one of the village's elite family. They were Gujjars, a higher caste in the hierarchy than Bhanwari Devi. Bhanwari Devi filed an FIR (First Information Report) against her offenders but from the FIR to. As a saathin (grass root worker) in the Rajasthan government's women's development programme, Bhanwari's work was to spread awareness on family planning, education of a medical examination, every mandatory step in the investigation was carried out carelessly, even negligently. In late 1992, the National Commission for Women intervened to order that the district administration prosecute the case.⁹ In 1995, all five accused were acquitted, and one of the arguments in their favor was that upper-caste men could not have raped a lower-caste woman.¹⁰ There has been one hearing of the appeal against this by the Jaipur High Court, and more than twenty-five years later, Bhanwari Devi has not received justice.

Stunned by the verdict, a writ petition was filed in the Supreme Court under the collective platform of Vishaka, a women's organization, along with four others, led to the Supreme Court directives which were to serve as guidelines on prevention of sexual harassment of women until the enactment of the Sexual Harassment Act in 2013. These directives, termed as the Vishaka Guidelines were part of the historic judgment passed on 13 August 1997. It recognized that sexual harassment of working women amounts to violation of the rights of gender equality, violation of the right to practice any profession, occupation, and trade.¹¹

It included-

- a) A definition of sexual harassment
- b) Shifting accountability from individuals to institutions
- c) Prioritizing prevention
- d) Provision of an innovative redress mechanism

The Supreme Court defined sexual harassment as any unwelcome, sexually determined physical, verbal, or non-verbal conduct. Examples included sexually suggestive remarks about women, demands for sexual favors, and sexually offensive visuals in the workplace. The definition also covered situations where a woman could be disadvantaged in her workplace as a result of threats relating to employment decisions that could negatively affect her working life. It placed responsibility on the employers to ensure that women did not face a hostile environment, and prohibited intimidation or victimization of those cooperating with an inquiry, including the affected complainant as well as witnesses.

It directed for the establishment of redressal mechanism in the form of Complaint Committee, which will look into the matters of sexual harassment of women at workplace. The Complaints Committees were mandated to be headed by a women employee, with not less than half of its members being women and provided for the involvement of a third party person or an NGO expert on the issue, to prevent any undue pressure on the complainant. The guidelines extended to all kinds of employment, from paid to voluntary, across the public and private sectors.

Vishaka established that international standard/law could serve to expand the scope of India's Constitutional guarantees and fill in the gaps wherever they exist. India's innovative history in tackling workplace sexual harassment beginning with the Vishaka Guidelines and subsequent legislation has given critical visibility to the issue. Workplaces must now own their responsibility within this context and ensure that women can work in safe and secure spaces.¹²

A survey by the Indian National Bar Association of over 6,000 employees found that sexual harassment was pervasive in different job sectors, ranging from lewd comments to an outright demand for sexual favors. Most women, it found, chose not to report sexual harassment because of the stigma attached to it. In 1997, the Supreme Court provided the women in India with the Vishaka guidelines, these guidelines were followed with the International Conventions and treaties regarding gender equality. One such convention was 'Convention on the Elimination of All Forms of Discrimination against Women'; whereby every signatory to it has to take steps in order to eradicate discrimination against women. Supreme Court emphasized on Article 11 – Article 24 of the Convention in order to frame the guidelines. Article 11, states that the State Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular –

- Right to work
- Right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

The general recommendations of Article 11 are that equality in employment can be seriously impaired when women are subjected to gender specific violence, such as sexual harassment at work place; hence, States should take all the necessary measures to protect women from sexual harassment and other forms of violence of coercion in the workplace.

Article 24 states that “State Parties undertake to adopt all necessary measures at the national level aimed at achieving the full realization of the rights recognized in the present Convention”.

India ratified this resolution with some reservations in 1993, whereby India made official commitment, inter alia, to formulate a national policy on women which will continuously guide and inform action at every level and in every sector:

- To set up a Commission for Women's to act as a public defender of women's human rights;
- To institutionalize a national level mechanism to monitor the implementation of the Platform.¹³

The Constitution of India aims at protecting the rights of women; they have equal rights as men so as to enable them to actively participate in the administration of the country. The fundamental rights under Article 14, 15 and 16, Article 21 of the Constitution guarantee the dignity of women and principles of gender equality are enshrined in the Indian Constitution in its preamble. The directive principles of the state policy contained in part IV of the Constitution under Article 38 and 39 directs the state to provide equal right and equal status for men and women to adequate means of livelihood. Article 42 of the Constitution directs the state to make provision for securing just and humane conditions of work and for maternity relief. Under Article 51- A (e) it is the fundamental duty of every citizen to renounce practices derogatory to the dignity of women.

Apart from Constitutional provisions, India also ratified various International Conventions and human rights instruments to secure equal rights of women. The Industrial Employment (Standing Orders) Act, 1946 is an act which complements the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 also known as Prevention of Workplace Sexual Harassment Act (POSH) , it classifies sexual harassment as a misconduct which might lead to suspension or dismissal from work. The Industrial Employment Act 1946 requires an employer employing a minimum of 100 workers; to clearly define the terms of employment example- working hours, working shifts, wage rate etc., in order to minimize the exploitation of workers.

Sexual harassment of women is also prohibited in higher educational institutions by the University Grant Commission (Prevention, Prohibition and Redressal) Act, 1956. The Act is not

only limited to the area of the institution but includes hostels, parking space, transportation provided by the institution, cultural programs, seminars, sports meet etc., where the employee or the student of the institution is participating. The Act does not limit between employee-employee relations, but also extends to employee-student or student-student. The Act includes third party harassment, which states that sexual harassment can occur due to the conduct of an outsider who comes as a visitor to the institution. The UGC guideline mandates to constitute GSCASH (Gender Sensitization Committee against Sexual Harassment) in all higher educational institutions and conduct training for the internal complaint committee members. The act also states that, it's the responsibility of the higher educational institution to have a safe environment for women in the campus with zero-tolerance policy towards sexual harassment of women.

Sexual harassment of women at workplace is a form of violence against women, which is a global menace and is a huge violation of women's basic human rights. Violence against women takes place every day, all over the world and its impact on an individual, family and society is myriad. Theories of why crime, atrocities and violence against women occur provide insight into the changes necessary to prevent and eradicate then the fact that the vast majority of crime atrocities and violence committed against women is committed by men raises the question, "Why do men batter women?" We believe that a root cause of woman abuse is the pervasive social belief system that posits male superiority over women as natural and preferred. Moreover, there exists a broad-based social belief that women are inferior and that it is their role to be subservient to men. We also acknowledge that this belief system of "domination over" can be adopted by women as a framework for relationships to men as well as their relationships with one other. Because these beliefs pervade so much in our society and its institutions, eradicating violence against females will require changes at the most fundamental levels of society. These changes must eliminate policies and practices perpetuated by the male-dominated culture that sexualize women as objects, demean their value, restrict their participation in decision making, dehumanize them with labels, control their rights over their own bodies, and marginalize and demean their presence.¹⁴

Sexual Harassment is an unwanted coercive behavior and women are much more likely to experience this kind of violence because they are often perceived as a vulnerable group in the society. As such, with a perception like this there is no place in the world where women's

position in the society is at par with men. Gender on the agenda- A training manual published by PRIA (Participatory Research in India), New Delhi, states that- at the time when provisions of the law regarding sexual harassment were very narrow, yet even so in between 1983-1990 the number of reported molestations increased from 75 to a shocking 20,194. The range of women who have been affected by such harassment include health workers, gram sevikas, nurses, midwives, development workers, teachers, domestic workers, factory workers and those employed in office jobs.

In January 2013, a three member commission headed by a former Supreme Court Chief Justice, Jagdish Sharan Verma, submitted a detailed report examining possible amendments to the criminal law to provide for quicker trial and enhanced punishment for sexual assaults against women.¹⁵ The committee's report also reviewed the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Bill, 2012 passed by the Lok Sabha (lower house of the parliament) in September 2012 and concluded that "read as a whole, the Sexual Harassment Bill is unsatisfactory" and did not adequately reflect the spirit of the Supreme Court's Vishaka Judgment.¹⁶ However the Rajya Sabha (upper house of the parliament) passed the bill a month after the committee's report, without taking any of commission's recommendations into account.¹⁷ The Verma Committee report also recommended to delete section 10 (1) of the bill, which provides for conciliation between the complainant and respondent. This, the committee said violates the mandate prescribed by the Supreme Court in Vishaka, because "attempts to get justice cannot be muscled by attempts at conciliation."¹⁸ The law also has other weaknesses say activists principally that it treats sexual harassment at the workplace as a women's issue, monitored by the Ministry of Women and Child Development instead of a labor issue, handled by the Ministry of Labor and Employment. "If you ask labor department officials about sexual harassment, they have little idea," said Nandita Bhatt, director of the Martha Farrell Foundation. "For years, we worked to make this into a labour issue, but now it has become a women's issue."¹⁹

Separately, the National Commission for Women also held regional consultations with women's rights activists, lawyers, and retired judges to review the existing provision in the

POSH Act and submitted its final recommendations to the Ministry of Women and Child Development in July, 2019.²⁰

INDIAN PENAL CODE

Apart from the SHW Act, there are certain provisions under Indian Penal Code (IPC) which deals with harassment against women. Sections 509 deals with uttering any word or making any verbal sound with an intention to insult a woman may lead to an imprisonment of 1 year and fine. Section 294 deals with obscene acts and songs in any public place, which will lead to imprisonment up to 3 months or fine or both. Section 354 of the IPC, deals with outraging the modesty of a woman; which may lead to imprisonment; not less than 1 year and may be extended to five years; and fine. After the Nirbhaya case, the Criminal Law Amendment Act, 2013 introduced changes to the IPC and sexual harassment was incorporated as a punishable offence under Section 354 A of the IPC.

The working women often face this kind of violence from their colleagues or employers. Women working in unorganized sectors, fields and mines are often sexually exploited by contractors, factory owners, supervisors and their male colleagues. Though sexual harassment at work place is an age-old problem, women have been left to deal with it on their own, probably because of the lack of awareness. Below is the list of crimes against women that were registered between the years 2011 to 2015.

TABLE 3.3

CRIME HEAD-WISE CASES REGISTERED UNDER CRIME AGAINST WOMEN DURING 2011 – 2015

Sl. No.	Crime Head	Year				
		2011	2012	2013	2014	2015
1	Rape#	24,206	24,923	33,707	36,735	34,651
2	Attempt to Commit Rape*	-	-	-	4,232	4,434

3	Kidnapping & Abduction of Women	35,565	38,262	51,881	57,311	59,277
4	Dowry Deaths	8,618	8,233	8,083	8,455	7,634
5	Assault on Women with Intent to Outrage her/their Modesty	42,968	45,351	70,739	82,235	82,422
6	Insult to the Modesty of Women	8,570	9,173	12,589	9,735	8,685
7	Cruelty by Husband or His Relatives	99,135	1,06,527	1,18,866	1,22,877	1,13,403
8	Importation of Girl from Foreign Country	80	59	31	13	6
9	Abetment of Suicide of Women	-	-	-	3,734	4,060
A	Total IPC Crime against Women	2,19,142	2,32,528	2,95,896	3,25,327	3,14,575
10	Commission of Sati Prevention Act	0	0	0	0	0
11	Indecent Representation of Women (P) Act	453	141	362	47	40
12	The Dowry Prohibition Act	6,619	9,038	10,709	10,050	9,894
13	Protection of Women from Domestic Violence Act	-	-	-	426	461
14	Immoral Traffic (Prevention) Act	2,436	2,563	2,579	2,070 #	2,424
B	Total SLL Crime against Women	9,508	11,742	13,650	12,593	12,819
	Total (A+B)	2,28,650	2,44,270	3,09,546	3,37,922	3,27,394

Source: Crimes in India, 2015, National Crime Records Bureau, Ministry of Home Affairs, Government of India, New Delhi.

‘*’ Newly included crime head; ‘#’ Exclude child rapes registered under the section 4 & 6 of Protection of Children from Sexual Offence Act 2012.

Table 3.4

**PROPORTION OF CRIME AGAINST WOMEN (IPC) TOWARDS TOTAL IPC
CRIMES**

Sl. No.	Year	Total IPC Crimes	Crime against Women (IPC cases)	Percentage to Total IPC Crimes
1	2011	23,25,575	2,19,142	9.4%
2	2012	23,87,188	2,4,270	10.2%
3	2013	26,47,722	2,95,896	11.2%
4	2014*	28,51,563	3,25,327	11.4%
5	2015*	2949,400	3,14,575	10.7%

Source: Crimes in India, 2015, National Crime Records Bureau, Ministry of Home Affairs, Government of India, New Delhi.

‘*’ Number of crime heads have also increased from 11 to 14 in 2014 & 2015 in the revised proforma.

LABOUR LAWS

As the workforce of the country increases, people are engaged in various establishments and it is the responsibility of the Government to enforce strict labour laws for the welfare of the workers and their families. The labour laws in general pave the way for good conditions of service, which include welfare benefits such as retrenchment benefits, employees’ provident fund scheme, medical benefits and compensation etc. The main focus of the government’s policies on women’s labour has been to remove the handicaps under which they work, strengthen their bargaining capacity, improve their wages and working conditions, enhance their skills and open up better employment opportunities for them. The legal provisions that specifically apply to women workers are: a) the abolition of night work except in the some occupations, b) provisions that prohibit work involving lifting heavy weights c) prohibition of underground work for women in the mines, d) maternity benefits, e) provisions for crèches, f) equal remuneration for

equal work, etc.²¹ There are various labour laws in India for the welfare of the workers in general, listed below are some of the laws-

- **Bonded Labour System (Abolition), Act, 1976** - the provisions under this act abolishes the practice of bonded labour and rehabilitates freed bonded labours.
- **Employees Compensation Act, 1923** – the provisions under this act award compensation in case of injury and death to labourers and their dependants.
- **Fatal Accidents Act, 1955** - the provisions under this act award compensation to the families of the labourers in case of fatal accidents causing the death of the labourer.
- **Child Labour (Prohibition and Regulation) Act, 1986** - the provisions under this act prohibits the employment of any child who is under 14 years of age.
- **Payment of Wages Act, 1936** - the provisions under this act provides for on time payment of wages to the labourers with a penalty in case of default by the employer.
- **Payment of Gratuity Act, 1972** – the provisions under this act provides for payment of gratuity to the labourers in case of the termination of his/her employment after he/she has rendered service for a minimum of five years, a) on his or her superannuation, b) on his or her retirement or resignation and c) on his or her death or disablement due to accident or disease.
- **Building and Other Construction Workers' (Regulation of Employment and Condition of Service) Act, 1996** – the provisions under this act regulate the employment and condition of service of building and other construction workers and also to provide safety, health and welfare measures as these workers are most vulnerable segments of the unorganized labour in India with harsh and risky working conditions.
- **Unorganized Worker's Social Security Act, 2008** – the provisions under this act provides for social security and welfare of unorganized workers and for other matters

connected therewith or incidental thereto. Under this act, the Central Government and the State Government are required to constitute social security board at national and state level and frame suitable welfare schemes for registered unorganized workers.

- **Apprenticeship Act, 1961** - the provisions under this act provides for the regulation and control of training of apprentices and for matters connected therewith.²²
- **Minimum Wages Act, 1948** – the provisions under this act provides for the fixation of the minimum wage rate by the Government which is revised after every five years. This act prevents the exploitation of employees by the employers.

In case of the classification of the labour laws concerning women empowerment, there are two very important laws for women workers in India-

- **Maternity Benefit Act, 1961** – the provisions under this act provides for the regulation of the employment of women for certain periods before and after the time of their maternity and to provide for maternity benefits and other benefits during their absence from work. This applies to establishments having more than 10 employees.
- **Equal Remuneration Act, 1976** - the provisions under this act for the same or similar nature of work, equal rates of wages are to be paid to both male and female workers without discrimination on the ground of sex or gender. Further, equal opportunities or employment should be given to women workers whoever feasible.²³

SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013.

Table 3.5

LEGISLATIVE TIMELINE

2007	Draft Protection of Women against Sexual Harassment at Workplace Bill, 2007 (“Bill”) approved by the Union Cabinet
2010	The Bill was introduced in the Lok Sabha
2012	The Bill was amended and reintroduced in the Lok Sabha
September 03, 2012	The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Bill, 2012 was passed by the Lok Sabha
February 26, 2013	The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Bill, 2012 was passed by the Rajya Sabha
April 23, 2013	The Prevention of Workplace Sexual Harassment Act received the President’s assent and was published in the Gazette of India Act No. 14 of 2013
December 09, 2013	The Indian Ministry of Women and Child Development notified: <ul style="list-style-type: none"> . December 09, 2013 as the effective date of the Prevention of Workplace Sexual Harassment Act; and . The Prevention of Workplace Sexual Harassment Rule

Source: India’s Law on Prevention of Sexual Harassment at Workplace, Nishit Desai Associates, April 2015,

The Sexual Harassment of Women (Prevention, Prohibition and Redressal) Act, 2013 (referred to as Act hereinafter) defines sexual harassment as anyone or more of the following unwelcome acts or behavior (whether directly or indirectly) namely:

1. Physical contact and advances.
2. A demand or request for sexual favors.

3. Making sexually colored remarks.
4. Showing pornography.
5. Any other unwelcomed physical, verbal, non- verbal conduct of sexual nature.

Sexual harassment of women at workplace refers to unwelcome sexual advances or verbal or physical conduct of a sexual nature which has the effect of unreasonably interfering with an individual's work performance and/or by creating a hostile working environment. This type of sexual harassment implies seeking sexual favors or making sexual advances in exchange for benefits at work.²⁴

DIFFERENT FORMS OF SEXUAL HARASSMENT

Sexual harassment at workplace is further classified into two forms-

1. **Quid Pro Quo-** or this for that; this type of sexual harassment implies seeking sexual favors or making sexual advances in exchanges for benefits at work. It exists when there are/is:
 - a) Implicit or explicit requests or demands for unwelcome sexual activity as a term or condition of employment.
 - b) Consent to or rejection of unwelcome sexually explicit behavior or speech is made a condition for employment, or refusal to comply with a 'request' is met with retaliatory action such as dismissal, demotion, difficult work conditions.
2. **Hostile Work Environment-** This involves uninvited and unwelcome conducts or behavior of a sexual nature (as described above) making it uncomfortable for a worker to be there. Hostile working environment is usually dependent on circumstances, frequency (repetitive misconduct rather than a single episode of misbehavior), and severity.²⁵

DEFINITION OF WORKPLACE

The 'workplace' too have been defined elaborately by the law, there were arguments regarding the workplace just being the demarcated premise of an office, or a house or an organization where the employee works, while others have included areas where the employee visits be it a public place or any other establishment in regard to the work assigned by the office. Therefore in addition to where working relationships exist and, in addition to the office, it also constitutes:

- a) Workplace of an external client
- b) Premises of other organizations
- c) Hotel, restaurants, and other venues during official functions/ events
- d) Work station of other employees
- e) Lifts in the building
- f) Restrooms/toilets
- g) Corridors
- h) Canteens/ cafeteria/entertainment zone
- i) Official tours/field visits etc.²⁶

As per the definition mentioned, a workplace covers both the organized and un-organized sector. An unorganized sector is any enterprise owned by an individual or a company engaged with employees which amounts to less than 10 people.

DEFINITION OF EMPLOYER

An 'employer' according to the act has been defined as an individual who is responsible for the management and control of an organization, institution- government or private, establishment, and office etc.

DEFINITION OF EMPLOYEE

The definition of an 'employee' under the Prevention of Workplace Sexual Harassment Act is fairly wide and covers regular, temporary, ad hoc employees, individuals engaged on daily

wage basis, either directly or through an agent, contract laborers, co-workers, probationers, trainees, and apprentices, with or without the knowledge of the principal employer, whether for remuneration or not, working on a voluntary basis or otherwise, whether the terms of employment are express or implied.²⁷

COMPLAINT COMMITTEE

The Sexual Harassment of Women, Act 2013 envisages the employer to set up an Internal Committee (IC) in a case there is any complaint of sexual harassment; the committee will address and conduct an inquiry for the same. In case of Local Committee (LC), the Act mandates the Central and State Government to notify either of the following individuals to be a District Officer for each District to implement the requirement under the Act. Every District Officer must constitute a Local Committee to receive complaints of sexual harassment from each establishment where the Internal Committee has not been constituted due to having less than 10 employees, or when a complaint is against an individual who is at the senior most position in the organization, or unorganized and informal sectors including MNREGA workers.

The Prevention of Workplace Sexual Harassment Act stipulates that the IC and LC shall, while inquiring into a complaint of workplace sexual harassment, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 when trying a suit in respect of:

- a) Summoning and enforcing the attendance of any person and examining him on oath;
- b) Requiring the discovery and production of documents; and
- c) Any other matter which may be prescribed.²⁸

The Complaint Committees only recommends disciplinary action, and the ultimate decision on this lies with the employer or the disciplinary authority of the organization that can either choose to accept the suggested actions or change them. Penalties may be imposed based on the recommendations of the Committee and in keeping with the disciplinary norms of the institution. When an act of sexual harassment amounts to misconduct as defined by the relevant service rules, appropriate disciplinary action (e.g. demotion, transfer, suspension, probation or

dismissal) should be initiated by the employer in accordance with those rules. But, when the act of sexual harassment amounts to an offence under the Indian Penal Code, the employer shall initiate action by making a complaint with the appropriate authority. In case the aggrieved is not willing to initiate action under the Indian Penal Code, as a good practice and a measure of caution, the employer can record this in writing from the concerned person. The employer in the case of the IC or the District Officer in the case of a LC is mandated to act on the recommendation within 60 days of receiving the report by the Committee.

The IC/LC is also empowered to, at the request of the complainant, recommend to the employer interim measures such as:

- a) Transfer of the aggrieved woman or the respondent to any other workplace.
- b) Granting leave to the aggrieved woman up to a period of 3 months in addition to her regular statutory/ contractual leave entitlement.
- c) Restrain the respondent from reporting on the work performance of the aggrieved woman or writing her confidential report, which duties may be transferred to other employees.²⁹

If an employer fails to comply with the law including constituting an Internal Committee, they can be punished with fine up to 50,000 rupees, and repeated violations may lead to higher penalties and cancellation of license or registration to do business.³⁰ So, it is important for the employer to be well aware of the law related to workplace harassment.

COMPLAINT MECHANISM

An aggrieved woman who intends to file a complaint is required to submit six copies of the written complaint, along with supporting documents and names and addresses of the witnesses to the IC or LC, within 3 months from the date of the incident. Prompt reporting of an act of sexual harassment is probably as important as swift action to be taken by the authorities on receiving a complaint. In fact the more prompt the complaint is, the more authentic can it be

treated. In instances where sufficient cause is demonstrated by the complainant for the delaying filing the complaint, the IC or LC may extend the timeline for filing the complaint, for reasons to be recorded in-writing. The law also makes provisions for friends, relatives, co-workers, psychologist and psychiatrists, etc. to file the complaint in situation where the aggrieved woman is unable to make the complaint on account of physical incapacity, mental incapacity or death.³¹

CONCILIATION

After the complaint is filed before the IC or LC, the complainant can request the committee to settle the matter in an amicable way, through conciliation. Conciliation is an informal way of resolving the matter before the enquiry takes place. And according to the Act, monetary settlement cannot be a basis of conciliation between the parties. Once the conciliation is agreed upon by both the parties, the IC or LC should record the settlement and give a copy each to both parties. Therefore after which the IC or LC shall not proceed with further action in the case.

REDRESSAL AND INQUIRY PROCESS

After a written complaint in 6 copies is received by the IC or LC, one copy of the complaint is to be sent to the respondent within 7 days. After receiving the complaint the respondent has to reply within 10 days. And to support his argument he has to furnish some supporting documents and witnesses. The inquiry has to be completed by the IC or LC within 90 days from the time of the complaint received and a detailed inquiry report have to be furnished within 10 days from the date of the completion of the inquiry. The employers have to act according to the recommendation of the committee within 60 days after the receipt of the inquiry report. In case the respondent wants to appeal against the committee's decision, the person can do so within 90 days from the day of recommendation. The person can also appeal to the court against the committee's recommendation.

PUNISHMENT AND COMPENSATION

The Act prescribes some following punishments that may be imposed by an employer on an employee for indulging in an act of sexual harassment:

- Punishment prescribed under the service rules of the organization;
- If the organization does not have any service rules, disciplinary action including written apology, warning, reprimand, censure, withholding of promotion, withholding of pay rise or increments, terminating the respondent from service, undergoing a counseling session, or carrying out community service; and
- Deduction of compensation payable to the aggrieved woman from the wages of the respondent.³²

The Act also envisages payment of compensation to the aggrieved woman. The compensation payable shall be determined based on:

- the mental trauma, pain, suffering and emotional distress caused to the aggrieved employee;
- the loss in career opportunity due to the incident of sexual harassment;
- medical expenses incurred by the victim for physical/psychiatric treatment;
- the income and status of the alleged perpetrator; and
- Feasibility of such payment in lump sum or in installment.

In case the respondent fails to pay the aforesaid compensation, the IC may forward the order to recover the compensation as an arrear of land revenue to the concerned District Officer.³³

FALSE COMPLAINT

In order to ensure that the protection envisaged under the Act are not misused, provisions for action against “false or malicious’ complainants have been included in the statute. As per the Act, if the IC or LC concludes that the allegation made by the complainant is false or malicious or the complaint has been made knowing it to be untrue or forged or misleading information has

been provided during the inquiry, disciplinary action in accordance with the service rules of the organization can be taken against such complainant.

Where the organization does not have service rules, the statute provides that disciplinary action such as written apology, warning reprimand, censure, withholding of promotion, withholding of pay rise or increment, terminating the respondent from service, undergoing a counseling session, or carrying out community service may be taken. The Act further clarifies that the mere inability to substantiate a complaint or provide adequate proof need not mean that the complaint is false or malicious.³⁴

CONFIDENTIALITY

The Act, pertaining to the sensitivity of the matter prohibits dissemination of information related to the complaint. It further stipulates that the information also shall not be subjected to the provisions of Right to Information Act, 2005.

The POSH Act allows dissemination of information pertaining to the justice that has been secured to any victim of sexual harassment, without disclosing the name, address, identity or any other particulars which could result in the identification of the complainant to the witnesses.³⁵

Breach of the obligation to maintain confidentiality by a person entrusted with the duty to handle or deal with the complaint or conduct the inquiry, or make recommendations or take actions under the statute, is punishable in accordance with the provisions of the service rules applicable to the said person or where no such services exist, a fine of INR 5000.³⁶

CONSEQUENCES OF NON-COMPLIANCE

If the employer fails to constitute an IC or does not comply with the requirements prescribed under the POSH Act, a monetary penalty of up to INR 50,000 may be imposed. A repetition of the same offence could result in the punishment being double and/or de-registration

of the entity or revocation of any statutory business licenses. It is however unclear as to which business licenses are being referred to in this case.³⁷

NOTED CASES ON SEXUAL HARASSMENT IN INDIA

The Government of India has a Constitutional mandate to guarantee gender equality under article 14, 15 and 16 of the Constitution. India is also signatory of the Convention on the Elimination of all forms of Discrimination against Women (CEDAW), which also guarantee gender equality and NON-discrimination, including sexual harassment in the workplace.³⁸

Rupan Deol Bajaj & Anr vs. Kanwar Pal Singh Gill & Anr

On July 29, 1988, Mrs. Rupan Deol Bajaj, an Officer of the Indian Administrative Service (I.A.S) belonging to the Punjab Cadre and then working as the Special Secretary, Finance, lodged a complaint with the Inspector General of Police, Chandigarh Union Territory alleging commission of offences under Sections 341, 342, 352, 354, and 509 of the Indian Penal Code (IPC) by Mr. K.P.S. Gill, the then Director General of Police, Punjab on July 18, 1988 at a dinner party. In this case, Rupan Bajaj was slapped on the posterior by Mr. K P S Gill. Rupan Bajaj filed a suit against him, despite the public opinion that she was blowing it out of proportion, along with the attempts by all the senior officials of the state to suppress the matter. The matter went to Supreme Court. The Supreme Court in January, 1998 laid down its decision of fine of Rs. 2.5 lacs and imprisonment of 3 months to K P S Gill under sections 294 and 509 of the Indian Penal Code.

(Ref: www.indiankanoon.org/doc/579822)

Medha Kotwal Lele vs. Union of India and others

The petitioners Dr.Medha Kotwal Lele, have documented incidents of sexual harassment of women where the Vishaka Guidelines and Supreme Court judgment were completely ignored.

One case was that of a master's student at the University of Baroda who was allegedly sexually harassed by her guide since 1995. On her complaint the Vice-Chancellor of the University appointed a committee to investigate the charges. However the procedures followed were not in conformity with the Guidelines outlined by the Supreme Court. No women's NGO, familiar with the issue of sexual harassment was involved in the investigation as required by the Guidelines and the investigation conducted by the Committee was not run with a view to expose the truth but rather to defend the status quo in the most anti-woman fashion. Furthermore, delays in dealing with complaint lead to continued workplace harassment, directed at the victim. On a wider country-wide level, the petitioners also noted that the complaints committees, instead of being active and influential are often formed as an ad-hoc measure, only after harassment has taken place. This is in contravention of the Guidelines, which sees the committee as also playing a preventative role with regard to sexual harassment. The state Governments have also failed to take effective steps for prevention and redressal of complaints of sexual harassment in the private sector under the Industrial Employment (Standing Orders) Act, 1946. The Supreme Court admitted the writ and ordered all State Governments to file affidavits regarding all measures taken by them to comply with the Vishaka Guidelines in August 2000. The Supreme Court has made a number of orders in this case. In April 2004 in response to the petitioners' contention that the complaint committees were ineffective, the Court held that a complaint committee's report "shall be deemed to be an inquiry report," based on which disciplinary action can be taken. In January 2006 the Supreme Court ordered the chief secretaries of each state to appoint a state-level officer who is in charge of and concerned with the welfare of women in each state so they may coordinate the implementation of the Guidelines, particularly in relation to the setting up of complaint committees. The Court further ordered the Labour Commissioner of each state to take steps to ensure that the required committees are established in factories, shops and commercial establishments, where the Court noted the Guidelines were not being complied with. The petition is still ongoing.

(Ref: HRLN website)

Apparel Export Promotion Council vs. AK.Chopra (1999)

A K. Chopra's case, is the first case in which the Supreme Court applied the law laid down in Vishaka's case and upheld the dismissal of a superior officer of the Delhi based Apparel Export Promotion Council who was found guilty of sexual harassment of a subordinate female employee at the place of work on the ground that it violated her fundamental right guaranteed by Article.21 of the Constitution.

The case is about a woman employee of Apparel Export Promotion Council, who worked as the private secretary to A.K. Chopra, the Chairman of the company. She complained to the Personnel Director that the chairman tried to sexually harass her in Taj Hotel on the pretext of helping her with her work. The company immediately suspended him and ordered a departmental enquiry that confirmed female employee's position. The chairman challenged the disciplinary committee order in Delhi High Court and the harasser was successful on the ground that the chairman only 'tried to molest' but did not 'in fact molest' the female employee. As against the Judgment, the company once again filed an appeal in the Supreme Court. One of the issues that were deliberated at length by this court was "whether physical contact with the woman was an essential ingredient of a charge of sexual harassment".

The Supreme Court while setting aside the High Court and upholding the dismissal of chairman held that the attempts by the superior to sit close to the female employee and touch her, though unsuccessful, would amount to 'sexual harassment'. The SC also recognized that in such cases, evidence and witnesses may not always be forthcoming. Hence, reliance has to be placed on the circumstantial evidence and whether it, in overall terms, inspires the confidence of the judges. The terms used for evidence is that of "high probability" or "within reasonable doubt".

(Ref: AIR 1999 Supreme Court 625).

CONCLUSION

In India, social change is led by law; we seek legal solutions first, perhaps hoping that punishment will reform the way we are. But laws cannot transform our values, attitudes and behavior overnight, and they cannot account for socio-cultural context.³⁹ The first issue with the Sexual Harassment of Women at Workplace Act was in the title itself. There were several

debates upon the act considering only woman as victims. The law has failed to acknowledge the existence of other genders in the society.

In case of POSH act, the complaint by the aggrieved is to be made within 3 months of the harassment and allows for extension of the time frame till another 3 month in exception; but in case of harassment, women take time to come forward and complain because of the social taboo or mental or physical trauma. Most of the #Metoo revelation in the year 2018 in India came much after the actual incident has occurred and mostly when both the aggrieved and the harasser had left the workplace.

A major criticism of the act has been the inclusion of action against false complaint under Section 14. If a woman cannot prove her complaint, there will be a fear of action against her. Sexual harassment is an act that occurs mostly in settings where there is no witness, so the onus lies in the women to prove that she has been sexually harassed. With a fear of losing the job or her reputation women usually will not report sexual harassment at workplace. The Verma Committee in this context had recommended not introducing the provision of false complaint as it will nullify the main objective of the framing of this act.

Also, the law allows for conciliation provided the complainant request for it. The word conciliation in legal terms means to settle a dispute by mutual agreement to avoid litigation. Conciliation can be initiated in civil matters but in case of harassment, it is an attempt to compromise undermining ones dignity as a woman.

The Act also states that a complainant shall submit her complaint in writing; the internal committee cannot take a complaint on suo moto basis. Even if someone in the workplace is a serial offender, unless someone complains about him, the internal committee cannot take any action. Also the form of complaint is a challenge for women who are illiterate or physically or mentally incapable; though the law makes provisions for friends, relatives or co-workers to file a complaint on her behalf, there is a chance of the confidentiality being breached.

In Sikkim, the issue of workplace harassment came into light after the Seema Lepcha vs. the State of Sikkim and Ors, 2012. During the time of the incident, the organization did not have a complaint committee but the Vishaka guidelines of 1997 stated that it is mandatory for all

organizations to set up a complaint committee. This shows the indifferent attitude of the organization towards woman's safety. The guidelines were made mandatory in the year 1997, but even after 15 years, the Government of Sikkim had not initiated proper implementation of Vishaka guidelines in the state.

The Ministry of Women and Child Development had formulated a centrally sponsored scheme to establish 'One Stop Centre', across India under the National Mission for the Empowerment of Women including Indira Gandhi Matritva Sahayog Yojana, also known as Sakhi. The implementation of the scheme started from 1st April, 2015 but the first One Stop Centre in Sikkim was inaugurated on 17th May, 2017 in the East District. Before that women in the state did not have any where to go in times of distress except the police station and there were no women police station in the state until 2016. Women in the state have experienced a lot of hardship in terms of her rights; it's only been a decade that women's voices are being heard.

ENDNOTES

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CHAPTER 4

THE ROLE OF GOVERNMENT OF SIKKIM AND NGOs IN THE PROTECTION OF SEXUAL HARASSMENT OF WOMEN AT WORKPLACE

In India, the patriarchal norms, social stigmas, religious beliefs have dominated women since time immemorial and Sikkim is no far in the run. Women are fighting inequalities, indignities and discrimination in this tiny Himalayan state as well. Before its annexation to India in 1975, Sikkim was an independent kingdom ruled by the Chogyal (ruler). Located in the north-east, Sikkim reported a population of 6, 10,577 in 2011. Sikkim is also the second-smallest state in India after Goa in terms of land area. The state is spread over 7,096 square kilometers.¹

During the monarchical period women were subjugated to just mere roles of a caretaker, her life mostly revolved around taking care of her family. The women in Sikkim were excluded from the political, social and economic affairs of the state. They had no participation in the decision making process so much so that there was no law for the protection of women. The old law states that- if the eldest brother takes a wife, she is common to all his brothers and if the second brother takes a wife, she is common to all the brothers younger than him², this merely showed the patriarchal norm which did not give women the right to manage her private life according to her own free will.

The Sikkimese women did not have the right to property or inheritance, after marriage a Sikkimese women was customarily given some gifts in the form of movable assets. The practice of giving gifts to the daughters among the tribal Bhutia's and the Lepchas's was known as 'pewa'; that too only if they married within their own community. Divorce in those days was discriminatory; the Sikkimese women in order to divorce from her husband had to pay 12 zho (zho- coin) and one suit of clothes. If the husband wished to file a divorce against his wife he was to pay 18 zho. The amount varied according to the duration of their marriage. After divorce, the men were given the custody of the male child whereas women were given

the custody of the girl child. This showed the deep rooted gender bias in the then Sikkimese community. In 1968, a Royal Proclamation issued by the Chogyal also stated that Sikkimese women would lose their Sikkimese identity if they married a non-Sikkimese. However, after Sikkim was merged with the Union of India, such proclamation did not have any value attached to it.

ROLE OF THE GOVERNMENT AND OTHER STATUTORY BODIES

After the merger of Sikkim with India the status of women witnessed some improvements, the status of women in Sikkim was far better than her counterparts in other states of India. On 1st May 1989, the Hindu Succession Act was extended to Sikkim but soon the problem arose as the act was not subjected to women belonging to the tribal community of Sikkim. The Sikkim Succession Bill, introduced by the then ruling government under Pawan Chamling in 2008 brought some relief but that too under some conditions-

Immovable property inherited, gifted or purchased by women married to non-locals cannot be transferred and registered in their names.

- a) Immovable property of a Sikkimese woman cannot be transferred or registered to her legal heirs if her husband is non-Sikkimese.
- b) Mandatory requirement for Sikkimese women to submit 'unmarried certificate in all government procedures'.
- c) Identity of women is to be based on the identity of not one, but two men. Sikkimese woman will be considered Sikkimese only if both, her father and husband are also Sikkimese.³

Pawan Chamling from Sikkim Democratic Front (SDF) governed the state for 25 years and has undoubtedly taken the state to new heights. Various schemes were undertaken by the SDF government with the help of the central government to uplift the status of women in Sikkim. Both the Central and State governments have introduced a number of programs, e.g. Mahila Samriddhi Yojana, Balika Samriddhi Yojana and the Small Family Scheme, to promote both women's welfare and their empowerment (Government of Sikkim, 1998c). The State Women's Commission was also set up in November 2002 for the protection of women at large. The status of women in Sikkim is far better than other states in India. With the

absence of female infanticide, female feticide and dowry related issues women in Sikkim are much safer than the rest of the women in the country.

Under the Small Family Scheme, girls who have attained the age of 13 years are given financial incentives. This aims at controlling population by delayed marriage and at reducing female mortality rate. The Scheme provides an incentive of Rs 2,000 if she marries after the completion of 21 years, an additional incentive of Rs 500 if she marries at the age of 22 and if she marries at the age of 23, an additional incentive of Rs 1,000 is paid to her. So far this scheme has covered over 1,200 children.⁴ Such initiatives from the government have definitely boosted the moral of the women in Sikkim. Furthermore, Women's participation in employment under the Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS) increased significantly from 38 percent in 2008–09 to 59 percent in 2011–12 and is much higher than the 33 percent participation mandated under the program. The state has the best gender parity performance among the north-eastern states, with female labor force participation at 40 percent, significantly higher than the national average of 26 percent (Human Development Report, 2014). Female literacy rates have gone up from 22 percent in 1981 to 76 percent in 2011- surpassing the national female literacy rate of 66 percent. Girl's enrolment in government schools between 2001- 2012 has grown to more than 50 percent.

Women's participation in the workforce is more than 50 percent. The emergence of developmental projects and the expansion of the private sector have opened up new employment avenues, with women benefiting from these opportunities. Women are also actively undertaking entrepreneurial roles. The provision of 30 percent reservation for women in posts and services in the state government and public sector undertakings has benefitted the educated women of Sikkim. The percentage of women in panchayat, which increased from 36 percent in 2005 to 42 percent in 2010-11, has gone up to 52 percent after the 2012 elections.

TABLE 4.1**MALE AND FEMALE WORKERS IN SIKKIM, 2001-2011**

	2011	% of total workers	2001	% of total workers
Main workers	230,417	75	212,904	81
Male	160,513	83	146,541	88
Female	69,904	61	66,363	68
Marginal Workers	77,721	25	50,139	19
Male	33,845	17	19,175	12
Female	43,876	39	30,964	32
Total Workers	308,138	100	263,043	100
Male	194,358	63	165,716	63
Female	113,780	37	97,327	37

Source- Census of India, 2011

In 2011, female accounted for 37 percent of the total workforce, the same as it was in 2001(*according to the table stated above). Of the total female workers, 61 percent are main workers, and 39 percent were classified as marginal workers. Women made up only 30 percent of the main workers, but 56 percent of marginal workers. Whereas 45 percent of women work in rural areas, the proportion is smaller-25 percent—in urban areas. The composition of female main and marginal workers also differs from rural to urban areas (Human Development Report, 2014, Sikkim).

Sikkim claims to be the first state in India to commit towards the implementation of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013. In this context, the Central Civil Service Rules, 1964 has already been amended and section 3-C has been added vide GI Department of Personal and Training Notification No. 11013/10/97-Estt. (A), dated 13th February 1998 which prohibits sexual harassment of working women. And with regards to the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013, the Sikkim Government Servant's Conduct Rules 1981 too has already been amended as per which any government servant found to be

indulging in sexual harassment of any women at her workplace shall be strictly punished and will be liable for penalty. The roles played by NGOs in addressing sexual harassment in India are tremendous. NGOs like Participatory Research in India (PRIA) and Oxfam India are increasingly taking initiatives by supporting the organizations on how to build a comprehensive understanding around sexual harassment of women or by initiating trainings for state employers and employees. Promoting awareness among women in the country and organizing various programmes to support victims of sexual harassment or help them with legal aid.

As the act mandates the inclusion of third-party facilitator or an external member on the IC, who is familiar with the issue of sexual harassment at workplace, these NGOs can act as a third- party facilitator or train the facilitator regarding the act and make them aware of their duties. But unfortunately Sikkim have very few NGOs working for women rights but no any particular NGO could be found who specifically work for protection of women at workplace. According to the circular dated 23/12/2011 of the Social Justice, Empowerment and Welfare Department of Sikkim, Mrs. Mingma Doma Bhutia of Tarmulum Block Society or Mrs. Deoki Pradhan of Eshwaramma Social Welfare Society were the names recommended by the department as an NGO member to be included in the IC or LC.

The case of sexual harassment of workplace in Sikkim was first advocated by Dr. Doma Bhutia, who also is the first woman Additional Advocate General of Sikkim. She had also represented the respondent in the Seema Lepcha Vs the State of Sikkim and Ors, which later paved a way for the implementation of Sexual Harassment of Women at Workplace Act, 2013 in the State with full strength. She is also a third party member of various Internal and External Committees in the State.

The State of Sikkim has been emerging as a model state for all other states in India to learn from. It is growing rapidly in terms of economy, infrastructure and human development. But the vary facet of human development is incomplete if the status of women is not measured in terms of their safety, security, health, education, political participation etc. The provision of 30 percent reservation for women in posts and services in the state government and public sector undertakings has benefitted the educated women of Sikkim. The percentage of women in panchayats and urban local bodies which increased from 36 percent in 2005 to

42 percent in 2010-11, has gone up to 52 percent after the 2012 elections. The State also provides various services to women in distress through various schemes and projects.

FAMILY COUNSELING CENTRE

The Family Counseling Centre (FCC) was launched by the Government of India in 1983. It is through the Central Social Welfare Board that the FCC is managed by voluntary organizations across the nation. There are around 800 FCC functioning at different states in India. The Family Counseling Centre provides services to women and children who are victims of family harassment and social atrocities. The centre also creates awareness on social issues affecting family and women in particular. People who come to the centre are provided with counseling and rehabilitation if necessary. In Sikkim, the victims generally come to the centre with complaints like adultery, torture and harassment by husbands and in-laws, desertion by husband, and alcohol-related maltreatment. A total of 493 cases were registered with the FCC during 2007 and 2012.⁵

ONE STOP CENTRE

One stop centre is a scheme of the central government for the empowerment of women and support women in distress. Women who face violence and threat both in private and public including family, community and workplace can render service through the centre. The centre is open 24X7. The centre provides legal aid, police assistance, counseling and shelter or rescue.

In Sikkim, there are a total of four one stop centres in each district of the State, Gangtok in East District, Gyalshing in West District, Mangan in North District and Namchi in the South. Each one stop centre has a Centre Administrator and Women Welfare Officer and a Protection Office to look into the matters of the centre. A Universal Women Helpline 181 is also integrated with the centre in case of emergency and assistance to women in distress.

ALL WOMEN POLICE STATION

The Government of Sikkim, in 2016 has opened a police station in Ranipool, East Sikkim manned by an all women police force. The government also aims to upgrade police station in Temi in South District, Phodong in North District and Kaluk in West. The main aim of the women police station is to provide police assistance to women in distress.

SIKKIM STATE HUMAN RIGHTS COMMISSION

The State Government in exercise of the powers conferred under Sub Section (1) of Section 21 of the Protection of Human Rights Act, 1993 vide Notification No. 101/HOME/2008 dated 18.10.2008 issued a Notification constituting the Sikkim State Human Rights Commission. The office of the commission is situated in Gangtok, Manan Bhawan.

Presently, Hon'ble Shri Justice Vijai Kumar Bist, former Chief Justice, High Court of Sikkim is working as the Chairperson of Sikkim State Human Rights Commission. His Lordship has assumed the charge as the Chairperson on November 2019. Shri M.G. Kiran, IAS (Retd.), working as Member, Sikkim State Human Rights Commission and Mr. Suraj Chettri, LR-cum-Secretary, Law Department, has been appointed as Secretary, Sikkim State Human Rights Commission. The aim of the commission is to make people aware of their rights and work along with the legal bodies of the state.

SIKKIM STATE COMMISSION FOR WOMEN

In order to eradicate the evils of domestic violence and to deliver justice to women with regard to their rights, the state government of Sikkim constituted Sikkim State Commission for Women at Gangtok, East Sikkim. The Commission has a Chairperson with other members and the Chairperson is appointed for a period of three years.

The State Commission for Women in Sikkim was constituted as a statutory body in the year 2001 under the State Commission for Women Act, 2001 (Act. No 11 of 2001) to protect the rights of women in the State. The function of the Commission as specified in Section 11, Chapter III of the Sikkim State Commission for Women Act, 2001 are summarized below-

- a) Study and examine the status of women's right pertaining to economic, social and health also to emphasize on the mortality, literacy rate of women in the tribal areas.
- b) Reports recommending the State Government to provide standard environment to improve the status of women in the State.
- c) Compilation of information related to offences against women and case studies related to offences as laid down in various legislations.
- d) Coordination with the State Cell and District Cell for atrocities against women for creating awareness among public to give their opinion which will help for speedy reporting and detection of offences of such atrocities against the offenders.
- e) To receive complaints and take suo-moto notice of the matters relating to deprivation of women's rights etc. and take up the issues with appropriate authorities
- f) The State Government shall cause all the recommendations or Commission under clause (ii) of clause (a) sub-section (1) which relate to any matter with which the State Government is concerned to be laid before the legislature of the State along with a Memorandum explaining the action taken or proposed to be taken on the recommendation of the Commission and the reasons for non-acceptance, of such recommendations.
- g) The Commission shall have all the powers of the Civil Court to investigate and try suits in respect of the following matters, namely:
 - Summoning and enforcing the attendance of any persons from any part of India and examining him on oath.
 - Requiring the discovery and production of any documents.
 - Receiving evidence on affidavits.
 - Requisitioning any public record or copy thereof from any court of office
 - Issuing commissions or the examination of witnesses and documents.
 - Any other matters which is required to be or may be prescribed.⁶

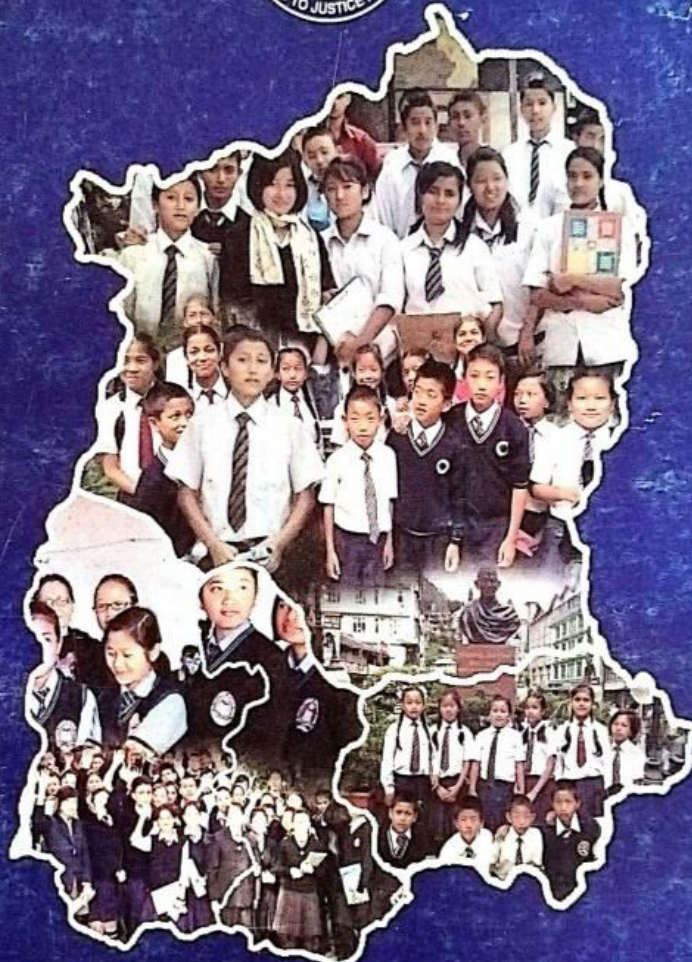
THE HIGH COURT OF SIKKIM

The High Court of Sikkim in accordance with the direction laid down by the Apex Court had made a regulation on gender sensitization and sexual harassment of women at the High court of Sikkim known as ‘the Gender Sensitization and Sexual Harassment of Women at the High Court of Sikkim (Prevention, Prohibition and Redressal) Regulations, 2013’. The regulation states that no women shall be subjected to sexual harassment at the High Court and other Sub-Ordinate Courts in Sikkim. It clearly lays down the composition and constitution of internal complaint committee in the High Court and other Sub-ordinate courts of Sikkim in Chapter II of the said regulation. Chapter III deals with the complaint and inquiry into the complaint of sexual harassment. Chapter IV deals with the powers and duties of the gender sensitization committee and internal committees. Chapter V deals with the miscellaneous function of the gender sensitization committee and the internal committees as to maintain confidentiality regarding the complaint, recommendations and action taken in accordance to the complaint.

SIKKIM STATE LEGAL SERVICE AUTHORITY

The Sikkim State Legal Service Authority (SLSA) was constituted under the Legal Services Authority Act, 1987 as a separate establishment vide Notification No. 2/LD/98 dated 09.04.1998 in terms of Section 6 of Legal Services Authorities Rules, 1995.⁷ The Sikkim Legal Service Authority was constituted to promote justice and provide free legal aid to people who are economically unable to secure justice. The Sikkim State Legal Service Authority also provides training for its legal associates of the states on a timely basis and also organizes camps and workshops to spread awareness on the legal system of the state. There is also District Legal Service Authority (DLSA) in all the four districts of Sikkim.

The SLSA has also published small booklets for students of Class 9 and 11 studying in CBSE and ICSE schools in the state. The book titled “Lessons in Law” has been published to spread awareness on various crimes affecting children. It explains the difference between sexual harassment and flirting and also has included tips for both boys and girls on the issue.



LESSONS *in* LAW

CLASS IX

FOR CBSE, ICSE STUDENTS OF SIKKIM
SIKKIM STATE LEGAL SERVICES AUTHORITY
GANGTOK



North District

West District

East District

LESSONS *in* LAW

CLASS XI

SIKKIM STATE LEGAL SERVICES AUTHORITY
GANGTOK

GOVERNMENT POLICIES AND REGULATIONS

The Government of Sikkim has introduced various policies for the upliftment of the status of women. The Protection of Women from Domestic Violence Act in 2007 which aimed at providing speedy solutions to the victims of domestic violence by involving protection officers and voluntary organizations as service providers. The state government has appointed eight legal providers who are working towards protecting the rights and interests of women by providing of legal, medical, financial and other forms of assistance under the provisions of the Act. Also implemented and enforced are the Immoral Traffic (Prevention) Act, 1956 as amended up to Act No. 44 of 1986; the Sikkim Immoral Traffic (Prevention) Rules, 1990; the Dowry Prohibition Act, 1961 (28 of 1961); and the Implementation of Pre-natal Diagnostic Technique (PNDT) Regulation and Prevention of Misuse Act, 1996. In line with the Supreme Court's Vishaka Guidelines, the state government has made it mandatory to set up complaint cells against sexual harassment in all government departments and institutions as well as in private organizations.

ROLE OF NGOs

An NGO is a registered organization, under the law. NGOs primarily work to serve the community by capacity building, empowering, mobilizing and providing vital services like health and education. The need for a third party in facilitating social and political change on a broad scale or in the grassroots on behalf of the people is vital for the growth of any developing nation. The NGOs have a large contribution to the policy formulation of a country.

According to Gangrade, voluntary sector has always played an important role in society from time immemorial. The concept and approach in voluntary work has undergone many changes from time to time. From pure charity, relief and welfare oriented approach this sector has in recent times suitably modeled and equipped itself to meet the development needs of society. There is hardly any field which is not now touched by NGO sector/voluntary sector. The NGOs have acquired an important position in various fields at the national and international levels.⁸

There are various types of NGOs all over the world, for example-

- **AGNs**- Advocacy Groups and Networks
- **BINGOs**- Big International NGOs
- **BONGOs**- Business-organized NGOs
- **CBOs**- Community-based Organizations
- **GONGOs**- Government- organized NGOs
- **GRINGOs**- Government-run (or inspired) NGOs
- **GROs**- Grassroots Organizations
- **GSCOs**-Global Social Change Organizations
- **IDCIs**-International Development Cooperation Institutions
- **IPOs**- International/ Indigenous People's Organizations
- **LDAs**- Local Development Associations
- **LINGOs**- Little International NGOs
- **MOs**- Membership Organization
- **MSOs**- Membership Support Organizations
- **NNGOs**- Northern NGOs
- **NPOs**- Non-Profit or Not-for-profit Organizations
- **PVDOs**- Private Voluntary Development Organizations
- **QUANGOs**- Quasi NGOs
- **RONGOs**-Royal NGOs
- **RAWs**-Relief and Welfare Association
- **SHOs**- Self- Help Organizations
- **TNGOs**- Trans-National NGOs
- **VDAs**-Village Development Associations
- **VNPOs**- Volunteer non-profit organizations.⁹

There are varied ranges of activities NGOs play in promoting social, economic and political change on a broader level or locally. In terms of their structure, NGOs may be large or small, formal or informal, bureaucratic or flexible. In terms of funding, many are externally funded, while others depend on locally mobilized resources. Some may be well resourced and affluent, while others may be leading a 'hand to mouth' existence, struggling to survive from one year to the next. There are NGOs with highly professionalized staff, while others rely heavily on volunteers and supporters. In terms of values, NGOs are driven by a range of motivations. There are secular NGOs, as well as increasing numbers of 'faith-

based’ organizations. Some NGOs may be charitable and paternalistic, others seeking to pursue radical or ‘empowerment’-based approaches. A single NGO may combine several of these different elements at any one time.¹⁰

List of Some Organizations Working in India on Violence against Women and Girls-

1. Forum Against Oppression of Women

FAOW, is an organization based in Mumbai and work towards advocating issue related to women’s rights on rape, sex selective abortions, right to work with dignity etc.

2. Men against Violence and Abuse (MAVA)

MAVA, is an organization based in Mumbai and work towards empowering women and engaging men and boys as stakeholders to address issues relating to gender –based discrimination which help prevent violence against women.

3. OXFAM

OXFAM is a confederation of many organizations across the world. It works to end injustice caused by poverty, and take on issues like gender discrimination, climate change, sanitation etc.

4. Martha Farrell Foundation

MFF is an organization based in Delhi. Named after the pioneer on gender justice Martha Farrell, this organization aims towards making workplaces safe for women and works on issues related to elimination of gender based violence, women empowerment etc.

5. RAHI

Recovering and Healing from Incest, an organization based in Delhi and works with women survivors of incest and child sexual abuse by creating awareness and support through meaningful actions.

6. Sakshi

Sakshi is an organization based in Delhi which focuses on education, child development, water and sanitation, women empowerment, gender equality etc.

7. Jagori

Jagori is an organization based in Delhi and is established to build knowledge on feminist concerns and advocate for women's rights raising awareness on violence against women, education, health and empowerment etc.

8. Asmita Resource Centre for Women

Asmita Resource Centre for Women is an organization based in Andhra Pradesh. It works for uplifting the socio-economic status of women in India and create safe space for all to engage in dialogues on issues concerning women in particular and community at large

9. Swayam

Swayam is a feminist organization based in Kolkata and is committed to working towards women's rights and ending violence against women. The organization aims to work with women survivors of violence and facilitate dialogues on social customs and traditions that generate discrimination against women and girls.

List of NGOs Working in Sikkim on the issue of women safety-

1. Eshwaramma Social Welfare Association

Eshwaramma Social Welfare Association is located in Arithang, Gangtok, East Sikkim. It was registered on 1994 February 10th, it has a parent organization known as Paul Foundation. The Chairman of Eshwaramma Social Welfare Association is Mrs. Deoki Pradhan. The main aim of the organization is to empower women and work towards women development.

2. Sikkim Mahila Kalyan Sangh

Sikkim Mahila Kalyan Sangh is located in Ranipool, East Sikkim. It was registered on May 30th, 1977 and aims to work on areas of children, health and family welfare, legal awareness and legal aid.

3. Association for Social Health in India Sikkim (ASHI)

Association for Social Health in India Sikkim is located in Lower Burtuk, Gangtok, East Sikkim, it was established in 1990 and works on the domain of children, health and family welfare, women empowerment and youth affairs.

ASHI runs various projects such as Jagriti- a rehabilitation centre for all, Swadhar Greh- a correctional home for women, Specialized Adoption Agency (SAA) and it also runs the Government funded Family Counselling Centre (FCC).

4. Hope Social Welfare Ministries

Hope Social Welfare Ministries is located in Saramsa, Jalipool, Namcheybong Constituency, Ranipool, East Sikkim. It was established on 2014 and works on the domain of women empowerment, youth affairs, HIV/AIDS prevention and child welfare.

5. Sikkim Sisters

Sikkim Sisters was registered in 2018 and is located in Uttarey, Dentam, West Sikkim. it works on the area of civic issues, literacy, child welfare and women empowerment.

6. Sikkim –Legal Information Centre

Sikkim- Legal Information Centre is an independent organization based in Gangtok, East Sikkim. It was established in 2004 with a mission to empower the marginalized sections of the society. The centre works on issues such as women, children, farmers, labourers etc. and also provide low cost legal aid to the needy.

SLIC Impact-

The centre was able to secure relief in a case of sexual harassment of women with regard to Supreme Court guidelines for prohibition of sexual harassment of women in workplace made in the Vishakha v/s the Union of India. The Sikkim High Court had disposed the case believing the verbal assurances of the state lawyer. In a major step forward the Sikkim unit moved the Supreme Court which directed the state to publicize the prohibition of sexual harassment in the mass media so that public awareness of the provision of this law is increased.

- The Sikkim High Court directed the State Legal Service Authority to conduct the sensitisation programme on sexual harassment of women at workplace for the employees as well as for the ICC (Internal Complaint Committee).
- For the rights of children, a PIL was filed before the High Court of Sikkim praying for the proper implementation of Juvenile Justice (Care and Protection of Children) Act, 2000.
- The unit has filed a PIL for implementation of National Rural Health Mission. This has resulted in the government providing free medicines to all in the state.
- The unit has been fighting a case against dams on River Teesta. The Sikkim High Court was not giving reliefs as desired by the villagers. As such an appeal was made in the Supreme Court which has been admitted and the court has directed the state of Sikkim to respond.
- That the unit is fighting for the Rights of married women in the state of Sikkim. That in Sikkim as per the old law if local women marry a non-local man then their rights in the property will be seized automatically which is unconstitutional as State Government has been depriving their basic right under article 21 of the Constitution, they are denied to choose a partner of their own choice, so unit is helping them to fight for the justice.
- Persons with Disability now get a reservation in the Government employment after Unit has filed PIL on this issue, economically poor individuals have access to the justice till Supreme Court due to the SLIC.¹¹

The majority of NGOs advocate social, political, economic, environmental, and a variety of other concerns that are important to a society as a whole. There are also some common objectives shared by NGOs striving to make workplaces safe-

- To work towards establishing a workplace free from gender discrimination against employees.
- To assist organizations (both public and private) in adhering to the rules outlined in the Sexual Harassment of Women at Workplace Act, 2013.
- To aid in conducting workshops, seminars, and trainings on sexual harassment, gender discrimination, etc.

CONCLUSION

The NGOs in Sikkim could seek to support and develop additional women's organizations. With the aim of changing their behavior towards women and girls in the state, the organization might work with men and boys. At all levels, there must be a joint effort to end gender-based violence. These organizations could run programs to raise awareness, educate people about their legal rights, plan campaigns, and engage in dialogue with the media, academic institutions, and political parties to push for the strict enforcement of laws protecting women and girls. If laws are not being enforced properly, NGOs may bring a PIL (Public Interest Litigation) and pursue problems that will increase public awareness and foster a sense of community among victims of violence in the State.

ENDNOTES

¹ *Sikkim Human Development Report 2014: Expanding Opportunities, Promoting Sustainability*. Government of Sikkim, India. ISBN: 978-1-138-92606-6 (pbk)

² *The Gazetteer of Sikkim*, Publication of Sikkim Nature Conservation Foundation Seeks To Project The Rich Cultural Heritage of Sikkim, Gangtok. Sikkim, India. First Published 1894, reprinted 1989, p. 55

³ Bhutia, Rosden T, 2017. Legal Rights of Sikkimese Women, *International Journal of Recent Scientific Research*, 8 (12), p. 22100-22114.

⁴ Lama, Mahendra P. 2001. *Sikkim Human Development Report*. Govt. of Sikkim, Social Science Press, Delhi. ISBN 81-87358-04-1, p. 62.

⁵ Sikkim Human Development Report, 2014. Government of Sikkim, India. Published by Routledge, New Delhi, India. p. 4.

⁶ STATE PORTAL, Government of Sikkim (Accessed 5 September, 2021, 9:30 pm)

⁷ <http://sikkimslsa.nic.in/brief.html>. (Accessed 7 September, 2021, 11:02 pm)

⁸ Gangrade K. D. 2001. *Working with Community at the Grassroots Level*. New Delhi: Radha Publications.

⁹ Lewis, D., & Kanji, N. 2009. *Non-Governmental Organizations and Development*. Routledge, New York, p. 9.

¹⁰ Ibid, p. 3-4.

¹¹ <http://www.slic.org.in/state/sikkim> (Accessed 14, February 2023, 11:30 pm)

CHAPTER 5

FIELD VISIT REPORT AND CONCLUDING ANALYSIS

According to a survey produced jointly by the centre for strategic and International Studies (CSIS), a leading American think-tank and Nathan Associates, The Himalayan state of Sikkim has the best and the national capital of Delhi has the worst working conditions for women. According to the report Sikkim scored the maximum 40 points while Delhi only received 8.5, which is indicative of the situation in the capital. The states were evaluated based on four key criteria-

1. legal restrictions on women's working hours in factories, retail, and the IT industry;
2. the responsiveness of the state's criminal justice system to crimes affecting working women, such as sexual harassment;
3. the number of women workers in the state as a percentage of total workers; and
4. the number of incentives the state's start-up and industrial policies offer women entrepreneurs.¹

Incidents of sexual assaults make into headlines every other day in Sikkim. Innumerable behavior by the opposite sex which amounts to sexual harassment may sometimes seem normal because the society and patriarchal norms have let us believe that it's harmless and goes on being neglected until the problem become serious.

A field study was carried out in the Social Justice, Empowerment and Welfare Department in Gangtok, Sikkim, from 15 January to 22 July 2017, to examine the prevalence of sexual harassment of women at work in Sikkim and numerous other factors that contribute to its occurrence. The Social Justice, Empowerment, and Welfare Department aims to put the government's plans and programmes for the society's marginalised groups into action. The scheduled castes, scheduled tribes, and other underprivileged groups, including women, children, young people, physically challenged individuals, and orphans, are the primary targets of the projects and schemes. The department has been split into the Welfare

Department, Women and Child Development Department, and Social Welfare Department in order to ensure the successful implementation of all projects and activities. The department is also the nodal department for implementing Sexual Harassment of Women at Workplace Act, 2013 in the state of Sikkim; hence as a researcher I felt that this department would be appropriate to fulfill the objectives of the study. Since, the study was related to workplace harassment of women in Sikkim, ethnographic method was adopted to deal with the core dynamics of the study. This chapter analyses and interprets the data that was gathered during the study with around 20-30 participants.

I started preparing myself for my trip to Gangtok by doing extensive background study using primary and archival sources. Given her seniority, my cousin who worked there offered to assist me. On a bright Monday morning when I arrived at the Department, I called my cousin, who took me to the Commissioner-cum-Secretary's office to request advance permission to perform my field study. The Secretary asked me about the subject of my research while playfully inquiring as to whether or not his office's CCTV was operational, adding to which he said- "I am afraid of women these days."

As there wasn't much to accomplish, the first day at the field site went smoothly. My cousin asked me to visit her cabin if I needed any assistance. Since she was caught up with some meetings I went about exploring the building; the five storeyed building had a canteen in the ground floor. I went there and asked for a cup of tea. The lady in the canteen was busy making momo (a traditional Tibetan dish) and putting them in the steamer. Since, my cousin had introduced me to some of her colleagues as an Intern in the department for few months people weren't bewildered to see me walking around aimlessly. As days passed, I made a few friends and acquaintances from whom I could gather a lot of information for the study.

Mostly everyone would be in the office by 10 to 10:30 am. Sometimes, they would share their lunch with me and in that process I would ask their family, the kind of work they do in the department, the relationship between colleagues, etc. for which one Acha (sister in Sikkimese) said that sometimes an elderly peon working in the Department pass comments on their clothes, bodies, makeup, etc. and when I asked them about the complaint mechanism for such kind of behavior they informed that that the department has an Internal Committee but since he is a Jhakri (a shaman) no one dares to speak against him because they believe he might harm them through some spells. The other woman in the group added- 'he walk past women singing songs and staring at them'. 'Since, the Department is always full with general

public in the morning hours; instances like this is common', said another madam who was a law officer. Out of five women in the room two were busy on their cell phones and did not seem interested in the conversation. Sometimes people who are Bhutias (a tribe in Sikkim) talk in their own language with one another which were mostly unknown to the Nepali speaking employees in the office. By 4 pm mostly all the employees leave the department and since the department is a little far away from the main road employees having personal vehicles would drive other colleagues till the market or else mostly till the main road.

Since, ethnographic method of study involves a longer period of participant observation; it took six months of travelling to Gangtok twice to thrice a week in order to study the site. During the field study I made the observation of the surroundings, the behavior of the office staffs and working conditions of the people which was also an important part of the research. I took numerous photographs of different sections and detailed notes on what I observed. Some days I could not have any conversations since they would all get caught up in their work but would listen to their conversations which mostly were related to boyfriends, family, children, etc. Most of the employees working in the department were young and vibrant. There were some individuals who were passionate about making an impact on society. Since, the organization recruits social workers, counselors, protection officers, and project coordinators the conversation mostly revolved around cases they were dealing with and so forth. One social worker shared that – 'her work is to rescue children who are employed as child labor from different places and send them to safe homes and follow up with their repatriation'.

During official meetings and conferences women in the department are more actively involved in welcoming the guests, offering ceremonial scarves named 'Khada' which is made of silk, whereas men are mostly seen managing the monitor or microphones in the podium. The employees are encouraged to take trainings to learn new skills which were beneficial for them professionally. Sometimes there were celebrations in the workplace, mostly birthdays. I spent a lot of time understanding the dynamics of the department and what shocked me was the transfer system which I came to know of during one such conversation that, people who are close to the government or are loyal to the party in power are given promotions and transferred to different departments around Sikkim and people who have some kind of political or professional rivalry are victimized and transferred to remote locations.

I took part in seminars and conferences that were conducted by the department for all the Government employees from different departments who were members of the Internal Committee or Local Committee for Prevention of Sexual Harassment of Women in the Workplace, in their respective departments. I would help the Deputy Secretary with small works like writing reports and making arrangement, etc. I could get firsthand experience of the work culture in Sikkim this way. Sikkim has a very compact society, as a researcher I felt that Sikkimese people like the Lachungpas, Lachenpas and the Denzongpas have a very compact social oneness compared to other communities. The seats are reserved for Sikkim subject holders in recruitments made by the state.

During the study got introduced to many people but one person I became good friends with was a law officer dealing with many cases related to women and children, she was always busy with court schedules, going to police stations, conducting trails. She sometimes used to offer me fruits and I always used to tell her to not take so much work pressure and also look after her health as she seemed weak. Unfortunately, she passed away after I had completed my work.

My fieldwork, was a very rewarding experience for me. I observed the department's dedication to putting various laws into effect that will ensure the safety and well-being of state residents as well as the rights and welfare of children, women, the disabled, the elderly, members of the scheduled castes and tribes, and other socially and economically disadvantaged groups.



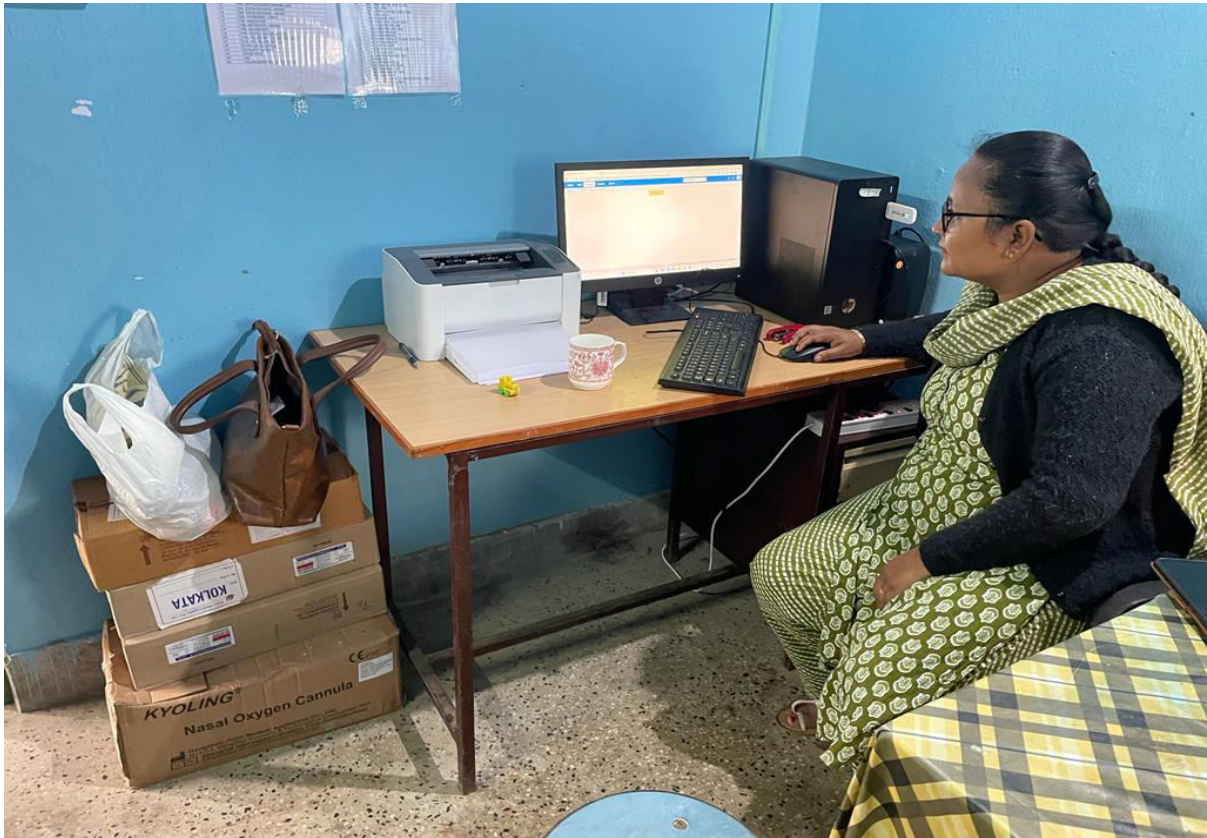
Source: Field Study



Source: Field Study



Source: Field Study



Source: Field Study

DOCUMENT ANALYSIS

In the *Seema Lepcha vs. State of Sikkim & Ors* case, after the Supreme Court of India directed the State of Sikkim in 2012, to comply with the court's direction to take comprehensive steps for implementation of the guidelines framed in the Vishaka case and the direction given in Medha Kotwal case, there was no proper compliance as regard to its implementation. Only on the first day on July 2016, a Memorandum of Understanding (MoU) (see Appendix 5) was signed between the Martha Farrell Foundation (MFF), a non-governmental organization having its office in New Delhi and herein represented by Smt. Nandita Bhatt, (Programme Manager) and the Governor of Sikkim through the Commissioner-cum-Secretary in the Social Justice, Empowerment and Welfare Department, Gangtok, East Sikkim. The main aim of the MoU was to provide technical support to the Social Welfare Department, Government of Sikkim to ensure compliance to a multi-sector institutions spanning both in the public and the private sectors as mandated by the law for the prevention,

prohibition and redressal of sexual harassment of women at workplace. The agreement was initially for 1 year which could be extended further.

The role of the organization towards the Government of Sikkim was the formation and strengthening of Internal and Local Committees which according to the directions given by the Supreme Court and followed by the Government of Sikkim was in the process of constituting even after four years till the MoU was signed to partner with MFF for the same. Data for the study was collected from the office of Social Justice, Empowerment and Welfare Department with the prior permission of the Commissioner-cum-Secretary of the Department. The study of the documents tabled below also clearly indicates that there is a lack of awareness among the employers and employees about the act. The compliance to the law is inadequate and no further course of action for penalty have been prescribed for employers not complying to the provisions of the act. There are more organizations which still have to constitute committees like the hospitals and small enterprises having more than 10 employees. Table 5.1 and Table 5.2., refers to the composition of members in the Sub-Divisional Office and the Block Divisional Office, there are four districts in the state of Sikkim but data can only be found for West District that too was inadequate in terms of its composition. Same is the case with regards to the government banks as shown in Table 5.5, apart from State Bank of Sikkim, Sikkim has Sikkim State Co-operative Bank, State Bank of India, Central Bank of India etc. but none of the banks have been mentioned in the table stated below.

TABLE 5.1
STATUS OF ICC OF SUB- DIVISIONAL MAGISTRATE (SDM) OFFICE (WEST SIKKIM) 2017

Sl. No.	Name of Dept.	No. of members from within the organization	F/M	3 rd Party Member	Total Members	Location	Remarks/Observation

1	SDM WEST	3	3/0	NA	3	SORENG	NO MALE MEMBERS, ALL MEMBERS ARE BELOW UD
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Source: Social Justice, Empowerment and Welfare Department, Gangtok, Sikkim.

F- Female, M- Male, NA- Not Available & UD- Upper Division

Table 5.2

**STATUS OF ICC OF BLOCK DEVELOPMENT (BDO) OFFICE (WEST SIKKIM)
2017**

Sl. No.	Name of the Organization	No. of members within the organization	F/M	3 rd Party Members	Total Members	Location	Remarks/ Observation
1	BDO WEST	4	2/2	YES	4	KALUK	ONE MEMBER IS UDC

Source: Social Justice, Empowerment and Welfare Department, Gangtok, Sikkim

F- Female, M- Male & UDC- Upper Division Clerk

TABLE 5.3

**STATUS OF ICC OF GOVERNMENT EDUCATIONAL INSTITUTIONS- SIKKIM
2017**

Sl. No.	Name of Dept.	No. of Members from within the Organization	F/M	3 rd Party Member	Total Members	Location	Remarks/Observation
1	SIKKIM GOVERNMENT COLLEGE	4	4/0	YES	5	GANGTOK	NO MALE MEMBER

2	SANSKRIT COLLEGE SAMDONG	3	3/0	YES	5	SAMDONG	NO MALE MEMBER
3	NAMCHI GOVT COLLEGE	7	3 /4	NA	7	NAMCHI	ONE MEMBER IS LDC
4	SIKKIM INSTITUTE OF HIGHER STUDIES	4	3/1	YES	5	GANGTOK	ONE MEMBER IS HA
5	EAST POINT SR. SEC SCHOOL	3	3/0	YES	4	GANGTOK	NO MALE MEMBER
6	PAKIM PALATINE COLLEGE	6	5/1	NA	6	PAKYONG	TWO MEMBERS ARE STUDENTS
7	SIKKIM GOVT COLLEGE TADONG	6	4/2	YES	7	GANGTOK	ACC. TO GUIDELINES

Source: Social Justice, Empowerment and Welfare Department, Gangtok, Sikkim.

F- Female, M- Male, LDC- Lower Division Clerk HA- Helping Assistant & NA- Not Available

TABLE 5.4

STATUS OF ICC OF PRIVATE EDUCATIONAL INSTITUTIONS- SIKKIM 2017

Sl. No.	Name of the Dept	No. of member from within the organization	F/M	3 rd Party Member	Total Members	Location	Remarks/ Observation
1	SRM	7	7/0	NA	7	GANGTOK	NO NGO
2	HARKAMAYA COLLEGE	9	8/1	YES	11	GANGTOK	ONE MEMBER IS STUDENT

3	DAMBER SINGH COLLEGE	7	4/4	YES	9	GANGTOK	ACC TO GUIDELINE
4	ICFAI UNIVERSITY	5	5/0	YES	6	GANGTOK	NO MALE MEMBER
5	HIMALAYAN PHARMACY COLLEGE	-	-	-	-	RANGPO	NO ICC MENTIONED
6	SIKKIM MANIPAL UNIVERSITY	6	4/2	YES	7	RANGPO	ACC. TO GUIDELINE
7	BAHAI SR. SEC SCHOOL	5	3/2	NA	5	RANIPOOL	NO DESIGNATION MENTIONED
8	IGNOU UNIVERSITY	7	6/1	NA	7	GANGTOK	COMMITTEE NOT MENTIONED
9	TENDONG EDUCATIONAL INSTITUTE	3	2/1	YES	4	NAMCHI	ACC. TO GUIDELINES
10	PHUL MOTI MEMORIAL UNIVERSAL	6	3/3	YES	7	UTTAREY	ACC. TO GUIDELINES
11	NEW LIGHT ACADEMY	5	4/1	YES	6	NAMCHI	ACC. TO GUIDELINES
12	SPRINGDALE ACADEMY	1	1/0	YES	4	MANGALBARAY	THREE MEMBERS ARE FROM NGO
13	LITTLE SCHOLAR ACADEMY	3	3/0	YES	4	RABONGLA	NO MALE MEMBER

Source: Social Justice, Empowerment and Welfare Department, Gangtok, Sikkim.

F- Female, M-Male & NA- Not Available

TABLE 5.5
STATUS OF ICC OF GOVERNMENT BANKS- SIKKIM 2017

Sl. No.	Name of the organization	No. of members within the organization	F/M	3 rd Party Members	Total Members	Location	Remarks/ Observation
1	STATE BANK OF SIKKIM	4	4/0	YES	5	GANGTOK	NO MALE MEMBER

Source: Social Justice, Empowerment and Welfare Department, Gangtok, Sikkim.

F- Female & M- Male

TABLE 5.6
STATUS OF ICC OF PRIVATE BANKS- SIKKIM 2017

Sl. No.	Name of the organization	No. of members within the organization	F/M	3 rd Party Members	Total Members	Location	Remarks/Observation
1	CITIZEN BANK LTD	4	3/1	YES	5	GANGTOK	ACC. TO GUIDELINES
2	HDFC	4	3/1	YES	5	GANGTOK	ACC. TO GUIDELINES
3	UNION BANK OF INDIA				8	GANGTOK	ONLY NO. OF STAFFS MENTIONED
4	BANDHAN BANK	4	2/2	YES	5	GANGTOK	ACC. TO GUIDELINES
5	YES BANK	3	2/1	YES	4	GANGTOK	ACC. TO GUIDELINES
6	ICICI	-	-	-	-	GANGTOK	NOT MENTIONED CLEARLY

7	IDBI	4	3/1	YES	5	GANGTOK	ACC. TO GUIDELINES
8	ALLAHABAD BANK					GANGTOK	TOTAL STAFFS ARE 6 MEMBERS ONLY
9	PUNJAB NATIONAL BANK	4	3/1	YES	5	GANGTOK	ACC. TO GUIDELINES
10	B.M.B					GANGTOK	TOTAL STAFFS ARE 5 MEMBERS ONLY
11	ANDHRA BANK					GANGTOK	TOTAL STAFFS ARE 5 MEMBERS ONLY
12	LIC	3	2/1	YES	4	GANGTOK	ACC. TO GUIDELINES
13	UCO	3	2/1	YES	4	GANGTOK	ACC. TO GUIDELINES
14	BANK OF BARODA	5	3/2	YES	6	GANGTOK	ACC. TO GUIDELINES
15	VIJAYA BANK	4	4/0	YES	5	GANGTOK	NO MALE MEMBERS
16	SYNDICATE BANK					GANGTOK	NO WOMEN EMPLOYEE, ONLY 4 MALE STAFFS
17	AXIS BANK	9	6/3	NA	9	GANGTOK	NO NGO
18	SIDICO	4	4/0	YES	5	GANGTOK	NO MALE MEMBERS
19	SABCCO	3	3/0	YES	4	GANGTOK	NO MALE MEMBERS

Source: Social Justice, Empowerment and Welfare Department, Gangtok, Sikkim.

F- Female, M- Male & NA- Not Available

The Sexual Harassment of Women at Workplace Act, 2013 also laid down the provisions for constituting complaint committees in the workplace accordingly. Complaint

committees as per the documents analyzed were formed in most of the departments, banks, colleges and private establishments of the Government of Sikkim, but the complaint committees were not formed according to the composition laid down in the act. A complaint committee is supposed to have a third-party member who is committed to the cause of women, has a sound knowledge on issues related to gender and law but the complaint committees in Sikkim composed of NGO workers or lawyers who were unaware of their designation in the departments which had assigned their names for the third-party member. Many private establishments also had not complied with the government's order to constitute a committee nor train their staffs. Many a times the compliance was found to be only on paper.

The Social Justice Department with Martha Farrell Foundation had conducted workshops and training sessions to educate members of the Internal and Local Committees, about their roles and responsibilities on the implementation of the law in the State. A training session for the master trainers was also held by the Department with the help of MFF. The trainers were trained free of cost so that they could act as resource persons to conduct workshops for other government and private sector companies in the state. The Department of Social Welfare also launched a handbook for internal and local committees on prevention, prohibition and redressal of sexual harassment of women at workplace to spread awareness and educate them about the law.

TABLE 5.7

TRAINING OF TRAINERS

Serial No.	Name	Designation	Department
1	Anjan Sharma	Lawyer	SLSA
2	Shyamkala Basnet	Add. S.P	Special Branch
3	Rekita Gurung	Student	
4	Prane Pradhan	R.O	SJEWD
5	Gigee Norbu	Add. S.P	Vigilance
6	Rita Sharma	Advocate	Forest
7	Navtara Sharda	Advocate	SLSA
8	Pujan Kharka	Advocate	SLSA, Geyzing
9	Ongmu Bhutia	ASP	Police

10	Sabina Chhetri	Advocate	SLSA
11	Saraswati Thapa	UDC	IPR
12	Chandra Kala Neupaney	SCI. Assistant	DMMG
13	Devika Gurung	Local Body	Pvt. Sector
14	Manju Rai	Local Body	Pvt. Sector
15	Yougan Tamang	Local Body	Pvt. Sector
16	Ongdup Lepcha		Printing & Stationery
17	Meena Baral	NGO	Drishya Foundation
18	Devika R. Gurung	Joint Secretary	MMG. Dept
19	Tsewang Namgyal	Advocate	
20	B. C. Tamang	Advocate	
21	Kumar Sharma	Advocate	
22	Parijat Sharma	Journalist	

Source: Social Justice, Empowerment and Welfare Department, Gangtok, Sikkim



HANDBOOK

FOR
INTERNAL AND LOCAL COMMITTEES
On
Prevention, Prohibition and Redressal
of Sexual Harassment of women
at Workplace

Source: Social Justice, Empowerment and Welfare Department, Gangtok, Sikkim



Training of Internal Committee from Nodal Departments on Prevention of Sexual Harassment of Women at Workplace

Source: Social Justice, Empowerment and Welfare Department, Gangtok, Sikkim.



Source: Social Justice, Empowerment and Welfare Department, Gangtok, Sikkim.

There is no doubt on the fact that Sikkim has been working towards making workplaces safe for women. Compared to other states in India, Sikkim has time and again proved to be the best state in many areas of state development. But in case of the implementation of Sexual Harassment of Women at Workplace Act, 2013 the researcher analyzed that what is on record was not implemented in action. All the data along with the observations signifies that the Government of Sikkim still has a long way to go towards hundred percent compliance regarding safe working spaces for women in the workplace.

INTERVIEW

This chapter also analyses and interprets the data that was gathered by the researcher during the interviews that were conducted with twenty officials of various department of Sikkim. The questions for the interview were open-ended, because of the sensitivity of the topic the researcher felt the need to carry out the interview as a casual conversation with the people who were interviewed. The researcher made notes of the conversation in her notebook and the interview was carried mostly in English and Nepali language. Since the researcher was familiar with both the languages it was not difficult to interpret the answers. During the interview the researcher gathered information on the working hours, safety measures for women employees, constitution of the internal and local complaint committee on sexual harassment, the members of the committee, the work culture in the state, the political pressure on the transfer of employees of the State Government.

Through the conversation the researcher felt that many were not comfortable talking about sexual harassment and repeatedly said the same thing like “Hamro office ma ta tyesto kyei vako chaina ahilay samma” (Meaning- till now no such thing has happened in our office), many responded that they had no formal training to conduct inquiry if complaints on sexual harassment at workplace came to them. The researcher was also informed that that the transfer system of the officials were mostly made through political connections. The transfers were made ambiguously. For example: A principal of a government school was transferred as a Sub-Divisional Magistrate of a district. Any official of any department could be transferred to any department anywhere in the state.



Researcher with the District Magistrate of Namchi, South Sikkim.

Source: Field Study.



Researcher with Chairperson, Sikkim State Women's Commission Mrs. Rehna Rai, Mrs Nandita Bhatt, Programme Manager, Martha Farrell Foundation and Members of Sikkim State Women's Commission. 2017. **Source:** Field Study

QUESTIONNAIRE SURVEY

An extensive field survey was carried out through a questionnaire form of enquiry in the four towns of the four districts of Sikkim namely- Gangtok in East District, Soreng in West District, Mangan in North District and Namchi in South District; with two hundred women respondents who worked in both the organized and the unorganized sectors. Since, the study was based on sexual harassment of women at workplace the researcher felt the need to study women's perception and awareness on the subject matter. The study was carried out over the span of four months starting from 18th of April, 2019 till 10th of August, 2019. The study was started from the East District as it is also known as an administrative hub of the State.

The questionnaire for the survey was framed in a simple manner with some basic yet important questions; both open and closed ended questions have been used to collect substantial data. The respondents included government officials, lawyers, bankers, university students, journalists, and members of NGOs, factory workers, hoteliers, MGNREGA

workers, ASHA workers and human rights activists. The entire statement of the questionnaire by the respondents is tabled below accordingly.

TABLE 5.8

SOCIO-DEMOGRAPHIC CHARACTERISTIC OF THE RESPONDENTS

Question No.	Characteristics	Category	Numbers	Percentage
1	Age	20-30	63	31.5
		30-40	73	36.5
		40-50	44	22
		50-60	20	10
2	Area of settlement	Rural	78	39
		Urban	122	61
3	Educational Qualification	Below 10 th Standard	12	6
		10 th - 12 th Passed	28	14
		Graduate- Post Graduate	156	78
		Others	4	2
4	Work Structure	Organized Sector	84	42
		Unorganized Sector	116	58
	Total	Respondents	200	100

Source: Field Report, April- August 2019, Sikkim.

The questionnaire begins by analyzing the personal profile of the respondents which includes their age, educational qualification, their area of settlement and the structure of the work. Since, sexual harassment is a very sensitive topic; the names of the respondents have not been included in the questionnaire.

The questionnaire was distributed to a total of 200 respondents, from which 31.5 % of women were between 20 to 30 years of age which indicates that women from an early age as 20 years are economically independent in Sikkim and women between 30 to 40 years are highest in terms of age with 36.5 % to provide services in various sectors in Sikkim. Secondly, the area of settlement from which these women belong was evaluated as it plays an important role in the understanding of sexual harassment in general. 61% of women

respondents interviewed were from urban area and 39% of women belonged to the rural areas of Sikkim.

78% of women are either graduates or post-graduates as per the survey, 6% have studied till class nine, and 14 % have matriculation and post-matriculation degree. The educational qualification indicates the level of socio- economic empowerment of women, the lesser a women's educational qualification is, the more she is susceptible to atrocities. And as the main objective of the questionnaire is to understand the plight of working women with regards to sexual harassment at workplace, it was necessary to study the occupational background of the respondents along with whether she works in an organized or an unorganized sector. 42 % of the respondents were from the organized sector and 58% worked in an unorganized sector.

TABLE 5.9

**AWARENESS OF THE RESPONDENT ON THE SEXUAL HARASSMENT OF
WOMEN AT WORKPLACE**

Question No.	Characteristics	Category	Numbers	Percentage
5	Knowledge on Sexual Harassment of Women at Workplace	Yes	90	45
		No	110	55
6	Knowledge on Sexual Harassment of Women at Workplace Act, 2013	Yes	78	39
		No	122	61
	Total	Respondents	200	100

Source: Field Report, April- August 2019, Sikkim.

Question 5 and 6, deals with the respondents awareness on sexual harassment at workplace, and sexual harassment act. As mandated by the law, the state governments in India are to lay emphasis on the publicity of the provisions that are laid down in the Sexual Harassment of Women at Workplace Act, 2013. 45% of respondents have claimed to know about sexual harassment that occurs at the workplace whereas 55% had no knowledge on the

subject matter. In case of the Act, 39% of the respondents were aware of the Act whereas 61% had no idea that such act also do exists.

TABLE 5.10

**AWARENESS ON COMPLAINT COMMITTEE ON SEXUAL HARASSMENT OF
WOMEN AT WORKPLACE**

Question No.	Characteristics	Category	Numbers	Percentage
7	Knowledge on Complaint Committee at the Workplace	Yes	78	39
		No	122	61
8	Knowledge on the members of the Complaint Committee	Yes	48	24
		No	152	76
	Total	Respondents	200	100

Source: Field Report, April- August 2019, Sikkim.

Question 7 and 8, deals with Complaint Committees which according to the Act should be constituted at the workplace. 39% of the respondent had knowledge about the formation of Complaint Committees in their respective departments or in the district and rests 61% were not aware of such a committee. The complaint committee has to have a minimum of four members out of which one member should be from an NGO having experience in social or legal work mostly committed to the cause of women. 24% of the respondents were aware of the members of the Complaint Committee, and 76% had no knowledge about it.

TABLE 5.11

SEXUAL HARASSMENT EXPERIENCE AT THE WORKPLACE

Question No.	Characteristics	Category	Numbers	Percentage
9	Sexual harassment experience	Yes	112	56
		No	88	44

	Total	Respondents	200	100

Source: Field Report, April- August 2019, Sikkim.

Question 9 deals with whether the respondents have faced sexual harassment at the workplace for which 56% responded being harassed and 44% have denied experiencing such behavior

TABLE 5.12

FREQUENCY OF HARASSMENT AT WORKPLACE

(Only for respondents whose answer is ‘Yes’)

Question No.	Characteristics	Category	Numbers	Percentage
10	Frequency of harassment	Daily	48	43
		Weekly	32	28.5
		Once in a while	32	28.5
	Total	Respondents	112	100

Source: Field Report, April- August 2019, Sikkim.

Question 10 specifically narrows down the number of respondents, from 200 to 112 because only those respondents who have experienced some kind of sexual harassment were taken into consideration to proceed further to answer rest of the question in the questionnaire.

TABLE 5.13

PLACE WHERE THE HARASSMENT OCCURED

Question No.	Characteristics	Category	Numbers	Percentage
11	Place of harassment	Inside the workplace	47	42
		Outside the workplace	42	37.5
		Others	23	20.5

	Total	Respondents	112	100
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Source: Field Report, April- August 2019, Sikkim.

Question 11 deals with a very important issue of where the harassment as taken place, because the Act defines the workplace as not only the building or the area where the employee works but it also extends its definition as any place that is visited by the employee due to any work related issues. Example- shared transportation provided by the employer, visit to any other workplace during the course of work, official parties outside the office etc. 42% of the respondents have said that they have been harassed in the premises of their workplace, 37.5% have been responded to have been harassed outside the workplace and 20.5 % have been responded to have been harassed in other places.

TABLE 5.14

DIFFERENT FORMS OF SEXUAL HARASSMENT EXPERIENCED

Question No.	Characteristics	Category	Numbers	Percentage
12	Form of sexual harassment experienced	Physical contact (invading personal space).	12	11
		Demand for sexual favors in return for promotion or perks.	9	8
		Unwelcome verbal or non-verbal sexual remarks.	72	64
		Showing or sending pornography, cartoon, jokes, graffiti having sexual cannnotation even if it is via e-mail/ whatsapp/ messages (online).	19	17
	Total	Respondents	112	100

Source: Field Report, April- August 2019, Sikkim.

There are many forms of sexual harassment that individual employees experience at a workplace. 64% of the respondents have responded to have experienced unwelcomed verbal or non-verbal sexual remarks by their harasser. 19% have been responded to have been harassed online through messages, jokes, cartoon etc. 12% have responded to being physically touched, spanked etc., and 9% have been asked for sexual favors in return for promotions and perks at the workplace.

TABLE 5.15

HARASSED BY WHOM

Question No.	Characteristics	Category	Numbers	Percentage
13	Harassed by whom	Senior	88	79
		Junior	24	21
	Total	Respondents	112	100

Source: Field Report, April- August 2019, Sikkim.

Question 13 deals with what category of position do the harasser hold at the workplace, to which 79% responded to have been harassed by a senior and 21% have responded to have been harassed by a junior. This also states that people having authority are most likely to harass their employee or colleagues.

TABLE 5.16

**COMPLAINED AGAINST SEXUAL HARASSMENT OF WOMEN AT
WORKPLACE**

Question No.	Characteristics	Category	Numbers	Percentage
14	Have ever complained	Yes	0	0
		No	112	100

15	Place of complaint lodged (if yes)	At the office with the I.C	0	0
		At the District Office with the L.C	0	0
		Office of the Women’s Commission	0	0
		Police Station	0	0
16	Reason for not complaining (if no)	Fear of reaction by the harasser as the harasser is in a powerful position	17	15
		Fear of repercussions on your career	25	22
		Your image at the workplace	48	43
		Others	22	20
	Total	Respondents	112	100

Source: Field Report, April- August 2019, Sikkim.

Question 14 examine whether the respondents ever filed a complaint against the harasser or not, if the answer is 'Yes', then question 15 aims to elaborate on where was the complaint filed and if the answer is 'No', then question 16 explores the options on the reason why the respondent did not file any complaint against her harasser. 100% of the respondents shared that they have never complained to which 17% stated that the harasser was in a powerful position, 25% feared any kind of repercussions on their career, 48% cited fear of a tainted image at the workplace and 22% cited other reasons.

TABLE 5.17

IMPACTS OF SEXUAL HARASSMENT OF WOMEN AT WORKPLACE

Question No.	Characteristics	Category	Numbers	Percentage
17	Impact of sexual harassment	Physical impact	1	0
		Mental & emotional impact	47	42
		Social impact		

		Financial impact	51	46
			13	12
	Total	Respondents	112	100

Source: Field Report, April- August 2019, Sikkim.

And lastly, Question 17 deals with various ways in which sexual harassment have an impact in the lives of the people who have faced it. 42% responded to have had a mental and emotional impact on their well being, 51% responded having social impacts, and 13% responded having financial impacts of sexual harassment at workplace.

The study meted out how traditional and social restriction on women poses a problem for them in complaining against sexual harassment at workplace. Women should be made aware that complaining against sexual harassment is not a matter of shame but her right to live life with dignity. During the study it was found out that women, mostly belonging to the rural areas are a little hesitant to talk about anything that has a sexual connotation. A major understanding of what constitutes sexual harassment came into light as many women had an idea that sexual harassment is only about physical sexual abuse.

The study examined the experience of sexual harassment of women at both organized and unorganized sector and irrespective of the work setting, the study highlights that women are considered a weaker section because in most cases the harasser is in a senior position. Hence, this signifies that there is a need to create awareness on the SHW Act, 2013, as most women are unaware of their rights and also the Act needs to be implemented as mandated by the law.

Since more and more women are joining the workforce, sexual harassment at workplace is still to be recognized as a serious issue in Sikkim. Sexual harassment at the workplace is a universal problem. Even though the occurrence of sexual harassment at the workplace is widespread in India and elsewhere, this is the first time it has been recognized as an infringement of the fundamental rights of a woman, under Article 19(1) (g) of the Constitution of India ‘to practice any profession or to carry out any occupation, trade or business’. Cases like Seema Lepcha v. the State of Sikkim & Ors, and cases of sexual harassment in Sikkim University now and then, make headlines in all leading newspapers of the state. Students from Sikkim University have time and again reported cases of sexual harassment in the university by their professors or colleagues or friends. The safety and

security of women should be considered vital if women are to be empowered. But the absence of report of any case of violence against women does not hold a valid reason to claim of the safety index being high in the state. In case of sexual harassment, the victims do not lodge complaints, because of various reasons.

WAY FORWARD

The #MeToo movement started by Tarana Burke in 2007 to show solidarity with survivors of sexual assault opened a Pandora's box for women around the globe to share their stories of sexual violence, which they had kept under wraps for years. Raya Sarkar's list of sexual harassers in academia, also known as LOSHA, was part of this tsunami of revelations.² Although the list did not mention the names of the accuser nor did it mention the kind of harassment experienced. The #MeToo did not do much in action, only few faced inquiries. This was because both parties were freelancers and not covered by an internal committee; they were now in different organizations; their industries did not have a professional guild committee to prevent harassment; or too much time had elapsed. When inquiries were held, the abusers were exonerated.³ Despite the fact that the #MeToo revelation could not bring the harassers to book in most of the cases, a wide understanding of the power dynamics at workplace has surely been acknowledged.

Patriarchal stereotypes refrain women to come forward and talk about incidents of harassments. Not only women, men too are being harassed at work but the law covers only the women and does not provide any protection to men. The society too does not encourage men to talk about sexual harassment as it goes against the social standards of masculinity. The law also does not cover the third gender, even though on the 24th of April 2015, the Rights of Transgender Persons Bill, 2014 was passed by the Rajya Sabha guaranteeing all the fundamental rights to the transgender person. The society is yet to be made aware of the presence of the gender identity beyond a male and a female.

Having analyzed the various dimensions in each chapter of this dissertation it is clearly evident that sexual harassment is prevalent in Sikkim and in India at large and little has been done to act according to the provisions laid down by the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. Sexual harassment is a global problem and efforts are being carried out to address the problem by the

government, social organizations and legal bodies; but in order to understand the root cause of sexual harassment at workplace further research must be carried out on different aspects of workplace culture, male attitudes towards women in the workplace, subtle sexism which often is deemed harmless.

The guidelines given by Supreme Court in Vishaka v/s Union of India are not strictly followed by the organizations. While some men view sexual harassment as harmless social interaction to which only overly sensitive women would object, the truth is that sexual harassment is subjective. Harassment has to be analyzed from the victim's perspective, which means that the impact of the harassment has to be taken into consideration rather than the intent. Employers should be encouraged to take necessary steps to prevent sexual harassment from taking place. It should be clearly communicated to all employees that no form of sexual misconduct will be tolerated. Norms and guidelines of behaving in an organization must be clearly drawn up and conveyed to all employees. A process of redressal of complaints and action to be taken in the event of a person being proven guilty must be clearly defined. In fact, the recognition of the right to protection against sexual harassment is an intrinsic component of the protection of women's human rights. It is also a step towards providing women with equality of opportunity and the right to work with dignity.

In Sikkim, the existence of a law for the protection of women who faces harassment at workplace is little known. So far whether it is government or private institutions, both have failed to organize workshops and awareness programmes at regular intervals for sensitizing the employees as mandate under the provisions of the Act. There should be awareness programme as to know what constitutes sexual harassment as per the definition of the Act, where to go and whom to approach at the time of need.

The provision under section 6 (2) of the Sexual Harassment of Women at Workplace, Act, 2013 has been flouted blatantly as there is no designated Nodal Officer at District or Taluka Level. Also there is no single annual reports submitted by the District Officer to the State Government nor has a single LC or IC submitted any report to the District Offices. Hence, provision under Section 20 and 21 have not been complied with.

None of the members of the LC and IC have undergone any orientation training and do not know how to undertake an inquiry as and when a case of sexual harassment arises. The

committees are formed only in paper and the people working in both the organized and unorganized sector have no idea that such committee exist. Some of the members too are unaware that they are a member of such committee. This shows the lackadaisical attitude of the government in the implementation of Sexual Harassment of Women at Workplace Act, 2013 in the state of Sikkim. Therefore, workshops and trainings for the internal and local complaint committee is the need of an hour at workplaces around Sikkim; mostly to improve the working experience and to enhance the practice of safe work culture for all to maintain a dignified organizational balance.

ENDNOTES

¹ Breakthrough Index: Women in the Workplace, Center for Strategic and International Studies, Vol 1, Issue 2 September 2016. <https://www.csis.org/analysis/breakthrough-index-women-workplace>

² Dasgupta, Piyashree. *#MeToo in India: 75 Professors, 30 Institutes, What Happened to Raya Sarkar's List of Sexual Harassers?* Huffington Post India, 26 October 2018.

³ Pathak, Ankur. *Bollywood is Strategically Rehabilitating all the Men Accused of Sexual Misconduct*, Huffington Post, 17 May 2019.

* Main workers are those who have worked for 6 months or more during the reference period whereas marginal workers are those who had not worked during the reference period.

SAMPLE QUESTIONNAIRE

Dear Respondents,

I am Suvekcha Tamang, a PhD Scholar from Jadavpur University, Kolkata. The topic of my research is “Sexual Harassment of Women at Workplace in Sikkim- A Human Rights Perspective, 2000-2015” and in this regard I am conducting a field work to collect data from working women both in organized and unorganized sectors to understand their perspective on sexual harassment at workplace. The information provided by you will solely be used for this study.

Thanking You,

Yours Faithfully,

Suvekcha Tamang.

Question 1.

What is your age?

- A. 20-30
- B. 30-40
- C. 40-50
- D. 50-60

Question 2.

Which area settlement do you live in?

- A. Rural
- B. Urban

Question 3.

What is your educational qualification?

- A. Below 10th Standard
- B. 10th – 12th Passed
- C. Graduate- Post Graduate
- D. Others

Question 4.

Where do you work?

- A. Organized Sector
- B. Unorganized Sector

Question 5.

Do you know what Sexual Harassment of Women at Workplace is?

- A. Yes
- B. No

Question 6.

Are you aware of Sexual Harassment of Women at Workplace Act, 2013?

- A. Yes
- B. No

Question 7.

Does your workplace have a Complaint Committee for sexual harassment?

- A. Yes
- B. No

Question 8.

Are you aware of the members in the Complaint Committees in your Workplace or in the District?

- A. Yes
- B. No

Question 9.

Have you ever experienced Sexual Harassment at your Workplace?

- A. Yes
- B. No

(You may proceed with the rest of the questions only if your answer is 'Yes')

Question 10.

How often have you experienced it?

- A. Daily
- B. Weekly
- C. Once in a while

Question 11.

Where did you experience it?

- A. Inside the workplace
- B. Outside the workplace
- C. Others

Question 12.

What kind of sexual harassment did you experience?

- A. Physical contact (invading personal space)
- B. Demand of sexual favors in return for promotions or perks
- C. Unwelcome verbal or non-verbal sexual remarks
- D. Showing or sending pornography, cartoons, jokes, graffiti having sexual connotations even if it is via e-mail/ whatsapp/ messages (online)

Question 13.

Who harassed you?

- A. Senior
- B. Junior

Question 14.

Did you ever complain?

- A. Yes
- B. No

Question 15.

If yes, then where did you lodge your complain?

- A. At the Office, with the IC
- B. At the District Office with the LC
- C. Office of the Women's Commission
- D. Police Station

Question 16.

If no, then why did you not complain?

- A. Fear of reaction by the harasser as the harasser is in a powerful position.
- B. Fear of repercussions on your career
- C. Your image at the workplace
- D. Others

Question 17.

What was the impact of sexual harassment on you?

- A. Physical impacts
- B. Mental and emotional impacts
- C. Social impacts
- D. Financial impacts

APPENDIX- 1

Sikkim Subjects Regulation 1961

(As amended vide Notification No. S/277/61 dated the 16th January, 1962, Notification No. S/252/65 dated the 26th July 1965 and Notification No. 790/H dated the 3rd December 1970).

HOME DEPARTMENT

Notification No. 156/S-61

Dated Gangtok, the 3rd July 1961

(Published in the Sikkim Darbar Gazette, Extraordinary, dated the 3rd July 1961).

The following Proclamation of the Chogyal of Sikkim is hereby notified:

WHEREAS it is expedient to define clearly the status of Sikkim subjects and to make provision for acquisition and loss of such aforesaid status:

NOW, THEREFORE, The Chogyal of Sikkim has been pleased to make and promulgate the following Regulation.

1. Short title and extent-

- (i) This Regulation may be called the SIKKIM SUBJECTS REGULATION, 1961.
- (ii) It shall extend throughout the territory of Sikkim.

2. Commencement-

This Regulation shall come into force on such date as may be appointed for the purpose by the Chogyal of Sikkim.

3. Certain persons domiciled in Sikkim Territory at the commencement of the Regulation to be Sikkim subjects-

- 1. Every person who has his domicile in the territory of Sikkim immediately before the commencement of this Regulation shall be a Sikkim subject if he:
 - (a) Was born in the territory of Sikkim and is resident therein, or
 - (b) Has been ordinarily resident in the territory of Sikkim period not less than fifteen years immediately preceding such commencement; provided that in the said period of fifteen years any absence from the said territory on account of service under the Government of India shall be disregarded; or

(c) Is the wife or minor child of a person mentioned in clause (a) or clause (b):

Provided that a person shall not be a Sikkim subject under this section unless he makes a declaration to the effect that he is not a citizen of any other country at the time of inclusion of his name in the register of Sikkim subjects to be maintained under this Regulation:

Provided further that in the case of a minor or a person of unsound mind, such declaration may be made by his guardian.

Explanation: no person shall be deemed to have his domicile in the territory of Sikkim unless:

(i) He is a person who has made Sikkim his permanent home and has severed his connections with the country of his origin such as by parting with his property in that country or acquiring immovable property in Sikkim.

Provided that a person shall not be deemed to have a permanent home in Sikkim if he indicates an intention of returning to his country of origin, by keeping a live interest therein even though he might have parted with his property in his country of origin and the mere parting of such property will not be regarded as proof of a person's having acquired a permanent home in Sikkim.

(ii) The wife and minor children of a person having his domicile in Sikkim shall also be deemed to have domicile in Sikkim for the purpose of this section.

(ii) In any case of doubt as to whether a person has his domicile within the territory of Sikkim under this section, the matter shall be decided by the Chogyal with the assistance of a Board consisting of persons to be appointed in accordance with the rules made under this Regulation.

4. Certain persons, though not domiciled in Sikkim, to be Sikkim Subject-

Any person, who has not voluntarily acquired the citizenship of any other country, though not domiciled in Sikkim, may, on an application made to the authority prescribed by the rules made under this Regulation be registered as a Sikkim subject if he is a person whose ancestors were deemed to be Sikkim subject prior to the year 1850.

5. Sikkim Subject by Descent:

Every person born after the commencement of this Regulation shall be a Sikkim Subject if at the time of his birth his father is a Sikkim subject under this Regulation, whether or not the birth takes place in the territory of Sikkim.

6. Status of women married to Sikkim subjects:

A woman of foreign nationality who is married to a Sikkim subject after the commencement of this Regulation shall ordinarily be eligible to be registered as a Sikkim subject, on making application therefore to the Government of the Chogyal in the manner provided by rules under this Regulation,

and after announcing her former nationality and on taking oath of allegiance.

Provided that the Government of the Chogyal after giving a reasonable opportunity to the person of making a representation may refuse such application.

7. Certain persons not to be Sikkim subjects:

- (a) Any person who renounces his status as a Sikkim subject, or voluntarily acquires the citizenship of any other country, or takes an oath of allegiance to a foreign country or Ruler thereof without the consent of the Chogyal's Government; or
- (b) Any Sikkimese woman who marries a person who is not a Sikkim subject; or
- (c) Any person, other than a person referred to in section 4, who severs his connection with Sikkim such as by parting with his property in Sikkim and migrates to a place outside Sikkim and India after the commencement of this Regulation, or has not been ordinarily resident in Sikkim for a continuous period of seven years, shall thereupon cease to be a Sikkim subject.

8. Naturalised subjects:

- (i) The Government of the Chogyal may, if application is made to them in the manner provided by rules under this Regulation by any person of full age and capacity who at the date of the commencement of this Regulation is a national of another state but otherwise fulfills the requirements of section 3 of this Regulation to be a Sikkim subject, grant to him a certificate of naturalization if he renounces his former nationality; and the person to whom such certificate is granted shall on taking oath of allegiance, and on his name being entered in the Register to be maintained under this regulation, be a Sikkim subject by naturalization from the date on which the certificate is granted
- (ii) If a certificate is granted to any person under the last foregoing sub-section his wife after renouncing her former nationality and taking oath of allegiance be granted certificate of naturalization.
- (iii) The Government to the-Chogyal shall also have the power to naturalise a person upon application made therefore in the manner prescribed by the rules, provided that the Government of the Chogyal are satisfied that:
 - (a) He has been in the service of the Government of Sikkim for a period of not less than ten years immediately preceding the date of his application, or
 - (b) He has rendered meritorious service to the state; and the person to whom such a certificate is granted shall, on taking oath of allegiance, and upon his name being entered in the Register of Subjects, be a naturalized Sikkim subject from the date on which the certificate was granted;
- (iv) The Government of the Chogyal may at the same time naturalise the wife and minor children of a person who is granted a certificate of naturalization if application thereof is made.

9. Loss and deprivation of Nationality- Loss of status of Naturalised Subjects:

A naturalized subject shall lose his status as a Sikkim subject if he ceases to reside ordinarily in the territory of Sikkim or fails to comply with any of the conditions subject to which the certificate of naturalization may have been granted to him and thereupon his name shall be removed from the Register of Sikkim Subjects.

10. Deprivation of status of Subjects:

Subject to the provisions of this section, the Government of the Chogyal may by order deprive any Sikkim subject who is such by registration under section 4 or by naturalization under section 8 of this Regulation of his status if the Government are satisfied that such, a subject:

- (i) During any war in which the Chogyal or the government of India are engaged, unlawfully traded or communicated with an enemy or communicated with an enemy or has been engaged in or associated with business-that was to his knowledge carried on in such a manner as to assist an enemy in that war; or
- (ii) Shown himself by act or speech to be guilty of disaffection or disloyalty towards the Chogyal or
- (iii) Obtained the certificate of naturalization by fraud, raise representation or concealment of material facts;
- (iv) Within five years of naturalization has been convicted of any offence in any country and has been sentenced to imprisonment for a term of not less than twelve months; and such a person shall cease to be a Sikkim subject with effect from the date on which such order of deprivation is passed;

Provided that a person shall be afforded a reasonable opportunity of making a representation before an order of deprivation is made.

MISCELLANEOUS

11. Offence and Punishment:

Any person who for the purpose of procuring anything to be done or not to be done under this Regulation makes any statement which he knows to be false in material particulars or recklessly makes any statement which is false in material particulars, shall be liable in summary conviction to imprisonment for a term not exceeding two years.

12. Evidence of Status as Sikkim Subject:

The Government of the Chogyal shall prepare and maintain a Register of Sikkim Subjects in

accordance with rules to be framed under this Act and the entry of a person's name in such a register shall be prima facie evidence of the person's status as a Sikkim Subject.

Provide that a person's name may be removed from the aforesaid Register of Sikkim Subjects and any certificate of status as a Sikkim Subject granted to him may be cancelled with effect from the date of the original grant when the Bard constituted under section 3(3) of Sikkim Subject Regulation is satisfied that the said person's name had been wrongly entered in the Register at any time and submits a finding to that effect to the Government of Sikkim.

Provided further that an appeal shall lie to the Chogyal against any such finding by the aforesaid Board.

13. Power to make Rules:

The Government of the Chogyal may make and promulgate such rules as may be necessary for carrying out the provisions of this Regulations.

14. Repeal:

All rules, regulations, orders and instructions hitherto in force in Sikkim territory in relation to the definition, acquisition and loss or deprivation of the status of Sikkim subjects are hereby repealed.

**TASHI NAMGYAL,
MAHARAJA OF SIKKIM**

**By Order
Sd. D. DAHDUL Chief Secretary,
Government of Sikkim**

APPENDIX 2

PART III-Rules, Orders, Press Notes, etc. HOME DEPARTMENT, Notification No.1155 /H, Gangtok, 12th October 1962.

The following Proclamation of His Highness the Maharaja of Sikkim is hereby notified;
Whereas it is expedient *to* provide for the rights of Sikkimese women married to persons other than Sikkim Subjects to acquire, hold and dispose of immoveable property in Sikkim and to, provide for rules of succession *to* property held by such Sikkimese women.

NOW, THEREFORE, .His Highness the Maharaja of Sikkim has been pleased to make and promulgate the following Regulation;

I. Short title and extent

(i).This Regulation may be called Married Women's Property Regulation, 1962.

(ii) It shall extend throughout the territory of Sikkim.

2. This Regulation shall come into force on such date as may be appointed for the purpose by His Highness the Maharaja of Sikkim.

3. In this Regulation the term

(a) "Sikkimese" means a person who is a Sikkim Subject at the time of her marriage.

(b) "Law" means Statutes, regulations, rules and includes customary law.

4. A Sikkimese woman who holds immoveable property in Sikkim at the time of her marriage shall continue to hold such property notwithstanding her marriage with a person who is not a Sikkim Subject and shall have the power to dispose of such property either by sale, mortgage or otherwise to a Sikkim Subject during her life-time.

5. A Sikkimese: woman married to a person who is not a Sikkim Subject shall have no right to acquire any immoveable property or any interest in such property in the territory of Sikkim subsequent to her marriage.

6. If, a Sikkimese women marries a person who is not a Sikkim Subject the husband and any offspring born of that marriage shall acquire no interest in any immoveable property which she may hold in Sikkim by virtue of Section 4 of this Regulation.

7. Notwithstanding the provisions of any other law to the contrary any immoveable property in Sikkim which may be held by a Sikkimese woman at the time of her marriage shall not on her death devolve on her husband if she held been married to a non-Sikkim Subject nor shall it be' inherited by Any offspring of such marriage.

8. Any immoveable, property held by a Sikkimese woman married to a person who is not, a Sikkim Subject is contemplated in Section 4 of this Regulation shall devolve on her death and be inherited by such person or persons who would have been regarded but for her marriage - as her next of kin under the rules for intestate succession, provided always that such next of kin in order to succeed to such property is a Sikkim Subject.

This Regulation was published in Sikkim Durbar Gazette dated 12.10.1962-Ed.

APPENDIX-3

SIKKIM
GOVERNMENT GAZETTE



EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok Monday 28th July, 2008 No. 308

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

No. 22/LD/P/2008

Date: 24.07.2008

NOTIFICATION

The following Act passed by the Sikkim Legislative Assembly and having received the assent of the Governor on 28th day of June, 2008 is hereby published for general information:-

THE SIKKIM SUCCESSION ACT, 2008 (Act No. 22 of 2008) AN ACT

to provide for law relating to succession to movable and immovable properties of Sikkimese people.

Be it enacted by the Legislature of Sikkim in the Fifty-ninth Year of the Republic of India as follows:-

PRELIMINARY

*Short title,
extent and
commencement.*

1. (1) This Act may be called The Sikkim Succession Act, 2008.
(2) It extends to the whole of Sikkim.
(3) It shall come into force on such date as the State Government may by notification in the Official Gazette appoint and different dates may be appointed for different provisions of this Act.

*Application
of the Act.*

2. The Act shall apply to:
 - a) any person who possesses Sikkim Subject Certificate/Certificate of Identification (COI);
 - b) descendants of Sikkim Subject Certificate holder identified through COI.

Note:- A woman who has married a non-Sikkimese or has acquired foreign citizenship shall not be eligible to enjoy the rights of descendants and heirs held as descendants under this Act.

Note:- Descendents include sons or daughters and their lineal descendents and include those as specified in Schedule I.

Note:- Descendants include sons or daughters and their lineal descendants and include those as specified in Schedule I.

Definitions.

3. In this Act, unless the context otherwise requires,-

- (a) "Act" means The Sikkim Succession Act, 2008;
- (b) "administrator" means a person appointed by competent authority to administer the estate of a deceased person;
- (c) "Government" means State Government of Sikkim;
- (d) "heir" means any person male or female who is entitled to succeed to the property of an intestate under this Act;
- (e) "intestate" means a person is deemed to die intestate in respect of property of which he or she has not made testamentary disposition capable of taking effect;
- (f) "minor" means a person who (has not attained the age of majority) or has not completed the age of eighteen years;
- (g) "probate" means copy of a will certified under the seal of court of competent jurisdiction with a grant of administration to the estate of the testator;
- (h) "Sikkimese" means persons belonging to Bhutia, Lepcha and Nepali Community of Sikkimese origin identified through Sikkim Subject Certificate or Certificate of Identification;
- (i) "will" means the legal declaration of the intention of a testator with respect to his property which he desires to be carried out after his death.

Act not to apply to certain person/class or community.

- 4. (1) The State Government may by notification in the Official Gazette exempt the applicability of this Act to the members of community or tribe or sect or such other category etc. as may be specified if it is considered expedient to do so.
- (2) The State Government may by notification withdraw or revoke such exemption prospectively.

PART I
Intestate Succession

Intestate property.

- 5. (1) A person is deemed to die intestate in respect of all property of which he has not made a testamentary disposition.
- (2) When the intestate has left no widow his property shall go to his lineal descendants or to those not being lineal descendants according to rules of succession contained herein after and if he has left none shall go to the next of descendants from his brother or sister if unmarried or abandoned by husband.
- (3) A husband shall have the same right in respect of his wife's property, if she dies intestate, as a widow has in respect of her husband's property if he dies intestate.

Devolution of property.

- 6. (1) When a male Sikkimese who dies after the commencement of this Act having at the time of his death an interest in the property or has a self-acquired property, the property shall devolve to the extent of his interest by survivorship upon the surviving members of his family which includes his wife, sons and daughters if unmarried in equal proportion.

Provided that if the deceased has left behind him a surviving female relative who claims interest in such property in such cases the property shall devolve to the extent she is entitled.

	(2) If two or more heirs succeed together to the property of an intestate they shall take property <i>per capita and as inheriting respective shares in equal proportion.</i>
	(3) The property of an intestate devolves upon the wife or the husband or upon those who are of the kindred of the deceased as per the Schedule.
	(4) Where an intestate has left a widow without any lineal descendants, the property shall devolve to the next of the descendants of the brother of the deceased husband in the manner as specified in the Schedule.
	(5) Where a female heir or descendant marries a person who does not possess Sikkim Subject Certificate/COI or has acquired foreign citizenship, such female heir/ descendant shall follow the personal law of her husband and as such shall not acquire any interest in the property.
	(6) Where the parents of a minor die intestate such property shall be looked after by administrator; none of the relatives of the deceased within the eligible category of heir comes forward to look after the property.
	(7) Where a person has no son, the property will devolve on the daughter, subject to sub-section (5) of Section 6.
	(8) An abandoned or divorced woman having the liability to take care of the children and has no source of income, shall have the right to a share in equal proportion along with other heirs to the property of the husband; Provided that where woman has deserted her husband with or without children and has remarried shall forfeit her right to her share in the husband's property. However, the children shall be eligible to their share of property as per the law.
Right of child in womb	(9) The property of an intestate shall devolve in equal shares among all the heirs.
Preference of heir.	7. Notwithstanding anything contained in sub-section (1) of Section 6, a child who was in the womb at the time of the death of an intestate and who is subsequently born alive shall have the same right to succeed to the intestate as if he or she had been born before the death of the intestate.
Disqualification of heirs.	8. Heir related to an intestate by full blood shall be preferred to heirs related by half blood, if the nature of relationship is the same in other respect.
Escheat.	9. (1) A person who commits murder or abets the commission of murder shall be disqualified from inheriting the property of the person murdered. (2) If any person is disqualified from inheriting any property under this Act, it shall devolve as if such person had died before the intestate.
	10. If an intestate has left no heir to succeed to his or her property in accordance with the provisions of this Act, such property shall devolve on the Government and the Government shall take the property subject to all the obligations and liabilities to which an heir would have been subject to. The State Government may, by Notification, make rules for carrying out the purposes of this Act.

PART II

Testamentary succession

Testamentary succession.	11. Every person of sound mind not being a minor may dispose of his property by Will.
Will obtained by fraud etc.	12. A Will or any part of a Will, the making of which has been caused by fraud or coercion or importunity is void.

Will may be revoked or altered. 13. A will may be revoked or altered by the maker of it at any time when he is competent to dispose of his property by Will.

Execution of Will.

14. A Will shall be executed according to the following rules:-

- (a) The testator shall sign or shall affix his mark to the Will or it shall be signed by some other person in his presence by his direction.
- (b) The signature or the mark of the testator or the signature of the person signing for him shall be so placed that it shall appear that it was intended to give effect to the Will.
- (c) The Will shall be attested by two or more witnesses.

SCHEDULE

Heirs in Class I

1. Son, daughter, widow, mother, son of predeceased son, daughter of a predeceased son, widow of a predeceased son.

Heirs in Class II

1. Son's daughter's son
2. Son's daughter's daughter
3. Daughter's son's son
4. Daughter's son's daughter
5. Brother's son
6. Sister's sons
7. Brother's daughter
8. Sister's daughter

Class II heirs shall come into play only in the event of Class I heir not being available.

By Order,

R.K PURKAYASTHA (SSJS)
LR-cum-Secretary
Law Department
File No. 16 (82) LD/P/2008

S.G. P. G. - 308/ Gazette /150 Nos./Dt:- 28.7.2008.

Appendix-4

Seema Lepcha Vs State of Sikkim & Others

Supreme Court Of India

Civil Appeal No. 1632 Of 2012 (Arising From Slp (C) No. 34153 Of 2010)

Judgment Date:

03-02-2012

Seema Lepcha

..Petitioner

State of Sikkim & Others

..Respondent

Bench :

{ HON'BLE MR. JUSTICE G.S. SINGHVIHON'BLE MR. JUSTICE S.J.
MUKHOPADHAYA }

Citation :

(2013) 11 SCC 641 ; 2012 (2) SCALE 635 ;

Judgment

1. Leave granted. The appellant, who became a victim of sexual harassment but could not succeed in getting the wrongdoer punished filed Writ Petition No. 15 of 2010 under Article 226 of the Constitution for issue of a mandamus to the official respondents to implement the guidelines framed by this Court in Vishaka v. State of Rajasthan ((1997) 6 SCC 241 : 1997 SCC (Cri) 932). By the impugned order (Seema Lepcha v. State of Sikkim. WP (C) No.15 of 2010, decided on 29-9-2010 (Sikk), the Division Bench of the Sikkim High Court disposed of the writ petition by simply relying upon the statement made by the learned Additional Advocate General of Sikkim that the State Government is prepared to bring a proper legislation in terms of the guidelines framed in Vishaka case (Vishaka v. State of Rajasthan, (1997) 6 SCC 241 : 1997 SCC (Cri) 932).

2. Notice of the special leave petition was issued on 21-1-2011 (Seema Lepcha v. State of Sikkim, SLP (C) No.34153 of 2010, order dated 21-1-2011 (SC) wherein it was directed: "Issue notice returnable in eight weeks. Dasti, in addition, is permitted. The corrected copy of the judgment filed by the learned counsel is taken on record. The same may be attached with the paper books of the case." After some adjournments, this Court passed order dated 2-1-2012 (Seema Lepcha v. State of Sikkim, (2013) 11 SCC 647), which reads as under:

"Heard the learned counsel for the parties.

The learned Senior Counsel appearing for the State of Sikkim is directed to instruct the officer concerned to file a comprehensive list of all public and private establishments operating within the State, The needful be done within a period of four weeks.

The Chief Secretary, State of Sikkim should file an affidavit and give details of the steps taken by the State Government for implementation of the guidelines framed by this Court in Vishaka v. State of Rajasthan case ((1997) 6 SCC 241 : 1977 SCC (Cri) 932) as also order dated 26-4-2004 passed in Medha Kotwal Lele v. Union of India ((2013) 1 SCC 311 : (2013) 1 SCC (Civ) 472 : (2013) 1 SCC (L&S) 174 : (2013) 1 SCC (Cri) 472). The needful be done within a period of four weeks.

List in the first week of February, 2012.”

3. In compliance with the aforementioned order, Shri Karma Gyasto, Chief Secretary of Sikkim filed affidavit dated 30-1-2012 detailing the steps taken by the State Government for implementation of the guidelines framed in Vishaka case (Vishaka v. State of Rajasthan, (1997) 6 SCC 241 : 1977 SCC (Cri) 932) and the directions contained in the orders passed by this Court in Madhu Kotwal Lele v. Union of India ((2013) 1 SCC 311 : (2013) 1 SCC (Civ) 472 : (2013) 1 SCC (L&S) 174 : (2013) 1 SCC (Cri) 472). These include the amendment of the Sikkim Government Servants Conduct Rules, 1981 vide Notification dated 4-1-2012 and sending of communications to the private establishments to take steps for constitution of Complaints Committees, etc. Shri J.K. Rai, Joint Secretary, Department of Social Justice, Empowerment and Welfare Department (Women and Child Development Division), Sikkim, has also filed affidavit dated 30-1-2012 along with copies of the letters dated 6-9-2010 and 16-11-2010 issued by the Social Justice Empowerment and Welfare Department, copy of the letter dated 13-1-2012 issued by the Department of Commerce and Industries and two other documents showing the steps taken for constituting the Complaints Committees.

4. Shri Colin Gonsalves, learned Senior Counsel for the petitioner fairly stated that in furtherance of the direction given by the Court on 2-1-2012 (Seema Lepcha v. State of Sikkim, (2013) 11 SCC 647), the State Government and others have taken steps for implementation of the guidelines framed in Vishaka case (Vishaka v. State of Rajasthan, (1997) 6 SCC 241 : 1977 SCC (Cri) 932) and the directions given in Medha Kotwal (Ed.: Reference may be made to Medha Kotwal Lele v. Union of India, (2013) 1 SCC 312 : (2013) 1 SCC (Cri) 473 : (2013) 1 SCC (L&S) 175 : (2013) 1 SCC (Civ) 474) case. He then submitted that the State Government may be directed to give wide publicity to the notifications and orders issued by it. Shri A. K. Ganguli, learned Senior Counsel appearing for the State of Sikkim submitted that his client is prepared to take all steps necessary for full compliance with the guidelines framed in Vishaka case (Vishaka v. State of Rajasthan, (1997) 6 SCC 241 : 1977 SCC (Cri) 932) and the directions given in Medha Kotwal case (Ed.: Reference may be made to Medha Kotwal Lele v. Union of India, (2013) 1 SCC 312 : (2013) 1 SCC (Cri) 473 : (2013) 1 SCC (L&S) 175 : (2013) 1 SCC (Civ) 474).

5. In Vishaka case (Vishaka v. State of Rajasthan, (1997) 6 SCC 241 : 1977 SCC (Cri) 932) this Court had issued the following guidelines and norms: (See pp. 252-54, para 17)

“17. The GUIDELINES and NORMS prescribed herein are as under:

HAVING REGARD to the definition of ‘human rights’ in Section 2(d) of the Protection of Human Rights Act, 1993,

TAKING NOTE of the fact that the present civil and penal laws in India do not adequately provide for specific protection of women from sexual harassment in workplaces and that enactment of such legislation will take considerable time,

It is necessary and expedient for employers in workplaces as well as other responsible persons or institutions to observe certain guidelines to ensure the prevention of sexual harassment of women:

(1) Duty of the employer or other responsible persons in workplaces and other institutions:

It shall be the duty of the employer or other responsible persons in workplaces 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 acts is committed in circumstances whereunder 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 conduct in question or raises any objection thereto.

(3) Preventive steps:

All employers or persons in charge of workplace 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 workplace 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, 1940.
- (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 workplaces and no woman employee 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 Penal Code, 1860 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 victimised 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 misconduct 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 organisation 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 counsellor 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 members should be women. Further, to prevent the possibility of any undue pressure or influence from senior level, 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 a suitable manner.

(10) Third-party harassment:

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 are 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." (emphasis in original)

6. In *Medha Kotwal case* (*Medha Kotwal Lele v. Union of India*, (2013) 1 SCC 311 : (2013) 1 SCC (Civ) 472 : (2013) 1 SCC (L&S) 174 : (2013) 1 SCC (Cri) 472), the Court directed that the Complaints Committees shall be deemed to be the inquiry authority for the purpose of the Central Civil Services (Conduct) Rules, 1964 and that the report of the Complaints Committees will be deemed to be the inquiry report under the Rules.

7. Having gone through the affidavits filed by the Chief Secretary of the State and Shri J.K. Rai, we are satisfied that the State Government has taken the steps necessary for implementing the guidelines and norms laid down by this Court in Vishaka case (Vishaka v. State of Rajasthan, (1997) 6 SCC 241 : 1997 SCC (Cri) 932) and the directions given in Medha Kotwal case (From the Judgment and Order dated 29-9-2010 in WP No.15 of 2010 of the High Court of Sikkim). Therefore, the appeal is disposed of with the following directions:

7.1. The State Government shall give comprehensive publicity to the notifications and orders issued by it in compliance with the guidelines framed by this Court in Vishaka case (Vishaka v. State of Rajasthan, (1997) 6 SCC 241 : 1997 SCC (Cri) 932) and the directions given in Medha Kotwal case (From the Judgment and Order dated 29-9-2010 in WP No.15 of 2010 of the High Court of Sikkim) by getting the same published in the newspapers having maximum circulation in the State after every two months.

7.2. Wide publicity be given every month on Doordarshan Station, Sikkim about various steps taken by the State Government for implementation of the guidelines framed in Vishaka case (Vishaka v. State of Rajasthan, (1997) 6 SCC 241 : 1997 SCC (Cri) 932) and the directions given in Medha Kotwal case (From the Judgment and Order dated 29-9-2010 in WP No.15 of 2010 of the High Court of Sikkim).

7.3. Social Welfare Department and the Legal Services Authority of the State of Sikkim shall also give wide publicity to the notifications and orders issued by the State Government not only for the government departments of the State and its agencies/instrumentalities but also for the private companies.

APPENDIX- 5



MEMORANDUM OF UNDERSTANDING

BETWEEN

SOCIAL JUSTICE, EMPOWERMENT AND WELFARE DEPARTMENT
Government of Sikkim

AND

MARTHA FARRELL FOUNDATION, NEW DELHI

FOR PROVIDING

TECHNICAL SUPPORT FOR COMPLIANCE OF THE
PREVENTION OF SEXUAL HARASSMENT OF WOMEN AT WORKPLACE
(PREVENTION, PROHIBITION, REDRESSAL) ACT, 2013

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MoU) is made on this 01 day of July 2016 (Two thousand and Sixteen).

BETWEEN

The, Martha Farrell Foundation, New Delhi, a Non Government Organization having its office at 42, Tughlakabad Institutional Area, New Delhi - 110 062 and herein represented by Smt. Nandita Pradhan Bhatt (Programme Manager) (hereinafter referred to as the "MFF") which expression shall, unless excluded by or repugnant to the context and meaning thereof include her successors, administrators, executors in office and assigns of the First party.

AND

The Governor of Sikkim through the Commissioner-cum-Secretary in the Social Justice, Empowerment & Welfare Department, having its permanent office at Lumsey, 5th mile, Gangtok, East Sikkim (herein referred to as the "State Government") which expression shall, unless excluded by or repugnant to the context and meaning thereof include his successors, administrators, executors in office and assigns of the Second party.

INTRODUCTION

Dr. Martha Farrell was Director in PRIA since 1998. While leading a Gender Training programme at Kabul, Dr. Farrell was killed in a Taliban attack during May 2015. Martha Farrell Foundation (MFF) <http://marthafarrellfoundation.org/> has been set up to take forward Dr. Farrell's unfinished work on Gender Mainstreaming in Institutions to eradicate violence against women.

PRIA's commitment towards gender mainstreaming within institutions of work has been well recognised over the past years. In its thirty four years of experience of working on issues of women and the workplace, there has been a realization that increased and continued participation of women is only viable, if there exists a conducive and enabling environment for both women and men, based on the principles of equity and equality. Further, these principles need to find resonance in the practices, culture and systems embedded within an organisation. A major role of the institution thus points to the integration of gender equality in its own work culture and policies, qualitatively adding to the desired outcomes of gender specific programmes in the field.

Under the leadership of Dr. Martha Farrell, PRIA was one of the first NGOs to prepare itself to implement the court injunctions of setting up a committee as well as formulating policies for the prevention and redressal of sexual harassment at the workplace in 1998 under the landmark Judgement of Vishakha, 1997. Since then, PRIA has

supported more than 25 organisations roll out meaningful compliance mechanisms for the prevention, prohibition and redressal of the sexual harassment law.

PRIA has also partnered with a dynamic group of institutions (both Governmental and Non-Governmental) for capacity building on the issues of Sexual Harassment at the Workplace by conducting training programmes that have been tailor made for them. Having trained more than 20,000 individuals, PRIA's partners have been several Government Institutions and departments including Hospitals of the Delhi Government; Private Institutions; Non-Governmental Organisations; PSUs, as well as faculty students and members of college complaints committee members from several universities across the country. PRIA's training programmes contextualize the issue as a gender challenge, explores the severity of the issue, the impact of such incidents on the personal and professional lives of the individual, the effects on the organization, roles and responsibilities of the individual and the organization as well as implementation models for the Sexual Harassment of Women at the Workplace (Prohibition, Prevention and Redressal) Act 2013.

Today, Martha Farrell Foundation is making workplaces safe programme with its uniquely designed activities focuses on the prevention of sexual harassment at workplace with an emphasis on creating gender just, safe and conducive workplaces for both males and females in the workforce.

It envisages that every district, block and national level organisation meet the standards of a meaningful compliance system and in turn be represented by strong, sensitive, just and trained third party representatives for the effective functioning of each of these Internal and Local Complaint Committees. The programme recognises that there is a paucity of trained professionals who are also sensitive in their approach on the theme of preventing Sexual Harassment at Workplace. More than 45 third party representatives have been prepared in Uttar Pradesh under this programme through an intensive training and coaching programme.

WHEREAS, the purpose of this MOU is to ensure that there is a common understanding between the two parties on their roles and responsibilities, with regard to the Compliance of Prevention of Sexual Harassment of Women at Workplace (Prevention, Prohibition, Redressal) Act, 2013 within the State of Sikkim.

NOW, THEREFORE, THE PARTIES HEREBY FURTHER AGREE TO AS UNDER:-

PRINCIPAL AIM OF THE PROGRAMME:

The principal aim of the MOU between Department of Social Welfare, Government of Sikkim (GoS) and Martha Farrell Foundation (MFF) is to support rolling out a meaningful compliance mechanism of the Prevention of Sexual Harassment of Women at Workplace (Prevention, Prohibition, Redressal) Act, 2013 in the State of Sikkim.

MAIN OBJECTIVES OF THIS AGREEMENT:

The main objective of this agreement is to provide technical support to the Social Welfare Department, GoS to ensure compliance to a multi-sectorial set of institutions

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spanning both in the public and the private sectors as mandated by the law for the prevention, prohibition and redressal of sexual harassment of women at workplace.

CONTEXT

In view of the newly enacted law and the Government's commitment towards issues of gender equality and women's empowerment, the GoS has also expressed commitment to achieve 100% compliance of the Prevention of Sexual Harassment of Women at Workplace (Prevention, Prohibition, Redressal) Act, 2013.

SCOPE AND COVERAGE

This agreement is initially for one (1) year and shall by mutual agreement between GoS and MFF agree to resolve that instant agreement may be extended after the expiry of the aforesaid term period of one (1) year.

Martha Farrell Foundation, on the basis of its experiences, is willing to provide technical support to Social Welfare Department, GoS to initiate the same in the Public Sector in all districts of the State as per their defined roles.

MFF will use its appropriate technical capacities to support and analyse the data that will be generated during the implementation and will identify current gaps, future capacity building needs and possible strategies to strengthen the institutional mechanisms.

ROLES AND RESPONSIBILITIES OF MARTHA FARRELL FOUNDATION:-

In light of the present context and objectives of this MoU following major activities shall be implemented under this MoU:-

A. To support the State government in rolling out strategies for compliance of the Sexual Harassment of Women at workplace law, its monitoring and effective implementation by:-

- (i) Formation and strengthening of Internal Complaints Committee (ICC)
- (ii) Formation and strengthening of Local Complaints Committees (LCC)

B. Capacity building of members of:

- i) ICC of Government departments in all 4 districts of Sikkim.
- ii) LCC including other nodal agencies from all 4 districts of Sikkim.

2. To provide support, guidance and advice on the implementation of the law which will include:

Planning strategies, Implementation, Coordination, Monitoring and Evaluation and Fixing the training calendar:

- A step-wise planning calendar will be prepared in the beginning. It will comprise the suggested time frame to complete particular operation along with its details such as:
 - Constitution of ICC and LCC as described by the law.
 - Appointment of nodal agencies below district level as described by the law
 - Setting up a redressal mechanism that is effective and approachable to all female workers.
 - Training Plan.
 - Plan for developing IEC materials
3. Handholding support to committees under the public sector
 4. A professional team will be appointed by MFF headed by a senior technical person to implement the activities as described in the MoU. The team will also support the GoS to build additional capacities within each district in the State.

OTHER RESPONSIBILITIES:

1. To provide training of Master Trainers to create a pool of resource persons (3-4) in each district of the state
2. Facilitating consultations on the issue with senior members of GoS, stakeholders from private and government sectors with the purpose of:
 - a. Orientation and awareness
 - b. Reviewing state rules of the Act
3. Rolling out compliance in Private Institutions when specifically requested and agreed upon between the Institution & MFF.

ROLES AND RESPONSIBILITIES OF GOVERNMENT OF SIKKIM:

The Government of Sikkim will support MFF and the processes described in the MoU in the following manner:

1. Assigning a dedicated team of officials from the Social Welfare Department to provide all necessary logistic and data support to activities proposed by MFF in the MoU.
2. A senior Government Officer in each district/region will be made responsible to ensure smooth coordination and convergence of training and planning process at all levels
3. The State Government will do necessary follow-up for MToT by asking its ATI to conduct trainings in coordination with MFF for:
 - a. Creating pool of trainers
 - b. Third Party Facilitators training
4. GoS will make appropriate space available for preparatory work and training in each district.
5. MFF shall be authorized for offering training partner for providing training to Government Departments as well as the Private Organization/Banks/Institutions/Hotels.
6. The Government Departments, Private Organization, Banks, Institutions inviting them for training shall bear all the expenses.
7. This agreement will not execute any additional financial liability on Social Justice, Empowerment & Welfare Department. However, onetime expense shall be beared by the Department for the purpose of conducting awareness programme in the State.

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8. That this MoU shall commence from the date of its signature. It shall remain valid up to the validity of this Agreement, whichever is earlier, unless otherwise agreed between the parties in writing.
9. This MoU constitutes the entire MoU and understanding of the Parties. This MoU may not be modified except in writing signed by both the Parties.
10. Any difference or dispute arising out of this MoU at any time between the Parties shall be resolved by mutual consultation and in good faith.

PROJECT COST:

There is no financial implication for the GoS for initiatives described in Activities.

TIME LINE:

The proposed proposal is for 1 year starting from January 2016. This period, however, could be extended as per the requirements of the project.

OTHER TERMS OF THE MoU:

1. GoS will instruct all private institutions (business, health, education, hotels, restaurants etc.) to follow compliance of the Act. GoS will refer MFF as the State approved technical expert for the same.

Private institutions will be instructed to bear all costs of training including travel and fees of experts.

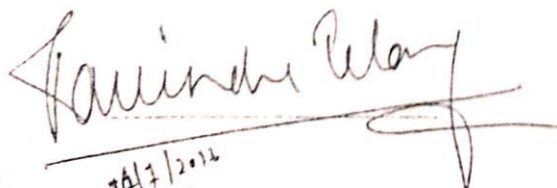
2. All the parties assure each other that they carry out their respective obligations diligently and in all earnestness and without any unreasonable delay keeping in mind the urgency and time punctuality being crucial to the success of the interventions.
3. All parties shall be entitled to terminate the Agreement by giving 30 days' notice in case of breach of any terms of the MOU provided that before issuing termination notice such issue shall be discussed with senior officials of the parties and if they fail to resolve such issues within a period of 30 days.

In such an eventuality, the modalities of termination would be worked out to the satisfaction of all partners and keeping the overall interest of the programme and other stakeholders at large.

4. Any publicity/ promotional material / press release and presentations at seminars, workshops should be agreed upon prior to usage by all party concerned.
5. That this MOU shall be subject to compliance of necessary laws and/or regulations of the Central / State Governments or any local authority.

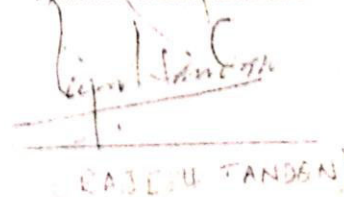
IN WITNESS WHEREOF, the Parties hereto, acting through their duly authorized representatives, have caused this Memorandum of Understanding signed on the date first above written at Gangtok.

On behalf of
The Government of Sikkim,



26/7/2016
Commissioner-cum-Secretary

On behalf of
Martha Farrell Foundation


(RAJESH KUMAR)

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