



Are You Really Isolated? Virtual Sexual Harassment And COVID

“Intentional cultivation of workplace culture matters, and none of us should let that fall away in the adjustment to a new norm”[1]

Working from home, or telecommuting has become a compulsory (furloughed) norm in the wake of social isolation amidst the COVID-19 pandemic. Everyone has entangled themselves in the ropes of advanced technology, which has proven to be a boon in the 21st century to keep pace with work. Whether, the profession is that of a tutor/professor, a business-woman or a lawyer, keeping ourselves connected with the people we come across in a workplace is obligatory so as to meet the results of the organization.

Hence, with one step forward to evolution, everybody has switched to remote access to keep on with their lives, as some amount of normalcy returns to an even otherwise perilous time. Even organizations like WHO have declared that this new norm of Work-from-home, should be embraced universally as soon as possible, being the only solution going forward, as the world tackles the dangerous pandemic that has taken many lives and has forced half of the world into isolation.

After the Government of India declared lockdown 1.0 on 24th of March 2020, it further extended on three occasions, keeping in mind the world wide threat that the virus poses to people. Further, in what seems like a boon to the mobile software industry, app based organizations like Hangouts, Google duo, Zoom and Microsoft teams have regained their lost popularity, to now being the only formal grounds for holding meetings from stakeholders to teachers. We might assume that this social distancing would remove the risks of a hostile work environment. However, sexual harassment can take place in any form of workplace. The main issue at hand is, “Are wo(men) still safe in such working spheres given that harassment could exist through virtual connectivity as well?”

VIRTUAL HARASSMENT

Due to the rapid growth in industrialization and with the advent of globalization and improvement in different fields, women in India are taking up more and more opportunities. Today, women in India are demonstrating progress in large numbers in workspaces like instruction, financial aspects, governmental issues, media, workmanship, space and culture, administration areas, science and innovation, and so forth. As the job of women has moved

from household work to modern work, offenses against women have expanded exponentially. In spite, of rising rates of sexual harassment, their reporting is nearly nil as women dread the loss of individuality and the fear of being subjected to unwarranted social disgrace.

Sexual Harassment has been customary since time immemorial: calling names, stalking, verbal or non-verbal harassment, demand for sexual favours, etc. These problems were tackled through state introduced mechanisms or the National Commission for women at different places under various acts for protecting women from physical abuse. However, online crimes against women which include stalking and sending harassing and threatening mails/messages, creation of fake accounts, revenge porn contents, non-consensual sexual content, non-consensual image sharing, bullying, trolling, online reputation damage cases have also started surfacing, which are not given much concern. India is a country where internet is cheap and readily available but no progress has been observed to implement the same with respect to the legal aspect especially during the lockdown. As is the case, generally filing a complaint in police station does not do much, because of the injustice meted to women at the hands of police authorities. Reporting the same to the organizations would in essence be of no use considering the employers do not usually have the technology back home to take up the matter during quarantine.

Everyone has turned to the usage of the video calling for conferencing with people, which has made applications like Zoom, WhatsApp, Microsoft teams, Hangouts, etc popular. For the purpose of imparting education or for taking lectures-based classes and sharing study materials, reference materials and for entertainment purposes for some during online classes. However, as it goes with human nature, things can easily fall into the wrong hands and as such there has been a growing rise in virtual harassment through these media based technological platforms, especially during the present ever extending lockdown.

Female teachers and faculties has increasingly reported about privacy infringement and cyber security all over the world[2], as a students conduct of the misbehavior remains unknown because applications like Zoom which allow users to use any username with their video off. Passing lewd comments, bullying, trolling, cyber flashing (forcefully sending unsolicited pictures of private parts)[3] and disruptive communications, all of which become a medium to break the class ambience.

In India, the law is quiet in such manner as taking of screen shots don't fall under the classification of voyeurism or protection infringement as addressed to under Section 354C of the Indian Penal Code and 66E of the Information Technology Act, both tending to voyeurism. Thus, these cases are not legally addressed as there exists no mechanism for control of grievances of the like, and are waived off on the basis of general technological mishap and misunderstanding.

VISHAKA GUIDELINES ON SEXUAL HARASSMENT[4]

Sexual harassment includes such unwelcoming sexually determined behavior (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

From these above guidelines, we can conclude that Sexual Harassment does not particularly require physical contact, it can even be done virtually over any medium, whether it in private or on a public platform. The idea behind such an act reflects the mindset of the perpetrator and that remains uniform across all mediums, irrespective of the situation.

VISHAKA GUIDELINES ON WORKPLACE

The Prevention of Sexual Harassment Act, 2013 ("POSH") has introduced the term and concept of 'extension of workplace' which includes any place the female worker will be visiting for the sole purpose arising out of the employment, including transport for commuting to and fro. Nonetheless it has not expressively included the concept of virtual workplace, as the same is a newly introduced concept in the Indian work sphere, which must be interpreted as the need of the hour. It has become increasingly necessary as women are losing their own privacy and facing sexual harassment on a daily basis only because they are required to fulfil the designated work so given.

The High Court of Rajasthan, while delivering this landmark judgment^[5], observed that the following factors would have bearing on determining whether the act has occurred in the 'workplace':

- Proximity from the place of work;
- Control of the management over such a place/residence where the working woman is residing; and
- If such a residence is an extension or contiguous part of the working place. No working environment is free from harassment whether it is sexual or non-sexual, from the floor of a house to the office of big company or to the shop of the retailer and because sexual harassment does not have to be physical, it can be meted out in any form, using any means.

Sexual Harassment continues to be an issue for workers in the new work from home culture, similarly as it has been for workers who have worked remotely for quite a long time or for an association that are altogether a virtual setup. The manner in which sexual harassment arises when we are working remotely, is same as what we find in the any workplace.

A misogynistic and sexist' mindset often tends to reveal the interchanges sooner than expected, regardless of whether they're in the following desk area or in the Slack channel or exposing themselves on video chats or sexting. However, the signs we see may be unique sometimes, but in the end, women have always been subjected to abject treatment as 'sexual predators'. These days women have become suddenly become susceptible to increased virtual bedevilment. The same needs to be checked in regularity for the prosecution to be done at the earliest.

Anonymity behind the fibre/internet closed doors has become a safe haven, as the misogynist lot ask their female co-mates to VC them when matters of trivial nature can be tackled through an audio call. They make it difficult for women by reasoning the same to be a formal outdo which can only be tackled on video, thus making it a hostile working environment for the female workers and not just for the time being but even after the lockdown is lifted, thus, leaving no room to security for any person whatsoever.

CONCLUSION

India is quickly progressing in its formative goals and an ever-increasing number of women are switching to corporate work structures. The

distinguishing proof of the privilege to security against sexual harassment is an inherent part of the assurance of women's human rights. It is a stage towards giving a woman -autonomy, equality of opportunity and the privilege to work with respect in a dignified manner. Sexual harassment in the work-from-home environment is a social and legitimate test that should be tended to, in immediacy.

During the pandemic every technological aspect has been solved from proper communication all over the world to a different package system of the net usage at a cheaper and an affordable rate with good internet services. Going by the news, we notice there has been appraisal call out in all those companies sponsoring the social media sites. In actuality what these technological set-ups are missing, is the safety that should be provided for all genders, the law abidance and an easy procedure to make delivery of justice a faster cause because "Justice delayed is Justice denied".

Further, the redressal mechanism established under the Act, provides for strict timelines which are to be adhered by the internal committee and the employer of the organization. During these present situations we have become technologically friendly and are working from home through various electronic devices. To deal with virtual sexual harassment in the present and future coming times, a member in the internal committee being well-versed with cyber and IT laws should be made a member who can deal and manage cases in relation to virtual harassment. Simultaneously, the Government should encourage Companies to bring forward a new code of conduct for work from home, as the practice here deserves sea change regulations.

Preventive measures, and lawful system on forestalling should be made compulsory. Dispersal, circularizing and awareness raising activities ought to be normally conducted and assessed so as to improve practices and to address inappropriate behavior in the working environment, and furthermore admonish such evils. Education with regard to different types of sexual harassment must be put in place to dodge potential casualties.

"While a murder destroys the physical frame of the victim, sexual harassment degrades and defiles the soul of a helpless woman".[6]

- [1] Sexual Harassment Still Happens When You Work from Home During a Pandemic., Robin Swirling, <https://medium.com/swlh/sexual-harassment-still-happens-when-you-work-from-home-during-a-pandemic-3bba3e230399>
- [2] See Drew Harwell (2020). Thousands of Zoom video calls left exposed on open web. Published in https://www.washingtonpost.com/technology/2020/04/03/thousands-zoom-video-calls-left-exposed-open-web/?fbclid=IwAR1M3yRTYKqUuDjHP0rZLz_z8yDcwrZ5CgQN2yzlsgGA2awhPIE0F31CQ1A&utm_campaign=wp_main&utm_medium=social&utm_source=facebook on April 3.2020. Retrieve on 07-04-2020
- [3] See Zoe Betty (2019) WHY THE UK NEEDS TO TAKE CYBER-FLASHING SERIOUSLY. Published in on 04.04.2020
- [4] 1997 6 SCC 241: AIR 1997 SC 3011
- [5] Supra
- [6] Sexual Harassment At Workplace Is An Affront to Women's Fundamental Rights: SC, by Damini Singh Chauhan, Semester 9th, The Law School, University of Jammu, <http://www.legalserviceindia.com/legal/article-1858-sexual-harassment-at-work>

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