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**12. USING AN IRON HAND TO CONTROL & PUNISH SEXUAL HARASSMENT**

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**12.1 Introduction:**

The real source of this menace in India is presented in The National Crime Records Bureau (NCRB) which is the nodal agency that collects, compiles, and disseminates crime data in India. Their records show a 5.6% increase in reported rape cases between 1971 and 2013. The NCRB documented similar trends during 1995–2013, wherein t was observed and noted that the cases of cruelty by husbands and relatives and the resulting dowry deaths increased at the rate of 6.8% per year. Te data further argued that the rate of increase in violence against women during the period of 1971–2011 is greater than the 2% rate of population growth seen in the country during the same time period. But one cannot use this data to draw inferences about change in incidence of violence against women. The actual incidence of violence against women could have gone down, increased or remained more or less the same in this period as seen from different researches carried out in the country. But the 2019 NCRB crime data indicates a 7.3% increase in reported rape cases since 2018 The NCRB further reported an alarming spike in child rape cases too.

An understanding of sexual violence has to confront multiple duplicities like cultural, legal, and political. The first challenge here is to avoid a conceptual confusion between reporting and incidence of the crimes. In reality the reported cases of crime does not reflect the total incidence of crime. In fact the data shows a clear mismatch between reporting and incidence of violence against women by comparing data from the NCRB and the National Family Health Survey (NFHS, a survey of sample households in India). On using crime data from the NCRB to estimate reporting and NFHS to estimate incidence the documents show that less than 1% incidents of sexual violence cases were reported to the police.

**12.2 Sexual Harassment defined:**

Sexual harassment is defined in a variety of ways as given below:

**01.** Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature in the workplace or learning environment, according to the Equal Employment Opportunity Commission ([**EEOC**](http://www.eeoc.gov/eeoc/publications/fs-sex.cfm)). Sexual harassment does not always have to be specifically about sexual behavior or directed at a specific person. For example, negative comments about women as a group may be a form of sexual harassment.

**02.** Today sexual harassment is increasingly taking place through electronic media like blogs, email, text messages, or social media. The electronic media can be found to be an extension of the workplace where sexual harassment that is communicated electronically has work-related consequences.

**03.** Uninvited and unwelcome verbal or physical behavior of a sexual nature especially by a person in authority toward a subordinate such as an employee or a student.

**04**. Sexual harassment is an unwelcome sexual advance, unwelcome request for sexual favors or other unwelcome conduct of a sexual nature which makes a person feel offended, humiliated and/or intimidated, where a reasonable person would anticipate that reaction in the circumstances.

**12.3 Examples of sexually harassing behaviour:**

**The common examples of sexually harassing behaviour include:**

1. unwelcome touching
2. staring or leering
3. suggestive comments or jokes
4. sexually explicit pictures or posters
5. unwanted invitations to go out on dates
6. requests for sex
7. intrusive questions about a person's private life or body
8. unnecessary familiarity, such as deliberately brushing up against a person
9. Insults or taunts based on sex
10. Sexually clear physical contact; and
11. Sexually explicit emails or SMS text messages.

The three types of Sexual Harassment:

Harassment is when someone is made to feel unsafe in the workplace.

However harassment does not have to be done face-to-face and can

even affect those who work remotely.

It can be:

(i) Verbal using illegitimate Language

1. Written emails, mobile message, or letters
2. Physical (sexual or aggressive including done through looks or gestures and other hostile or unwanted acts).

**12.4 Common perpetrators of Sexual Harassment:**

A perpetrator is a person who committed a crime. In the instance of a joint crime if more than 2 persons are involved in a crime. It is necessary to clarify the criminal liability and punishment among the defendants. In general about 50 to 60 per cent of sexual harassment cases are committed by men or males and about 40 to 50 per cent by women or female. But in an organizational context sexual harassment can be both ways and depends on who has power. While males are porn o making sexual advances, female bosses it is observed are more revengeful and try to damage the career of their male targets. The entire harassment is of grown up colleagues in the office by using one’s official position in the organization, which they perceive as their direct competitors and therefore a threat.

Some of the common **characteristics perpetrators of sexual abuse**:

Male and female perpetrators of sexual abuse have many characteristics in common, that include:

* Low self-esteem or self-concept, believing themselves to be worthless and unlovable.
* Often are jealous and distrusting of the victim.
* Often are inconsiderate of strangers, such as a waiter at a restaurant.
* Display a fascination with weapons or owning a weapon.
* Poor coping skills
* Difficulties with relationships
* Cognitive distortions
* Difficulty empathizing with their victims.

The perpetrators of sexual abuse also show the following:

1. Good at hiding the violence
2. Publicly presenting as kind, loving, charming and likeable,
3. But behave in cruel, violent, undermining and manipulative ways in private.

A very common myth is that a child sexual abuse is perpetrated by strangers and pedophiles i.e. a person who is sexually attracted to children. But most people who sexually abuse children are our:

1. Friends or Colleagues in Workplace
2. Business Partners and Associates
3. Family members, and
4. Community members
5. Bosses in organization
6. Mothers of Sexually Abused Children
7. Community Advocates for Family & Youth
8. People one may come in contact through the internet.
9. Husbands and Partners
10. Sibling Abusers
11. Known Community Members
12. Strangers
13. Teachers
14. Parent, guardian, foster parent.
15. Relative or any other person the child lives with who assumes responsibility for care and/or supervision.
16. Employee or agent of a public or private facility that provides care to the child and may include: Hospitals. ...
17. Any person providing care for the child.
18. Parent, guardian, foster parent.
19. Relative or any other person the child lives with who assumes responsibility for care and/or supervision.
20. Employee or agent of a public or private facility that provides care to the child and may include: Hospitals. ...
21. Any person providing care for the child.

**12.5 What are common perpetrators Behaviors?**

The perpetrator may insist on accompanying the survivor everywhere and explaining he only wants to keep her safe. He may even show care towards the victim by taking control of her finances purporting he wants to spare her the trouble. He may choose her clothes telling her he knows what suits her best. He may also use:

* 1. Intimidation and threats
  2. Causing fear through threats
  3. Glares
  4. Destroying or protecting her property; and
  5. Hurting pets.
  6. Undermining confidence
  7. Damaging self-esteem through humiliation, ridicule, and shaming; and
  8. Intentional behaviors that make the victim doubt herself.

**12.6 Who does the perpetrators Include:**

(A) Adult perpetrators include:

1. **Family Risk Factors** Perpetrators who have a history of physical and sexual abuse thereby experiencing more harsh discipline and poor attachment or bonding as a child.
2. **Externalizing Behaviors** perpetrators who a history of aggression and violence. They belong to non-violent criminality anger/hostility, substance abuse, suspicion/mistrust and an antisocial personality disorder are noticed in them.
3. **Internalizing behaviors** Perpetrators who have a history of anxiety, track record of depression cases in the family, a very low self-esteem and an absolute external locus of control.
4. **Social Deficits** Perpetrators who have a tendency of showing low social skills/competence absolute loneliness, a visible difficulty in managing intimate relationships and lack of secure attachment.
5. **Sexual Behaviors** such as sexual externalizing problems, an unwanted and a high sex drive and other undesirable preoccupations, more “deviant” sexual interests and a greater sexualized coping.
6. **Attitudes/Cognitions** e perpetrators show attitudes that minimize perpetrator guilt accompanied with attitudes tolerant of adult-child sex.

**(B) One can also analyze the perpetrators of Sexual coercion** to under their behavior better. Sexual Coercion refers to forcing, manipulating, or bribing someone into a sexual act. A variety of factors may put youth at risk for committing sexually coercive behavior such as forcing a person or manipulating, and bribing someone into a sexual act. These include:

* A history of abuse or trauma, including personal exposure to violence or child maltreatment.
* Having behaviors that co-occur with these experiences such as substance of abuse and non-sexual violent behavior.
* Having atypical sexual interests, referred to as arousal to sex obtained through force.
* Frequent pornography consumption habits that are almost on a daily basis.
* Exposure to violent pornography.
* Having been sexually abused oneself at some time during one’s own childhood.

### ****(C) Teen Dating Violence:****

This is another type of act that can be harmful to the society. Risk factors for perpetrating from teen dating violence include:

More than 1/3 of the sexual offences fall under this category, but they often go unreported and factors identified for these are:

1. A Strong Peer influence that includes:
   * Having friends who have been involved in dating violence either as perpetrators or victims
   * Experiencing peers’ aggressive, violent, and / or antisocial behavior1
   * Substance use which is a common cause for resulting in a violent behaviour.
2. Personal and peer group beliefs / attitudes seen towards violence
   * Acceptance of rape myths
   * Unjustified tolerance of violence
   * Justification of violence use

**12.7 Anti-sexual harassment policies:**

Employers, housing providers, educators and other responsible parties can go a long way toward promoting a harassment-free environment for individuals protected by having a clear, comprehensive anti-sexual harassment policy in place. In cases of alleged sexual harassment, the policy intends to will alert all parties to their rights, roles and responsibilities and thus their commitment to make the work environment safer and proper for a peaceful co-existence. Policies must clearly set out how the sexual harassment will be dealt with promptly and efficiently, without any bias involved in the process.

Every employee ad stakeholder must be aware of the existence of an anti-sexual harassment policy and the steps that are in place for resolving complaints and related grievances. This can be done by:

1. Giving policies to everyone as soon as they are introduced to the team members making all employees, tenants, students, *etc.* aware of them by including the policies in any orientation material.
2. Training people, including people in positions of responsibility, on the contents of the policies, and providing ongoing education on human rights issues. Here even induction program should be organized.
3. An effective sexual harassment policy can in fact limit the harm involved and reduce resultant liability.
4. It also promotes equity and diversity in the goals of an organizations and institutions and makes good business sense.
5. Employers, housing providers, educators and other responsible parties also need procedures for dealing with sexual harassment by third parties.
6. These procedures should show how people are expected to respond to the harassment, make sure that serious and/or ongoing problems are brought to the attention of those in charge, and also that the people in charge take appropriate steps to assess the situation and take timely remedial action.

In practice, it is very important that all complaints of sexual harassment be taken seriously and dealt with promptly so that the complaint mechanism be is applied, and that persons making complaints not be subjected to discipline action or retaliation, that is often noticed.All responsible parties should monitor their environments regularly to make sure they are free of sexually harassing behaviors. Proactive steps should be taken to maintain a poison-free environment which will help make sure that sexual harassment does not take root, and is not given a chance to escalate within the organization.

**12.8 Suggested contents of an anti-sexual harassment policy:**

(i) Unwanted, uninvited visits by an employer, supervisor, manager, co-worker, *etc.*to an employee’s home may also be labeled as a case of sexual harassment.

**Example:**In fact, in one of the cases a tribunal found that an employer’s unwanted phone calls and visits to a woman’s home were “all part of a course of conduct that started in the workplace and extended to her home. Though she was uncomfortable with these uncalled for visits but she never objected and so they continued unabated.”

(ii) Depending on the circumstances, such visits may also amount to criminal harassment under the *Criminal code definition.* In other jurisdictions, employers have also been held liable for sexual harassment where the perpetrator is a member of the employer’s family. For Example: In a British Columbia case, a female employer was held liable for her husband’s sexual harassment of a live-in caregiver, even though she had nothing to do with the harassment herself.

(iii)  Employers in live-in caregiver situations have also been held liable when their children sexually harassed their caregiver.

(iv) If one analyzes the *Occupational Health and Safety Act*  (OHSA)also imposes requirements on employers. Employers in workplaces with five or more employees must prepare written policies on workplace violence and harassment. The policies must be reviewed at least annually. Employers must also develop a program to put the workplace violence policy into action. The *OHSA* also contains provisions that require employers to do risk assessments to prevent workplace violence.

(v) Prevalence of workplace harassment is one of the risk factors that employers must examine when assessing the risk of workplace violence under the requirements of the *Occupational Health and Safety Act.*

AJoint health and safety committees and other representatives should also consider workplace harassment as a risk factor for workplace violence.

(vi)Workplace Violence Programs should include clear measures and procedures for workers to report “new risks” that include prevalence of harassment associated with workplace violence.

(vii) As well, Ministry of Labour Health and Safety Inspectors should assess whether workplace harassment was a contributing factor when dealing with incidents of workplace violence.

(viii) Depending on the circumstances, employers who fail to protect their employees from violence in the workplace may also be found criminally responsible.

12..9 Conclusion:

Sexual Harassment is a major social evil that needs to be weeded out to make organization safer and comfortable for all the employees. It should ensure that employees feel safe and secure while coming to work. In the above chapter the authors have not giving examples from their experiences as it may divulge the dark secrets of modern organizations.

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