

## Legal Development In Pakistan Related To The Sexual Harassment Issue At Workplace

Dr. Nausheen Fatima Jaffery<sup>\*1</sup> Aliya Saeed,<sup>\*2</sup> Syed Fahad Ali,<sup>\*3</sup>

<sup>\*1</sup> (Teaching Associate) School of Law University of Karachi.

<sup>\*2</sup> Research Scholar Ph D(LAW), School of Law, University of Karachi,

<sup>\*3</sup> Research Scholar LLM, School of Law, University of Karachi,

<sup>\*1</sup> [nausheenjaffery1980@gmail.com](mailto:nausheenjaffery1980@gmail.com) <sup>\*2</sup> [aaliasaeed@yahoo.com](mailto:aaliasaeed@yahoo.com), <sup>\*3</sup> [balochfahad90@hotmail.com](mailto:balochfahad90@hotmail.com)

**Abstract:** The word harassment comprises diverse meanings in today's world. Harassment is an issue that gives mental torture and unrest environment for an individual particularly for women. The motive behind the practice of harassment is to create an abusive, suffocated and antagonistic environment on the basis of gender discrimination. There are various forms of harassment exist including verbal abuse, physical assault and sexual misconduct etc. unfortunately the practice of harassment has deeply prevailed to the extent of children. Harassment is a common issue around the world but it is condemned as well especially the civilized nations address this issue in responsible manner. With the passage of time it is being treated lawfully. However, a kind of hesitation is found particularly in conservative societies over discussing the issue of harassment due to inoperative behavior from a large portion. Hence, victim feels hesitancy in **raising the matter that** in actual adds the oil to fire. The purpose of this paper is to highlight the legal development taken **place on the protection** against sexual harassment at workplace. Today a large number of **women work** which **are** called working women who faces external challenges and the issue of **harassment** is **one** of them. Regrettably, it is to note that it is dealt **as a routine matter because** it is **understood** that working class of women have to face it and the best **way to deal with the issue** of workplace harassment is be quiet. Hence, dealing with the **issue in normal practice has** strengthen its roots which is **a major cause of further challenges**.

**Key Words:** Harassment, protection, legal, development, Ombudsman

### INTRODUCTION

Women are considered the next wheel of life-cart. Their participation in socio-economic set of any society is the guarantee of success, the contemporary world acknowledges the role of women as indicator of development. The issue of harassment is very old but now it has strengthen its roots according to a survey 35% of women globally do experience harassment during their job life including the high risk of sexual violence. According to the UN Agency the violence and harassment at work are very hard to measure. Just half of the reports victims say they have ever disclosed their abuse to another person and in many cases only after they would suffered repeat incidents. The reasons they gave for not disclosing the abuse was that coming forward would have been a 'waste of time' they feared retribution or they worried it could hurt their own reputation. Here, it is noteworthy that workplace harassment is one of the most serious type of harassment and it is a criminal charge.

1. In June 2019, at the Centenary Conference of the International Labour Organization (ILO) the violence and Harassment Convention (No. 190) and its accompanying Recommendation (No. 206) were adopted. The global

community has made it clear that violence and harassment in the world of work will not be tolerated and must end. These landmark instruments were developed by the world of work actors (representatives of governments, employers and workers) and set out a common framework to prevent and address violence and harassment. It offers broad protection and applies to the public and private sectors, to the formal and informal economy and in urban and rural areas.

11. Despite its description in legal jurisdiction around the world, workplace harassment continues to be experienced by many women and some men in a variety of organizational settings.

III. In short, the study of the issue sexual harassment reveals that it is an ages-old issue that has been more complicated today. As, now-a day the practice of harassment against women has become common that it has crossed the limits like it is understood a general practice that the imposition of unwelcome sexual relations by superior to sub-ordinate at working premises. Hence, to the susceptibility of the issue it has been globally addressed for instance, in the late 1980s, the Supreme Court of United States interpreted Title VII of the Civil Right Act of 1964 to include discrimination based on 'sex' as sexual harassment in the workplace'iv.

In addition, to discuss the human rights legislation and collective agreement is also important. It defines, engaging in a course of vexatious comment or conduct that is known or ought to be known unwelcome. The unwelcome behaviour for concupiscence against specific gender in simplest way is crime, the law of Pakistan also provides a legal remedy outside the organization under section 509 of Pakistan Penal Code 1860 which penalizes sexual harassment with Imprisonment upto three years or fine upto five hundred thousand rupees vi.

### **COMMON PRACTICES OF WORKPLACE SEXUAL HARRASMENT:**

A drive regarding the awareness of sexual harassment at workplace is important to be launched globally as to denormalize the practices related to the issue. In this manner all mediums of communication can be used to provide the information about the practices associated with sexual harassment. They include both physical, verbal and non-verbal, various of them have been mentioning below:

Inappropriate or unwelcome touching, actual or attempt raped, sexual pornography, sexual gestures, threatening, discrimination, leering looks, speaking in a sexual tone, comments about sexual appearance, bullying, making inappropriate remarks or jokes or sounds like, whistling.

Apart from the above mentioned ways of harassment it is also necessary to understand the two most common types of harassment at workplace as, the harassment can not be considered a general social problem. It is a social issue having various dimensions, the knowledge of them helps to address the issue of harassment particularly at workplace.

### **QUID PRO QUO HARASSMENT:**

Quid Pro Quo harassment is the first type which may be described in simplest manner as, 'something for something' or 'this for that'. It would be true to call it the worst type of harassment. It is occurred when an authoritative figure abuses his position to pursue sexual favour with an employee by offering an employment advantage. It is noteworthy that the Quid pro quo harassment can be occurred in both straight forward and subtle ways but, it is necessary that the harasser must have some form of superior position over the harasser.

In easy way it can be explained as that an employment benefit is given in exchange of sexual favour.

### **HOSTILE ENVIRONMENT HARASSMENT:**

The other harassment is the hostile environment harassment, it is the reciprocal of the Quid pro quo harassment. The employee subject to this type of harassment might find it hard to delegate the professional duties due to unwelcomed behaviour. In other words

it may be called the encounter of an employee against discrimination or inappropriate behaviour.

The hostile environment harassment is such a workplace harassment where there are serious existences of harassment and discrimination against protected characteristics such as race, colour, religion, sex and pregnancy, national origin, disability. It has been noted that, understanding what constitutes hostile environment harassment is the first step in recognizing and addressing this serious issue. Unfortunately, in various societies such type of workplace harassment tries to be dealt normally. Such behaviour has created more complexities especially in third world societies where rule

of law does not exist and society is divided on the basis of superior and inferior. The women are considered weaker portion who have to compromise the situation.

### **LEGAL DEVELOPMENT IN SEXUAL HARRASMENT AT WORKPLACE IN PAKISTAN:**

Harassment has various impacts on an individual's life hence, adequate development in law has been made generally in the world and specifically in Pakistan. The major development occurred through the formation of protection against sexual harassment at workplace is the declaration of sexual harassment as the violation of civil rights. The legal development declared the sexual harassment as a form of discrimination.

The sexual harassment at workplace puts detrimental effect which not only takes emotional toll but also leads physical harm. Numerous countries have done legal frameworking regarding the issue of sexual harassment.

Likewise, Pakistan has also done substantial development in legal

frameworking of harassment specifically at workplace. In this manner, The Protection Against Harassment of Women at Workplace Act 2010 was the most significant step that made harassment a criminal offence.

In legal development of protection against sexual harassment at workplace the Supreme Court of Pakistan played a pivotal role while deciding the Civil Petition No.4570/2019 (Nadia Naz vs President of Pakistan and other). The Supreme court said the Act 2010 rather than addressing the issue of

harassment in all its manifestation is a myopic piece of legislation that

focused only one minute fraction of harassment. The Act 2010, confines or

limits its application to sexualized forms, including orientation of unwanted

or unwelcome behaviour, or conduct displayed by an accused person towards

the victim in any organization. It stated further living such restricted

meaning to 'actionable' harassment, by the legislature in its wisdom,

impinges [on] the very object and purpose for which the act 2010 was promulgated.

Referring to the protection against harassment of women at workplace (Amendment) ACT 2022 aims to strengthen protection for women against harassment at the workplace provides a framework for reporting and investigating incidents of harassment Turkey features of the amendment act as follow:

- i. Expansion off the definition of harassment to include digital harassment and online abuse.
- ii. Establishment of federal level ombudsperson 2 overseas implementation of law.
- iii. Increase in penalties including fines and imprisonment.
- iv. Requirement for mechanism to stablish clear policies and procedures for reporting and investigating harassment complaint.

In addition, the act expanded the definition of when employee that is not only signed a contract with an employer or organization but also domestic and informal worker that represents the 70% of the workforce in Pakistan.viiUndoubtedly the decision of civil petition no. 4570/2019 by the apex court of Pakistan opened up doors for further legal development which occurred through amendment in the act of 2010. Furthermore, another impact put by the development of amendment act is the creation of a safe working environment.Although,at present 100% free from harassment, abuse and intimidation with dignified working environment has not been guaranteed but the legal development has successfully removed obstructions in the legal procedures. As it supports the article 14 of the constitution of Pakistan 'is a vital component that safeguards the fundamental rights and freedom of its citizens'ix enabling high productivity with better quality of life at workplace.

### **FEDERAL OMBUDSMAN FOR PROTECTION AGAINST HARASSMENT AT WORKPLACE (FOSPAH)**

When sexual harassment would be discussed the FOSPAH would definitely come into discussion and the expanded scope of harassment law falling the 2022amendments includes not only sexual harassment but also gender based discrimination that undermines personal dignity\*.

The current legal development by the amended Act 2022 enlarges the forum of Federal Ombudsman for Protection Against Harassment at workplace as it's jurisdiction shall now entertain cases that are related to harassment at

workplace and covers the entire nation, whether working in Pakistan and outside the Pakistan. The federal ombudsman secretariat for Protection Against Harassment( FOSPAH) is an autonomous quasi judicial statutory body working under the ambit of Act No. I V of 2010 for the protection against harassment at workplace together with this the Women's Property Rights Act 2020 also gives it authority of deciding cases related to inheritance of women. Hence, the up gradation of the role of FOSPAH is a landmark legal development, In an address as the federal ombudsperson For protection against harassment, Ms. Fauzia at Nazeer Hussain university (NHU), Karachi the critical importance of reporting harassment and encouraged everyone to actively support others in breaking the silence. "Silence makes us accomplices". She further stressed that the effective implementation of harassment laws hinges on victims raising their voices against such violations.Ms.Viqar instilled of shared responsibility among the attendees advocating for a general equal Pakistan where every individual is treated with dignity and respect as mandated by article 14 of the constitutionxi. In the meanwhile The role of ombudsman in laws for protection against harassment at workplace has also been significant in various aspects these entities are responsible for receiving an impartial investigation of harassment complaints with the power to summon witnesses, collect evidence and take appropriate action against perpetratorsxii In addition it is also necessary to mention here That with the intention to simplify the method of complaint now the FOSPAH registers complaint with the registrar at the federal Ombudsman Secretariat by post or submitted online via [www.fospah.gov.pk](http://www.fospah.gov.pk) both in English and Urdu. In result of the legal development the other forums have also joined hands with FOSPAH to eradicate the issue of sexual harassment at workplace like the Securities and Exchange Commission of Pakistan has issued SRO(I)/2024 Ament listed companies (Code of Corporate Governance)Regulations, 2019, directing to implement an anti harassment policy to safeguard the rights and wellbeing of employees under the protection against harassment of women at the workplace Act 2010.

Infact, there is not any purpose of legal development in harassment issue until and unless these are introduced among females. In such regard, the hashtag# ME TOO Movement started in 2017 proved to be a successful way to draw attention to the sensitivity of the issue. The social media users know that is an awareness campaign for the sexual harassment with female at workplace, in which victims share their experiences of sexual harassment and abuse or in other words publicize to encourage others females to raise voice for justice. This campaign took a new turn in Pakistan in 2018 after the death of 7 years old Zainab Ansari who was raped and killed. According to Pakistan's National Commissioner for children and founder

of the helpline for women Zia Ahmed Awan, 93% of Pakistani women experience some form of sexual violence in public places in lif etimexiii. So, a comprehensive method of awareness is a major requirement to get full fruit of this development.

## **SUGGESTIONS**

- a) To combat the issue of harassment at workplace it is necessary that females should be well-aware of the code of conducts set under the Protection Against Harassment at Workplace Amended Act 2022. At basic level the code establishes Minimum workplace behaviour standards setting clear expectations for employers management and employees. It aims to promote a culture of respect, quality and safety.
- b) Confidentiality of complaint and safety from revenge must be ensured because the issue of honour killing is also common in conservative sectors of the society as to encourage a victim to file a complaint it should be the first priority.
- c) Tackling the Post-complaint complexities requires to be most important as to keep the victim psychologically and emotionally secure and stable because raising voice against any harassment issue by a female is considered an awkward step.

## **CONCLUSION**

Female are 49.6% of Pakistan's total population that is half of the entire population. According to the constitution of Pakistan providing the facilities of health, education, safety are responsibility of the state. The legal development in the light of the ruling of the Supreme Court in Civil Petition of 4570/2019 opened up new doors of legal development in harassment at workplace issue. But to make it fully implemented with the role of government the role of NGOs is most important so, the act can produce in its best way. The NGOs can work to empower victims by increasing their access to appropriate forum for example incase of Dua Kazmi a NGO provided her family the platform through media. Secondly free legal assistance and emotional support can also be provided by NGOs.

In short the Women Protection Against Harassment at Workplace Amended Act 2022 is a comprehensive law that covers all sections of female workers.

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