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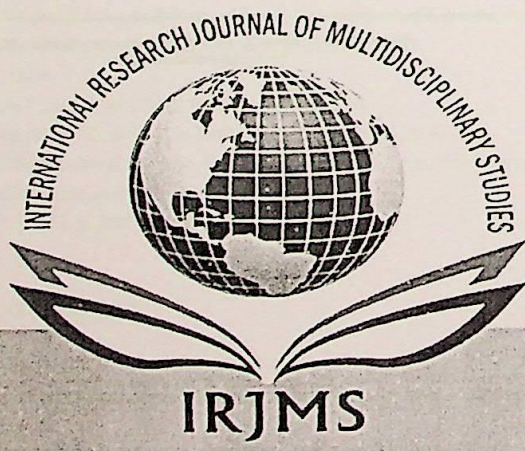
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**SPECIAL ISSUE ON  
CONTEMPORARY LEGAL ISSUES IN ACCOUNTING, ECONOMICS, MANAGEMENT AND FINANCE**



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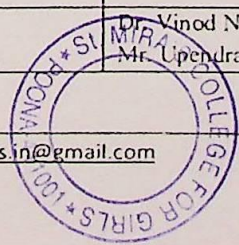


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INDEX

Sr. No.	Title of the Paper	Name of the Author	Page No.
1	Introduction of Goods and Services Tax (GST) in India	Dr. Balwant B Landge <sup>1</sup> Mr. Nagnath Adinath Mane <sup>2</sup>	1-6
2	Lending to MSME'S (MUDRA)	Dr. Ambadas T. Bhosale	7-10
3	A study of Cyber Awareness among College Students	Dnyanashree Ghule <sup>1</sup> Anjali Sharma <sup>2</sup>	11-14
4	Role of Independent Director in the Current Legal Framework	Dr. Shubhada Tamhankar	15-21
5	GST: It's Impact on Various Sectors	Dr. Ajaykumar M. Palwe	22-24
6	A study on Impact of GST with special reference to Goods and Services in India	Dr. Vikas Barbate	25-31
7	Impact of GST on Indian Economy with special reference to Jewelry Merchants in and around Pune City	Dr. Jyoti N. Mane	32-37
8	Impact of Goods and Services Tax (GST) on various Sectors in Indian Economy	Mr. Kalel Appaso Machindra	38-40
9	Problems of Beneficiaries of Indira Gandhi Old Age Pension Scheme in Ambegaon Tahasil	Dr. Manohar Sanap <sup>1</sup> Mr. Kekane Maruti Arjun <sup>2</sup>	41-46
10	Recent Trends in Rural Marketing	Mr. Ramesh N. Kamble	47-51
11	The Union Budget, 2018 – Effects and Implications	Dr. N. B. Mudnur	52-57
12	GST: Emerging Legal Issues and its impact on Manufacturing Sector	Dr. Ganesh Patare <sup>1</sup> Harshada Rajendra Valekar <sup>2</sup>	58-69
13	Social Audit: A tool for Effective Governance of Funds	Dr. Ganesh Patare <sup>1</sup> Anuja Narendra Jain <sup>2</sup>	70-75
14	Cyber Security awareness of E-Consumers	Dr. Ganesh Patare <sup>1</sup> Sayali Ravindra Rane <sup>2</sup>	76-82
15	Demonetization – A way towards Digitalization	Dr. Ganesh Patare <sup>1</sup> Rohan Pramod Wagh <sup>2</sup> Sarang Anil Deshpande <sup>3</sup>	83-92
16	A Study of Promotional Strategies for Services Marketing in Rural Areas	Dr. Janardhan K. Pawar	93-98
17	WTO's Agreements on Agriculture: India's Perspective	Ms. Priyadarshini M. Hapse	99-103
18	Sexual Harassment in Educational Institutes: Concerns and Cognizance	Dr. Dimple Buche	104-107
19	Portfolio Management Booster for Investors	Dr. Saroj Hiremath	108-113
20	RERA – Pros and Cons	Dr. Satish A. Bhosale	114-117
21	Impact of GST of Different Sectors on Indian Economy	Mr. Sherumal Pandhari Shende	118-121
22	RERA – Impacts and Impressions	Dr. Vinod N. Sayankar <sup>1</sup> Mr. Upendra Dilip Shukla <sup>2</sup>	122-127







## Sexual Harassment in Educational Institutes: Concerns and Cognizance

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### Introduction:

Higher Education Institutes are 'Temples of Learning' claiming to provide equal opportunities leading to gender parity while imparting education; providing resources and of course ensuring the safety of its women faculty and students on campuses. Although 'Sexual Harassment' at Workplace has gained enough significance recently in its legal context but the scenario in Educational Institutes has not received the much required attention. Sexual harassment is the expression of unhealthy human relationship; violating the dignity of the victim. It also goes against the basic human right related to 'social security' and 'equality' guaranteed under the Constitution to every human being in India. Moreover, this unwanted phenomenon violates right to life and peaceful existence guaranteed by law. The American Psychological Association (2017) terms Sexual harassment as a "chronic problem" faced by women at workplace.

This paper attempts to gain insights into level of awareness in women teaching faculty and students about the legislation; awareness about procedure of grievance redressal; impact of such incidents on the victims and response of victim/family on such incidents. The study is relevant as to the serious consequences faced by both the victim and educational Institute as a result of such incidents, questioning their security and sanctity. This study aims at providing a pathway on how to handle Sexual Harassment at workplace incidents by Educational Institutes and their incumbents.

### Objectives of the Study:

1. To examine the existing legal framework on Sexual Harassment at Workplace and other guidelines in India
2. To understand the level of awareness regarding existing legal provisions in women faculty and students in educational institutes
3. To study the impact of sexual harassment incident on victim
4. To suggest measures for effective implementation of the legal mechanism.

### Recap on Legal Framework:

Sexual Harassment is a Community/Societal issue, the incidents of which if happen on campus of an educational institute require specific interventions that safeguard both the Victim and Institute. Sexual harassment includes "such unwelcome sexually determined behaviour as physical contact and advances, sexually coloured remarks, showing pornography, and sexual demands - whether by words or actions" (Singh, 2009).

The first case on sexual harassment [Vishaka vs. State of Rajasthan (1997)] laid down the foundation for forming the guidelines to enforce gender equality and punishment for sexual harassment. Until this landmark case and the decision on guidelines, India did not have any law for addressing the issue of Sexual Harassment. Before this case, the courts, in the absence of any law, relied on UN adoptions of 'Elimination of All forms of Discrimination against Women'. The 'Vishakha' guidelines directed all organizations in the government, semi government and private sector to set up complaint mechanism.

The Indian Penal Code (IPC) has certain provisions to safeguard women under Section 354, 375 and 509 dealing in outraging modesty of a woman, rape and dealing with act intended to insult the modesty of a woman respectively. But these have proved insufficient to check the ever increasing issues of sexual harassment at workplace in India.







The Indecent Representation of Women (Prohibition) Act 1987 is one of the legislations favouring working women but fails to address workplace harassment. The courts by and far referred to Article 15 and Article 19 (Constitution of India) to judge the cases of injustice and workplace intimidation. The Constitution of India under Article 21 bestows the fundamental right to 'Life and live with dignity' and Article 14 gives right to gender equality to women in India. Both these rights get violated on account of sexual harassment. The Section 66 (E) of the Information Technology Act, 2000 safeguards women by stating the punishment for violation of privacy.

The Vishakha case and guidelines (1997) issued thereafter became mandatory to be followed as law until any enactment was drawn that provided the much needed regulatory framework. In the second decade of the 21<sup>st</sup> century, serious considerations to sexual harassment incidents in India lead to passing of the bill (2012) and establishment of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. Incidentally, the Criminal Law and IPC were also amended.

Section 2(a) of the Sexual Harassment of Women at Workplace Act, 2013 defines a 'Workplace' and brings Educational Institutes (public, private and autonomous) under its purview. Safeguarding women in the educational institutes (Working or studying) on campuses from an emotionally abusive and unhealthy act called sexual harassment being the main purpose. The University Grants Commission Act, 1956, along with The Sexual Harassment of Women at the Workplace Act, 2013 prohibit any Sexual Harassment of Women in Higher Education Institution (HEI). The act mandates all HEIs Campuses which includes facilities such as Libraries, Laboratories, Lecture Halls, Residence Halls, Toilets, Hostels, Dining Halls, Canteens, Parking Area and Parks. The Acts scope defines transportation and locations outside the institutions such as sports meet, cultural fests etc. where the employee or student of the HEI is participating as 'Extended Campus'. The UGC has issued notification (July 2016) to make educational institutes compliant to the said Act through the UGC (prevention, prohibition and redressal of sexual harassment of women employees and students in higher educational institutions) regulations 2015. The regulations describe responsibilities of the higher education institutions; the grievance redressal mechanism; process of making complaint; conducting inquiry; punishment and compensation and consequences of non-compliance. The respective state governments are made responsible to ensure safety and inclusiveness towards women in Higher Education Institutions on their campuses and advices a zero-tolerance policy towards sexual harassment.

### Review of Literature:

The press has widely reported statistics on sexual harassment incidents in universities and educational institutes. According to a report in Times of India on March 5, 2015, Over 71% of girl students of Punjab University who participated in a survey said that they have faced sexual harassment. In 2015, the then HRD Minister Smriti Irani released data on 75 sexual harassment cases in HEIs between April 2014 and March 2015. These figures as reported by the UGC are from 84 universities include cases of sexual harassment against women lecturers, professor and research scholars. The JNU terminated the services of one faculty because he sexually harassed a female candidate under his supervision. 'The Citizen' on 31<sup>st</sup> August, 2015 reported that sexual harassment in Universities exists but is ignored. On January 5, 2018, Sakal Times reported about filing of a case by an engineering student in Pune against her professors when the Internal Complaints Committee failed to take cognizance of her issue.

### Research Methodology:

In the present study, both the primary and secondary sources for data collection are considered. The secondary sources were Bare Acts, Journals; Books and Web content. At the all India level, it is





observed that the proportion of women as faculty; students and staff ranges between 42-46 %. The researcher gathered primary data from 102 women respondents (Faculty; Staff and Students) from 12 educational institutions in Pune city ranging between the ages of 20-50 years. All the participants belonged to educational institutes having male coworkers and co-education system. The researcher interviewed the respondents to gather information as it is a sensitive issue. The questions asked focused on knowledge of what constitutes as sexual harassment at workplace; their awareness about the available legal framework; reporting procedures and the immediate impact of such incidents.

### Findings:

**Level of awareness regarding existing legal provisions in women faculty and students:** The interview questions divulged that almost 92% participants were aware of the establishment of the Sexual Harassment Act at Workplaces but showed limited awareness (56%) about their applicability on HEI campus. Further, only 28% of respondents actually knew what is construed as sexual harassment under the Act and provisions related to redressal if they faced any such incident. A very low percentage of respondents (22%) knew about the provisions being applicable to the 'Extended Campus' too.

**Impact of sexual harassment incident on victim:** Only 13% of the respondents agreed that they had experienced such harassment directly or indirectly. The researcher attributes reasons of fear; shame and disrespect on the part of participants for revealing information on such a sensitive issue. Almost 78% of them agreed that lack of courage and social boycott were sole reasons to discourage victims from reporting such incidents. The interviews also revealed that any physical or mental abuse had adverse effects on them. The major effects identified were lack of self-confidence; shame; guilt and bad reputation. As a result, the victim may drop out or leave the educational institute.

**Recommendations for implementation of measures:** The researcher observes a very low level of awareness amongst the respondents regarding definition of sexual harassment under the Act. Moreover, the participants had no idea about how to address such a challenge if they faced it on campus. Researcher feels that the first step to address this challenge is to adopt a policy to prevent sexual harassment. Conduct of awareness programs to circulate such policy to students and staff is also critical. There is a need to establish a robust system to communicate the faculties, staff and students about their responsibilities and rights.

The researcher puts forth, the following recommendations to make the implementation effective:

- Declare the composition and contacts of Internal Complaints Committee to all on Campus
- Display at strategic locations of the institute and extended campus, the penal consequences of indulging in sexual harassment act
- Conducting workshops for faculty to sensitize them about such incidents and their consequences
- Establishing forums for students separately to share examples and encouraging them to voice their concerns
- Designing and implementing interventions like Street plays, Talk shows and Videos to change attitudes among culturally and ethnically divergent faculty, staff and students.
- Self-defense training to be imparted on campus to women students
- Encouraging students to enroll for courses that provide appropriate knowledge in this field and giving them extra credits for the same
- Value education initiatives to opposite sex for maintaining modesty and dignity of women on campus





