

SEXUAL HARASSMENT AT WORKPLACE: A STUDY ON THE POLICIES AND PREVENTIVE MEASURES

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Abstract

Sexual harassment in the workplace is a widespread and distressing issue that impacts people in all walks of life and all types of careers. Victims of sexual harassment often experience negative consequences such as decreased job satisfaction, increased stress, and a diminished sense of self-worth. Employers have a responsibility to prevent as well as address SH in the workplace through implementing clear policies, training employees on appropriate workplace behavior, and taking appropriate action when harassment is reported or observed. “(In 1997 S.C. through Vishaka V. State of Rajasthan” held that sexual harassment of women is violation of two utmost fundamental rights guaranteed by “Articles 14, 19 and 21 of the Indian Constitution)”. Later, India passed legislation to prevent sexual harassment, such as “The Protection of Women Against SH at Workplace Bill, 2010” and “Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013,” which were meant to stop this kind of sexual harassment of women, and “Criminal Law (Amendment) Act, 2013, which included section 354A IPC, 1860”, which defined sexual harassment and set a penalty of 3 years in prison with or without a fine. Sexual harassment and assault harm individuals, communities, and society. This study should wake up leaders and citizens to how India's culture allows so much sexual abuse, especially against women and other historically marginalised groups. It's important to understand the scope of this issue and to work together to prevent sexual harassment in the short and long term. This paper discusses modern sexual harassment, the law, and how organisations can help women maintain dignity.

Keywords : Sexual Harassment, Workplace, Policies, Preventions, India

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Introduction

Sexual harassment at the workplace is a serious issue in India that has been prevalent for decades. It refers to any form of unwelcome sexual behavior or advances that create an uncomfortable or hostile work environment. The problem has been particularly acute in sectors such as entertainment, media, hospitality, and corporate offices, among others.

One of the most high-profile cases of sexual harassment in India in recent years was the incident involving film producer “Harvey Weinstein”, who was accused of SH by several women in the US. The incident sparked a global conversation about sexual harassment and the #MeToo movement, which encouraged females to speak out their workplace experiences of harassment.

In India, the #MeToo movement also gained momentum in 2018 when several women from the media and entertainment industry came forward with their stories of harassment. These included allegations against high-profile personalities such as MJ Akbar, a former government minister, and Sajid Khan, a Bollywood film director.

Other notable cases of sexual harassment in India include the allegations of harassment against the founder of a major Indian news channel, and the case of a female employee who accused her boss of sexual harassment in a major IT company. These cases highlight the pervasiveness of sexual harassment in the workplace in India, and the urgent need for effective measures to prevent and address this issue.

At best, the idea of sexual harassment is vague. This is not something that can be left alone. In reality, it's just an extension of patriarchal violence in the home and in society as a whole, but that's not good enough. It shows male chauvinism and a deep-seated dislike of treating women as equals. The gap between men and women keeps getting bigger and bigger. This has to be one of the longest-lasting social oddities in history. Women have always been oppressed in patriarchal societies, but the level of oppression has changed depending on religion, social status, clan membership, culture, and custom. As a result of patriarchal rule, women's mobility is limited, they are less productive, and they have almost no chance of getting a good job. Women have been taught to keep quiet about this unfair situation, to work without complaining, and to take everything in stride. Sexual harassment at work has been studied a lot in other places, but not as much in India. It took a lot longer for Indian women to get economic freedom than for the whole country to get political freedom from colonial rule. Women are making waves in the business world right now. Still, barriers such as negative beliefs about one's own capabilities and potential hold women back from living lives that are fulfilling in every way. As a girl grows up, she gets the strong message that she should focus on her relationship needs instead of her achievement needs. The so-called "glass ceiling" was thus not easily overcome. It took some time, but they came to accept the reality of sexual harassment in the workplace. Unfortunately, there has been no thorough and systematic study of sexual harassment in the workplace in Assam. Consequently, policymakers and academics would benefit greatly from a study to understand the perspectives of working women regarding sexual harassment in the workplace. This research was performed for that reason.

Harassment of any kind in the workplace is wrong, but sexual harassment in particular goes against basic women's rights, like the right to work in a place where they are not treated unfairly. It makes the workplace more hostile and uncertain, which makes women less likely to take the lead and hurts their ability to be financially independent and strive for all-around development (Sahu, A.,2018).

With this idea in mind, the "Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act 2013" was made (Rostamzadeh et.al. 2016)

Vishaka v. State of Rajasthan was the first time the Supreme Court agreed that such laws were needed.(Source : <https://indiankanoon.org/doc/1031794/>)

The Indian Supreme Court looked at Articles 14, 15, 19(1)(g), and 21, as well as the "Convention on the Elimination of All Forms of Discrimination Against Women" (CEDAW), which India signed in 1993. Article 141 of the Indian Constitution says that the Supreme Court's recommendations are the same as the law.

In the "United Nations Declaration on the Elimination of Violence Against Women", sexual harassment is defined as "violence" and is illegal at work, in schools, and in other places. (**Source: United Nations General Assembly Resolution 48/104, www.un.org**).

Sexual Harassment at Workplace refers to unwanted sexual behaviour that often happens in a power structure. It includes any of the several following unwanted acts or behaviours, which can be done directly or indirectly:

- ➡ physical contact and advances; or
- ➡ a demand or request for sexual favours; or
- ➡ making sexually coloured remarks; or
- ➡ showing pornography; or (v) any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

Here, it could be said that the effect of an act, not the intent behind it, is the most important thing to look at when deciding if it is sexual harassment. But this is something that depends on the person.

"In 2010, in the case of *Dr. Punita K. Sodhi v. Union of India & ORS*, the High Court of Delhi agreed with the idea that sexual harassment is a personal experience. For this reason, the court said, a full understanding of the complainant's point of view requires a look at the different points of view of men and women." (**Source : W.P. (C) 367/2009 & CMS 828, 11426/2009**)

Many women may be offended by actions that the majority of men do not find offensive. Men view certain forms of sexual harassment as harmless social interactions that only overly sensitive women would object to. From a male standpoint, sexual harassment is viewed as a relatively harmless form of amusement. Due to the fact that men are rarely victims of sexual assault, they may not fully comprehend the social context or the threat of violence that women may perceive in sexual behaviour. (**Source : Punita K. Sodhi v. Union of India & Ors W.P. (C) 367/2009 & CMS 828, 11426/2009**)

1. Background of Sexual Harassment

Sexual harassment is one of the worst issues that women face in many locations today. Everyone is implementing new laws and procedures in an effort to combat this developing issue. Sexual harassment has different meanings to different people, and it also has different meanings in various locations. Sexual harassment is a crime, but it is unrelated to physical attraction. Instead, it is about misusing your authority. In fact, the majority of cases of sexual harassment occur in male-dominated occupations, such as being a police officer or holding any other official position. To demonstrate his dominance, the male attempts to exert dominance over the female employees or subordinates, which results in their unjustified torture. It is commonly observed that victims of sexual harassment in the workplace are reluctant to file formal complaints, which gives the harassers a boost by allowing them to remain unpunished. This issue is perpetually present in every nation. No woman worker is sure of herself, and they don't feel safe. Many countries' laws have evolved in recent years to protect female employees from sexual harassment (Banoo, 2020).

1.1 The top five kinds of sexual harassment most often reported are:

- Someone whistling, honking, making kissy noises, "Pssst" sounds, or leering/staring aggressively at you. (65%)
- Someone saying things like, "Hey Baby," "Mmmm Sexy," "Yo Shorty," "Mami/Mamacita," "Give me a smile," or similar comments in a way that is disrespectful and/or unwanted and/or made you feel unsafe. (59%)
- Someone purposely touching you or brushing up against you in an unwelcome, sexual way. (51%)
- Someone calling you a sexist slur, like "Bitch," "Slut," "Cunt," "Ho" or "Thot." (46%)
- Someone talking about your body parts inappropriately or offensively (such as your legs, crotch, butt, or breasts), saying sexually explicit comments ("I want to do BLANK to you") or asking inappropriate sexual questions. (43%)

1.2 Traditionally, sexual harassment at work has been split into two types:

1. Quid pro quo which means, "something in exchange for something." It means and includes asking for sexual favours or advances at work in exchange for things like promises of a promotion, a raise, or better grades.
2. A hostile work environment, which is a form of sexual harassment that happens more often. It usually involves things at work or the way people treat a woman worker that make it impossible for her to stay there.

Table 1: Prevalence of Sexual Harassment

#1	From verbal to virtual to physical forms, millions of people in the India experience sexual harassment , especially those who are: female, low-income, a person of color, identify as lesbian, gay or bisexual, or live with a disability.
#2	Verbal sexual harassment is most common, as reported by 77% of women.
#3	Physically aggressive forms of sexual harassment were reported by 62% of women. This more severe form of sexual harassment included being sexually touched in an unwelcome way (51% of women); being physically followed (34% of women); and being flashed or shown genitals against their will (30% of women).
#4	Cyber sexual harassment (via text, phone, on-line) was reported by 41% of women.
#5	Sexual assault was reported by an alarming 27% of women and almost every person had also experienced sexual harassment.

2. Review Literature

According to the findings of the studies, (SH) is not the result of the victims' sexual orientation. Instead, it is caused by other factors that make the victims' workplace unsafe. The studies shed light on the scope and prevalence of the problem in today's workplaces. "(Zillman, 2017)" found in a recent survey that 54% of US based women have experienced "inappropriate sexual moves" at some of the point in their careers. One more survey conducted in 2015 and published in the same year found that one-third of women between the ages of 18 and 34 in the US had been experienced sexual harassment (SH) at work at some of the point in their careers "(Vagianos, 2015)".

The #MeToo is just another recent trend that was started to bring attention to how common SH is and help people understand it better. The problem with SH is not just happening in the U.S. Instead, it looks like it is in the other parts of the world. A group of UK business organisations did a lot of surveys, and the results showed that more than half of the women, or 52%, had been the victims of sexual activities at work "(Brown, Gouseti, & Fife-Schaw, 2018)". Though 58% of women who is working in science streams, engineering as well as medicine in the United States have been said to have been sexually harassed "(Ceppa et al., 2019)". This is true for both men and women. Notably, the rate is 55%, which is much higher than the average. This is because the woman is "separated." It has been said that there are high levels of SH in all parts of life in Asia. "Chowdhry (2010)" says that over the past few years, a number of female officers in the Indian armed forces have killed themselves because of unwanted sexual advances. This is cruel and should not be allowed to happen. SH has become one of the most serious problems in public places in Bangladesh, especially in cities. Nearly 83 percent of Bangladesh's women is being sexually assaulted by men at home or at work "(Ahmed et al., 2014)". Based on this available information, it seems likely that it's still a long-long way to go before we reach the dreamed-of horizon "(Koehlmoos, Uddin, Ashraf, & Rashid, 2009)".

It wouldn't be smart to question the many studies that have been done to show that SH should be taken out of workplaces. Even so, the most effective ways to deal with SH have been limited to issues of both theory and practise "(McDonald, Charlesworth, & Graham, 2015)". SH is normally hidden today, and it's not seen as a problem that should be revealed. Using what we've learned from the previous studies, it seems pointless to talk about how much more work needs to be done to reach the desired level of equity in the workplace. This is because the way to achieving the desired fairness in

the workplace has already been found “(Hunt, Davidson, Fielden, & Hoel, 2010; Malhotra & Srivastava, 2016)”.

3. Research Methodology

The methodology that is used in research studies is referred to as "doctrinal type," and it is a descriptive study. The study looked at secondary sources of information and data, such as articles, journals, and books, all of which had to do with the topic of sexual harassment of working women. These sources were reviewed and analysed in great detail so that we could arrive at a definitive conclusion and find answers to our research objectives.

4. Research Gap

No one can deny the existence of a vast body of written material discussing the causes, effects, and potential solutions to SH; however, despite this fact, we still need to find solutions that are appropriate and pragmatic. As a result, the initial misunderstanding needs to be cleared up, and so does the notion that SH is commonplace everywhere, which is something that has not been adequately addressed up until this point. This systematic review sheds light on important factors that contribute to SH, as well as potential solutions and related topics. Despite this, in-depth research should be carried out in light of a relatively larger body of literature in order to identify each and every cause as well as more precise solutions. A significant finding from the research is that there are no appropriate laws or policies in place at organisations or in government that can be used to combat SH. For this reason, research should be focused on how to enact laws that effectively address SH and do not conflict with the policies and practises of organisations. Even though they haven't quite reached perfection yet, developed countries like the US appear to have better laws and a more effective implementation of those laws.

5. Objective of the study

- To explain policies for sexual harassment at workplace
- To suggest preventive measures related to sexual harassment at workplace
- To justify findings & recommendations

6. Policies Regarding Sexual Harassment at Workplace in India

The Policy is for all “Employees of Central Depository Services (India) Limited (“CDSL”)” and its fraternity. Its goal is to make sure that no woman Employee is sexually harassed. “Employee” in this Policy refers to all CDSL workers, whether they are full-time, temporary, on trial, part-time, consultants, volunteers, or hired through a contractor or agent. This includes workers at CDSL's Regional Offices/Centres. When a third party or outsider acts in a way that leads to sexual harassment of a female employee while she is on the job. This Policy applies to any allegation of sexual harassment that happened on CDSL property, which includes any place an employee went to because of their job or because CDSL drove them there (“Workplace”).

In India, the laws related to female sexual harassment in the workplace are primarily governed by the “*Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013*”.

6.1 Here are some of the key provisions of the Act:

1. Definition of sexual harassment: The Act defines sexual harassment as any unwelcome sexually determined behavior, such as physical contact, advances, or demands for sexual favors, which may affect a woman's dignity and create an intimidating, hostile, or offensive environment for her.

2. Workplace coverage: The Act applies to all workplaces, including private, public, and non-governmental organizations. It also covers women working as domestic workers in homes.

3. Employer obligations: Employers are required to create an internal complaints committee (ICC) to address sexual harassment complaints. The ICC should consist of at least one external member, who should be familiar with the issues related to sexual harassment.

4. Complaints process: The Act mandates that every workplace must have a mechanism in place for receiving and addressing complaints of sexual harassment. Employees who have experienced sexual harassment can file a complaint with the ICC or the local police.

5. Penalties: Employers who fail to comply with the provisions of the Act may be fined up to Rs. 50,000. Repeated violations can result in higher fines and cancellation of licenses.

6.2 The Internal Complaints Committee will work based on the following rules:

a) The person who has been accused of sexual harassment by the Aggrieved Woman Complaints Committee must meet with the committee whenever and wherever a policy violation is brought to their attention, and at least once a year.

b) The Aggrieved Woman Complaints Committee will meet whenever or wherever a policy violation is brought to the committee's attention.

c) The Internal Complaints Committee is in charge of making an annual report about the number of cases that were filed and how they were handled in accordance with the act. This report is given to the Board.

d) The “*Presiding Officer and the members of the Internal Complaints Committee*” can only be in their jobs for up to three years from the date they were nominated.

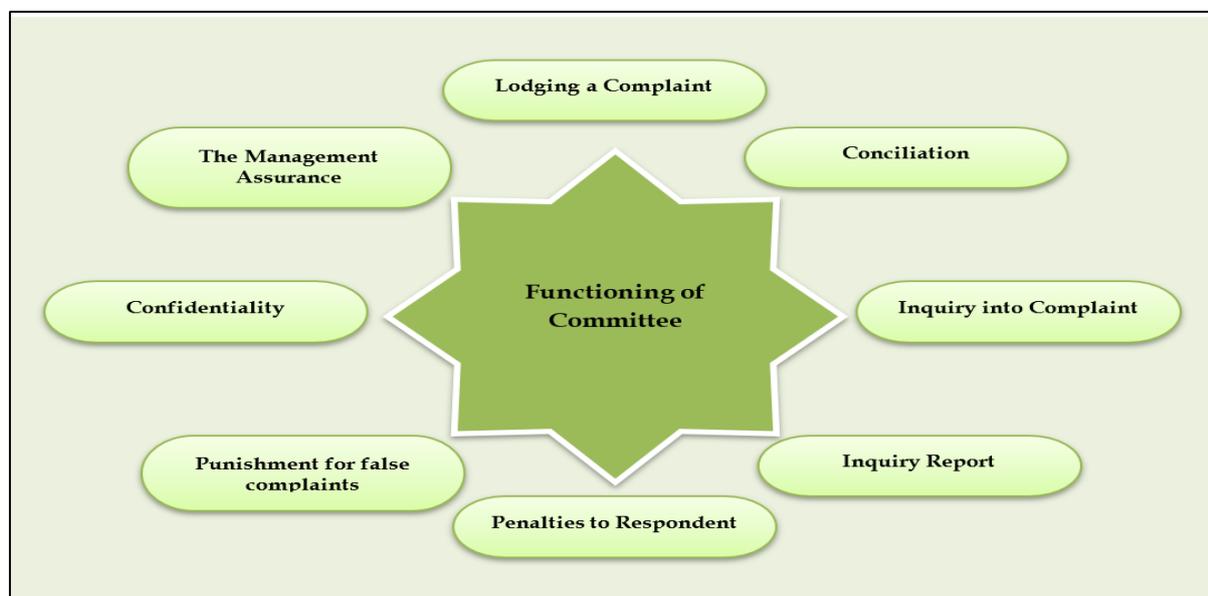


Figure 1: Functioning of Committee (Self Prepared by Author)

Table 2: Prevalence by Age

	Verbal Sexual Harassment	Physically Aggressive Sexual Harassment	Cyber Sexual Harassment	Sexual Assault
18-24	74%	50%	49%	24%
25-34	86%	67%	56%	32%
35-49	81%	68%	45%	29%
50-64	78%	64%	35%	28%
65+	66%	53%	30%	22%

In addition to the above, there are also provisions under the Indian Penal Code (IPC) that deal with sexual harassment and assault. These include Section 354A (sexual harassment), Section 354D (stalking), and Section 376 (rape). The penalties for these offenses can range from imprisonment to fines.

Overall, the laws in India are aimed at preventing & addressing SH in the workplace and providing support and redressal to victims.

7. Supreme Court in Vishakha case

The Vishakha case is a landmark judgment by the Supreme Court of India that established guidelines for preventing and addressing sexual harassment in the workplace. The case was initiated after the brutal gang rape of a social worker in Rajasthan, which led to a public outcry for stronger measures to address sexual harassment.

In 1997, the Supreme Court issued a landmark judgment in the case of “Vishakha and others v. State of Rajasthan”, which held that sexual harassment of women at the workplace is a violation of their fundamental right to equality under the Indian Constitution. The court also noted that employers have a duty to provide a safe and secure working environment for women, and that this includes taking measures to prevent and address sexual harassment.

The judgment established guidelines for preventing sexual harassment in the workplace, which are now commonly known as the Vishakha Guidelines.

8. These guidelines require employers to:

- ✓ Develop and implement a policy on sexual harassment in the workplace.
- ✓ Set up an internal complaints committee to investigate and address complaints of sexual harassment.
- ✓ Conduct awareness and training programs for employees on the issue of sexual harassment.
- ✓ Take prompt and effective action against individuals found guilty of sexual harassment.

The Vishakha judgment has been a crucial step towards creating a safer and more inclusive workplace environment for women in India. It has also paved the way for other countries to develop their own guidelines and legislation to address sexual harassment in the workplace.

“Protection of Women against Sexual Harassment at Workplace; 2010” is another important step to stop sexual harassment at work. It explains what sexual harassment is in the workplace and tries to find ways to fix the problems. It says that there should be a “Internal Complaints Committee” at work and a “Local Complaints Committee” in each district and block. It also said that the Complaints Committees would have the same power to gather evidence as civil courts. A “District Officer” would be in charge of making sure the Act’s activities go smoothly and keeping an eye on them.

9. Preventive Measure for Sexual Harassment (SH) at workplace

Sexual harassment in the workplace can have a devastating impact on employees' physical and emotional health, as well as their professional and personal lives. Employers have a responsibility to create a safe and respectful work environment that is free from sexual harassment.

10. Here are some preventive measures that can be taken:

- ✚ **Develop a clear and comprehensive SH policy:** Create a policy that outlines what constitutes SH, how to report it, and the consequences for engaging in such behavior.
- ✚ **Provide regular training:** Train employees on what constitutes sexual harassment, how to recognize it, and how to report it.
- ✚ **Establish reporting procedures:** Make sure employees know how and where to report incidents of SH. Ensure that complaints are taken seriously and investigated promptly and impartially.
- ✚ **Encourage a respectful workplace culture:** Create a culture where employees feel comfortable reporting incidents of sexual harassment and know that they will be taken seriously.
- ✚ **Hold perpetrators accountable:** Take immediate and appropriate action against employees who engage in sexual harassment, including disciplinary action up to and including termination.
- ✚ **Implement a zero-tolerance policy:** Communicate that sexual harassment will not be tolerated under any circumstances.

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- ✚ **Foster an open-door policy:** Encourage employees to come forward with any concerns they may have about SH or any other workplace issues.
 - ✚ **Provide support to victims:** Offer support and resources to employees who have experienced sexual harassment, including counseling services and time off if needed.

By implementing these preventive measures, employers can help create a workplace culture that promotes respect, safety, and dignity for all employees.

11. Findings of the study

- According to the findings, this is an issue that affects not only women but also any other group that is perceived to be on the margins.
- According to the findings, sexual assault and harassment both constitute abusive uses of power as well as a disrespectful disregard for human dignity.
- These findings will serve as a constant reminder of how far we still need to go to ensure that every person in India, from the moment they are born until the moment they pass away, is able to feel free and safe from the threat of sexual abuse.
- The most important thing to take away from these results is how vital it is to interact with boys & men more, teach them to be respectful, ask for permission and accept "no," and hold them accountable for their actions.
- Unfortunately, SH & are unnecessary. To end sexual violence, we must acknowledge its prevalence and change the culture. To end sexual violence, culture must change.
- To make the world safer, respectful, and accountable, everyone—individuals, communities, and organizations—must participate. We must act now to end SH and assault, especially against women and other underrepresented groups.

12. Recommendations

On many different levels, including those of the government, corporations, and individuals, one can even attempt to completely avoid this problem by addressing it and not blaming anyone in particular for it. Through the implementation of policies & relevant procedures, the employer has the ability to produce an atmosphere that is secure and free of harassment at the level of the organisation. It is possible that having the assurance of this organization's policy will make it simpler to put forth one's best efforts in an effort to achieve one's goals in an effective and timely manner. Training, seminars, and educational programmes regarding sexual harassment may be offered by the organisation in an effort to head off potential issues. It is imperative that the organisation show how seriously it takes this matter. Every aspect of the situation needs to be analysed critically and scrutinised in great detail as soon as possible. All of the workers will receive the message that their employers' cares about the rights of women and is making efforts to create a positive atmosphere in the workplace as a result of this action. Installation of closed-circuit television cameras in the workplace is a component of the preventative strategy known as surveillance techniques.

13. Conclusion

The passing of the Act in 2013 is a significant step forward both in terms of protecting women from sexual harassment and in terms of providing a redressal forum to victims of such harassment. In India, one woman experiences sexual harassment every 12 minutes on average. The Act has simplified the process of punishing offenders for these types of crimes. Although there has been an increase in the number of reported cases of sexual harassment, this is likely due to the fact that victims are reluctant to come forward for fear of repercussions to their personal and professional lives and financial security. It is crucial to educate both employers and employees about sexual harassment in the workplace, the various forms it can take, and the resources available for dealing with it. Employees need access to training opportunities that teach them to deal with these kinds of problems in a constructive way. The advancement of the country depends on the recognition of the right to be free from sexual harassment.

Women workers across India are speaking out against sexual harassment in the workplace, while men workers completely deny the existence of sexual harassment at their place of employment.

The reason has nothing to do with the fact that women in this part of India have a better life than women in other parts of the country. The rising number of dowry-related homicides and other forms of violence against women in this part of India belie the high status of women there. As such, we must wonder: what might be the root of the problem? It's crucial to think about this seriously, as female workers may be oblivious to the existence of SH in the workplace. They are not well-versed in the regulations set up to safeguard them. In addition, there needs to be more education and the public should play a bigger part in government. Organizations that are not part of any government should speak out against sexual harassment and advocate for more aggressive judicial action. In point of fact, patriarchal attitudes and values present the greatest obstacles to the effective implementation of any law in our society that relates to women. Combating the attitudes of both men and women, as well as the personnel involved in the process of putting in place laws and systems, is the single most important thing that can be done to prevent unwanted sexual behaviour. The Criminal Law (Amendment) Ordinance, 2013, which was passed and published on February 3, 2013, is a positive development towards the goal of creating a society free of violent crime. In cases where a female victim of rape dies as a direct result of the crime, the death penalty can now be enforced under a new ordinance prohibiting such violence. Several women's rights organisations are raising objections to the ordinance on the grounds that it does not fully implement all of the recommendations made by the J. P. Verma Committee, which was established by the Central Government. It's a reflection of the pervasive sexism in our culture. Whatever the case may be, it is crucial to remember that creating a society that welcomes people of all genders takes time and effort. As the proverb goes, "Rome was not built in a day," and it is important to keep this in mind when working towards gender equality.

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