



Sexual Harassment in Bangladesh: A Note on Legal Perspective

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Research Note

Abstract

This paper offers a description of sexual harassment in Bangladesh. Here the existing laws related to the issue have been analyzed, and a comparative approach to molestation has also been discussed. Different surveys have indicated the increasing rate of sexual harassment in Bangladesh. Countries, such as India, and Pakistan are having specific laws and relevant provisions to mitigate such offenses. Despite having laws regarding such offenses, most countries are unable to fight the social ailment of sexual harassment. The secondary data finds that in 2017, 54.7% of women living in urban areas faced the violence of physical, psychological, financial, and social nature, and received unusual words from the stranger and sometimes also from the known person. Sexual Harassment is taking place in different places including workplaces, educational institutions, and online platforms. The existing legislation regarding such offenses may not be adequate in the current situation as the nature of such offenses has been changed. This paper provides recommendations for amending necessary provisions to mitigate such problems. It highlights different surveys on the issue and elucidates the provisions of sexual harassment. Data have been collected from newspaper articles, journal articles, websites, and case references. The comparative perspective of sexual harassment in different countries has also been discussed in this paper.

Keywords: Sexual harassment, Abusive behavior, Gender equality, Bangladesh

1. Introduction

Sexual Harassment has been defined under UNHCR as “Physical abuse, which includes the use of explicit or implicit sexual contraption whether by force or coercive conditions” (UNHCR, 1951). Nowadays, sexual harassment is a common problem. It can occur with both males and females. The problem is faced everywhere, at the workplace, streets, and sometimes even in houses. Whistling women or men, calling with negative words, and unwanted physical contact can be considered sexual harassment. Every individual expects a safe and secure life. But because of the sexual violence in society, people live in fear. They cannot enjoy their rights. In recent times, sexual harassment has turned into a serious issue in Bangladesh, and a few relevant laws and directives have been passed regarding sexual harassment. Thus, this paper is going to discuss the gravity of the issue of sexual harassment and the relevant legal perspectives in the context of Bangladesh. Through this paper, we expect to create awareness about this alarming issue.

2. Literature review

The purpose of the researchers for writing this research paper is to make the citizens of the state aware of different laws and legal provisions regarding sexual harassment. Different types of research articles have already been published on this particular topic but this article focuses on the concurrent situation of sexual harassment in Bangladesh and its laws. Sexual harassment is a global malaise that is increasing at an alarming rate. There are many risk factors arising from sexual harassment such as gender inequality, poverty, men's entitlement, etc. Risk factors are deeply rooted in the arena of social injustices and inequities, and connect sexual violence to other forms of violence across the globe. Risk factors have transcended boundaries and occur in individual, social, cultural, and economic contexts.

2.1. Sexual Harassment in Bangladesh

In Bangladesh, the word sexual harassment has been categorized in two ways. One of them is 'Eve-Teasing,' which is used for women. If women face any harassment in their workplaces, roads, or houses, that is considered eve-teasing. The parallel concept is 'Adam-Teasing,' which indicates the harassment of men in a public place or a private place. It is also gradually increasing (Khan, 2017).

In recent times, the number of eve-teasings has increased in Bangladesh. The country has had the most eve-teasing cases in recent five to ten years, which is rising day by day. According to a report by Ain-O-Salish Kendra (2021, January 1), 1627 women were reportedly raped, among them 53 were killed after rape, and fourteen committed suicide in 2020. According to a study in 2015 conducted by ActionAid (Farhin, 2018, May 21), 84% of women and girls from seven cities in Bangladesh face 'derogatory comments and sexually colored abusive language.' Another study by ActionAid (Farhin, N. 2018, May 21) conducted in 2017 stated that 54.7% of women living in urban areas face violence, including physical, psychological, financial, social violence, and unusual word from strangers and sometimes also from the known persons.

As Bangladesh is now developing in the industrial sector, the people of Bangladesh have many female workers in this sector. But they are not safe in their workplace at all. They are facing many problems from the other workers and sometimes also from the higher authority. In that case, they don't have the opportunity to complain to the administration. As in consequence of that, they can lose their job. According to ActionAid International (2019, June 10), almost 80% of the garment workers in Bangladesh are victims of eve-teasing or harassment in their workplace. Transport workers sexually harassed around 83 percent of women who regularly avail of public transport in the country on the road (Haq, 2019). Under a survey (Khan, 2020), almost Ninety-four percent of women were being harassed in different ways, which may result in uncomfortable situations that led to 20.5 percent of them avoiding the use of public transportation. Children are also a victim of sexual harassment in our country. According to a report in 2019, 1383 Children are sexually harassed (Amin, 2020). Sexual Harassment occurs in different places which are presented below:

2.2. Harassment in workplaces

Every workplace has its own Code of Conduct to protect its workers from any kind of harassment. Such as, "As a good corporate citizen the Corporation is committed to a gender-friendly workplace. This is to enhance equal opportunities for men and women, to prevent/stop/redress sexual harassment at the workplace, and to promote good employment practices" has been mentioned in the Code of Conduct of Delta Brac Housing Finance Corporation Limited (Delta Brac Housing, 2018). Though the Code of Conduct in the workplaces has been provided by the International Labor Organization (ILO) and every institution incorporated such provisions or rules into their own Code of Conduct but it's a matter of sorrow that we still cannot reduce the ratio of sexual harassment in workplaces. According to a survey from Karmojibi Nari and CARE Bangladesh, it has been found that almost 12.7% of women employees are facing sexual harassment in their working places (2020, March 7). According to another Business &

Human Rights Resource report, among 135 participants of the survey, almost 23% had faced sexual harassment in their working places. Most of them are employed in the health sector, and including this; some are from the garment sector, and private sector (Khyum, 2020, 29 August).

2.2.1. Harassment in Educational Institutions: The ratio of harassing students in their educational institutions is increasing rapidly in the present scenario. According to a Bangladesh Children's Right Forum report, in the first three months of 2019, almost 15 students were sexually harassed by their own institution's teachers or staff members. According to another report in Dhaka Tribune, seven girls and three boys were raped by their teachers and the institution's staff members in the month of April (Kamrul, 2019).

2.2.2. Harassment in public transport and roads: According to the survey by BRAC, a development organization, 94% of women traveling on public transport are the victims of verbal, physical, and other forms of sexual harassment in Bangladesh (2018, March 25). A large portion of women has raised their voice against the allegation of sexual harassment by middle-aged males on public transport and roads in the forms of sexual harassment such as touching. Finding to a report in Daily Star, 35% of women who are using public transport continuously face different kinds of harassment by men aged 19-35 years and 59% of women are facing similar kinds of harassment by men aged 26-40 years (Khairuzzaman, 2019).

2.2.3. Harassment in the online platform: As Bangladesh has entered into the digital era, online sexual harassment has increased simultaneously. According to a report, it has been found that 90 million people joined the social platform or network between 2020 and 2021 and 45 million users were using social media in Bangladesh (Star Digital Desk, 2021). At the same time, malicious activists are committing several types of online-based crimes such as stalking, blackmailing, hacking, etc. The terms hacking and blackmailing have huge extensions. It can be described in several ways such as when a person used to have control over any other's social media account illegally and unethically that will be considered hacking. Furthermore, when anyone illegally demands money or any other benefits by threatening with some personal properties shall be considered blackmailing. Most often it has been observed that such offenders are the closest ones to that particular victim.

3. Laws of sexual harassment

It is a matter of great sorrow that the people of Bangladesh don't have any specific law related to sexual harassment. They have fewer sections from the Penal Code, 1860, i.e., sections 354 and 509, which do not cover all the sectors of sexual harassment, and we also have fewer acts, i.e., Women and Children Repression Act, 2000. There are mainly two sections in penal law that deal with sexual harassment.

Section 69 of the Bangladesh Telecommunication Act 2001 deals with the incidents where a person knowingly or intentionally sends any obscene or indecent message or threatening or grossly insulting message to another person then the person who is committing such offenses considered as sexual harassment shall be liable for imprisonment not exceeding six months or fine not exceeding fifty thousand takas or to both (According to section 69 of Bangladesh Telecommunication Act, 2001).

According to section 76 of the Dhaka Metropolitan Police Ordinance 1976, Sexual harassment has been defined as insulting or annoying a woman by using indecent language and gestures as well in a public place. The very same Ordinance articulated punishment of such offenses with imprisonment for a term which may extend to one year, or with a fine which may extend to two thousand takas, or both (According to section 76 of The Dhaka Metropolitan Police Ordinance, 1976).

According to section 354 of the Penal Code, any person who assaults or uses criminal force on any woman, intending to outrage or know it to be likely that he will thereby outrage her modesty, shall be considered sexual harassment. That means if any person exchanges any negative words that do not comply with the situation and which are against women's modesty, it will be considered eve-teasing. Under this section, that person shall be punished with imprisonment not exceeding two years or with a fine or both (According to section 354 of The Penal Code, 1860).

On the other hand, according to section 509 of the Penal Code – those who insult the modesty of women and use utter words or make women uncomfortable with their gestures, or make any undesirable sound shall be liable for eve-teasing. As the people of Bangladesh know, many people in the country, especially teenage boys, do such things regularly. And one of the reasons behind these types of things is that they are ignorant of laws regarding such offenses. Under this section, the convicted shall be punished with imprisonment not exceeding one year or with a fine or both (According to section 509 of The Penal Code, 1860).

The declaration on the elimination of violence against women was adopted in 1993 by the General Assembly Resolution 48/104 of the United Nations to protect the honor and dignity of women from any kind of sexual behavior (OHCHR, 1993.). Bangladesh has also adopted the declaration for the security of its citizens. However, the country doesn't have any law for males who are also victims of sexual violence. According to different reports, the number of male harassment is increasing day by day. For example, a madrasa (religious school) boy in Narayanganj, and a boy from Sylhet, were harassed by their tutors. A man committed suicide after being gang-raped in Gazipur (Alif, 2020). According to another report, almost 20 boys endured sexual harassment by the year 2020 (Alif, 2020). But the country cannot yet pass any laws to protect male victims from sexual harassment. The victims can't express their grievances because of the social taboos, and most of the time, they are not allowed to speak out against women (Sanjana, 2018). With the help of law and social favor, the offenses against women are heeded and remedied, but male victims are usually ignored.

According to section 354, four types of harassment are mentioned:

- A. Physical contact and advances encompassing unwelcome and explicit sexual overtures
- B. Demand request for sexual favors
- C. To show pornography against the will of a woman
- D. Making sexually colored annotations.

Section 10 of the Women and Children Repression Prevention Act, 2000 introduced the term "Jounonipiron" (sexual offense), which criminalizes the act of someone who touches a woman or child (with any part of their body or with an object) or violates a woman's modesty to fulfill their sexual desires illegally. This issue also needs to be referred to the appropriate court or tribunal if the act has been deemed an offense under the law (Rahman, 2019). This verdict is monumental in promoting gender equality in Bangladesh and creating a safe workspace for women.

4. Case Laws on Sexual Harassment

There are many case laws where exemplary orders, judgments, and directives have been made for offenses related to sexual harassment. Some of the relevant case references have been mentioned here.

4.1. Bangladesh National Women Lawyers Association (BNWLA) vs. Bangladesh, 2009

In this case, Court has observed no specific legal safeguards for women in their workplaces. Considering the present circumstances, the court has provided some mandatory directions such as provisions for setting up preventive measures for sexual harassment in workplaces and institutions, ensuring the safety of their female employees, ensuring a safe working environment, etc. by referencing the *Vishakha vs. State of Rajasthan* case. These directions should be followed by every private, public, and institution to control sexual harassment until enacting any specific law regarding sexual harassment.

4.2. Abul Hossain (Md) and others vs State, 53 DLR 402

This case has been filed under section 509 of the penal law. The court mentioned that under such circumstances provided in the specific section, the matter should be sent back to the magistrate for a hearing. It was focused that the investigation for harassment can proceed. A police report can be submitted under the penal law section 509 without any prior permission from the Magistrate.

4.3. Shamsun Nahar vs. British American Tobacco Bangladesh, 66 DLR AD 80

In this case, the High Court Division (HCD) directed that when a victim is sexually harassed in the workplace by his/her colleagues, he/she can directly ask the higher authority to take immediate punishable action against the offenders for such harassment. If the authority fails to ensure the prevention of such harassment, it will be amounting to a breach of duty of care toward the victims. The Hon'ble Court opined that the remedies for victims of sexual harassment are not enough, considering such circumstances the state needs more specific laws as well as proper enforcement of those laws.

The study of the case laws shows that the court has tried to establish a legal safeguard against sexual harassment. As the incidents of crime-related sexual harassment are increasing day by day, the country needs some strong and specific laws for such offenses. Existing precedents and legal provisions are not perceived as adequate to ensure justice for the victims.

5. Laws Related to Sexual Harassment in India and Pakistan

5.1. India

From the Indian perspective, there are laws to protect the citizen from the offense of molestation. In many of the previous cases, courts have provided many guidelines as directives. The Supreme Court has provided some important directives against such type of sexual harassment in an Indian case named, '*Vishakha vs. the State of Rajasthan*' (Vishaka and Others Vs. the State of Rajasthan, 1999). The directives also made it mandatory for educational institutions and workplaces to constitute a five-member committee to prevent and investigate allegations of sexual harassment. Suppose the accused is proven guilty of sexual harassment. In that case, the authority concerned will treat it as misconduct and take proper action as per the disciplinary rules of the organization or educational institution within 30 days.

The Supreme Court of Bangladesh has also directed some guidelines to the institutions for protecting their employees and other individuals from the offense of sexual harassment, but unfortunately, those guidelines are not properly obeyed by some of the institutions and many of the institutions have not established any Anti-Corruption Committee yet to reduce sexual harassment from their institution.

5.2. Pakistan

The government of Pakistan has adopted the Code of Conduct for gender justice in the workplace to prevent sexual violence. The ratio of harassment is not reducing; rather, it has increased. Most women are struggling with sexual harassment in the workplace which becomes a major problem in the country. According to a survey, women are being harassed in the workplace mentions that nearly 93% of women working in both the public and private sectors are alleged to have been subjected to sexual harassment (Nawaz, 2022).

The Supreme Court of each country has tried to establish safeguards through specific directives against sexual harassment. The directives might control such offenses from different working places, educational institutions, and other institutions. Simultaneously, In the case of '*Nadia Naz vs. President of Islamic Republic of Pakistan, 2021*' (Supreme Court of Pakistan 2019), the court has broadened the concept of

definition after observing that it covers a small fraction of harassment which makes the whole Act flimsy. Further added that sexually colored remarks, stalking and many other aspects of harassment should be included in the present Act for more effectiveness.

6. Recommendation

Through this research, some recommendations regarding the laws of sexual harassment can be made. Bangladesh is following the 1860s penal law, and this is the high time to make a change in these laws such as a change in the provisions of punishments, change in the execution procedure of punishments, passing new amended provisions, etc. The legislators should amend the necessary provisions of the Penal Code, which need to be amended. The state should have laws for males who are also the victims of harassment. Particular provisions for online harassment should be passed by the legislators at the earliest time possible to control the increasing rate of online harassment. The punishment regarding sexual harassment should be stricter and needs to be increased. There should be proper surveillance to ensure that the laws are maintained properly and that none of the law officers is misusing the law. The state should sign more international treaties and conventions, i.e. Declaration on the Elimination of Violence against Women for the security of people from any harassment.

7. Concluding Remarks

To wrap up the arguments, it can be said that Bangladesh needs strong legal actions and specific legal provisions for having control over the offense related to sexual harassment. Some recommendations have also been mentioned in the paper that may be effective if proper steps are taken by the concerned authority. Different case laws and perspectives of neighboring India and Pakistan regarding sexual harassment have also been discussed in this paper. It should be ensured that no perpetrator will enjoy impunity after committing such a heinous offense. Sexual harassment should not impede a woman's path to equality, education, and employment. Along with this, in general, people must need to change their mindset. Indeed, sexual harassment against both males and females is a social disease that should be controlled by social awareness as well as by proper implementation of the law. There are more scopes for further research. The concerned researchers may take steps to interpret the law as per future requirements. There are different national and international laws regarding sexual harassment. The researchers may focus on the loopholes of those laws for further research.

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