



Sexual harassment in organizations: An investigation of the #Me Too movement in India

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ABSTRACT

Sexual harassment has been and still continues to be a major issue across countries and different industries. It does not matter whether the workplace is a construction site with daily wage earners or an MNC where people come from highly qualified backgrounds. Often employees' faces low job satisfaction and high attrition because of such unwanted incidents. An insecure and hostile work environment is created by Sexual Harassment, which hampers the person's work efficiency by adversely affecting their social and economic growth. Safety of people is of grave concern and a lot has been written and talked about it. But these conversations have always been a hush-hush one. Majority of this harassment takes place because the victims prefer not to report and because people do not come forward to help the victims. The paper aims at highlighting different legal implications of sexual harassment along with the present situation of sexual harassment at the workplace.

Keywords— #Me Too, Sexual harassment, Workplace harassment, Insecure work environment, POSH

1. INTRODUCTION

According to the Wikipedia, Sexual harassment is bullying or coercion of a sexual nature and the unwelcome or inappropriate promise of rewards in exchange for sexual favours which includes a range of actions from mild transgressions to sexual abuse or assault. Harassment can occur in many different social settings such as the workplace, the home, school, churches, etc. Harassers or victims may be of any gender. Sexual Harassment is a form of discrimination that has become a global issue and is transgressing all limits and borders. It is a behaviour with a sexual connotation that is abusive, injurious or unwelcomed and which places the victim at a situation of humiliation, hostility or discomfort. There have been many cases of sexual abuse and harassment that have been in news in the past few years. 2018 has been particularly eventful with regard to sexual harassment because of the allegation.

Women are objectified almost everywhere. There are workplaces where only good-looking women hired. There are advertisements of few deodorants and perfumes where they try to objectify women. There was a recent controversy that emerged in a talk show, Koffee with Karan, where an Indian cricketer, Hardik Pandya made misogynist and racist comments, after which he along with his colleague KL Rahul were suspended.

It is very depressing as well as sad to hear about sexual abuse and rapes every day. This depression takes an even bigger form when this news is about little innocent kids who have been taken advantage of by the ones whom they might have considered and trusted to be their so-called uncle or friend. The Kathua Rape case from January 2018, where an 8-year-old girl was raped and murdered is one among them. Another such case happened in New Delhi in November 2018, when a 4-year-old girl was raped by a class 9 student. One never knows that who from amongst their family, friends or even neighbour would turn out to be the harasser.

When these little kids who despite being in their comfort zones are taken advantage of, workplace harassment is something that is very much possible. It is prevalent across all industries and level. After the wave of the #MeToo Movement, many women are coming forward to tell their stories and what they went through. But there are many people who are yet questioning them as to what took them so many years to come forward. People are failing to understand that it takes a lot of courage for one to come forward and in a way re-live the whole incident in order to tell the world. We are unaware of whatever the victim went through, whether coming forward would make their lives more miserable or not. We fail to understand that it is not out of choice that they are or were harassed but it was the choice of the harasser.

2. LITERATURE REVIEW

Deborah Lee, Women's Studies International Forum, Volume 24, Issue 1, 2001, pp 25-38: The paper had content that analysed what all come under sexual harassment. This is based on qualitative interviews conducted in order to explore how unwanted male sexual conduct was interpreted by women. [1]

Louise F. Fitzgerald and Lilia M. Cortina, *Sexual Harassment in Organizations: A view from the 21st Century*, 2018, pp 975-1007: Any sex-related behaviours offend the victim and lead to emotional instabilities. With a day to day technological advancement, new ways and manners of harassment are coming up. Even the less intense experiences can cause a considerable amount of emotional damage as compared to the ones that trigger the victim's mind. However, it is not necessary that every individual develops the same kind of emotional distress. [2]

Vivian E. von Gruenigen and Beth Y. Karlan, *Sexual harassment in the workplace: its impact on gynecologic oncology and women's health*, May 2018: In medicine, health professionals including medical students, and nurses can be harassed. Education and training for the prevention of sexual harassment vary across industries and workplaces. Both men and women should be engaged in such training and awareness programs. It is also important to empower bystanders. There should be an ability to appreciate gender equality and diversity. [3]

3. RESEARCH OBJECTIVES

- To determine the types of sexual harassment at the workplace
- To understand who the harasser and the victim can be
- To understand about various difficulties that victims come across
- To understand as to what we as HR managers can do
- To explore the present scenario regarding workplace harassment
- To come up with critically sustainable solutions to prevent sexual harassment at the workplace

4. RESEARCH METHODOLOGY

The Research Methodology used is *an Exploratory Research and Secondary Sources of Data* is used with the objective to discover and build a theory based on it. The data excludes the cases that went unreported.

5. SEXUAL HARASSMENT

5.1 What is Sexual Harassment?

According to the Prevention of Sexual Harassment at Workplace (Prevention, Prohibition and Redressal) Act 2013, "Any of the following (directly or by implication) shall mean sexual harassment: (1) physical contact and advances; (2) a demand or request for sexual favours; (3) making sexually coloured remarks; (4) showing pornography; (5) any other unwelcome physical, verbal or non-verbal conduct of sexual nature."

5.2 How does it happen?

Sexual harassment majorly takes place in the following two forms:

(a) Hostile Work Environment: It occurs by unwelcomed conduct or speech of another employee that creates a demeaning or hostile work environment which affects the work performance.

Example: Any unwelcome sexual comments that are repeated even after indicating that such behaviours are unwelcomed.

(b) Quid Pro Quo: It is a Latin phrase which means, 'something for something'. It means demanding sexual favours in return for a benefit. Example: An employee fired by her boss for denying going out for a date.

It is very important to find out as many facts as possible to determine the type of harassment. Sexual Harassment can come in many forms and can occur in different situations. Following are a few examples of sexual harassment:

- Unwelcomed gestures, jokes and comments that are sexual in nature
- Any kind of bodily contacts like hugging an employee, patting a coworker's back, grabbing an around their waist or any interference about an employee's ability to move
- Repeated requests for dates or outings
- Sharing pictures of a sexual or other harassment related to nature
- Showing pornography or sharing sexually explicit jokes or language
- Displaying sexually suggestive objects or posters or playing sexually suggestive music.

The harasser can be anyone *a co-worker, supervisor or the manager*. There can be instances when the harasser could be *a non-employee, such as a client or a vendor*.

5.3 Who Can Be Sexually Harassed?

Anyone can be sexually harassed. Women and men both can be sexually harassed and so it is a gender-neutral offence. However, most sexual harassment claims are made by women stating that they were sexually harassed by men. People of the same sex can also be accused of sexually harassing each other. The victim and harasser do not necessarily have to be of the opposite sex.

The victim does not have to be the one who is harassed. Anyone who is affected by the harasser's misconduct can be referred to as the victim.

5.4 Legal Aspects

In India, the *Sexual Harassment at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act)* was enacted by the Ministry of Women and Child Development, under the Vishakha Guidelines.

According to which, "Any of the following (directly or by implication) shall mean sexual harassment: (1) physical contact and advances; (2) a demand or request for sexual favours; (3) making sexually coloured remarks; (4) showing pornography; (5) any

other unwelcome physical, verbal or non-verbal conduct of sexual nature.”

Under the Act, workplace is defined as, “private sector organisation/ private venture/undertaking/ enterprise/institution/ establishment/ society/ trust/non-governmental organisation/ unit or service provider and places visited by employee (arising out of or during the course of employment, including transportation provided by employer for undertaking journey).” Therefore, any incidents of harassment that take place during transportation or any meetings in restaurants would be covered under the Act.

Also, Sexual Harassment was termed to be a criminal offence under the Criminal Law Amendment Act, 2013. According to this, any organization *with ten or more* employees must constitute an Internal Complaints Committee (ICC) to receive and redress complaints on sexual harassment at the workplace.

The ICC should consist of a minimum of *four members*:

- A presiding officer, who must be a women employee from the senior level
- Two members from amongst the employees, preferably a person who has had experience in social work and has some legal knowledge
- One member (External Member) from an NGO or committed towards the cause of women At least half of the total members of the ICC should be women.

5.5 The fine line of difference between complementing or flirting and sexually harassing

It is absolutely fine in having a friendly relationship with one’s co-worker. It is very natural to have friendly hugs or exchanging compliments. People tend to confuse between a healthy flirting and sexually harassing. People often get over friendly which results in the other person getting offended. As long as the person is not getting offended or embarrassed it is fine. If ‘flirting’ continues even after it is clear that the other person is not liking it, it becomes harassment.

Women often tend to understand the intention behind such acts. The difference lies in the way in which a person looks at them. Objectifying women and making comments on her body or outfits are definitely not appreciated.

While flirting is a playful action where both the parties are involved sexually harassing is just the reverse. Sexual harassment is just about forcing one’s will on the other person regardless of their consent or desire.

John Humphrys, who was the main presenter of one of BBC news flagship programme (during 1981 to 1987) rightly said on a radio programme aired in November 2017 that, “*If you don’t know the difference between flirting and sexual harassment, you’re definitely flirting wrong.*”

It is very difficult to determine the prevalence of sexual harassment, as many people do not label their experiences as sexual harassment, even if it was one. It is also difficult because victims are unwilling to report it.

6. MYTHS RELATED TO SEXUAL HARASSMENT

Following are few myths along with the facts related to sexual harassment, few of which are taken from an article on sexual harassment in the official website of University of Pretoria:

Table 1: Myths and facts related to sexual harassment

MYTHS	FACTS
It is very rare.	It is extremely widespread.
A harmless flirtation is generally exaggerated.	Sexual harassment can be highly destructive. Studies show that it can cause economic, physical as well as psychological changes to the victim.
A harasser has a predictable profile and personality.	Harassers are found across all organisations and levels. They can be of any age, gender, race or sexual orientation.
Harassment happens only with women.	Anyone can be harassed be it men, women or people from the LGBTIQ+ community.
Harassment happens only with young aged people.	Age is not a matter at all. Women across all age groups face it.
Specially challenged people are not sexually attractive and so they are not harassed.	The society has certain stereotypes about the people who are differently challenged, but they are the ones who are more vulnerable to being sexual harassed.
Ignoring harassment helps in reducing or stopping it.	Ignoring can be considered as being interested in it or encouraging harassment.
The ones who are harassed generally provoke the harassment by the way they dress up and behave.	The victims of sexual harassment vary across various characteristics, age, appearance or dressing. There have been instances when a woman who is harassed is covered from head to toe.
Women makeup stories about such harassments and use it for their self-interest.	Women rarely file complaints of sexual harassment even if they are justified to do so. A very small percentage of complaints are false.

7. HOW TO PROVE THAT THE HARASSMENT TOOK PLACE?

It is one of the most difficult charges to prove. In most of the cases, the event occurs between only two entities, the harasser and the victim. Such harassments can be proved with the help of the right kind of evidence. Proving sexual harassment:

- Keeping a proper and detailed record of events associated with the harassment.
- Trying to gather any eyewitnesses if possible.
- Saving any form of correspondence in its emails or text messages from the harasser.
- Filing a report with the ICC of the organisation.

By taking the above-mentioned measures, proving the harassment would not be that difficult.

7.1 Difficulties in Reporting Sexual Harassment

- The biggest difficulty is coming forward to report, as this would require the victim to relive the incident.
- It may also include certain economic implications where people could not really afford a loss of a job.
- The fear of not being believed may also be one of the difficulties.
- People do not have a range of options due to which they fail to come forward and report as they do not want to be victimised by the system.

As rightly mentioned in an article *Insight and Advice About Workplace Bullying*, “Victims have three main options: *Leave, Accept the harassment, or Fight back.*”

Appeasement doesn't work and the only option with them to solve the problems is fighting back. It is important for the officials to show empathy and sensitivity, along with providing access to all forms of resources.

7.2 What to do?

One should always remember that situations are not the same for everyone, so one should do whatever makes sense to them.

- Speak to the harasser: If the victim feels safe, they should tell the harasser that their actions are offending, and they should stop doing it. Keep the record of the conversation, whether written or verbal.
- Start keeping copies of everything: Whether they send or receive anything from the harasser, start keeping copies of everything. Create notes of every incident mentioning details like date, time, place, conversation and any possible witnesses.
- Report about the harassment: Refer to the employee handbook for any related policies and follow the complaint procedure.
- Involve your Union: Report the harassment to the employee union if they have one.
- Be aware of deadlines: Be aware of the legal deadlines for filing a formal complaint even if the internal process is being done by the employer.
- File a lawsuit: After filing a formal complaint, one may also file a lawsuit.

8. PRECAUTIONS TO BE TAKEN BY THE ORGANISATION

As per an article written by Stephany Below on *How organisations can really fight sexual harassment*, following are some steps that organisations can take in order to reduce and eliminate sexual harassment at the workplace:

- Doing a culture check: Audit the culture of the organisation, whether employees feel free to speak up when they find others being harassed.
- Promoting diversity: It is more likely that employees face sexual harassment when there is less gender diversity. Diversity in leadership is also very important.
- Timely Follow-Ups: It is less likely that employees report harassment complaints if they feel that nothing would be done. So, the organisation must take steps to hold the perpetrators accountable.
- Looking at the organisation policy: Understand whether there are any policies related to sexual harassment. Good policies encourage a good culture, which does not tolerate harassment.
- Providing a diverse range of training: Empower employees by providing them with multiple pieces of training to help understand ways to deal with different distractions and prevent misconduct.
- Showing support: The organisation and its leaders should be supportive of the victims. They should provide the victims with a voice in the organisation.

9. HANDLING SEXUAL HARASSMENT AT WORKPLACE

- Make sure that employees are aware of the sexual harassment policy of the organisation and that it won't be tolerated and would be strictly investigated.
- Establish ways in which employees can make complaints and formal charges.
- Appoint a staff member who should have knowledge about the organisation, employees and history of the organisation.
- Assure the victim or the complainant that they would be safe from retaliation.
- Inform the employee that you need to know about the ongoing harassment that the employee is going through.
- Listen with the utmost care and take notes of important details and facts while the employee is narrating their story.
- Tell the accused that a complaint has been filed against him and that unethical acts will not be tolerated. Also, assure him, that the investigation would be in a fair and just manner.
- Ask open-ended questions to the potential witnesses to gather facts that support or disprove an allegation.
- Interview the accused in the same way as the complainant and takes notes of related facts.

- Try to reach a decision with the help of other HR colleagues based on the information collected.
- Based on all the documentation decide whether the sexual harassment took place or not.
- Make sure that no further incidents take place by following up or documenting you're follow up.

10. CURRENT SCENARIO

There has been a wave of sexual harassment allegations across various fields like media, politics and sports. Movements like **#MeToo** and **#TimesUp** have brought about the prevalence of sexual harassment in possibly all industries, which includes the government and the entertainment industry as well. Sexual harassment is more prevalent in low paying jobs. Professions that depend on happy customers, generally create an environment to tolerate sexual harassment. The workers are discouraged from reporting any such unwelcomed behaviour of the customers.

After the settling of **#MeToo Movement** from the West to the Indian media industry and Bollywood, corporates have also started unseating perpetrators of sexual harassment. There are a series of allegations of sexual harassment. The year 2018 brought in a number of allegations of sexual misconduct. These allegations were made across various industries, Bollywood and media topping the list. There was a controversy when Bollywood actress Tanushree Dutta had put sexual harassment charges on Nana Patekar. Chetan Bhagat who an author and a columnist stood up for Tanushree, however, after few days Chetan Bhagat himself was also accused of sexual harassment by another author Ira Trivedi. People just try to prove that they are good and are against such actions, but themselves are following the same kind of unwelcome actions. Alok Nath, a veteran actor, who has played the role of father (also known as Sanskari Babuji) in various TV Programmes and Bollywood movies was also accused to rape and sexual harassment by his fellow actress and a writer. Few other like Sajid Khan, Vikas Bahl, Subhash Ghai, Kailash Kher add to the list which goes on and on.

M.J. Akbar, who was a Union Minister, resigned after he was accused by a journalist from CNN of Sexual Harassment. Suchitra Dey, a 30-year-old double master's teacher from Kolkata was sexually harassed just for the reason that she was a transgender. She was humiliated and asked about various objectionable things rather than focusing on her credentials. Talking about the cricket arena, cricketers, Arjuna Ranatunga and Lasith Malinga were also accused of sexual harassment. After these allegations came forward, a female author accused BCCI CEO Rahul Johri of sexual assault.

This act of shame is not just prevalent in the media industry, politics or sports but has spread its wings to the corporates as well. According to a news article published in the official site of **CNBCTV18**, in a study of companies listed under **Nifty**, **601** cases of sexual harassment have alone been reported in FY2018. Most of the complaints were from among the **IT sector** employees, which accounted for a total of **244 complaints**. Companies need to compulsorily disclose sexual harassment cases in their annual reports. When looked into companies under Nifty as a whole, **Wipro recorded the highest of 101 cases, ICICI bank follows with 99 cases and Infosys with 77 cases in 2018**. According to an American digital media company, **Vox**, **263** celebrities, politicians, CEOs and others who have been accused of sexual misconduct **since April 2017**. It was last updated on **9th January 2019**.
“No more silence. No more waiting. No more tolerance for discrimination, harassment or abuse. **TIME’S UP.**”

11. RECENT DEVELOPMENTS

11.1 SHeBOX

The SHeBOX (Sexual Harassment e Box), a portal was launched by Union Minister, Maneka Gandhi for lodging complaints online about sexual harassment at work. The online complaint management system is hosted on the website of Women and Child Development with the objective to provide immediate relief to working women. Both government, as well as private sector women employees, can lodge their complaints. A cell under the ministry will look into each and every complaint further the cell would share it with the Internal Complaints Committee of the concerned organisation. The complainant will also be able to track the status of the inquiry of the ICC.

11.2 GoM

The central government has constituted a Group of Ministers to examine the existing framework for dealing with matters of sexual harassment of women at the workplace. It would be headed by the Home Minister and consist of other ministers would be the road transport minister, defence minister and Women & Child Development Minister. The GoM will have to examine the existing provisions for the safety of women along with any further recommendation in order to enhance the safety of women.

12. STRATEGIES FOR PREVENTION

Several steps should be taken to lower the occurrence of sexual harassment. The organisation must try to adopt as many of them as they can.

- Adopt a sexual harassment policy: The policy should define sexual harassment and set clear procedures for filing complaints.
- Train employees: Conduct training sessions annually or semi-annually. It should include what sexual harassment is, review the procedure to complain and encourage employees to use it.
- Train supervisors and managers: Conduct annual or semi-annual training for managers to help them understand ways to deal with complaints.

As HR managers, we should know about ways to prevent sexual harassment. It can be prevented by:

- Making the employees aware that harassment is prohibited
- Assigning people to whom the employees should contact in case of harassment related discussions or concerns

- Assuring employees that their concerns would be kept confidential and they would not be punished for sharing their concerns
- Taking prompt and effective actions against any harassment complaints
- Ensure that the senior level is aware that they should stand against harassment and try to stop, address and prevent any such harassments.

13. CONCLUSION

It takes a lot of courage for a woman to come forward and admit that she is sexually harassed. It involves her dignity, respectability, morality and all the great elements that create the social scenario. It is very important to sensitise the male employees to reduce sexual harassments.

The women should be supported so that they come forward and file complaints of any such unfortunate incidents. There has to be acceptable behaviour in the workplace. Shaking of hands or hugging might be a norm at a workplace but if the women are uncomfortable doing it, it is inappropriate according to law.

14. RECOMMENDATIONS

- Proper Training must be given to all the employees so that they are aware of the fact that sexual harassment is a punishable offence and also in case the harassment takes place the victim I well aware about their rights according to law.
- Every organisation with more than 10 employees has to mandatorily have a POSH committee. However, many organisations still do not have one. Organisations should form the POSH committee.
- Political parties were also urged by the Union Women and Child Development Minister Maneka Gandhi, to form an ICC. All major parties except CPI(M) formed their ICC. Political parties should also mandatorily form a POSH committee.
- There are times when people do not report such harassment because they do not have proper redressal systems and do not want to be victimised by the system as well. Giving a range of options to the victim and showing them support would encourage them to come out and report whatever they went through.

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ANNEXURES

POSH Policy of few organisations

1. Tata Steel
2. Tech Mahindra
3. Tata Power
4. HIL



Prevention of Sexual Harassment (POSH) at Workplace - Policy

Tata Steel is committed to providing a place of work that is free of sexual harassment and all forms of intimidation or exploitation of all employees.

The TATA STEEL LIMITED shall provide healthy working environment that enables employees to work without fear of prejudice, gender bias, sexual harassment and all forms of intimidation or exploitation. The Company believes that all stakeholders, irrespective of their gender, have the right to be treated with dignity.

In continuation with our endeavour towards improved gender diversity and inclusion along with creating a safe, fair and just workplace, we have put together this policy called Prevention of Sexual Harassment at workplace.

In accordance with this policy, committees and detailed guidelines have been formed to address the issue of sexual harassment at work place. All employees (permanent, temporary, contract) as well as trainees, visitors to our office premises or service providers are covered under this policy.

If someone has crossed a line, then refer to the guidelines on Prevention of Sexual Harassment at workplace and report to the Internal Complaint Committee.

Date: November 1, 2017



T V Narendran
CEO & Managing Director

Encl.: Guidelines of POSH at Workplace version 2.0



Tech Mahindra's Zero Tolerance Harassment Policy

- The objective of the Prevention of Sexual Harassment policy at Tech Mahindra is to bring in a 'zero tolerance' on discrimination and promote a work environment that encourages mutual respect, promotes respectful and congenial relationships between associates, and is free from all forms of sexual harassment to any associate or applicant for employment by anyone including vendors, or customers.
 - All associates of the Company, both management and non-management, are responsible for assuring that a workplace free of sexual harassment is maintained.
 - Any associate may file a sexual harassment complaint regarding incidents experienced personally or incidents observed in the workplace.
 - The Company strives to maintain a lawful, pleasant work environment where all associates are able to effectively perform their work without interference of any type and requests the assistance of all associates in this effort.
- All Company supervisors and managers are expected to adhere to the Company's Prevention of Sexual Harassment policy.
- To view the complete policy please follow the below path:

BMS -> Support Function Processes -> HR -> General -> 'Prevention of Sexual Harassment policy'



**POLICY ON PREVENTION OF SEXUAL HARASSMENT OF WOMEN(POSH)IN
TATA POWER COMPANY LIMITED.**

1.0 POLICY

1.1 The TATA POWER COMPANY LIMITED is an equal employment opportunity company and is committed to creating a healthy working environment that enables employees to work without fear of prejudice, gender bias and a harassment free workplace to all employees without regard to race, caste, religion, colour, ancestry, marital status, gender, sexual orientation, age, nationality, ethnic origin or disability. The Company also believes that all employees of the Company have the right to be treated with dignity. Sexual harassment at the work place or other than work place if involving an employee or employees is a grave offence and is therefore, punishable.

1.2 The Supreme Court has also directed companies to lay down guidelines and a forum for redressal of grievances related to sexual harassment. This policy takes complete cognizance of the latest legislation by the Government of India "The Sexual Harassment at Workplace (Prevention, Prohibition and Redressal) Act 2013 and its rules notification published on 9th December 2013. This Act is to provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and for the matters connected herewith or incidental thereto.

1.3 At Tata Power, all employees are expected to uphold the highest standards of ethical conduct at the workplace and in all their interactions with business stakeholders. This means that employees have a responsibility to

- Treat each other with dignity and respect
- Follow the letter and spirit of law
- Refrain from any unwelcome behaviour that has sexual connotation (of sexual nature)
- Refrain from creating hostile atmosphere at workplace via sexual harassment
- Report sexual harassment experienced and/or witnessed to appropriate authorities and abide by the complaint handling procedure of the company.

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2.0 SCOPE

2.1 This Policy extends to all employees of the Company and is deemed to be incorporated in the service conditions of all employees of the Company in India. Local country laws will take precedence over this policy, in other geographies, if applicable.

2.2 Sexual harassment would mean and include any of the following but not limited to:

- Unwelcome sexual advances involving verbal, non-verbal, or physical conduct, implicit or explicit
- Physical contact and advances;
- Demand or request for sexual favours;
- Sexually coloured remarks, including but not limited to vulgar / indecent jokes, letters, phone calls, text messages, e-mails, gestures etc.
- Showing pornography or the likes
- Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.
- Physical contact and advances such as touching, stalking, sounds which have explicit and /or implicit sexual connotation/overtone, molestation
- Display of pictures, signs etc. with sexual nature/ connotation/ overtones in the work area and work related areas
- Verbal or non-verbal communication which offends the individuals sensibilities and affect her/his performance and has sexual connotation/ overtone/ nature
- Teasing, Voyeurism, innuendos and taunts, physical confinement and /or touching against one's will and likely to intrude upon one's privacy

The following circumstances, among other circumstances, if it occurs or is present in relation to or connected with any act or behavior of sexual harassment may amount to sexual harassment

- Implied or explicit promise of preferential treatment in the employment

4.0 REDRESSAL PROCESS

4.1 A Complainant can make, in writing, a complaint of Sexual Harassment to the Internal Complaints Committee (ICC), within a period of three months from the date of incident and in case of a series of incidents, within a period of three months from the date of last incident. The ICC may, for the reasons to be recorded in writing, extend the time limit not exceeding three months, if it is satisfied that the circumstances were such which prevented the Complainant from filing a complaint within the said period.

4.2 If the Aggrieved Individual is unable to make a complaint on account of his/her physical incapacity, a complaint may be filed by:

- his/her relative or friend; or
- his/her co-worker; or
- an officer of the National Commission for Women or State Women's Commission; or

- any person who has knowledge of the incident, with the written consent of the Aggrieved Individual

i) If the Aggrieved Individual is unable to make a complaint on account of his/her mental incapacity, a complaint may be filed by:

- his/her relative or friend; or
- a special educator; or
- a qualified psychiatrist or psychologist; or
- the guardian or authority under whose care he/she is receiving treatment or care; or
- any person who has knowledge of the incident jointly with the Aggrieved Individual's relative or friend or a special educator or qualified psychiatrist or psychologist, or guardian or authority under whose care he/she is receiving treatment or care

ii) If the Aggrieved Individual for any other reason is unable to make a complaint, a complaint may be filed by any person who has knowledge of the incident, with his/her written consent.

iii) If the Aggrieved Individual is deceased, a complaint may be filed by any person who has knowledge of the incident, with the written consent of his/her legal heir.

4.2 The form in which the complaint is required to be made is annexed as Annexure I to the Policy. This form will be available with the ICC and also on tataworld.com. However, any written complaint received in any form other than the form prescribed in Annexure I shall also be accepted. The complaint can be submitted to the ICC electronically at POSH@tatapower.com or may be physically submitted to any ICC member. The ICC may, but shall not be bound to, accept oral complaints under this Policy.

4.3 The Complainant shall submit six copies of the complaint along with supporting documents and relevant details concerning the alleged incident(s), the name and details of the Respondent and names and addresses of the witnesses.

- 4.4 The Committee will maintain a record of the complaints received by it and keep the contents confidential, if it is so desired, except to use the same for discreet investigation.
- 4.5 The Committee will hold a meeting with the Complainant within five days of receipt of the complaint, but no later than a week in any case.
- 4.6 At the first meeting, the Committee members shall hear the Complainant and record / her allegations. The Complainant can also submit any corroborative material with a documentary proof, oral or written material, etc., to substantiate her complaint. If the Complainant does not wish to depose personally due to embarrassment of narration of event, a lady Officer involved and a male officer for male employees, involved shall meet and record the statement.
- 4.7 Thereafter, the person against whom complaint is made may be called for a deposition before the Committee and an opportunity will be given to him/ her to give an explanation, where after, an "Enquiry" shall be conducted and concluded.
- 4.8 In the event, the complaint does not fall under the purview of Sexual Harassment or the complaint does not mean an offence of Sexual Harassment, the same would be dropped after recording the reasons thereof.
- 4.9 In case the complaint is found to be false, the Complainant shall, if deemed fit, be liable for appropriate disciplinary action by the Management.

POLICY FOR PREVENTION OF SEXUAL HARASSMENT (POSH)

1. PURPOSE:

To create and maintain safe work environment, free from sexual harassment & discrimination for all its employees. As per the guidelines of "The Sexual harassment of women at workplace (prevention, prohibition & redressal) Act, 2013,

2. SCOPE:

HIL aims to adopt zero tolerance attitudes against any kind of Sexual Harassment or discrimination caused by any employee during their tenure in HIL towards any other person being an employee of HIL, Client, Vendor and Contractor in Company premises or elsewhere in India or abroad.

3. APPLICABILITY:

All employees of HIL at all locations.

4. DEFINITION:

1. **Employee of HIL** – Includes person carrying out any work on behalf of HIL and may have been hired as Permanent, Temporary, Contracted or on Retainership Basis, part-time basis etc either directly or indirectly or through vendor organization.
2. **Sexual Harassment** – Harassment of a Female/Male employee consisting of any unwelcome sexually determined behavior, whether directly, indirectly, by any male/female in charge of the management or a male/female co-employee either individually or in association with other persons to exploit the sexuality of co-employee to harass him/her in manner which prevents or impairs his/her full utilization of full benefits, facilities or opportunities or any other behavior which is generally considered to be derogatory .
3. **Aggrieved Women** - In relation to workplace, a woman of any age whether employed or not, who alleges to have been subjected to any act of sexual harassment by the Respondent.
4. **Respondent:** Employees against whom the complaint has been filed.

References- Code of Conduct Policy

5. POLICY GUIDELINES:

Sexual Harassment shall include but not limit to:-

- Physical Contact & Sexual advances
- Demand or request for sexual favors;
- Sexually- coloured remarks;
- Showing pornography;
- Any other unwelcome physical, verbal or non-verbal or written conduct of a sexual nature.

6. GRIEVANCE MECHANISM: PROCEDURE TO REGISTER COMPLAINTS:

A complaint shall be submitted in writing to shcomplaint@hil.in or to any member of the Internal Committee mentioned herein within 3 months of occurrence of an act of Sexual Harassment. If the respondent is direct supervisor of the complainant, or person influencing the career growth of the complainant, the reporting structure will be changed till the time the enquiry is completed.

7. INTERNAL COMMITTEE:

- a. Each complaint of Sexual Harassment shall be dealt with utmost confidentiality and urgency by an Internal committee consisting of:
 - I. **Presiding Officer: VP-HR**
 - II. 1 Member - Head Of Department
 - III. 1 Lady Member (Manager)
 - IV. 1 Lady Member
 - V. 1 Lady Member (From NGO or Psychologist or lawyer)
- b. Within 3 working days, the Internal committee shall commence Official Internal Enquiry by:
 - I. By informing the said complaint to the respondent.
 - II. By instructing to stop the alleged act of Sexual Harassment immediately
 - III. By informing not to reach out to the complainant directly or indirectly
 - IV. BY asking an immediate explanation from him/her to the same
- c. Within 5 working days from the receipt of original complaint, the designated person shall respond in writing to the complainant informing him/her about the initial steps taken by HIL in order to stop the alleged act(s)
- d. Within 15 days from receipt of the original complaint, the internal committee shall record and accordingly communicate in writing to the complainant and the Respondent, its prima facie findings, upon giving the concerned parties a fair and due opportunity to represent themselves and upon conducting fact finding, truth verification and counseling sessions with persons involved in alleged act(s)
- e. A complaint will be closed no later than one month from receipt of original complaint by recording the decisions of the internal committee, accordingly informing to the complainant and the Respondent of the same.
- f. Employees are duty bound to assist in investigative steps, employees' wholehearted participation shall be mandatory in this regard. Whistleblowers shall be protected from exposure, retaliation or hostility.
- g. Within 2 working days from receipt of prima facie findings or the charges, if the complainant or the Respondent is dissatisfied with the decision of internal committee, she or he may appeal specifying the reasons in writing to Managing Director. Within 5 working days from the receipt, the appeal shall be finally disposed of by written communication to the said party. The decision of Managing Director shall be final and cannot be appealed.

8. REDRESSAL:

1. An amicable resolution of the complaint is possible only with the written consent of the complainant.
2. Within 24 hours of closing the case file, the internal committee shall present the same to and inform its decision to the Managing Director.
3. In case of decision establishing the offence of Sexual Harassment of the complainant, within 3 working days, the internal committee shall recommend Disciplinary action against the offender considering the nature and extent of injury caused to the complainant, prior complaints or repetition of offence etc and the impact of the offence on the company profile as a whole.
4. The position of the offender and the criticality of the position occupied by the offender shall not be any hindrance to the disciplinary action taken against the offender.
5. The disciplinary action that shall be commensurate with the nature of the gravity of the offence, shall include but not limited to,
 - Warning
 - Written apology from offender,
 - Bond of good behavior
 - Transfer
 - Debarring from supervisory duties
 - Denial of employee benefits like increments/promotion/salary correction etc.
 - Cancellation of specific work Assignment
 - Suspension
 - Dismissal

Annual report summarizing complaints and Redressal of Sexual harassment shall be prepared by designated person. The said report as well as all documents regarding Sexual Harassment complaints shall be in the custody of designated person and will be termed as 'Strictly Confidential'.