

STATUTORY PROTECTIONS FOR WOMEN IN SRI LANKA TO PREVENT SEXUAL HARASSMENT AT THE WORKPLACE: A COMPARATIVE OVERVIEW WITH INDIAN LEGAL PERSPECTIVE

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Article 23 (1) of the Universal Declaration of Human Rights 1948 recognizes right to work with dignity is a fundamental human right. Furthermore, the right to work with dignity entails the need for the worker to be free from cruel, inhuman and degrading treatment as enshrined in Article 5. In this context any conduct of a sexual nature, that is deemed to be degrading, humiliating and unwelcome to the recipient, would be construed as sexual harassment. International Human rights conventions including Convention on the Elimination of all Forms of Discrimination Against Women and The International Labour Organization (ILO) Conventions also prohibits discrimination in employment and guarantee the right to protection of health and safety at work place. National constitutions of Sri Lanka and India recognizes right to equality. Moreover domestic criminal legislations and other statues in relation to sexual harassment of these countries identify sexual harassment as criminally punishable offence. Apart from the punishments the court may have discretion to order for compensation to be paid to the victims. The 2012 national census of Sri Lanka estimated that women constitute 28.1 percent of the workforce in Sri Lanka. Similarly the national census of 2001 of India reports that women constitute 31.6 percent of the workforce India. As the number of women at workplace increases high in this modern era it is important to provide a safe environment at work place. India has witnessed large number of cases in relation to sexual harassment at work place. In order to address this issue as per the directions given by the judiciary in Vishaka and Others Vs State of Rajasthan India has recently enacted No 14 of Sexual Harassment of women at workplace (Prevention, Prohibition and Redressal) Act 2013. For now in Sri Lanka, disciplinary inquiries contained in the Staff Collective Agreement of 1997, disciplinary action in the Labour Collective Agreement of 1998 are provide provisions to address Sexual Harassment at work place. And also Bribery Act of 1980, addresses demand for sexual favors as bribe. However Sri Lanka does not have a special piece of legislation to address this issue. The researcher tries to make a comparative analysis of the legislations relation to sexual harassment of these two countries and the analysis is structured within the International women Rights framework, and domestic legal mechanisms. This paper adopts the analytical method in approaching the topic. According to the secondary data available in Sri Lanka on this issue the researcher found that since there is no special legislation in Sri Lanka the victims of sexual harassment at work place are unable to enjoy right to work in a meaningful manner. As a stake holder of CEDAW and ILO, it is the obligation of Sri Lanka to take measures to prevent the phenomenon of violence against women in society, in the family as well as in the work place.