

2.5 EXAMPLES OF BEHAVIOURS AND SCENARIOS THAT CONSTITUTE SEXUAL HARASSMENT

Below are examples of behaviour that may or may not constitute workplace sexual harassment in isolation. At the same time, it is important to remember that more often than not, such behaviour occurs in cluster. Distinguishing between these different possibilities is not an easy task and requires essential training and skill building.



Some examples of behaviour that constitute sexual harassment at the workplace:

1. Making sexually suggestive remarks or innuendos.
2. Serious or repeated offensive remarks, such as teasing related to a person's body or appearance.
3. Offensive comments or jokes.
4. Inappropriate questions, suggestions or remarks about a person's sex life.
5. Displaying sexist or other offensive pictures, posters, mms, sms, whatsapp, or e-mails.
6. Intimidation, threats, blackmail around sexual favours.
7. Threats, intimidation or retaliation against an employee who speaks up about unwelcome behaviour with sexual overtones.
8. Unwelcome social invitations, with sexual overtones commonly understood as flirting.
9. Unwelcome sexual advances which may or may not be accompanied by promises or threats, explicit or implicit.



10. Physical contact such as touching or pinching.
11. Caressing, kissing or fondling someone against her will (could be considered assault).
12. Invasion of personal space (getting too close for no reason, brushing against or cornering someone).
13. Persistently asking someone out, despite being turned down.
14. Stalking an individual.
15. Abuse of authority or power to threaten a person's job or undermine her performance against sexual favours.
16. Falsely accusing and undermining a person behind closed doors for sexual favours.
17. Controlling a person's reputation by rumour-mongering about her private life.

Some examples of behaviour that may indicate underlying workplace sexual harassment and merit inquiry:

1. Criticizing, insulting, blaming, reprimanding or condemning an employee in public.
2. Exclusion from group activities or assignments without a valid reason.
3. Statements damaging a person's reputation or career.
4. Removing areas of responsibility, unjustifiably.
5. Inappropriately giving too little or too much work.
6. Constantly overruling authority without just cause.
7. Unjustifiably monitoring everything that is done.
8. Blaming an individual constantly for errors without just cause.
9. Repeatedly singling out an employee by assigning her with demeaning and belittling jobs that are not part of her regular duties.
10. Insults or humiliations, repeated attempts to exclude or isolate a person.
11. Systematically interfering with normal work conditions, sabotaging places or instruments of work.
12. Humiliating a person in front of colleagues, engaging in smear campaigns.
13. Arbitrarily taking disciplinary action against an employee.
14. Controlling the person by withholding resources (time, budget, autonomy, and training) necessary to succeed.

Some examples of workplace behaviours that may not constitute sexual harassment:

1. Following-up on work absences.
2. Requiring performance to job standards.

3. The normal exercise of management rights.
4. Work-related stress e.g. meeting deadlines or quality standards.
5. Conditions of works.
6. Constructive feedback about the work mistake and not the person.

2.6 FORMS OF WORKPLACE SEXUAL HARASSMENT

Generally workplace sexual harassment refers to two common forms of ***inappropriate behaviour***:

- Quid Pro Quo (literally ‘this for that’)
 - Implied or explicit promise of preferential/detrimental treatment in employment
 - Implied or express threat about her present or future employment status
- Hostile Work Environment
 - Creating a hostile, intimidating or an offensive work environment
 - Humiliating treatment likely to affect her health or safety

2.7 SCENARIOS

The following scenarios have been constructed as examples based on real life experiences of women at workplaces. The scenarios attempt to build an understanding of the two types of workplace sexual harassment as prescribed by the Act i.e. quid pro quo and hostile environment.

The names in the following examples are fictional and in no way refer to any individual alive or dead.

A. Examples of scenarios that constitute quid pro quo or ‘this for that’ type of sexual harassment at the workplace:

SCENARIO EXAMPLE 1

Kamini is a bright young team leader working in a call centre. Known to be forthright, she is dedicated, hardworking and is a perfectionist.

Kamini stays back at work late one evening with her colleague Ravi to complete work for an important presentation. Ravi offers to buy Kamini dinner and later drop her home since it’s been a long day. After dinner, Ravi proposes to Kamini that he would like her to spend the night with him. Kamini refuses politely but firmly and goes home. Next evening, Ravi repeats his request and on Kamini’s refusal, threatens her that ***if she doesn’t give-in, he will tell everyone*** that she made a pass at him.

What is Workplace ‘this for that’ Sexual Harassment?

In the above example, Ravi’s threat to Kamini that if she does not agree to his ‘request’ for a sexual favour, he will in return smear her character at the workplace as a person who wants to use sexual

favours to her advantage constitutes quid pro quo form of sexual harassment. Ravi's behaviour is unwelcome, sexual, and has a negative impact on Kamini.

SCENARIO EXAMPLE 2

Renuka is employed as a domestic worker where she is expected to take care of all the household activities, other than cooking. Most of the days, the lady of the house leaves early. Renuka is therefore left alone in the house with a male member of the household.

Renuka finds the male member constantly leering at her when he is at home and often walks around the house wrapped in nothing but a towel which makes her very uncomfortable. On one occasion, while she was sweeping, he pinched her bottom. When she protested that she will complain to the lady of the house, he **threatened to accuse** her of stealing, and that he will ensure that she **loses** her job.



What is Workplace Sexual Harassment?

In the above example, the male member by threatening Renuka to keep quiet about the unwelcome physical contact if she wants to continue with her employment commits quid pro quo form of sexual harassment. His behaviour occurring in a matrix of power, is unwelcome, sexual and has a negative impact on Renuka.

SCENARIO EXAMPLE 3

Shamima is a lawyer who works as a researcher at an NGO in Delhi since 2013. Dr. Bhavan is the director of the organisation and has always advocated for the cause of human rights.

During an official field visit to Shimla for 2 days, Dr. Bhavan finds an opportunity to be alone with Shamima and makes a physical advance. Despite her protests, he forces himself on her while giving lurid and sexually explicit details of his relationships, both past and present, with women. When she chastises him and threatens to make his behaviour public, he **threatens to destroy her career**.

What is Workplace Sexual Harassment?

In the above example, by threatening Shamima with the destruction of her career, Dr. Bhavan commits quid pro quo sexual harassment. His physical advances and sexual conversation are unwelcome for Shamima and occur in a matrix of power.

B. Examples of scenarios that constitute a 'hostile work environment' type of sexual harassment at the workplace:

SCENARIO EXAMPLE 1

Jayanthi works in a garment factory in Bangalore.

Varghese, Jayanthi's supervisor, often tries to touch her on one or the other pretext. For example, he adjusts her *dupatta* while she is sewing at her workstation on the pretext of covering her back. Jayanthi is very uncomfortable with his behaviour. Her colleagues at the workplace ridicule Jayanthi and mock her for the 'special treatment' by her supervisor. They often gossip about her and Varghese.

What is a Hostile Workplace Environment Sexual Harassment?

In the above example, the physical touching by Varghese is unwelcome and sexual in nature. The gossip, which is based on Varghese's behaviour towards Jayanthi at the workplace, is creating a hostile work environment for Jayanthi.



SCENARIO EXAMPLE 2

Sukhi is a daily wage labourer working at a construction site. Every day at lunch time, Sukhi sits under the shade of the tree to feed her 16-month old baby. She finds Jaswinder, a worker, staring at her from the distance. Sukhi feels uncomfortable and asks Jaswinder to stay away from her while she's feeding the baby. However, Jaswinder persists and always finds a place near her. The group of fellow construction workers now **constantly catcall and whistle** at Sukhi every time she walks their way to refill the cement or mortar. When she questions them, they tell her they are only joking amongst themselves.

What is a Hostile Workplace Environment Sexual Harassment?

Ogling, stalking and gossiping against Sukhi in the above example constitute a hostile work environment, a form of workplace sexual harassment.

SCENARIO EXAMPLE 3

Sumedha is a Captain with the Indian Army. She has refused an offer made by a Senior Officer for a relationship. Sumedha has kept quiet about this experience, but thanks to the rumour-mongering by the Senior Officer, she has acquired a reputation of being a woman of 'easy virtue'. Now she is being *subjected to repeated advances* by three of her senior officer colleagues. When she turns around and protests, *she is singled out for additional physical training*.

What is a Hostile Workplace Environment Sexual Harassment?

In the above example, Sumedha's refusal to the sexual advances of her Senior Officer, leads to her being subjected to rumours, gossip, character assassination, unwelcome sexual advances by other officers, and arbitrary disciplinary action. This constitutes Hostile Work Environment form of workplace Sexual Harassment.

SCENARIO EXAMPLE 4

Asha is a researcher at a media agency led by Dr. Purshottam, a well-known journalist.

In the first few months of Asha's employment, Dr. Purshottam is very pleased with her work and publicly appreciates her. Soon after, Dr. Purshottam frequently summons Asha to his office on the pretext of work and makes verbal sexual advances and sexually coloured remarks to her. He brushes aside her protests by saying that they would not be able to work as a team unless she interacted closely with him and they both got to know each other well. However, once she categorically rebuffed his sexual advances, he has stopped. Now he **ridicules her work** and **humiliates** her in the presence of colleagues and the staff. He **discriminates** against her by allotting projects to her and then arbitrarily withdrawing the work.

What is a Hostile Workplace Environment Sexual Harassment?

In the above example, the workplace actions are a result of Asha rebuffing the unwelcome, sexual advances of Dr. Purshottam and this constitutes hostile work environment form of workplace sexual harassment.

This section has listed and illustrated some of the behaviours that constitute the five parameters of workplace sexual harassment, viz., sexual, subjective, unwelcome, impact and power. This becomes the basis of the key elements of the Act, Prevention, Prohibition and Redress.