

VIOLENCE AND HARASSMENT IN THE WORLD OF WORK: C190, R206 AND THE CURRENT SITUATION IN PAKISTAN



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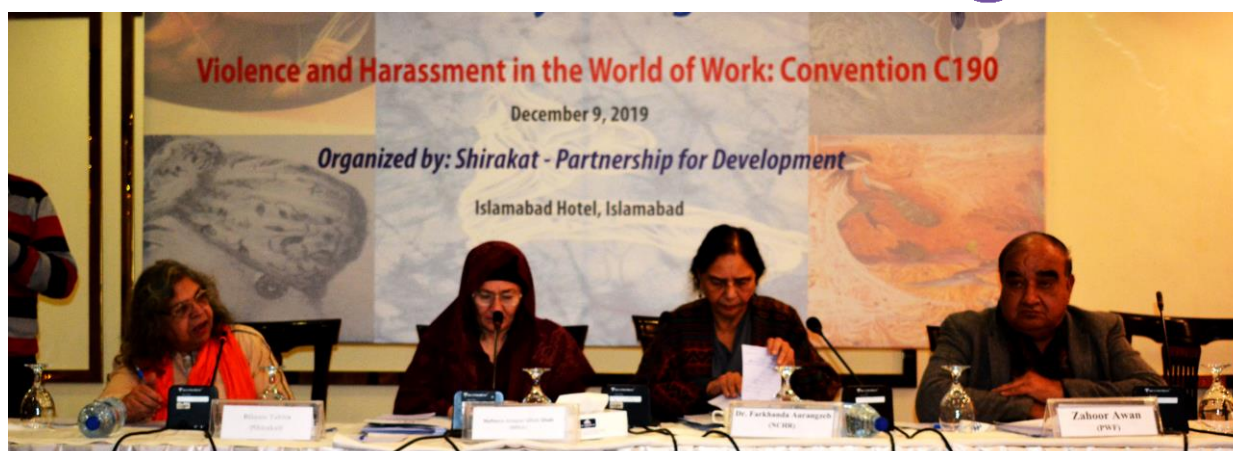
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- SDG 5 Gender Equality
- SDG 8 Decent work and economic growth
- SDG 13 Climate Action
- SDG 16 Peace Justice and strong institutions

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Shirakat – Partnership for Development



L to R: Mr. Zahoor Awan (Pakistan Workers Federation), Ms. Farkhanda Aurangzeb (NCHR), Ms. Nafeesa Inayatullah Khan Khattak (MNA) and Ms. Biqluis Tahira (Shirakat) presenting their insights on the topic.

INTRODUCTION

Pakistan is ranked 133rd among 160 countries in terms of Gender Inequality (UNDP, 2019)¹. The gender gap in the country continues to exist due to the multifaceted layers of discrimination faced by Pakistani women and girls, on account of prevalent patriarchal values and norms.

Change agents have made efforts towards the economic empowerment of women, but are stymied by the violence and harassment present in private and public spaces. The country struggles to provide better opportunities for its female population; women share only 24.9% of Pakistan's labor force participation (UNDP, 2019).

At the 108th session of the ILC, with the ratification of C190 –Violence and Harassment Convention, 2019 (No. 190) – and R206 – Violence and Harassment Recommendation,

2019 (No. 206) – gender based violence at the world of work was recognized as a “human rights violation and abuse”, as it hinders the provision of equal opportunities and a decent work environment (CWGL, 2019)².

With reference to the situation in Pakistan, this document explores existing legislations, the role of non-governmental organizations, clauses ratified in C190, and their implementation for policies in Pakistan, as well as associated challenges and gaps in the context of the country.

VIOLENCE AND HARASSMENT IN PAKISTAN

Gender inequality is a major problem in Pakistan; figures and statistics regarding violence and harassment at private and public spaces depict an exacerbated picture of the situation. DFID (2014) ranked Pakistan as the

¹http://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/PAK.pdf

²<https://16dayscampaign.org/wp-content/uploads/2019/10/2019-Global-16-Days-Campaign-Guide-Final.pdf>

third most dangerous country for women. Violence against women is widespread, be it domestic violence, sexual abuse and harassment, acid attacks, forced marriages, rape or honor killings. A study by the Aurat Foundation (2014) reported over 10,000 cases of violence against women in 2014. It was found that nationwide, on average, in 2014, 6 women were kidnapped per day, 4 were raped, 3 committed suicide and 6 were murdered. Around 1000 honor killings are said to be committed each year; up to 232 incidents of acid throwing occurred in 2014; 9 out of 10 women experience domestic violence³. Despite the presence of legislation that prohibits discrimination on the basis of sex, USAID (2015) found that enforcement remains a challenge. Women face discrimination in family law, property law, and the judicial system. Violence in any form, hampers women's participation in the world of work.

VIOLENCE AND HARASSMENT IN THE WORLD OF WORK

Harassment and violence continue to expose women and girls to various vulnerabilities in the world of work. Women workers have reported instances of catcalling, bullying, inappropriate physical contact, and intimidation by male colleagues at work places. A report from 2007 revealed that 78% of working women faced harassment at the workplace, accentuating the need for legislative measures against the issue. However, despite anti-harassment laws passed in 2010, women continue to face harassment at work place. According to news stories published in 2019, 358 cases of harassment at the workplace were reported in Sindh alone, and only in 8 cases actions were taken. 107 cases were reported in Punjab

Underreporting continues to be a problem in cases related to harassment and violence in the world of work; recent reports show 'lack of faith' in reporting mechanisms and lack of support for victims as one of the major reasons

for this. A report titled "Sexual Harassment in Workplaces in Pakistan" revealed that while organizations are legally obliged to form inquiry committees, many have failed to do so. Despite the existence of harassment laws, shortfalls of the country's criminal justice system impede their enforcement. Moreover, studies reveal that the root causes of the issue are more societal than institutional. This is evident from survivors' stories detailing insensitivity and a lack of support from those around them.

71% of women working in the informal economy are still unprotected under existing legislation. With the exception of Sindh, no province has made significant efforts in providing legal rights to home based workers. Such women are more vulnerable to harassment and violence, and are offered little legal protection. Due to the lack of a formal contracts and documentation, there is little data on cases of harassment and violence in this sector.

With the acknowledgment that root causes of the issue are societal, cultural and, behavioral, it is evident that comprehensive, integrated, and profound legislative and structural reforms are imperative in making the world of work gender friendly.

EFFORTS TO CONDEMN HARASSMENT AND VIOLENCE IN THE WORLD OF WORK

The Protection Against Harassment of Women at the Workplace Act 2010 made the harassment of women at the work place a criminal offence. Regular and contract based employees, trainees, volunteers, and domestic workers have been provided protection under said Act. The passing of the act signaled the acknowledgement of these issues faced by women and was a step forward in achieving a decent work environment for both men and women in the country. In the following years, amendments were made to the Act and protection was extended to all persons at work, not just women.

³<https://www.refworld.org/pdfid/56c420f34.pdf>



Ms. Shandana Gulzar Khan (MNA), accompanied by (right to left) Ms. Amna Ismail Pataudi, ED PNCA, Mr. Sven Ruesch (EU Delegation to Pakistan) and Ms. Asiya Nasir (Ex MNA) at the ribbon cutting ceremony of art exhibition.

The Act was a milestone in providing legislative protection to women and was followed by setting up of monitoring and regulatory bodies for its implementation. Under the 18th amendment, Acts were passed at provincial level to make working spaces safer for women. This includes the Baluchistan Protection Against Harassment of Women at Work Place Act, and the Punjab Protection of Women Against Violence Act 2016. For the monitoring and implementation of the Acts, two significant provisions were made: 1) Each organization is obliged to set up an Inquiry Committee to respond to the complaints under the 2010 Act. This provision was also included in laws made at the provincial level (see The Baluchistan Protection Against Harassment of Women at Work Place Act). 2) Ombudsmen were to be appointed at federal and provincial levels by the Government to oversee complaints registered under the Act. An employee may choose to either forward the complaint to their organization's Inquiry Committee, or to an ombudsman appointed under the Act.

Additional bodies were established at a provincial level such as the Provincial Commissions on the Status of Women to promote the social, economic, and legal rights of women in the province.

Moreover, systems were put into place for dealing with complaints of harassment and violence at work place. At federal level, the Federal Ombudsman Secretariat for Protection against Harassment of Women at Workplace (FOSPAAH) was introduced to deal with complaints of harassment at work. FOSPAAH was set up to provide centralized system for relevant complaints and a systematic way to resolve them in compliance with ILO conventions of 100 and 111 (FOSPAAH)⁴.

Under PCSW, a Toll-Free Helpline was set up for complaints of harassment including harassment and violence at the workplace⁵. The purpose of the body is not only to provide a system for complaint entry, but also to carry out the inquiry into the matter and provide counseling to the complainant or survivor. Sensitization and capacity building of police to record and deal with harassment related inquiries have been taken as steps to utilize available systems. First Investigation Report (FIR) submission of harassment cases to the police is the routine channel of reporting and investigation of the cases.

The enthusiasm to make workplaces safer for women was equally shared by civil society

⁴<http://www.fospah.gov.pk/>

⁵https://pcsw.punjab.gov.pk/helpline_

organizations (CSOs) and Non-governmental organizations (NGOs). These organizations are mainly involved in sensitization of public and other organizations on the topic, along with carrying out awareness campaigns and training sessions. The motive of these activities is to 1) create awareness regarding harassment and violence at private and public spaces, 2) conduct research and provide consultations, and 3) carry out advocacy activities to mobilize parliamentarians and policy makers to take desired actions to prevent and eliminate harassment against women. For instance, a civil society based initiative “Tashadud Na Manzur” (Violence is Unacceptable) in 2012, and a UN campaign ‘You can’t be a good manager unless you manage to stop Sexual Harassment’ 2012, were impactful in raising awareness and prevent violence and harassment against girls and women (UN Women)⁶.

Networks such as EAWG (Ending Violence Against Women and Girls) Alliance, Aurat Foundation, Shirakat—Partnership for Development and many other NGOs and INGOs have published research on violence against women in Pakistan and continue to advocate for further actions and policy making.

The legislative and policy efforts from the State, coupled with work of NGOs, INGOS, and other CSOs, have made some significant contributions in addressing the issue of harassment at work place. However, these remain limited to sexual harassment at the work place, which does not include violence in the world of work as defined by C190. Concerted efforts need to be made to ensure effective implementation of the existing laws and policies, and the elimination of societal norms that lead to unequal power relations in the country between genders. As mentioned earlier, Pakistan has a long road ahead to decrease the gender gap and make the country “gender friendly”.

⁶<https://asiapacific.unwomen.org/en/countries/pakistan/evaw-pakistan/events-and-campaigns>

C190, R206, AND EXISTING GAPS IN CURRENT LEGISLATION

The core obligation under C190 – the right of everyone to a world of work free from violence, and harassment – is to respect, promote, and realize this right through an inclusive, integrated, and gender responsive approach.

Inclusive means that no one should be subject to violence and harassment. Therefore, the Convention applies to all sectors, whether private or public, formal or informal, urban or rural. The Convention protects all workers and other persons in the world of work. This includes: 1) employees as defined by national law and practice 2) persons working irrespective of their contractual status (e.g. home based workers) 3) persons in training, including interns and apprentices 4) workers whose employment has been terminated 5) volunteers 6) jobseekers and job applicants, and 7) individuals exercising the authority, duties or responsibilities of an employer.

Workers must be protected at the workplace; public and private spaces, where they are a place of work; places where worker is paid, takes a rest break or a meal; sanitary, washing and changing facilities; work-related trips, travel, training, events or social activities; through work-related communications; employer-provided accommodation, as well as on the commute to and from work.

The protection offered by the Convention must be integrated into all laws, including those related to labor and employment; equality and non-discrimination; occupational safety and health; and migration and crime.

The three main components presented in R206 and C190 are: 1) prevention and protection, 2) enforcement and remedies, and 3) guidance and training.

For prevention and protection, C190 and R206 include definition and prohibition; identification of groups sectors, occupations or work

arrangements which are more exposed to violence and harassment; prevention; adoption of workplace policies; accounting for violence and harassment (V-H) and associated psychosocial risks in the management of Occupational Safety and Health (OSH); the introduction of V-H in OSH and risk assessments; and providing training and information.

Enforcement and remedies include: 1) establishing and making functional safe, fair, effective and gender-responsive reporting and dispute resolution mechanisms (both at and external to the workplace level); 2) providing appropriate and effective remedies; 3) providing support and protection against retaliation; 4) implementing workers' right to remove themselves in case of imminent and serious danger to life, health and safety; 5) maintaining confidentiality; and 6) empowering labor inspectors and other authorities, and making possible sanctions and counseling.

Under guidance and training, several steps have been suggested such as including V-H in relevant policies, raising awareness, putting in place gender-responsive education curricula, and providing guidance, resources and training to workers, employers and other relevant authorities (e.g. judges, labor inspectors, etc.).

Furthermore, C190 clearly mentions that persons employed in the informal sector should be protected under the relevant laws. It also emphasizes linkages between domestic violence and its spillover effects at places of work. Hence, it calls for acknowledgement that domestic violence can affect 'employment, productivity and health and safety'. Pakistan is still in the process of providing protection to workers in informal economy, which includes home based women workers, women working on daily wages etc.

Another important proposition made in the convention is to adopt laws and regulations that take into account "violence and harassment and associated psychosocial risks in the management

of occupational safety and health" which remains a gap in existing laws. Furthermore, C190 stresses upon the necessity and responsibility of the relevant authorities (enterprises, governments etc.) to carry out training and awareness sessions on harassment and violence for the workers in the world of work. As mentioned earlier, laws and policies for providing support and remedies for the victims is also made a legislative responsibility under C190.

RECOMMENDATIONS

The convention empowers labor inspectorates to deal with violence and harassment in the world of work. Currently, although Pakistan has an effective law on harassment at the workplace, violence in the world of work is not covered by these laws. It is therefore recommended that Pakistan ratifies C190 and ensures that all policies and laws are made to conform to the Convention. These actions can only be effective if implemented properly.

C190, in line with all previous declarations and conventions on the subject, encompasses three core areas for its effective realization: 1) prevention and protection, 2) enforcement and remedies, and 3) guidance and training. In all three areas, in addition to above mentioned components, it is important to propose a gender transformative approach. In particular, under the guidance and training part, a gender transformative approach may be used to introduce long term, gradual, and internalized positive shifts in men's (male workers in the world of work) attitudes.

Additionally, legislative initiatives and existing apparatus for the redressal of violence and harassment should underpin the gender transformative approach, aiming to promote gender equality through shared control over resources, inclusive decision making, and women's economic empowerment. Engaging men to bring about sustained and meaningful positive shift is a key component. Interventions

should focus on the role of supportive men in women's empowerment. Transforming masculinities in the world of work will consequently contribute to reducing tolerance of gender-based violence, promote gender equality, and address discriminatory practices against women.

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