Workplace Sexual Harassment: Discrimination ‘Unsolicited’

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Even social scientists did not study it, and they study everything that moves.32

Introduction

One of the fundamental factors underlying the difference in the level of economic development between the countries of Northern and Southern hemisphere is the participation rate of female labor force. Women’s participation to paid economic activities means fuller utilization of the most important natural endowment of a nation, its human power, which helps create and multiply secondary resources, popularly known as capital and management. Moreover, labor market participation is widely considered to empower the women both socially and economically and that empowerment in turn is expected to play highly significant role in their personal growth, an ongoing process of intrapersonal and cognitive development. Not only important in its own right, personal growth of a female becomes all the more important when considered in the perspective that the future of a nation are the children born and brought up, particularly during their formative years, by its women folk.

Gender happens to be one of the key dimensions of social stratification. Gender roles have been constantly changing both over time and space. The Paleolithic era was probably the only period in human history when women enjoyed much the same status and power within the hunting and gathering bands as men did. On the other hand, Neolithic times were accompanied by profound changes in the division of labor between men and women and hence in their share of power in family and society and, since then, human dwellings have been universally evolving within a general structure of female subordination [Greer and Lewis 2005]. Nevertheless, the enlightenment movement and progress of industrialization in the West were increasingly followed by the changing attitudes toward women and their work for the market. Not only the technological development offered women more leisure time, the expansion of the economy and two world wars opened up new jobs for women. At the turn of the 20th century, Western women’s status had been

greatly transformed in most respects. However, discrimination still existed in every area of women’s experience [Banner 1984]. Because harassment is about power (Dziech and Hawkins 1998), women being one of the less powerful groups have been universally vulnerable to sexual harassment emanating from an exploitative and unequal power relationship within the workplace [Gutek 1985].

In Pakistan, women’s increasing participation in the workforce has aroused recent attention to the issues related to the problems which they may face while working for the market. That said, though there have been some studies on wage discrimination, harassment has not been up on the research and reform agenda of the public policy to help shape specific interventions for providing protection to those who may be inflicted in one way or the other. This paper approaches this highly sensitive topic by mainly focusing on the phenomenon of workplace sexual harassment (WSH). The incidence of WSH is well researched and documented in the member countries of the Organization for Economic Cooperation and Development (OECD). A sizeable body of theoretical and empirical literature exists on WSH, dealing with socioeconomic, cultural, physical, psychological and legal aspects of the subject. Unfortunately, very little and highly constrained empirical work has been carried out on the issue in a traditional society like Pakistan, where what constitutes WSH may well have a cultural element to it and so may markedly differ from the precept prevailing in the West.

This paper addresses the issue of WSH in three distinct parts. Part I makes an effort to synergize various diverse aspects of WSH. Part II provides a brief analysis of the theoretical models explaining the factors responsible for the occurrence of WSH. Finally, Part III contains a concise account of the global legislation on WSH laws, followed by a brief discussion on the practical difficulties faced even in developed countries while enforcing these laws.

I.

There is a vast body of literature on gender discrimination related to the women’s work for the market in the OECD countries. However, most of the documentation happens to address wage differentials [Blau and Beller 1988; Goldin 1990; Stromberg and Harkess 1988; Treiman and Hartmann 1981]. The micro level explanations of the gender based wage differential mainly focus on occupational segregation and discrimination [Reskin 1984; Schultz and Petterson 1992], while

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33 Indeed, official statistics underrepresents women’s actual workforce participation in Pakistan. For example, the statistics exclude many of the farm workers and domestic servants in the rural economy and urban areas respectively. Moreover, work experience of many of the women may be discontinuous, sporadic or seasonal while census and labor force surveys record only the number of women working at the time. Therefore, lifetime work experience of many of the women may remain unreported, hence unrecorded.

34 Indeed, the sheer mention of sexual harassment appears to be a taboo even among the so called intelligentsia. This is evident from the fact that the topic conveyed to the author for writing this paper was not explicit in terms of indicating the phenomena underlying the issue of harassment.
the macro level analysis find the sources of gender inequity in institutionalized labor markets, industrial sectors and intra-organization environment [Blau and Ferber 1986; Brown and Pechman 1987; England and Farkas 1986]. Even in the contemporary Western world of so called equal opportunity, labor markets universally appear to have pervasive formal and informal barriers to women’s on-the-job training, promotion and transfer opportunities, retention and access to better-paying occupations [Roos and Reskin 1984; Reskin and Roos 1990]. In this author’s opinion, WSH happens to be the worst of all barriers in that it is a universal and devastating form of gender discrimination and exploitation. Therefore, this paper approaches the incidence of discrimination only in the context of WSH while women are employed in market economic activities.

In her pioneering work, MacKinnon (1979) argued that WSH itself, with or without a threat of being fired, constituted employment discrimination on the basis of sex. While defending the connection between harassment and discrimination, Superson (1993: 49) maintains that WSH should be viewed as "an attack on the group of all women, not just the immediate victim." Unfortunately, women’s submissive behavior universally happens to be a built-in cognition of socio-cultural hierarchies. This kind of gender stereotyping helps reinforce women’s dependency and reliance on authority which may make them vulnerable to WSH [Dziech and Weiner 1984], particularly so in tradition bound and dogma ridden societies of many of the developing countries.

Although the women have faced the problem of WSH ever since they entered the labor market, the concept was discovered in 1974 in the course of discussion in a class on women and work in Cornell University, USA [Farley 1978; Crouch 2001]. In recent years, however, the issue has sparked contentious global debate. It emerged as part of the package of labor market reforms in the OECD countries where an unparalleled combination of social, economic and technological factors helped women protect their rights and voice their concerns regarding the workplace environment. Also, WSH of female workers became ever more visible as the men increasingly began to encounter women in what previously had been male bastions [Vhay]. In the 1960s and 1970s, the advance of women’s movements further helped the cause since workplace social environment was considered to have high likelihood of playing a significant role in women’s economic status by directly effecting their job retention rates and contributing to horizontal and vertical occupational segregation.35

35 The argument is all the more relevant for countries like Pakistan, where workplace environment is one of the major determinants of women’s occupational choice. The apprehensions of WSH render the environment of some occupations so tense, intolerable and hostile in the country that many aspiring women either stay out or they are sometimes forced to leave the job: police department and mining and engineering industries happen to be a few cases in point.
As a social, political and legal term, WSH is varyingly defined in the literature. However, consensus appears to exist on the discriminatory treatment given to a woman on the basis of her gender having the effect of making her uncomfortable on the job or interfering with her independent choices and personal freedom. Thus, it seems reasonable to expect that jobs characterized by WSH would be providing less satisfying social environment for women than those free of WSH, all else equal [Chan 1990]. In its extreme form, WSH is a coercion imposed on a woman by the threat of firing if she responds with noncompliance. Women’s ability to do their work effectively is, however, impeded in any case if they have to work in an environment where they are made to feel humiliated because of the sex they belong to. That said, women working at the lower rungs of organizational hierarchy are more at risk of WSH because upper rungs of most of the formal institutions are primarily and largely male dominated, creating a context in which women are devalued and treated less seriously than men [Dziech and Weiner 1984].

Title VII of the Civil Rights Act of USA classifies WSH into two general groups: **quid pro quo** and **absolute** harassment. Quid pro quo or tangible harassment occurs when an employer or supervisor conditions a job benefit or continued employment on the employee’s compliance with sexual advances, while on refusal the employee is threatened with physical harm, demoted, and eventually fired. In contrast to quid pro quo harassment, absolute or intangible harassment involves

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36 The most common definition of WSH draws on the work of Fitzgerald and her colleagues [see, Fitzgerald et al. 1988a and 1988b; Fitzgerald 1993; Fitzgerald and Shullman 1993; Fitzgerald et al. 1995a, 1995b and 1995c; Gelfand, Fitzgerald and Drasgow 1995; Fitzgerald et al. 1997a and 1997b].

37 Dziech et al. (1998) divide harassers into two broad classes: public and private. **Public harassers** are flagrant in their seductive or sexist attitudes towards colleagues, subordinates, students, etc. **Private harassers** carefully cultivate a restrained and respectable image on the surface, but when alone with their target, their demeanor changes completely. Langelan (1993) describes three different classes of harassers. First there is the **predatory harasser** who gets sexual thrills from humiliating others. This harasser may become involved in sexual extortion, and may frequently harass just to see how targets respond, those who don’t resist may even become targets for rape. Next, there is the **dominance harasser**, the most common type, who engages in harassing behaviour as an ego boost. Third is **strategic or territorial harasser**, who seeks to maintain privilege in jobs or physical locations, for example a man harassing female employees in a predominantly male occupation.

38 A personal experience of the author is a case in point. Back in 1982, there was a Board of Studies meeting of a public sector university in Pakistan. Author was a young female member attending the meeting accompanied by another young female member. The meeting was chaired by a retired person of influence working on contract basis and all other members were also males, mostly 40 year of age and above. While discussing the paper of Labor Economics, the chair made a remark insinuating that the title of the paper is suitable for a maternity ward and he started laughing loud teamed up by all male colleagues. The reader can well imagine, specifically in the context of Pakistan’s society, how the two young unmarried women, just beginning their career, must have felt sitting in the company of seasoned academia while attending a formal high level meeting.

39 “quid pro quo” (Latin for ‘this for that’ or ‘something for something’)

109
no threat to a concrete job benefits, but instead creates a hostile work environment through unwanted, sexually offensive conduct. Also, in this case an employer is not the only source of WSH since it considers those situations as well where a woman working for the market is, through various means, subjected to stress or made to feel humiliated because of her sex, while offenders additionally include coworkers and non-employees, such as business clients and the general public [Schoenheider 1986].

Although the empirical study of the phenomenon is still in its early stages, quite a few findings suggest that WSH reduces the chances of women for contributing to economic productivity and positive social outcomes. According to the available evidence, WSH may varyingly impact progression of working women through their life-course sequences, as the observed responses of the victims appear to fall along a continuum of avoidance, diffusion, negotiation, and confrontation. Many of the studies maintain that, rather than reporting, most of the women are more likely to ignore WSH [Benson and Thomson 1982; Cochran et al. 1997; Gruber and Bjorn 1982], deflect it by joking or simply accept it as part of the package [Gutek 1985]. Empirical evidence shows that majority of the women deal with the problem by adopting behavioral strategies which may save them from facing WSH [Cochran et al. 1997; Gutek 1985; Schneider 1991; Yoder and Aniakudo 1995].

Physical impacts that accompany WSH may take a terrific toll on victimized employees in the shape of psychological and somatic health consequences, the inevitable backlash of the human body in response to intolerable stress which a lot many poor women must endure in developing countries just in order to survive.

The highly likely conflict and stress accompanied with the onslaught of WSH is expected to seriously hinder the chances of economic advancement of inflicted women, as it essentially interferes with their job performance. The implications with respect to economic status of the job

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40 Under this definition, working women in Pakistan, particularly those employed as hostesses in civil aviation and road transportation industries, and also as salesgirls in the fast growing fast food industry, should be considered to experience intangible sexual harassment, if they are bothered with comments, gestures, and propositions from male colleagues, passengers, customers, and the passerby general public.

41 A variety of reasons, ranging from a fear of retaliation or disbelief to a fear of losing job or making the situation worse, may make women decide not to report WSH [see, Loy and Stewart 1984; Cochran et al. 1997; Schneider 1991; Fitzgerald et al. 1995c). Also, process of institutionalization involves the normalization of WSH, whereby individual workers may not define their experiences as sexual harassment, even if they feel sexually degraded by them [see, Williams 1997; Loe 1996]. That said, Kuhn (1987) found a positive and a negative relationship of the WSH reporting rate with women's education and age respectively.

42 Physical health consequences of WSH are well-documented since the problem has been diagnosed to be linked to nervous tics of all kinds, aches and pains. The victims have also reported anxiety, depression, sleep disturbances, nausea, stress, and headaches [see, Crull 1982; Fitzgerald 1993; Gutek and Koss 1993].
are particularly serious for highly qualified professional women whose encounter with WSH may reduce their motivation and desire for career advancement, ultimately discouraging them from seeking promotions or positions in traditionally male-dominated fields. The available evidence shows that WSH results in lowered morale, absenteeism, decreased job satisfaction [Gruber 1992], decreased perception of equal opportunity [Newell et al. 1995], and damaged interpersonal work relationships [DiTomaso 1989; Gutek 1985]. Some victims are even forced to quit [Coles 1986; Crull 1982; Gutek 1985].

Finally, in author's opinion, consequences of WSH for the individual victims must not be considered in isolation from collective social and economic outcomes. The incidence of WSH reinforces the traditional social and economic stratification of gender roles in the society, hence its implications happen to be alarmingly serious for developing countries like Pakistan where already dismal state of human resource development is considered to be a major hurdle threatening sustainability of current growth rates. The argument may therefore be advanced that development imperatives of Pakistan warrant drastic reform of employment patterns which presently confine majority of the working women to inferior jobs and restrict their opportunities for both horizontal and vertical mobility. However, the reform of employment patterns cannot be considered in isolation from workplace environment, as the fear of facing sexual harassment on the job seriously affects women's free choices and opportunity costs while selecting an occupation in Pakistan.43

II.

Issues in the study of WSH can draw from and inform a variety of sociological perspectives. That said, no unified theoretical framework exists for explaining the occurrence of WSH. Nevertheless, gender continues to remain central to the study of the subject, whether conceptualized as quantitative measures of gender ratios or more qualitative understandings of gender roles and engendered organizational processes.

Literature mainly identifies three theories explaining the factors responsible for the incidence of WSH: the **natural-biological** model, which posits that WSH results from natural physical attraction; the **organizational** model, which treats WSH as a function of hierarchy and differential

43 In many of the developing countries like Pakistan, the strong influence of tradition causes both horizontal and vertical occupational gender segregation. Horizontal segregation confines majority of the working women to occupations offering few opportunities for personal growth and elevation of economic status, as most of the jobs identified with women workers are predominantly service oriented, involving low interest or complexity and offering little potential for self-direction. Vertical segregation on the other hand promotes traditional female subordination to men who are authorized to hire, fire, supervise and promote the women. The vicious cycle of horizontal and vertical segregation implies that WSH both relies upon and maintains women's structurally inferior status in the society.
sex distributions therein; and the *sociocultural* model, which attributes WSH to the differential distribution of status and power in the wider society [Welsh 1999].

For the occurrence of WSH, the natural biological model is widely considered to provide most simplistic explanation, with the least empirical support [Gutek 1985]. On the other hand, by focusing on the workplace hierarchical structures, organizational models provide a diverse set of explanations. These models range from theoretical explanations of differential power relations to the empirical investigation of organizational characteristics correlated with the likelihood of WSH. Underlying many of these models are the structural aspects of organizations which help promote power inequalities between individuals, hence setting the stage for the occurrence of WSH.44

Some organizational models pick on the marked differential in structural or formal power in organizations which lead to WSH. Individuals at the upper rungs of organizational hierarchy may tend to misuse their formal power to influence, control and harass the subordinates [Benson and Thomson 1982; MacKinnon 1979]. If WSH is to be considered in a gender perspective, an underlying assumption therefore is that it is men holding top positions who are harassing women subordinates. That said, the evidence reveals that harassers are more likely to be coworkers [Gutek 1985] and that harassers may well be the male subordinates [Grauerholz 1989; McKinney 1994; Rossenda et al. 1998]. Hence, both additional evidence and evidence to the contrary highlight the limitations of organizational models. The empirical evidence has nonetheless helped develop models to broaden the conceptualizations of organizational power [Cleveland and Kerst 1993; Grauerholz 1996]. The reformed organizational models include diverse interpersonal modes of power. For example, coworkers with individual or informal sources of power, such as

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44 The structural aspects discussed in the literature and included in many of the empirical studies on WSH are hierarchical nature of the organizations, occupational sex-ratios [Gruber and Bjorn 1986; Gutek 1985; Gutek and Morasch 1982], sex-ratios of the work group [Gutek 1985; Gutek and Dunwoody 1987; Gutek and Morasch 1982], occupational norms that tacitly support WSH [Giuffre and Williams 1994; Rosenberg et al. 1993], the nature of job tasks and requirements, and inadequacies related to policies and grievance procedures [Tangri et al. 1982].

45 Contrapower WSH occurs when the target of harassment possesses greater formal organizational power than the perpetrator [Benson 1984]. This phenomenon particularly appears to be relevant in Pakistan where on the one hand more and more women are making it to the middle and upper rungs of organizational hierarchies, while on the other hand their male subordinates still find it difficult to unlearn the *old habit* of male dominance. Therefore, they may retaliate with sexual harassment and the women have to be strong, assertive and determined to combat it with courage, consistency and awareness of their rights and power over the perpetrators. The phenomenon of contrapower WSH particularly needs to be investigated in the rural areas and small towns where, sometimes, specifically in the education and health sectors, the women find it difficult to discipline their male subordinates out of the genuine fear of contrapower intangible or absolute WSH. It is proposed that women employed in the medium and upper rungs of the formal sector across Pakistan, specifically in the peripheral areas, are offered special training workshops on how to deal with contrapower WSH, without exercising aggression and ruthlessness, both indicative of gender insecurity in the subconscious while working in a position superior to men.

112
personality, expertise, and access to critical information [Cleveland and Kerst 1993]. In terms of contrapower harassment, whereby a subordinate harasses someone with formal organizational power, sociocultural power may compensate for the lack of organizational power [McKinney 1990, 1992]. Although the study of formal organizational power still remains important for WSH, there is convincing evidence providing the bases for the argument that multiple hierarchies of power can make women simultaneously powerful and powerless i.e. their formal position in the organization and their vulnerability to WSH respectively [Miller 1997].

Numerically skewed sex ratios in organizations, such as female-dominated and male-dominated market activities, play a prominent role in explanations of WSH. Some approaches focus on the normative dominance, gender roles associated with female-dominated and male-dominated organizations; others discuss the issue in terms of numerical dominance, workgroup gender ratios of males over females in certain work situations. The difference in approach, however, does not affect the process by which numerically skewed organizations are linked to WSH. Nevertheless, the normative dominance or sex-role spillover theory is considered one of the primary theories of WSH [Tangri and Hayes 1997; Stockdale 1996]. Sex-role spillover occurs when women's gender roles take precedence over their work roles. Under these circumstances, the occurrence of WSH is more likely [Nieva and Gutek 1981; Gutek and Morach 1982; Gutek 1985]. On the other hand, in male-dominated organizations, where women are competing with men for jobs, men may attempt, both unconsciously and consciously, to put women in subordinate position by sanctifying and

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46 The individual and informal sources of power, if subjected to empirical investigation, are expected to find convincing evidence on the disadvantageous situation of quite a few of the working women in Pakistan, even in the upper rungs of the organizational hierarchy. The working women must also learn to assert themselves like active stakeholders having updated information and expertise on the portfolio they happen to hold in the workplace.

47 Another personal experience of author is a strong case in point. It was a coeducation higher learning institution where the author used to work as a young lecturer. Once, while walking through a corridor in the workplace, the author stumbled very badly. Her stumbling was immediately followed by the spontaneous loud laughter of the peons who were sitting behind in front of an office. The author turned back and said, “gentlemen I will like you to explain me the occasion for your unrestrained mirth.” They were all taken aback, as they did not expect a young and inexperienced woman to discipline the men folk. They apologized and the subject was closed. The upshot is that it was a reflex action on their part inculcated by the centuries old learning, since had it been a male superior, they would have exhibited completely opposite behavior by extending help and concern.

48 Literature provides access to quite a few reviews which discuss whether these approaches are considered theories, hypotheses, or descriptions of correlates; see, for example, Tangri & Hayes 1997; Stockdale 1996.

49 This happens in organizations where the gender ratio is heavily skewed toward either men or women. In Pakistan, for example, sex-role spillover may be viewed as the labor markets for unskilled construction workers and domestic helper respectively. The skewed situations definitely render femaleness more salient and visible [see, Kanter 1977].
emphasizing female coworkers' status as women over their status as workers [DiTomaso 1989].

Overall, sex-role spillover theory attempts to highlight prevalence of gender-based normative expectations in organizations characterized with numerically skewed work situations. However, empirical validity of this approach is not well established: although the women in jobs traditionally identified with males are more likely to experience WSH than women working in female-dominated vocations, integrating the job assignments with traditional construct of their gender [Gutek and Morasch 1982; Gutek and Cohen 1987], the former are not necessarily more likely to label their experiences as WSH [Konrad and Gutek 1986; Ragins and Scandura 1995]. Moreover, the use of occupational sex ratios as proxies for sex roles happens to be a very serious analytical limitation, as the measures of occupational sex ratios do not capture the engendered organizational processes that foster sex-role spillover [Roger and Henson 1997].

The numerical dominance or the contact hypothesis views harassment as a function of the contact between men and women in the workplace, rather than emphasizing the gender role expectations associated with certain jobs. Numerical dominance in this case is seen as distinct from, though interrelated to, normative dominance [Gruber 1998]. The contact hypothesis becomes more relevant where the empirical data is taken on the level and frequency of contact with men as opposed to occupational sex ratios [Kauppinen-Toropainen and Gruber 1993; Gruber 1998]. However, male-dominated workgroups complicate the contact hypothesis as both numerical and normative dominance happen to be present in these work situations; representing male preserves [Gruber 1997, 1998; Martin 1980; DiTomaso 1989] or masculine job gender contexts [Hulin et al. 1996]; creating a work culture that is an extension of male culture, thus heightening the visibility of, and hostility toward, women workers who are perceived as violating men's territory [Gruber 1998]. Ultimately, this may lead to extensive and aggressive forms of WSH not usually found in other workgroups [Stanko 1985; Martin and Jurik 1996]. Finally, researchers have used both qualitative and quantitative studies to demonstrate how numerical and normative dominance are interrelated and where do they diverge [Rogers and Henson 1997; Collinson and Collinson 1996].

Organizational culture represents the behavioral and cognitive norms of an organization [Hall 1994]. Therefore, horizontal organizational culture happens to be one of the major factors underlying the difference between the organizations with respect to the occurrence rate and  

30 Although a universal phenomenon, it happens to be a typical situation faced by many working women in Pakistan, who have to be on their guard so that they are not made to relinquish their workplace rights in favor of the subtle argument of social morality.
31 Consider, for example: a female salesgirl in a fast food restaurant in Pakistan who, working in an environment numerically dominated by males and also having more contact with men, is expected to experience more severe intangible WSH than her counterpart in a female beauty parlor, or in the section of a departmental store selling female/children garments and accessories. 
32 Empirical investigation in the engineering industry of Pakistan is expected to provide convincing evidence to support the contact hypothesis.
severity level of WSH [Kauppinen-Toropainen and Gruber 1993; Hulin et al. 1996; Pryor et al. 1993]. Gutek (1985) holds that unprofessional or disorganized ambiances, such as antagonistic relationships between coworkers would increase the likelihood of WHS for female employees. Moreover, organizational cultures that tolerate WHS are observed to have a higher prevalence rate of such incidents [Hulin et al. 1996; Pryor et al. 1993]. In contrast, proactive WSH policies targeting the organizational culture through training sessions help reduce the incidence to a minimum [Gruber 1998].

Technical landscape of an organization, such as task characteristics and interaction within the social organization of work is another organizational aspect highlighted in the literature for studying the incidence of WSH [DiTomaso 1989; Kauppinen-Toropainen and Gruber 1993; Lach and Gwartney-Gibbs 1993]. Alienating work conditions, such as physically demanding or repetitive jobs, may be partly responsible for men’s infliction of WSH on female coworkers in the jobs traditionally identified with the males: researches suggest that WSH may be considered an attempt to forge human contact and to overcome boring work [Hearn and Parkin 1987; Hearn 1985]. On the other hand, men inflicting female employees with WSH may as well be an act of resistance that demonstrates opposition to women's presence in traditionally male jobs [Miller 1997]. The literature on engendered processes of organizations and doing gender also provides useful perspectives on how the technical organization of work is connected to WSH [Acker 1990; West and Zimmennan 1987; West and Fenstermaker 1995]. For example, the deferential behavior of temporary workers, stemming from the feminized and powerless status of their job, increases workers' vulnerability and potential for experiencing WSH [Rogers and Henson 1997; Folgero and Fjeldstad 1995].

Sociocultural models of WSH [Gruber and Bjorn 1986; Tangri et al. 1982] reflect a strong feminist perspective. In these models, WSH is considered still another reflection of women's lower societal status relative to men and the salience of women's gender role over their work roles [Gutek 1985]. Conceptualized in this way, WSH emanates from power differences between men and women at the sociocultural level and functions to maintain these differences at the organizational level [Hoffman 1986]. This explanation of WSH, therefore, fits with the feminist or dominance model that traces back the origin of the phenomenon to the patriarchal society [MacKinnon 1979; Cockburn 1991; Stanko 1985; Rospenda et al. 1998, Padavid and Orcutt 1997]. The sociocultural model also emphasizes how individual-level correlates, such as age and marital status, mediate women's low status and lack of socio-cultural power [Kauppinen-Toropainen and Gruber 1993; Padavid and Orcutt 1997]. For example, single women and young women are considered in these models to face higher risk of WSH [Gruber and Bjorn 1982; Lafortaine and Tredeau 1986].

Finally, a highly convincing, though unconventional, theoretical construct is presented by Basu (2003) who appears to advocates stringent and clear WSH laws by identifying the social impact
of the phenomenon within a simplified economic model. The author considers the principle of free contract, based on the economic arguments of Pareto optimality and consumer sovereignty, as one of the sources of WSH. He maintains that, given the heterogeneity among human beings, some women will agree to work for lower wages if provided with the guarantee of no WSH, while other may relinquish the right to protection, even where it exists under the law, in return for higher wages.\textsuperscript{53} The author concludes that keeping in perspective the negative externality of a large number of latter cases that a single such case or a small number of such cases may encourage, the arguments of Pareto optimality and consumer sovereignty are deductively invalid.\textsuperscript{54} Therefore, WSH is not socially permissible, hence the society should not tolerate it even where a woman freely exchanges her legal right of protection against WSH with commensurate economic return. Interestingly, the economic approach appears to provide a more widespread interpretation of what constitutes the harm of WSH.

\textit{III.}

The history of civilization may well be considered the history of positive laws. \textit{Right doing} of positive laws has universally been a challenge unmet, both in sociology and technology, more so in the former which inevitably involves interpersonal welfare comparisons underlying the grey areas. Moreover, formal sociological laws have always and everywhere been subject to gross misinterpretations, politely called lacunae,\textsuperscript{55} hence the difficulties inherent in the law against WSH.

The UN Special Rapporteur has noted that the criminalization or the legal prohibition of WSH is inadequate in assisting victims of violence. The Rapporteur underscores the importance of establishing procedures for redressing individual cases of WSH [Coomaraswamy 1997].

The International Labor Organization (ILO) recognizes sexual harassment as the violation of fundamental human rights and an unacceptable working condition constituting problems of safety, health, violence and discrimination. Although relevant bodies of ILO interpret WSH as a form of sex-based discrimination, it does not happen to be a part of any of the binding International Conventions of the Organization. Moreover, none of the core labor standards of ILO specifically refer to WSH. That said, ILO Committee of Experts considers WSH to fall within the scope of the ILO Discrimination Convention, 1958, (no. 111), one of the eight

\textsuperscript{53} Basu (2003) discusses a special case where a firm, either by virtue of its reputation for harassment or by writing down an explicit contract, ensures that a potential employee knows that she will be sexually harassed on the job. If she nevertheless accepts the job, then, by the principle of free contract, there seems to be no economic case for legally stopping such a contract.

\textsuperscript{54} The author maintains that free contracts in this case are considered to cause negative externality since they help limit the WSH laws to legal provisions which are not cognizant of the losses of those who are not harassed because they may have taken otherwise inferior jobs, where there is assurance of no harassment or have remained unemployed.

\textsuperscript{55} At this point, the author of this paper is reminded of a riddle appearing in the \textit{Economist} a few years back: What would you say to six lawyers buried in the sand up to their necks? Answer: not enough sand!!!!!!
fundamental conventions that form the basis of Organization’s Decent Work Agenda [ILO 1992].

European Commission adopted a recommendation on the dignity of women at work in 1991. The fundamental feature of European Commission’s definition lies in its emphasis on the violation of workers’ dignity, as imposed to simple sex discrimination. The Commission also considers sexual harassment to be a form of workplace misconduct, meaning that employers have a responsibility to deal with it as they would with any other form of organizational behavior considered as misconduct. The code, however, is neither binding nor enforceable [Bajema and Timmerman 1999]. That said, the dignity of women at work is fast becoming a guiding principle elsewhere for regulating the new international political economy. For example, for the first time the beneficiary countries of the Generalized System of Preferences (GSP) are required to prohibit the discrimination with respect to employment and occupation if they are to export goods to the US. This initiative has earned widespread currency as a step in the right direction to discourage the most serious form of discrimination previously overlooked in the labor rights standards, i.e., the sexual abuse and harassment of women in the export oriented industries of the developing countries.56

As a legal concept WSH happens to be a young phenomenon, less than 30 years old [Basu 2003]. Husbands (1992) presents a comprehensive account of sexual harassment law in different nations. United States has played a pioneering role in curbing WSH and the American law has been a model to many nations. As discussed earlier in Part I, the key to US legislation has been to view WSH as a form of sex discrimination in employment [MacKinnon 1979; Schultz 1998; Crouch 2001; LeMoncheck and Sterba 2001).

The evolution of WSH law in the American courts set the precedent for similar measures elsewhere. Other than US, six of the 23 developed countries surveyed by ILO in 1992 were having specific laws on sexual harassment: Australia, Canada, France, New Zealand, Spain and Sweden.57 Other developed countries cover WSH under labor, tort and criminal law [ILO 1992]. 58

56 However, this initiative ought not be viewed in isolation from the employment problems in the OECD countries, largely caused by the transfer of labor intensive jobs to the developing countries through trade and Foreign Direct Investment (FDI) in a global village. Within this perspective the comparative advantage of the developing countries, their abundant labor, is being labeled as unfair advantage emanating from exploitative employment, hence goes the international discourse on ethics engineered by WTO.

57 Australia, Canada, Denmark, Ireland, New Zealand, Sweden, the United Kingdom, and the United States have equal employment opportunity laws. The framework of equal opportunity laws is specifically applicable to WSH, with the employer liable if failing to provide an environment
In India, in 1997, the Supreme Court recognized WSH as a violation of human rights. Its landmark judgment outlines a set of guidelines for the prevention and redressal of women's complaints of WSH. In 2000, Bangladesh declared WSH an offence punishable by law under Section 10 (2) of the country's Act [Siddiqui 2003]. Many other developing countries including Hong Kong, China, Malaysia and Pakistan are also in the process of issuing an increasing number of guidelines and codes on WSH to help pave the way to legislation.

Development of sexual harassment laws as pioneered by the US were shaped by consideration of discrimination in employment opportunities for women. However, a major contention revolves around how adequately or effectively claims of sexual discrimination capture all forms of WSH. Even in US, interpretation of Title VII based sex discrimination relies on the mindset of individual judges whose subjective perspective on culturally appropriate standards of femininity determine whether or not a given situation is judged to be discriminatory toward women. Therefore, any definition of harassment must encompass much more than the discrimination engendered therein [Siddiqui 2003].

In developing countries like Pakistan, WSH does not lie in isolation from many other tangible and intangible forms of gender discrimination and harassment. Work environment extends much beyond the workplace for many of the working women, especially for those at the lower rungs of social hierarchy, who have to walk their way to work and back home on a tight rope through free of discrimination based on the sex. In addition, the victim can claim compensations from the employer.

Nearly all of the developed countries have labor laws covering quid pro quo sexual harassment. The main limitation of the labor laws is that they do not cover situations outside the workplace. A tort on the other hand is a legal wrong for which the court can provide a remedy, usually monetary damages. It is a non-contractual judgment used in WSH cases on the ground of mental anguish, negligence, etc. Tort law has been applied to WSH in Japan, Switzerland, the United Kingdom and the United States. Finally, criminal laws are the most comprehensive since they hold the accused liable regardless of context or place of harassment. The disadvantage of this approach is that there is no compensation for the victim, no employer liability and no consideration of the discriminatory aspects of harassment at the workplace. France is the only country that has passed a criminal law related to sexual harassment, although some criminal laws in other countries may apply to extreme cases of sexual harassment such as assault or indecent behavior.

58 The Hindu, October 20, 2006.
culturally embedded and highly engendered spatial and behavioral routes. Hence the root causes of harassment cannot be eliminated without transformation in social attitudes toward women, especially toward poor working women. Therefore, An understanding of specific predicament of working women in developing countries calls for a broader definition of WSH. The existing WSH laws are not considered adequate even in countries where the working women do not have to confront work related harassment beyond the workplace, also their extent of job security, general work environment and individual economic circumstances cannot be even dreamed of by many poor working women in South Asia.

Conclusion

In the wider economic sense, WSH is a human resource management issue, though it essentially involves the human rights and labor rights arguments. What constitutes WSH may differ across time and across nations. Therefore, different societies may wish to draw the line in different places. Although every society ought to provide legal protection against WSH, it is important that relevant interventions unearth and synergize the underlying economic, social and cultural undercurrents. The WSH regulation can influence a host of economic parameters in South Asian countries where labor happens to be the only resource providing comparative advantage, especially under the new international division of labor which is moving labor intensive jobs from North to the South.

More importantly, given the socio-cultural milieu of countries like Pakistan, no procedure will work unless the working women are ensured of protection from retaliation: the widely prevalent lack of documentation in the organizations and the ease with which workers can be dismissed are directly associated with the vulnerability and powerlessness of individual workers, more so when

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61 According to Sennett (1973), Sexual harassment not only reveals gender vulnerabilities, but also the hidden injuries of class.

62 Siddiqui (2003) considers predominantly male space between the workplace and the home a most dangerous site for the working women in Bangladesh. According to her, no unescorted woman who appears in public/male spaces like the street, especially after dark, can have a legitimate business at hand since the individual man’s sense of entitlement or right to regulate all women’s mobility and sexuality encourages and legitimizes sexual harassment on the street.

63 Under Title VII of US, tying up of sexual harassment with sex discrimination has played an important role historically. However, it is now being considered a hindrance. The literature provides support for strong laws to prevent discrimination and strong laws to prevent harassment. The researchers argue that it would be unfortunate if the only way to establish sexual harassment is to categorize it as a form of discrimination, because this approach raises a number of problems [see, Abrams, 1994; Hajdin, 2002].
they happen to be women. Also, the frequency of pressing charges of WSH may not be independent of the awareness that it is notoriously difficult to prove allegations of WSH even under best of the circumstances.

Nevertheless, in a labor abundant, job scarce and low wage economy the trade-off between the opportunity to work and improved conditions at work is constantly present. The regulatory challenge therefore is to balance out the opposing interests. A shortsighted and poorly worked out solution may backfire and further compromise the welfare of the most exploited and vulnerable sections of the population.

Finally, the social-scientific bases for WSH have never been investigated in Pakistan. Despite a large body of literature on women issues in the country, WSH as a specific issue has not been addressed by the researchers. In order to better understand WSH, researches should be carried out on different management practices, organizational cultures of diverse workplaces and on male attitudes toward working women employed at all rungs of organizational hierarchies.
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