

# STREET HARASSMENT

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‘Street harassment’ is a form of harassment. Primarily, sexual harassment, is use of unwanted comments, gestures, honking, catcalling, touching by strangers in public areas such as; streets, shopping malls, public transportation and rape.

This study attempted to understand street harassment in Sri Lanka. Interviews were conducted using women between the ages of 18 and 50 years to understand the nature of harassment they faced.

Street harassment can be recognized as a form of discrimination against women. It is questionable whether there are adequate laws in Sri Lanka to overcome the issue of street harassment in order to safeguard women’s rights.

The researcher seeks to assess both quantitative and qualitative data. References have taken from the Penal Code of Sri Lanka and United Nations Convention on Elimination all forms of discrimination against women (CEDAW).

There is a law for major offences such as Rape and Sexual assault. There is a difference between sexual harassment and street harassment. Sri Lanka has Section- 345 on sexual harassment but there is no specific section on Street harassment.

Street harassment limits the freedom of movement of women and causes gender inequality which is fundamental rights guaranteed under Article-14(h) and Article-12(2) respectively under the 1978 constitution of Sri Lanka.

This Article is based on the Feminist approach. Therefore, only women were considered for the sample.

The questionnaire has ended with multiple questions to find the responses of women who have experienced street harassment. Apart from the questionnaire the Penal Code(Amendment) Act No: 22 of 1995 of Sri Lanka, Vagrants Ordinance of Sri Lanka, and Articles-12(2), 14(1)h of the Constitution of the Democratic Socialist Republic of Sri Lanka and International Standards such as the United Nations Convention on elimination all forms of discrimination against women (CEDAW) are analyzed through this.

Some women refused to give the true picture on street harassment which they have experienced.

Section-345 of the Penal Code (Amendment) Act No: 22 of 1995 introduced the offence of sexual harassment. This amendment is a great step forward because it has identified sexual harassment as a criminal offence.

Whoever, by assault or use of criminal force, sexually harasses another person, or

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by the use of words or action causes sexual annoyance or harassment to touch other person commits the offence of sexual harassment and shall be convicted and be punished with imprisonment of either description for a term which may extend to five years with fine or with both. They may also be ordered to pay compensation of an amount determined by court to the person in respect of for whom the offence was committed for the injuries caused by such person.

Explanation (1) unwelcome sexual advances by words or action used by a person in authority, in a working place or any other place shall constitute the offence of sexual harassment.

Explanation (2) for the purposes of this section, an assault may include any action that does not amount to rape under section-363.

This is a criminal offence. The burden of proof is high, and the harassers' action should be proved beyond reasonable doubt.

Moreover, attention should be drawn to the term 'Authority' which gives the idea on Police, Armed Service Personnel, School Officials, and Medical Officials. But in this Article; street harassment is identified as verbal and physical harassment done by strangers' in public street and not by any particular authority.

Such interpretation cannot be established through this provision and the stranger's actions are hard to prove beyond reasonable doubt. The term 'any other place' is ambiguous. 'Ejusdem generis' can be applied.

In the case of *Powell V Kempton Racecourse (1899)* The Vagrants

Ordinance can also be applied regarding street harassment.

According to Section-3(1)(e) of the Ordinance; Every person who upon any wharf, jetty, street, road, walk, passage, verandah or other place situated within any proclaimed area and used by or accessible to the public, persistently and without lawful excuse follows, accosts or addresses by words or signs any person against his will and to his annoyance shall be deemed an idle and disorderly person within the true intent and meaning of this ordinance, and shall be liable upon the first conviction to be imprisoned, with or without hard labor, for any term not exceeding fourteen days, or to a fine not exceeding ten rupees.

In this section it is clear that 'streets' are explicitly addressed. Also, the maximum fine is only 10 rupees, which would not suit the modern situation. Therefore, Vagrants ordinance is outdated and inadequate to remedy the issue of street harassment.

Article-12(2) of the Constitution of Sri Lanka entails 'No citizen shall be discriminated against race, religion, language, caste, sex, political opinion place of birth....'

Apart from that; in comply with Article-14(1) the freedom of movement and of choosing his residence within Sri Lanka is a guaranteed fundamental right. Right to equality and freedom of movement has been violated through street harassment.

The convention on the elimination of all forms of discrimination against women is the primary international mechanism in respect of protection of women's rights. Since Sri Lanka is a signatory party to the convention, there is an obligation to ensure

that rights of women are protected and promoted within the country.

Article-2 of the convention on the elimination of all forms of discrimination against women (CEDAW) requires states to 'pursue by all means and without delay a policy of eliminating discrimination against women' which expect the duty to refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation and take all appropriate measures including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women.

CEDAW created an impact on the National Policy of Sri Lanka. The Women's Charter was adopted and accepted as the government's policy document on women.

It guarantees; political and civil rights, rights within the family, right to education and training, right to economic activity, right to healthcare and nutrition, right to protection from social discrimination and right to protection from gender-based violence.

The recent case on Wariyapola incident made an environment to address this issue. A girl was cat called by a young man in a public street and she slapped him. The video on girl's reaction became famous in social media and it created a fear among men and in return was a motivation for women to stand against their rights.

Professor "Savithri Goonesekare", had made an important point on this issue.

There is a serious breakdown of the hierarchy of institutions. When talking about this incident; the police made a rather illogical response.

They should have first taken the complaint and listened to both parties and then taken some action. The girl was not given an opportunity to respond. I'm not trying to justify her actions but then again, it is illogical. Also, this video was found on social media and you never know whether there are any technological manipulations. It's in the hands of the police to make a detailed inquiry, but they failed to do their job. In the United Kingdom; there are number of specific laws which make street harassment illegal.

Section-5 of the Public Order Act 1986 states; A person is guilty of an offence if he;

- a) Uses threatening, abusive or insulting words or behavior or disorderly behavior.
- b) Displays any writing, sign or other visible representation which is threatening, abusive or insulting.

The maximum penalty is a fine. In Egypt, five years in prison and a fine of EGB 50,000. Following findings were revealed through the questionnaire.

The answers to the statement 'What type of street harassment have you experienced frequently?' 52%, 12%, 2%, 12% 8%, 14% have experienced catcalling, whistling, leering, stalking, groping, and public exposure respectively.

The answer to the statement is 'What were your reactions?' 77%, 10%, 12%, 1% have ignored, verbally responded, sought help from by standers or physically responded.

The answers to the statement is 'Did you receive assistance from the others (by-

standers)? 65% responded 'Yes' and 35% responded 'No'.

88% of women from age 18 – 50, 12% from 36 – 55 experience street harassment. 45% stated that police were inattentive, 12% stated that they advised the harassers when they are brought to the police, 10% stated that they humiliated them for complaining such incidents, 33% agree that police rendered assistance to overcome their bad experience. The answers to the statement what were your inner reactions? 73%, 10%, 0.1%, 16.9% have felt annoyed, angry, happy, and disgust respectively.

Response to the statement 'Does your way of dressing induce harassers?' 96% agreed that the dress has no impact on the harassers while 4% stated that the dress induces harassers.

Responses to the statement 'what are the personal barriers you have imposed on yourself to avoid street harassment?' 8% try not to go alone, 32% wearing my favorite types of clothes, 48% try to avoid going in Public Street in certain times and 12% change their route. 90% of women experience harassment on daily basis and also it was revealed that majority of males of age 16-35 engage in street harassment.

Through the questionnaire it was revealed that most men of age 16-35 engaged in street harassment and most common type of street harassment and the most common type of street harassment is catcalling (52%) and whistling (12%). Most women of age 18-50 had become the victims of such harassments. Moreover; it was revealed that most of their responses were ignored by such men. Even if they ignore such harassment, women commented that they feel angry and disgust towards such

harassers. 90% women experience harassment on daily basis and the interesting fact is that they mentioned harassment is treated as a 'normal' experience by them. Furthermore, it was stated that they try their best to act 'neutral' on such occasions because there is no remedy to avoid such harassment. The important fact to be noted is that majority of women agreed that they are being insulted by men for the fact that they are women. Moreover, they insisted that they feel unsafe, uncomfortable and insecure when they experience street harassment.

Also, few men of 0.1% have felt happy on the comments passed to them by men. According to this analysis most harassments fall into the category of verbal and certain action-based harassments. Also 98% women see street harassment as a social menace. Several women have gone through psychological trauma and as a result they tend to change their routes and routines frequently. In fact, they feel fear about men in public streets. Furthermore, women said that men engage in such harassment because they don't feel any fear to harass women mainly because of their mentality on 'Masculinity' and they do not feel fear because of the fact that no legal actions are being taken to remedy the issue. This was revealed from the statements given by women and most of the women agreed that police were totally inattentive when they complained about their situation and that some police officers humiliated them for complaining on such experience of harassment. Apart from that they also argued that some police officers have mentioned that there is no law to address street harassment.

Therefore, it is evident through the given responses that street harassment is a serious issue that should immediately be addressed. Men treat women as 'objects' to release their inner frustrations and more importantly since there is no remedy men do not feel fear or rather there is no deterrent effect that has been created within the society. When the laws are lenient men try to gain unnecessary advantages from such lenient laws therefore, proposed civil remedy will be helpful in addressing this social menace of street harassment.

The following are some of the comments given by women of age 18-50.

'I have been told worst things that can ever imagine and that no one should ever be heard' (Respondent Age 26).

'A guy last week catcalled at me, and I verbally responded him loudly when I walked by, I yelled at the top of my lungs and nearly 10 people turned around as he slinked away embarrassed. It made me react in this way because once complained about a harasser to the police they didn't even care about me I felt sorry for being a girl' (Respondent Age - 20).

From the above responses it is clear that women undergo serious violations of their right to movement and right to equality. What is more surprising is that the law enforcement authorities themselves show their attitudes of 'Masculinity' towards women and it undermines the dignity of women. She reacted in such an aggressive manner because her previous situation was not remedied. It is quite obvious that the comments itself has anger and annoyance and they believe that males do not respect females in the society. 'When I walk alone,

people have whistled; this has happened to me every day and at many times. However, I do not react on such occasions, I rather avoid such people. Whistling and catcalling would not stop. The best remedy is just to ignore them, nobody cares about the embarrassment we go through she said' (Respondent Age- 18).

'I go to Pettah to buy essential household items. Obstructing my way and whistling are common. The best thing is to avoid such harassers and avoid eye contact. What we wear has nothing to provoke men to whistle at women. Even if you are fully covered catcalls would not stop. We have to deal with these things in day-to-day life. Actually, we are helpless in this respect she said. (Respondent-34). The worst thing I have experienced is, that a stranger followed me for several days. Even after I shouted at him, he fearlessly stalked me. He stopped that on the day I sought help from others (Respondent- 25).

'Once I was indecently touched by a man and I immediately went to the police officer who was there close by and he thoroughly advised the harasser, but this unaccepted behavior has become a habit of men (Respondent- 30).

The prevailing law is not adequate to address this issue and there is no legal redress for them. Women act in aggression to release their inner pain and this might have adverse results. With the wide usage of social media certain campaigns are carried out to remedy the issue of street harassment. Some upload photos of harassers and those are being shared through social media. This creates more complicated issues and such acts violate certain ethics and it amounts in violations of rights of the harasser in return. It was

revealed that such acts are done by young women because law does not provide any remedy for street harassment and that women are being discriminated everywhere.

The above quoted responses give a strong message to the society and to the law making and law enforcement authorities to address and remedy the inadequacies in the prevailing legal system on the issue of street harassment and the proposed civil law remedy will pave the way to control the unaccepted behavior among harassers in public streets.

The prevailing law on such harassment is fragmented and scattered. Therefore; the author seeks to propose a civil remedy for street harassment to overcome the issue with the aim of creating deterrent effect. In order to establish a civil law, remedy the harassments that occur in streets such as; catcalling, leering, shouting, whistling, blocking the path, groping, stalking, public exposure assault, rape should be categorized into sectors. For that the basic rights such as freedom of movement, equality should be combined to come up with a wide interpretation to address street harassment.

Verbal harassment such as catcalling and whistling is hard to prove, and it is hard to convict the perpetrators. But the harassments have done by men directly results in discriminating women and embarrassing women in public streets and it determine the dignity of women. The offences are hard to prove yet the gravity of the negative impact on women are high, but due to the difficulty in gathering proof author seeks to categorize the mentioned offences as minor offences. Moreover; the

harassments such as; stalking, groping, indecent touching, public exposure that occur in public streets can be proved when compared with minor verbal harassments. In fact, the mentioned acts or physical conduct can be categorized as medium scale offences and evidence of eyewitnesses and by standers can be gathered to punish the harassers when such actions are done. However, the offences such as Rape and Assault are identified as criminal offences under the Penal Code of Sri Lanka.

Therefore; the author intends to propose the civil remedy to the category of minor and medium scale harassment. The words of such laws should be drafted in a manner in which it includes both verbal, physical as well as minor and major harassment. Since the verbal harassment is hard to prove the focus should mainly be on medium scale harassment. The demarcations as minor and major scale harassments are distinguished only for the purposes of gathering evidence and there should be no distinction on the imposed punishments in instances where verbal harassments can be proved.

Moreover; spot fines, fines and compensation and a maximum imprisonment of six months can be imposed. It is evident that criminal charges are hard to impose in these instances even though the gravity of the harassment is high due to the difficulties in gathering evidence regarding strangers.

Since this is an area where there is less attention but need more attention the responsible authorities should consider about establishing a new law which would address street harassment. Once a law is

introduced, responsible authorities should be given law enforcement training.

In conclusion; therefore, it is clear that women's rights and their fundamental rights are deprived and discriminated based on their gender, because of the patriarchal society and men's attitudes.

Civil redress has to be implemented. Law enforcement training should be given to police authorities and the police code of conduct should be practically enforced and they should be trained to respect the dignity of women. Also, the stereotypical attitudes of the patriarchal society should be changed. 'Blue for boys' and 'Pink for girls' concept should be changed. However; law is the major fact that should be considered to protect women from street harassment.

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