

Navigating Sexual Harassment: A Critical Analysis of UGC Regulations, 2015

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Abstract:

“The meaning and content of the fundamental rights guaranteed in the Constitution of India are of sufficient amplitudes to encompass all facets of gender equality...” Late Chief Justice J.S. Verma, Supreme Court of India, Vishaka v. State of Rajasthan ¹

The right to work in a safe workplace is every woman's legal right. However, this fundamental right of a woman is violated when she is subjected to any form of harassment at her workplace including sexual harassment, seriously impacting her physical and emotional wellbeing.² With the aim of addressing sexual harassment, University Grants Commission issued regulations in 2015 on university campuses. University Grants Commission examines the role of higher education institutions, administrative bodies and student community in promoting a culture of gender equality by adhering to these regulations to know the actual situation after the formulation of regulations, the challenges faced by the formulation of these regulations, their provisions and their impact on creating a safe environment in which female students and staff feel safe. The aim of this research paper is to contribute to the ongoing efforts to promote a supportive campus environment on combating sexual harassment in higher education institutions by comprehensively analysing the UGC Regulations 2015 regarding sexual harassment.

Keywords: Sexual Harassment, UGC Regulations 2015, Higher Education, Gender Equity, Institutional Practices.

Introduction

Sexual harassment of women at workplace is prominent issue in India. Lots of women have been experiencing such harsh reality in society. In simple words, sexual harassment at workplace is an or a pattern of behaviour that compromises of any unwanted actives which makes women uncomfortable and insecure.³

3.56, Manu smriti also declares that women must be respected and "where women are admired, there the gods rejoice but where they are not, no rite carry any fruit".⁴

The University Grants Commission (Prevention, Prohibition, and Redressal of Sexual harassment of Women employees and students in higher Educational Institutions) Regulations, 2015 were issued by the Ministry of Human Resource Development (University Grants Commission) on May 2, 2016 in exercise of the powers handed by clause (g) of sub-section (1) of Section 26 and sub-section (1) of Section 20 of the University Grants Commission Act, 1956. These Regulations apply to all higher educational institutions in India.⁵

Vishakha Guidelines

1. Employer or other answerable persons are bound to preclude such incidents from happening.⁶ In the event of happening of such incidents the organization must consist of mechanism to provide conciliatory and protectionary facilities.
2. **Definition** – For this purpose “*Sexual harassment*” means disagreeable sexually determined behaviour direct or indirect as:
 - a. Physical contact and advances;
 - b. A demand or request for sexual favours;
 - c. Sexually coloured remarks;
 - d. Showing pornography;
 - e. Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.⁷
3. Every employer other than providing services under (1) is under an obligation to
 1. Expressly notify the prohibition of sexual harassment
 2. The rules/regulations of govt. & public – sector bodies must include rules/regulations prohibiting sexual harassment.
 3. The Standing Orders of the private employer made under Industrial Employment (Standing Orders) Act, 1946 should include such provisions to prohibit sexual harassment.
 4. The working conditions must be appropriate and not hostile to the woman employees of the organization. Further, the female employees should feel a sense of equality in the atmosphere.
4. When the offences committed are the one discussed under Indian Penal Code or any other law, the employer is bound to start the prosecution with complaining to appropriate authority. Further, the employee must provide the victim all sort of protection while dealing with the complaints.
5. Appropriate Disciplinary Action shall be taken in case there is a violation of service rules.
6. Irrespective of the fact that the particular act constitutes an offence under IPC or any other law, the organization must have a redressal mechanism to deal with it.
7. The Complaint Committee must be headed by a woman and not less than half of the members must be woman. For further assistance the committee shall also include NGO’s or someone aware with such issues. The committee must be adequate in providing relief to the victim with appropriate counselling facilities. An annual report shall be submitted to the govt. by the committee informing the former of the development regarding the said issue in the organization.
8. An employee-employer meet shall be arranged where the workers shall be allowed to raise issues of sexual harassment.⁸
9. The employer shall take adequate steps in order to spread awareness about the social evil.⁹

Background of the UGC Regulations, 2015

As the University Grants Commission Regulations are statutory in character, they apply to all institutions and universities across the state. The institutions can use a variety of measures to ensure that scholars are apprehensive of the requital medium as well as the applicable people to communicate and report problems. Reporting circumstances of sexual harassment can be done in a variety of ways similar as posting notices on bulletin boards, establishing complaint boxes in fluently accessible areas across the lot, posting anti-sexual harassment rules on the council website, and emailing scholars and workers. This composition provides an overview of this Regulation and the possible future it holds in a nation like India where sexual harassment has come common parlance.

UGC formed a task force in which it gave a questionnaire to the higher education institutions of the country in which they had to answer questions related to sexual harassment and women's safety in their educational institutions, but apart from South India, no state showed interest in answering them and the worst situation was in Uttar Pradesh in which only two universities answered them. They did not give any clear answer about women's safety and lack of awareness was found in them for that. In the task force of UGC, an open forum was formed to talk to the students in which male and female students were talked to, in which it was found that some male and female students openly talk about women safety and they are also aware of the complaints for it, whereas some male and female students feel shy in talking about women safety or sexual harassment and some teachers say that there is no need to form ICC because as soon as the complaint is made, they themselves settle the matter on the same day, whereas some teachers recommended to bring a committee in their higher educational institution so that there are minimum complaints and every female student can know about her rights and she can do her teaching work freely because if a woman or a man who is studying in an educational institution is aware about this, then in the future also he will neither exploit anyone himself nor will see anyone being exploited in front of him nor will he himself become a victim of it.¹⁰

Need of Addressing Sexual Harassment in Higher Education

The need of UGC Regulation 2015 is that the number of female students and employees in the university is constantly increasing due to which the cases of sexual harassment against them are also constantly increasing. It is unfortunate that the woman who contributes to the economic and political development of the country has to become a victim of sexual harassment in her workplace or educational institution due to which she is not able to do her work independently. Female students also have to suffer from their own male research supervisors. If they do not work according to them, then there is a fear of stopping their teaching work. It has become a common thing for female employees to be harassed by co-teachers and they do not even report it because they feel apprehensive about their future due to the presence of their senior officer in the committee. Due to which UGC Regulation 2015 was prepared in 2015 as part of the POSH Act, specifically addressing the cases of sexual harassment.

The University Grants Commission (UGC) has released a notification directing higher educational institutions (HEIs) to take necessary steps for making students aware about the implementation of the UGC Student Grievances Regulations, 2023. The regulations aim at creating a fair and responsive academic environment in the universities.¹¹

Overview of UGC Regulations, 2015

As part of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and redressal) Act, UGC Regulation was passed in 2015 to prevent sexual harassment of female students and employees in colleges and universities, the objective of which was to provide protection to female employees and students from sexual harassment. The regulation includes victim women trainer, employee, teacher, student, supervisor scholar and executive authority. The regulation includes every place of the university in the campus. If a female employee goes out for teaching work or a student from outside comes to the university or college for teaching work, then the place of transport traffic will also be included in the campus. There is a provision to publicize the guidelines on the UGC Saksham portal and to form an ICC in which a female officer will preside who will not be of a level lower than a professor or associate professor and if the matter is related to students, then three students will be there, first undergraduate,

second post graduate and the third student will be a research scholar. Regulation 3 has provision regarding the liability of every educational institution and provision of zero tolerance policy in the university has been made.¹²

Review of UGC Regulations (2015):

The UGC Regulations of 2015 outline the procedures and mechanisms for addressing sexual harassment in educational institutions. These regulations mandate the establishment of Internal Complaints Committees (ICCs) in all colleges and universities to receive and investigate complaints of sexual harassment. The guidelines also specify the composition and functions of ICCs, emphasizing the importance of impartiality, confidentiality, and prompt resolution of complaints. Additionally, the regulations require educational institutions to organize awareness programs and provide support services for victims of sexual harassment.

Key Provisions and Requirements

- Regulation 3 of the UGC (Prevention, Prohibition and Redressal of Sexual Harassment of women employees and students in Higher Education Institutions) Regulation, 2015 lays down an elaborate list of responsibilities for the higher educational institutions to abide by.¹³
- The responsibilities that are provided specifically to the Internal Complaints Committee (ICC) have been embedded in Regulation 5 of the 2015 Regulation.¹⁴
- Regulation 6 read with Regulation 8 of the 2015 Regulation states that it is the obligation of the higher education institutions to provide all necessary facilities to the ICC in order to smoothen the process of investigation that the latter will be carried out expeditiously.
- Provisions against false or malicious complaints must be made and publicized within all Higher Education Institutions under Regulation 7 of the UGC (Prevention, Prohibition, and Redressal of Sexual Harassment of Women Employees and Students in Higher Educational Institutions) Regulations, 2015, to ensure that the provisions for the protection of employees and students from sexual harassment are not misused.
- Regulation 10 of the UGC Regulation, 2015 lists down the deterrents to be imposed on anyone found guilty of sexual harassment.
- Regulation 12 of the 2015 Regulation that deals with consequences of non-compliance of the provisions laid down by the Regulation of 2015, holds immense importance as it will be ensuring check and balance on the higher educational institutions' actions towards curbing sexual harassment of women employees and students in their respective territories.¹⁵

Challenges in Implementation of UGC Regulations, 2015

Perspectives of Students, Faculty, and Staff

Within the framework of UGC Regulation 2015, students, teachers and staff have a special role in dealing with sexual harassment because only with their cooperation can we get freedom from sexual harassment and it is these classes that face challenges related to sexual harassment in Higher Education Institutions.

Student Perspectives:

1. Students can view UGC Regulation 2015 from the point of view of their safety in the campus of Higher Education Institutions because there is a provision to form ICC to deal with sexual harassment in High-

- er Education Institutions as per the requirement of female students and employees.
2. Cameras and security provisions have been used at various places in the university campus for the safety of female students and employees.
 3. Students may lack faith in the implementation and effectiveness of the regulation to provide an accessible and fair redressal system.
 4. There is a lack of reporting among students and employees due to the fear of being removed from teaching or work. Students and employees are not aware of their rights because it has been seen that most of the students are not aware of UGC Regulation 2015, the main reason for which is lack of awareness.
 5. Due to the sexual harassment complaints made in the past not being resolved properly, other people also do not raise their voice against sexual harassment happening to them because they fear that they will not get justice either.

Faculty Perspectives:

1. Doubts Viewpoint Like students, faculty members can also see UGC Regulations as a positive step towards a safe educational environment.
2. If faculty lack proper training or support, faculty members may face challenges in balancing their role as teachers or judges in cases of sexual harassment.
3. If cases of sexual harassment in faculty come to the notice of society, there is a fear of their future reputation. Parents are afraid to send their children to the university campus.
4. Even false and baseless allegations can jeopardize the reputation of a higher education institution and people avoid teaching or working there.

Staff Perspectives:

1. Staff members, along with administrative and support staff, are the primary respondents to sexual harassment incidents and have a high level of awareness of the phenomenon.
2. Staff members are also informed about the students, staff and other members visiting the HEI campus, which informs the effectiveness of preventive measures and support systems.
3. Staff members face challenges such as bureaucracy and power dynamics within HEIs when advocating for victims. They experience pressure to prioritize institutional care for individuals involved in the aftermath of sexual harassment because they are often loyal to some authority but not to the workplace.

In conclusion, understanding the perspectives of students, faculty, and staff is essential for a holistic approach to addressing sexual harassment within educational institutions. By critically analysing the UGC Regulations, 2015, stakeholders can identify areas for improvement and work towards creating safer and more equitable campus environments.

IMPLEMENTATION SUGGESTION

1. **Training Program¹⁶:** Higher education institutions should have training facilities for female students and staff so that if students, teachers and staff become victims of sexual harassment, they can react immediately. And they should be able to know that they have been sexually harassed and they should also be provided information about the support services available to them related to sexual harassment.

2. **Investigation Process**¹⁷: When a complaint of sexual harassment is lodged, the person investigating it should be trained to conduct a prompt, thorough and fair investigation so that the rights of both the complainant and the accused are protected and no discrimination is done against anyone.
3. **Support Service**¹⁸: Support services should be provided by organisations for victims of sexual harassment, including legal aid and medical help, to help victims cope with the trauma and navigate the investigation process.
4. **Transparency and Accountability**¹⁹: Higher educational institutions must have transparent policies on sexual harassment, procedures, training programs and investigation results, information is easily accessible to victims, and accountability mechanisms ensure that sexual harassment complaints are effectively implemented.
5. **Collaborate with external agencies**: Sometimes, after a complaint of teacher harassment is lodged with a higher education institution, external agencies also get involved in the legal process in which the higher education institution is expected to cooperate with the external agency so that the victim can get justice without violating his rights.
6. **Awareness and sensitization programs**²⁰: It is very important to be aware about sexual harassment in Higher Education Institutions so that whenever there is sexual harassment with female students and employees, they can file a complaint on time and can take help of law and every Higher Education Institution should follow the Sun Star policy and they should make every student aware that there is no place for sexual harassment in Higher Education Institutions.

Overall, observance with sexual harassment guidelines and regulations is vital for make safe and complete learning environments where all individuals can thrive academically and professionally.

Conclusion

In conclusion, the UGC Regulations of 2015 represent an important initiative in addressing sexual harassment within educational institutions. This fact cannot be denied that despite the existence of laws on sexual harassment, sexual harassment cannot be controlled. These cases are increasing in higher education institutions even today. It is unfortunate that due to male chauvinistic thinking, women employees and students are still becoming victims of sexual harassment in higher education institutions. To stop sexual harassment, the university can only have policies to prevent sexual harassment. There are significant challenges that need to be addressed to ensure the effectiveness of sexual harassment. By critically analysing and identifying areas of improvement, UGC Regulations 2012 can play an important role in making the university campus a safe and inclusive environment for all members of the society so that no female employee or student is a victim of harassment.

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