

## TOPIC8: #ME TOO MOVEMENT AND ITS IMPACT ON INDIAN SOCIETY

**THE CONTEXT:** From last few weeks, series of revelations of sexual misconduct and harassment at workplace by women has rocked India.

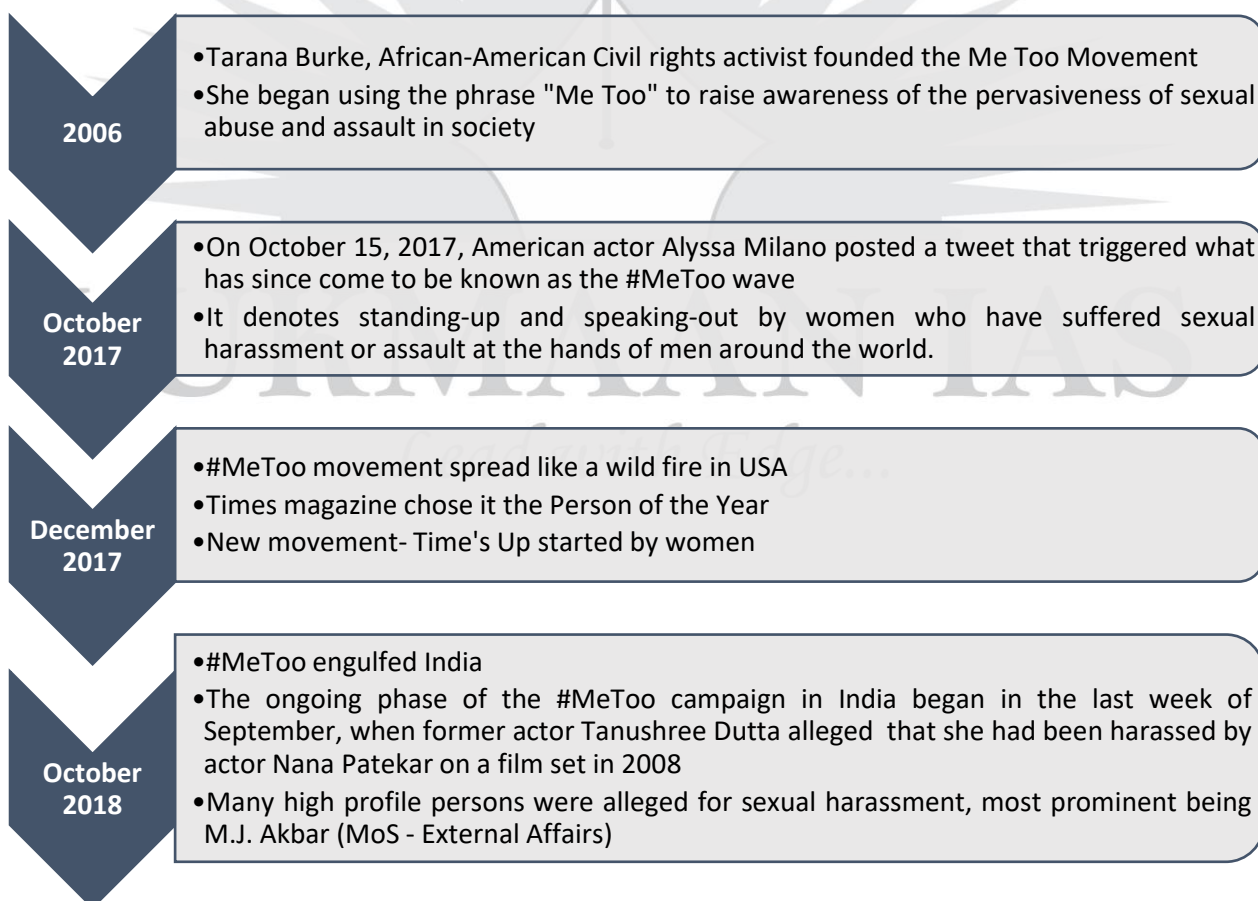
Women have spoken about their harrowing experiences by the mighty and powerful male individuals at their workplace.

As per 2013 Act, Sexual harassment includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication), namely:

- ❖ Physical contact and advances, or
- ❖ A demand or request for sexual favours, or
- ❖ Making sexually coloured remarks, or
- ❖ Showing pornography, or

Let's have a deeper look into the major issues highlighted by this movement and its impact on various sections of Indian society.

### TIMELINE OF #METOO MOVEMENT



### PROMINENT ISSUES HIGHLIGHTED BY #METOO MOVEMENT IN INDIA

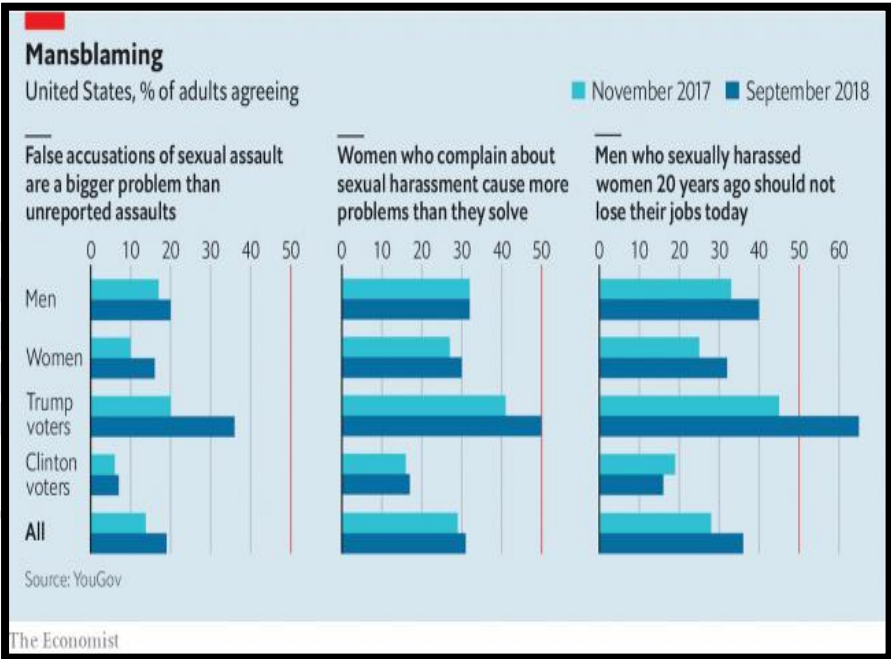
<p><b>Gender-Equal Workplace is still a Dream?</b></p>	<ul style="list-style-type: none"> <li>❖ #MeToo movement shows that women are highly vulnerable to sexual harassment at work place</li> <li>❖ Even after Vishakha Guidelines and Sexual Harassment of Women at Workplace Act,2013 --&gt; workplaces are still not gender-sensitive.</li> <li>❖ Absence of Internal Complaints Committee in most of the organisations</li> <li>❖ Superior-subordinate relations are being misused by the bosses</li> </ul>
<p><b>Patriarchy and Sexism in widely prevalent in Indian Society</b></p>	<ul style="list-style-type: none"> <li>❖ It shows the wide prevalence of patriarchy and sexism among all the sections of Indian society.</li> <li>❖ Women are suffering the sexual harassment silently</li> <li>❖ Social impunity of patriarchy that privileges class and social location to its perpetrators. The difficulty of fighting each case also depends upon the class, social and institutional location of survivors and complainants.</li> </ul>
<p><b>Failure of Due Process of Law</b></p>	<ul style="list-style-type: none"> <li>❖ Women who tried to get the redressal of their grievances had not get the justice from the system:                         <ul style="list-style-type: none"> <li>➔ Tarun Tejpal Case (even after fast-tracking the case, it is languishing from last 5 years)</li> <li>➔ R. K. Pachauri Case --&gt; Board of Directors of TERI had supported him in the beginning and only after huge hue and cry they took some action.</li> </ul> </li> </ul>
<p><b>Women have started breaking their silence</b></p>	<ul style="list-style-type: none"> <li>❖ #MeToo movement shows that time's up for the silent suffering of women</li> </ul>

**IMPACT OF #MeToo MOVEMENT IN INDIAN CONTEXT**

<p><b>Mainstreaming the Gender concerns at Workplaces</b></p>	<ul style="list-style-type: none"> <li>❖ #MeToo movement is making sure that employer needs to make their workplace more sensitive to women employee</li> <li>❖ Impetus to gender sensitization trainings</li> <li>❖ Internal Complaints Committees (ICCs) are being formed in many Organisations who had earlier avoided their formation.</li> <li>❖ Political parties and Bollywood/regional cinema industry is also being asked to form ICC.</li> </ul>
<p><b>Review of Govt Policies</b></p>	<ul style="list-style-type: none"> <li>❖ GoMs (group of ministers) headed by home minister Rajnath Singh to look into legal provisions against sexual harassment at the workplace, and to suggest amendments to the law, if necessary, to remove any infirmities.</li> <li>❖ The formation of the panel and the tight deadline of three months given to it for submitting a report reflects the government's concern over mounting allegations of sexual harassment, including in the entertainment and media industries.</li> </ul>
<p><b>Changing social values</b></p>	<ul style="list-style-type: none"> <li>❖ #MeToo movement has truly arrived in India and it will have an impact in not only making powerful men pay for their past mistakes but also etching a new behaviour code for everyone.</li> </ul>

	<ul style="list-style-type: none"> <li>❖ It is hitting the conservative attitude towards women which is not in-synch with the requirements of “New India”.</li> </ul>
<b>Deterrence effect</b>	<ul style="list-style-type: none"> <li>❖ This movement has also having a deterrence effects on the individuals of powerful sections of society.</li> </ul>
<b>Weinstein Effect (Domino effect)</b>	<ul style="list-style-type: none"> <li>❖ It can become the “tipping point” or “watershed moment”</li> <li>❖ More and more women from different sections are opening up about their ordeal</li> </ul>

**CHALLENGES**

<p><b>Counter Narrative</b></p>	<ul style="list-style-type: none"> <li>❖ #MeToo backlash is coming up with the counter narrative which is harming the #MeToo movement</li> <li>❖ As per the survey done by The Economist, support to #MeToo movement has dwindled a lot in USA over the last 1 year period:</li> </ul>  <p><b>Mansblaming</b> United States, % of adults agreeing</p> <p>Legend: November 2017 (light blue), September 2018 (dark blue)</p> <table border="1"> <thead> <tr> <th>Statement</th> <th>Gender</th> <th>November 2017 (%)</th> <th>September 2018 (%)</th> </tr> </thead> <tbody> <tr> <td rowspan="2">False accusations of sexual assault are a bigger problem than unreported assaults</td> <td>Men</td> <td>~15</td> <td>~20</td> </tr> <tr> <td>Women</td> <td>~10</td> <td>~15</td> </tr> <tr> <td rowspan="2">Women who complain about sexual harassment cause more problems than they solve</td> <td>Men</td> <td>~30</td> <td>~35</td> </tr> <tr> <td>Women</td> <td>~25</td> <td>~30</td> </tr> <tr> <td rowspan="2">Men who sexually harassed women 20 years ago should not lose their jobs today</td> <td>Men</td> <td>~35</td> <td>~45</td> </tr> <tr> <td>Women</td> <td>~25</td> <td>~30</td> </tr> <tr> <td rowspan="2">All</td> <td>Men</td> <td>~15</td> <td>~20</td> </tr> <tr> <td>Women</td> <td>~10</td> <td>~15</td> </tr> <tr> <td rowspan="2">Trump voters</td> <td>Men</td> <td>~35</td> <td>~45</td> </tr> <tr> <td>Women</td> <td>~25</td> <td>~30</td> </tr> <tr> <td rowspan="2">Clinton voters</td> <td>Men</td> <td>~5</td> <td>~10</td> </tr> <tr> <td>Women</td> <td>~5</td> <td>~10</td> </tr> </tbody> </table> <p>Source: YouGov The Economist</p>	Statement	Gender	November 2017 (%)	September 2018 (%)	False accusations of sexual assault are a bigger problem than unreported assaults	Men	~15	~20	Women	~10	~15	Women who complain about sexual harassment cause more problems than they solve	Men	~30	~35	Women	~25	~30	Men who sexually harassed women 20 years ago should not lose their jobs today	Men	~35	~45	Women	~25	~30	All	Men	~15	~20	Women	~10	~15	Trump voters	Men	~35	~45	Women	~25	~30	Clinton voters	Men	~5	~10	Women	~5	~10
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<p><b>Defamation Cases</b></p>	<ul style="list-style-type: none"> <li>❖ Biggest challenge comes from IPC 499 and 500</li> <li>❖ For example M.J Akabar and Alok Nath have filed the criminal defamation suite against the females who have spoken about them.</li> </ul>																																														
<p><b>Legal challenges</b></p>	<ul style="list-style-type: none"> <li>❖ Charges made online are Legally viable or not?</li> <li>❖ Problems With Limitation Period - In such cases, the issue that confronts the women happens to be the <i>periods of limitation</i> within which a court of law entertains either a criminal complaint or civil suit.</li> <li>❖ the 2013 Act provides the time limit of 3 months with-in which complainants must register their complain about sexual harassment.</li> <li>❖ periods of limitation under Section 354A of IPC for sexual harasssment is <b>three years</b>.</li> </ul>																																														

<b>No Political will to nab the offenders</b>	<ul style="list-style-type: none"> <li>❖ Time taken by govt in taking decision about M.J. Akbar and comments of various politicians shows that there is no political will to support this movement.</li> </ul>
<b>Limited to upper strata of society and few sectors only</b>	<ul style="list-style-type: none"> <li>❖ Most of the cases are limited to upper class educated women living in metro cities</li> <li>❖ Most of the cases are coming from the industries like Media, Entertainment etc only.</li> </ul>
<b>Stereotyping the women who are coming forward</b>	<ul style="list-style-type: none"> <li>❖ Similar to the trend noticed in USA, in India also many people are stereotyping the women who are breaking their silence as:                     <ul style="list-style-type: none"> <li>-&gt; Why they were silent from so many years.</li> <li>-&gt;They are making false allegations for their personal benefits</li> </ul> </li> </ul>

**CRITICISMS**


<b>Fake Allegations</b>	<ul style="list-style-type: none"> <li>❖ There have been several instances of false accusations which is making this powerful movement weaker.</li> </ul>
<b>Social Media Hashtags are not enough</b>	<ul style="list-style-type: none"> <li>❖ As seen in USA, twitter hashtags and facebook name and shame fizzles out the momentum in short duration.</li> <li>❖ Until and unless, this is supported by the women movement on the ground, social media activism will not be able to make much progress.</li> </ul>
<b>Why they took so long to disclose their ordeal?</b>	<ul style="list-style-type: none"> <li>❖ People are blaming the women for delay on their part in disclosing the sexual harassment they had faced.</li> <li>❖ But we need to understand that there are many reasons which compels women to remain silent:                     <ul style="list-style-type: none"> <li>○ Risk of jeopardizing the career</li> <li>○ Psychological Trauma</li> <li>○ Lack of awareness</li> <li>○ Fear that complain will be branded as frivolous and baseless</li> <li>○ No support from family members</li> </ul> </li> </ul>
<b>Blown out of proportion?</b>	<ul style="list-style-type: none"> <li>❖ It has now become free-for-all . Anyone is accusing anyone and naming and shaming them.</li> <li>❖ People are losing their reputations, jobs are being lost etc.</li> </ul>
<b>THE RULE OF LAW</b>	<ul style="list-style-type: none"> <li>❖ The allegation results into a sort of presumption of guilt without undergoing rule of law principle of presumption of innocence until proved guilty.</li> </ul>

**WAY FORWARD**

Now that #MeToo has finally arrived in India, let us take a cue from this context that is undoubtedly 'Western', yet instructive for its intersectional roots. So, we may at this point acknowledge the context that preceded the present moment, one of Dalit women's resistance, which has for over four decades challenged the routine forms of sexual harassment and violence. From the Mathura case to the

Bhanwari Devi case, the Indian movement has been defined by the struggles of Dalit-Bahujan and Adivasi sisters.

Thus, our roots too, are intersectional. The lesson from our own movement and that of the West is the same: that sexual harassment is dictated not only by sex or gender, but also by factors like people’s race, caste, religion, colour, region, age, disability and sexuality. Race and caste divides aggravate the experiences of sexual harassment, while privilege in terms of the two make a difference in averting, seeking help and recovering from abuse.

<p><b>Making the movement inclusive and pan-Indian</b></p>	<ul style="list-style-type: none"> <li>❖ For a country where over 833 million people live in villages, we must find a way to relate the movement to the subaltern. That will define the success of #MeToo in India. The stuff of true solidarity should be everyone recognising the pain, struggle and resilience of women who are Dalit, Adivasi, Muslim, disabled, queer, poor and non-English speaking, and saying #HerToo.</li> <li>❖ Making it gender neutral (including male as well)</li> <li>❖ People from all sectors should speak up</li> </ul>
<p><b>State level Employment Tribunals as suggested by Justice Verma Panel</b></p>	<ul style="list-style-type: none"> <li>❖ In 2013, the Justice J.S. Verma Committee, in its landmark report on gender laws, had recommended setting up of an employment tribunal instead of an internal complaints committee (ICC)</li> </ul> <div data-bbox="416 907 1366 1473" style="border: 1px solid black; padding: 10px;"> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> <p><b>What Verma panel said</b></p> <ul style="list-style-type: none"> <li>• Proposed forming an employment tribunal to receive and adjudicate all complaints</li> <li>• Tribunal should be appointed by a collegium headed by the Chief Justice of the concerned High Court</li> <li>• Should comprise two retired judges with at least one of them being a woman, two eminent sociologists and one social activist with experience in the field of gender-based discrimination</li> </ul> </div> <div style="width: 35%; text-align: center;">  <p style="background-color: red; color: white; padding: 5px; text-align: left;">• To ensure speedy disposal of complaints, the tribunal should not function as a civil court but may choose its own procedure to deal with each complaint</p> </div> </div> </div>
<p><b>Other Legal and policy measures</b></p>	<ul style="list-style-type: none"> <li>❖ Legal and policy lacuna needs to be filled as soon as possible</li> <li>❖ The provision of Time limit in filing criminal cases should be removed or IPC 354 A should have time limitation of 3 years from the date woman is emotionally ready to file the complaint.</li> <li>❖ 2013 Act should clearly provide for no time limit clause along with clarity about various cases where accused and victim belongs to different organisations.</li> <li>❖ The #MeToo outpouring demands a new, fair system that delivers brisk justice</li> </ul>
<p><b>Commission of Inquiry</b></p>	<ul style="list-style-type: none"> <li>❖ There have been suggestions to set up Col to inquire into the failures of the existing legal systems and the Sexual Harassment Act to prevent the happening of these incidents.</li> </ul>

	<ul style="list-style-type: none"> <li>❖ This can be done by setting up a commission in which women and men have a legal/quasi-judicial platform to tell their stories.</li> <li>❖ It is also necessary because such a platform would also give immunity to women from defamation suits being filed against them for coming forward and telling their version of sexual abuse that they suffered.</li> <li>❖ It would simultaneously give a forum to the person against whom the allegation is made to come forward and place their side.</li> <li>❖ The findings of such a commission cannot result in punitive action against the offenders, but can provide the space for women to speak their truth without fear of legal consequences.</li> <li>❖ The recommendations of the commission may also end in major reforms of the law, helping prevent, or at least, significantly curb sexual harassment at workplace.</li> </ul>
<b>Creating a truly gender-equal workplace</b>	<ul style="list-style-type: none"> <li>❖ Periodic workshops on prevention of sexual harassment and how to address it without fail</li> <li>❖ familiarisation of the employees with the Sexual Harassment Act by inviting experts from the legal field to give presentations</li> <li>❖ Regular monitoring of supervisor behaviour via feedback loops</li> <li>❖ creating a truly gender-equal workplace where abuse of positions of authority is not only frowned upon but actively prohibited, etc</li> <li>❖ These are some of the ways that would go a long way in striking sexual harassment at its root, and carving out a safe and happy work environment.</li> </ul>
<b>Involving all stakeholders to bring social change</b>	<ul style="list-style-type: none"> <li>❖ Instead of trivializing the issues raised, they need to be taken seriously and step should be taken to redress the grievances.</li> <li>❖ All stakeholders viz. family, NGOs, Pvt Orgs, Govt and society at large should support the cause</li> </ul>

## CONCLUSION

No movement is perfect, and all battles have collateral damage. This makes it important that men, instead of beating their chests about potential victimhood, be active allies in making the due process a fair and functional one in which all victims - including those of false allegations - can seek justice. This makes the building of a new, fair system that delivers brisk justice critical to everyone's interests.

### Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

- ❖ The Act defines sexual harassment at the work place and creates a mechanism for redressal of complaints. It also provides safeguards against false or malicious charges.
- ❖ The Act also covers concepts of 'quid pro quo harassment' and 'hostile work environment' as forms of sexual harassment if it occurs in connection with an act or behaviour of sexual harassment.
- ❖ The definition of "aggrieved woman", who will get protection under the Act is extremely wide to cover all women, irrespective of her age or employment status, whether in the organised or unorganised sectors, public or private and covers clients, customers and domestic workers as well.

- ❖ An employer has been defined as any person who is responsible for management, supervision, and control of the workplace and includes persons who formulate and administer policies of such an organisation.
- ❖ While the "workplace" in the Vishaka Guidelines is confined to the traditional office set-up where there is a clear employer-employee relationship, the Act goes much further to include organisations, department, office, branch unit etc. in the public and private sector, organized and unorganized, hospitals, nursing homes, educational institutions, sports institutes, stadiums, sports complex and any place visited by the employee during the course of employment including the transportation. Even non-traditional workplaces which involve tele-commuting will get covered under this law.
- ❖ Every employer is required to constitute an Internal Complaints Committee at each office or branch with 10 or more employees. The District Officer is required to constitute a Local Complaints Committee at each district, and if required at the block level.
- ❖ The Complaints Committees have the powers of civil courts for gathering evidence.
- ❖ The Complaints Committees are required to provide for conciliation before initiating an inquiry, if requested by the complainant.
- ❖ The Committee is required to complete the inquiry within a time period of 90 days. On completion of the inquiry, the report will be sent to the employer or the District Officer, as the case may be, they are mandated to take action on the report within 60 days.
- ❖ The inquiry process under the Act should be confidential and the Act lays down a penalty of Rs 5000 on the person who has breached confidentiality.
- ❖ The Act requires employers to conduct education and sensitisation programmes and develop policies against sexual harassment, among other obligations.
- ❖ Penalties have been prescribed for employers. Non-compliance with the provisions of the Act shall be punishable with a fine of up to Rupees 50,000. Repeated violations may lead to higher penalties and cancellation of licence or registration to conduct business.
- ❖ Government can order an officer to inspect workplace and records related to sexual harassment in any organisation.

LUKMAAN IAS

*...Lead with Edge...*