# INTERNSHIP REPORT

# ON

# A STUDY ON

# THE IMPLIMENTATION OF VISHAKHA GUIDELINES IN UNIVERSITIES IN KERALA

**BY**

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# INTRODUCTION

The Supreme Court in the case of Vishakha v. the State of Rajasthan laid down for the first time strictures that aimed at protecting a woman employee by giving her the right to a safe/healthy working environment. In the decision, the Court also defined sexual harassment and recognised it to be a paramount violation of human rights. The court thereby laid down certain mandatory and binding guidelines to be followed by all workplaces, belonging to the public and private sectors and made it imperative for every employer to ensure a safe, harassment free working environment for the women. These strictures can be applied to educational institutions as well.

## THE VISHAKHA CASE

Bhanwari Devi was a village-level social worker or a saathin of a development programme run by the State Government of Rajasthan, fighting against child and multiple marriages in villages. As part of this work, Bhanwari, with assistance from the local administration, tried to stop the marriage of Ramkaran Gujjar's infant daughter who was less than one year old. The marriage took place nevertheless, and Bhanwari earned the ire of the Gujjar family. She was subjected to social boycott, and in September 1992 five men including Ramkaran Gujjar, gang raped Bhanwari in front of her husband, while they were working in their fields. The days that followed were filled with hostility and humiliation for Bhanwari and her husband. The only male doctor in the Primary Health Centre refused to examine Bhanwari and the doctor at Jaipur only confirmed her age without making any reference to rape in his medical report. At the police station, the women constables taunted Bhanwari throughout the night. It was past midnight when the policemen asked Bhanwari to leave her lehenga behind as evidence and return to her village. She was left with only her husband's bloodstained dhoti to wear. Their pleas to let them sleep in the police station at night, were turned down.

The trial court acquitted the accused, but Bhanwari was determined to fight further and get justice. She said that she had nothing to be ashamed of and that the men should be ashamed due to what they had done. Her fighting spirit inspired fellow saathins and women's groups countrywide. In the months that followed they launched a concerted campaign for justice for Bhanwari. On December 1993, the High Court said, "it is a case of gang-rape which was committed out of vengeance". As part of this campaign, the groups had filed a petition in the Supreme Court of India, under the name 'Vishaka', asking the court to give certain directions regarding the sexual harassment that women face at the workplace. The result is the Supreme Court judgement, which came on 13th August 1997, and gave the Vishaka guidelines. [1]

## RELEVANCE OF THE VISHAKHA GUIDELINES TO A UNIVERSITY SET UP

Even six years after that judgement, no efforts were made in the direction of enacting a law. So the guidelines continued to be the law required to be followed across the country. However, the guidelines were followed more in their breach. Very few complaints committees were set

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[1] Desai, Mihir. March 2005. [article online] Mumbai: India Together. Accessed on 12 May 2004 at http://www.indiatogether.org/combatlaw/vol3/issue5/visakha.htm.The excerpts on Bhanwari devi's case has been taken from the book- The Politics of Silence, published by Sanhita, Kolkatta, Aug- 2001)

up, service rules were not amended and the judgment was widely disregarded both by public and private employers. In fact a number of these cases arose from university and college campuses across the country. By and large, the response of the employers was to sweep such cases under the carpet and at times even to victimize the women. But one could still see an increasing fervor of protest. The media also started giving important space and time to this issue.[2]

One such case happened in the M.S. University at Baroda where a student was sexually harassed by her professor. Her protests led to victimization and certain womens' organizations wrote protest letters to the Chief Justice of India. The letters were converted into a Writ Petition and the Court started supervising the implementation of Visakha's guidelines. Notices were issued to the Central Government, all State Governments and the Union Territories asking them to report to the Supreme Court the measures taken by them for complying with the Visakha Guidelines. The Governments filed Affidavits which bordered on the pathetic. However, it at least triggered a flurry of activities at the Central Government and the State Government level. Many of the service rules were amended to bring in sexual harassment as a specific head of misconduct. In many states, the Employment Standing Orders Act which apply to private employers were similarly amended. Committees were set up in various public sector organizations. University Grants Commission sent a letter to the Universities asking them to set up committees. On the other hand, the Supreme Court continued monitoring the progress and issued notices to even professional bodies. However, although things were moving, the changes were essentially cosmetic.[3]

What needs to be borne in mind is that the guidelines laid down by the Hon'ble Supreme Court were only a framework. In such cases, it becomes necessary that each employer adapt the guidelines according to the set up of his/her institution.

Individual universities guidelines become even more imperative because of the large number of female employees and students that form a part of it. Also given the geographical outreach of the universities, they sometimes extend up 4-5 districts in a state. In such a scenario and given the various levels within the university structure, each university should not establish only a complaints committee but also set up guidelines keeping in mind the structure of the individual institution.

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[2] Desai, Mihir. March 2005. [article online] Mumbai: India Together. Accessed on 12 May 2004 at http://www.indiatogether.org/combatlaw/vol3/issue5/visakha.htm

[3] Ibid 2

# EXECUTIVE SUMMARY

## 1) AIMS AND OBJECTIVES OF THE STUDY

### *ANALYSIS OF THE UNIVERSITY GUIDELINES*

- Verify how Universities across Kerala have interpreted and implemented the Vishakha guidelines.
- Examine and suggest possible changes within the current frame work of the University to effective implementation of the Vishakha guidelines.

### *INTERVIEWS WITH VARIOUS INTEREST GROUPS WITHIN THE UNIVERSITY*

- Interview Committee members to gather information about the structure, the functions and the workings of the anti-sexual harassment committees.
- Conduct interviews with representatives of the students/teachers/non-teaching staff unions, to establish the stand taken by pressure groups on issues of sexual harassment.
- Examine the perception of groups most likely to be affected by the guidelines in the university set up; namely female students and female employees of the university.
- Examine the prevalence of sexual harassment in the University and how women deal with such issues by means of a case study.
- Examine myths regarding what sexual harassment itself.

## 2) UNIVERSITIES TARGETED FOR THE PROJECT

Initially, the project was conceptualised with an aim of covering 5 major universities across Kerala. Later it was decided that keeping resource constraints in mind, the focus be narrowed down to two universities – the University of Kerala and Calicut University. The former is spread out over the Southern districts of Kerala while the latter is concentrated in the Northern Districts of Kerala. Besides the geographical diversity of both the universities, situated in two different ends of the State, the vast cultural differential between the two areas might also be an important factor in determinig perceptions towards issues of sexual harassment.

It was inevitable that the University of Kerala be chosen as part of the study since it was imperative to examine the implementation of the guidelines in the researchers own university. In addition, it was hoped that familiarity with the university and its proceedings would facilitate access to data.

Calicut University was chosen in light of its historical location as the site of one of the most significant cases of sexual harassment in Kerala – the P Usha case. Following the intense media coverge generated during the case, where the University was heavily criticised for the way it

dealt with the case, a Complaints Committee was set up. Given this history, one of the objectives of the study was to analyse the efficiency of the committee and whether any pro-active measures have been undertaken by Calicut University.

## 3) STUDY DESIGN

The report has been presented in three parts. Part I examines the implementation of the Vishakha guidelines itself and examines how it is imbibed in the university setup. Part II analyses the interviews conducted with the committee members, union members, staff and students (from the University campus as well as the affiliated colleges). Part III contains the conclusions and the researchers own recommendations.

# METHODOLOGY

## A) METHODOLGY FOR GATHERING INFORMATION REGARDING THE IMPLEMENTATION OF THE GUIDELINES

1) Discussion and interviews with committee members.
2) Analysis of the guidelines. Unlike the Calicut University where no specific guidelines were laid down post the Vishakha judgement, the Kerala University framed Guidelines to Combat Sexual Harassment in 2000.
3) A segment of the paper has also been devoted to analysing the Kerala University guidelines to examine possible loopholes therein.
4) Interview with students, teachers and non-teaching staff to analyse the outreach of these committees.
5) Files RTI's to verify data.

## B) METHODOLOGY FOR CONDUCTING INTERVIEWS

This exercise is crucial since the success/failure in implementing the guidelines depends, to a large extent, on broader social perception regarding sexual harassment. The first half of this segment contains analysis of discussions with members on the complaints committees. The second segment deals with discussions with representatives from various unions within the university setup and examines the stand taken by such organizations on issues of sexual harassment. The final component constitutes a sample survey with students, teachers and non-teaching staff to gauge the awareness and perceptions about issues of sexual harassment and guidelines.

Given the sensitive nature of the issue, seperate interview schedules were prepared for group I (members on the complaints committee), group II (representatives from various unions) and group III (students/ teachers/members of the non teaching staff). This schedule provides a certain extent of flexibility, thereby allowing the scope for a a detailed discussion with the respondents. This strategy increases the comfort level of the respondents, and thus they are more forthcoming with regard to answering the questions.

# PART I: IMPLEMENTATION OF VISHAKHA GUIDELINES

## PROVISIONS OF VISHAKHA GUIDELINES[4]

The Vishakha guidelines lays down certain preventive steps that an employer or responsible persons within the organisation should keep in mind in order to prevent women from sexual harassment at workplace. They can be summarized as follows:

"a) express prohibition of sexual harassment as defined (in this decision) at the workplace should be notified, published and circulated in appropriate ways.

b) The rules/regulations of Government and public sector bodies relating to conduct and discipline should include rules/regulations prohibiting sexual harassment and provide for appropriate penalties in such rules against the offender.

d) Appropriate work conditions should be provided in respect of work, leisure, health and hygiene to further ensure that there is no hostile environment towards women at workplaces and no woman employee should have reasonable grounds to believe that she is disadvantaged in connection with her employment."

Guidelines 6 and 7 laid down by the Supreme Court deal with the effective complaint-mechanism for dealing with complaints of sexual harassment. They are as follows[5]:

"6. Complaints mechanism- an appropriate complaints mechanism should be created in the employers organization for redress of the complaint made by the victim. Such complaint mechanism should ensure time-bound treatment of complaints.

7. Complaints Committee- The complaints mechanism, referred to in (6) above, should be adequate to provide, where necessary, a complaints committee, a special counsellor or other support service, including the maintainance of confidentiality.

## IMPORTANCE OF A POLICY STATEMENT AND COMPLAINTS MECHANISM

"The advantages of workplace mechanisms over legislations", says an ILO report, "is that their role is primarily preventive. Rather than being confined to responding to sexual harassment, they are intended to ensure that it does not take place. Effective workplace policies protect employees by dissuading potential harassers, and identifying and responding to harassing behaviour in its early stages. In addition, well functioning complaints procedures mitigate the likelihood of targets of harassment being forced to resort to the legal process." (Bhasin 2007, p. 164)

In this light let us now consider how the Vishakha guidelines have been implemented in both the Universities.

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[4] Vishakha vs State of Rajasthan, AIR 1997 SC 3011

[5] Bhasin, Alok. 2007. *Sexual Harassment at Work.* Lucknow: Eastern Book Company. P. 180

## A) KERALA UNIVERSITY

The University of Kerala is situated in Trivandrum, within an outreach to most of the southern parts of the state. Currently the University has around 48 departments and two administrative departments in Trivandrum. The University also has 84 affiliated colleges. Therefore, it is spread across four major districts in Kerala, namely Thiruvanathapuram, Kollam, Alappuzha and Pathanamthitta.

### *1) FORMATION OF THE COMMITTEE*

The Committee against sexual harassment was formed in the University of Kerala, after a gap of 6 years from the Vishakha Case, in the year 2001. These guidelines were not framed out of necessity but rather after directions from the UGC to constitute a committee and were based on guideline framed by the Delhi University. The University released a set of guidelines on the basis of a workshop conducted in December 2000 with members of the teaching staff, students, hostel wardens, staff organizations. Representatives from the legal fraternity, media and other women's organization were involved in framing these guidelines. The aim during the workshop was to meet four basic objects[6]:

a) To develop the guidelines and norms for a policy against sexual harassment
b) To develop principles and procedures for combating sexual harassment
c) To work out details for the implementation of the policy
d) To prepare a detailed plan of action, both short and long term

### *2) STRUCTURE OF THE COMMITTEE AS PER THE GUIDELINES*

The guidelines had envisaged the setting up of committees at three levels[7]:

a) The apex complaints committee (ACC) – this committee is the highest body within the University of Kerala to deal with cases of sexual harassment
b) The university units complaints committee (UUCC) – there are seven UUCC in the Kerala University and are formed largely on the basis of their location. It covers all teaching and non-teaching departments, centres and hostels of Kariavattom campus and Palayam University Campus.
c) The college complaint committee (CCC) – this cell is to be set up in each college affiliated to the university.

### *3) PRO-ACTIVE MEASURES TAKEN BY THE UNIVERSITY*

In December 2000, a workshop was conducted to frame these guidelines. There has been very little follow up. In the year 2008, the University conducted a workshop on Women's Day, but none of the students/teachers interviewed had any knowledge about the same.[8]

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[6] University of Kerala. 2001. *Guidelines for Cell to Combat Sexual Harassment*. University of Kerala Press.

[7] Ibid P. 12

[8] Refer Appendix Number 2, RTI reply dated 07/06/2008

## *4) TECHINAL FLAWS IN THE GUIDELINES*

a) Very clear guidelines have been laid down for the functioning and working ACC but when it comes to the UUCC and CCC, the guidelines at best are non-existent.

b) Another disturbing aspect of the guidelines is that Committee will consider allegations of sexual harassment "to have taken place within the campus."[9] Thus, it leaves very little scope for registering cases that may take outside campus, even though both the parties involved maybe from the University.

c) The stand to be taken in cases of third parties is still not clear. This includes the possible redressals or the actions that the Committees shall make when a third party is involved.

d) A major drawback is that there is no mention of a separate provision of funds for the committees.

e) The committees have only recommendatory powers, the final decision has to be taken by the university authorities. There is no clause within the guidelines that binds the university authorities to the decisions of the committees.

f) The Vishakha guidelines states that the complaints mechanism should ensure time bound treatment of complaints yet there is no time limit has been fixed for disposing off cases in the Kerala University guidelines.

g) Although the guidelines state "Complaints can be filed by the victim either through proper administrative channel or directly"[10], there is little clarity on what constitutes the "proper administrative channel".

h) The guidelines are very vague regarding the "government department" to which the annual reports are to be submitted. Therefore, accountability problems surface.

## *5) FAILURE IN IMPLEMENTATION*

In order to analyse the efficiency of implementation of these guidelines, it is important to consider the powers and duties of the University Cell as enumerated in the Kerala University guidelines.[11] These were a few findings during the report

Outreach to students and teachers borders on pathetic. None of the respondents were even aware about such a committee, let alone the names of the members.

The committee should also ensure a secure physical environmemt on campus. Most of the respondents concurred that the university campus is unsafe for girls.

A list of volunteers and hostel advisors should be drawn up by the committees. There is no record that shows that the ACC has appointed the above mentioned volunteers and advisors

d) No memos,posters, flags have been put up by the committees till date[12].

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[9] University of Kerala. 2001. *Guidelines for Cell to Combat Sexual Harassment*. University of Kerala Press P. 5

[10] Ibid P. 17

[11] Ibid. P 16

e) Such policies are not given in admission booklets neither are new recruits to the university made aware about it.

f) Sensitization needs to be an ongoing activity

g) Crisis management and mediation should be made informal and accessible to the affected parties.

h) The guidelines state that there shall be no committee during the vacations. It was however interesting to observe that all the interviews were conducted during summer break and all the departments were functional.

i) Contrary to what is stated in the guidelines, so far no code of conduct has been framed for the employees/students of the university.

## B) CALICUT UNIVERSITY

At present Calicut University has its main administrative office in Calicut. The university has 100 departments and 262 affliated colleges. The presence of this university can thus be felt prominently in the northern parts of Kerala with affiliated colleges in the districts of Trissur, Kozhikode, Idduki and Kannur.

### *1) FORMATION OF THE COMMITTEE*

The committee was set up largely due to the efforts of a single woman P Usha. Her case shot into prominence in 2001 when owing to a degrading remark made by her colleague, she pressed for complaint in her department. With virtually no support from within the university; Usha finally had to approach the High Court of Kerala to ensure that a Committee be set up to hear her case.

### *2) RECOMMENDATIONS*

The most significant lacunae that the Calicut University currently faces is the absence of any guidelines or policy on sexual harassment. Currently the committee does not follow any specific guidelines and refers only to the Vishakha guidelines. This document will benefit not only the committee members in colleges/department but will also prove beneficial to the students and staff of the Calicut University. Another suggestion would be that in the present state the Calicut University complaints committee can perhaps act as an apex body, similar to the structure in the University of Kerala. This committee should also act as a monitoring agency that ensures establishment of complaints committee in all the departments/affiliated colleges. All the

[12] Refer Appendix Number 2, RTI reply dated 07/06/2008

committees should be entrusted with three basic functions, First, sensitization and awareness generation, second, crisis management and mediation and third, formal redressal and enquiry.

# PART II - INTERVIEWS

A total of 47 respondents were interviewed for the report. Of these, 8 were committee members from both the Gender Justice Committee (GJC, University of Kerala) and the Calicut University complaints committee (CUCC), comprising Group I. Group II consisted of seven respondents who were representatives from various students/employees unions of both the universities. Finally, Group III had 34 respondents who were students, teachers and non-teaching staff of both the universities.

Respondents in Group I were interviewed primarily to get an insight into how the committees functioned and the committee members own personal perception towards issues of sexual harassment.

In many cases of sexual harassment, unions like students union, non-teaching staff union and teaching staff union provide significant external impetus and pressure on the dealings of the case by mobilising public opinion and support. In addition, there can be instances when the employer does not take an initiative to implement the Vishakha guidelines. In such a scenario the unions themselves can play an active role in spreading awareness about such issues. Therefore a few female representatives from these organisations were interviewed to gauge what stand unions (hereinafter group II) take on issues of sexual harassment and whether the unions had taken an initiative of their own to spread awareness about the cases/guidelines/complaints committee.

The target group for the Vishakha guidelines were the female employees, when considering a University set up, these guidelines would thus be applicable to female students/employees (hereinafter group III). The committees have obviously handled very few cases since their inception. There is no doubt about the fact that the university/committee had failed to reach out to the women and create an atmosphere of trust in this regard. It is clear that the women were unwilling to complain to such committees/university officials themselves. The low turnout of cases and the apparent ineffective application of the guidelines, are influenced by broader social perception of sexual harassment. Therefore it was important to conduct a survey amongst the students and employees of the Universities.

## A) ANALYSIS OF INTERVIEWS WITH GROUP (I)

As part of the project, in each university the chairperson was interviewed along with three other committee members, such that there was representation of the students, teachers and the non-teaching staff. Thus, a total of four committee members were interviewed in both the universities. No particular method was followed for selecting the committee members and hence most were approached as per availability and approachability. It is interesting to note how the committee members themselves were apprehensive to talk about issues of sexual harassment and the working of the committees. For example in Calicut University, one of the members who was contacted categorically demanded that she not be contacted any further. There were times when the interviews were left incomplete by a member on pretext of personal engagements. As a result, the interview had to be started over with a new committee member. On three different occasions the interviewer was repeatedly asked to get permission from the Registrar of the Calicut University to conduct interviews. These incidents raise serious doubts with regard to the independence of such a complaints committee. In fact all indications point towards the existence of a climae of fear that pervades from the highest echelons of the

system. If this is the amount confidence and open-ness exhibited at the top, one wonders as to the scenario when it comes to individual colleges/departments and more importantly the average student/employee regarding the issue. On another occasion, a committee member at the University of Kerala denied permission to even peruse the list of the committee members and a copy of the university guidelines on the pretext that they were 'official university documents that just couldn't be handed out'. The delay in access to these documents was so great that eventually, an RTI application was also filed to access these basic documents. This exercise not only indicates the perceptions of the committee members on issues of sexual harassment, but also provides an insight on how these complaints committee function, or rather did not function.

### *1) WHEN WAS THE COMMITTEE CONSTITUTED?*

Both the complaints committees were formed well after the Vishakha guidelines were laid down. The circumstances that lead to the formation of the committees clearly indicate the inherent unwillingness of the Universities to deal with such issues.

Though the University of Kerala framed guidelines in 2001 to deal with issues of sexual harassment, in terms of sheer performance both universities seem to be at par with each other. In both institutions, the follow up procedures post the formation of such committees borders on the pathetic. The committee at Kerala University, the Apex Complaints Committee (hereinafter GJC) was constituted in 2001 and since then it has never been reconstituted. Apart from a change in the position of the convenor and the chairperson of the committee the only change is in the list of elected members, who account for 30 per cent of the members.

The Complaints Committee in Calicut University (CUCC) was first formed in 2001. This was followed by a phase of inactivity for the committee. The present committee was reconstituted in 2006. Since then the committee has not been reconstituted.

Note: The prolonged delay in the reconstitution of the GJC clearly violates Provision 12 of the Kerala University guidelines, which states that "the cell will be appointed for two years". It is also interesting to note that there are only three elected members on this committee, namely the Vice-Chairperson of the Kerala University Union, The Secretary of the Research Students Union and the Secretary from the University Departments Union. All the remaining 7 members are appointed by the Kerala University officials. As far as the CUCC is concerned, a few members have resigned/been newly appointed but there is no circular showing the full list of the reconstituted committee.

### *2) CONSTITUTION OF THE COMMITTEE*

Both the chairpersons of the committee were women and both the committees have met the requirement of the Vishakha guidelines that stress on 50% female members on the committee.

a) PRESENCE OF FEMALE MEMBERS

The following is the ratio of female members on these committees:

**TABLE 1**

| University | total members | female members | % figures |
|---|---|---|---|
| Kerala | 10 | 8 | 80% |
| Calicut | 12 | 8 | 66.6% |

Note: As part of the study, the respondents included one male committee member each from the GJC and CUCC respectively. It is evident that the composition is in consonance with the Vishakha guidelines, with both committees being headed by a woman and a majority of members are women. However, if a committee so constituted is gender insensitive, the Supreme Court guidelines can by themselves produce but little cheer.

"All their built-in safeguards notwithstanding, the guidelines are unlikely to be more effective than what is permitted by the net combined sensitiveness to women's question of those composing a particular committee – except when there is a conscious attempt to counter committees that are insensitive to women's predicament. Each instance of justice secured in the teeth of general resistance to or apathy for women's cause will serve to make life a bit less difficult for women."[13]

b) PRESENCE OF THIRD PARTY MEMBERS

While the Kerala University guidelines clearly spells out the requirement of an NGO third party representative, no such mention has been made in the list of members of the Calicut University. On being asked whether the Committee has a third party NGO representative, the Chairperson responded that the present committee does not have one. However the other members interviewed seemed to be under the impression that there was a third party representative. The identity and presence of this member could not be clearly established.

Note: The presence of a third party representative is crucial for the independence of a complaints committee. In fact, the Vishakha guidelines clearly state that "to prevent the possibility of any undue pressure or influence from senior levels, such complaints committee should involve a third party, either NGO or other body who is familiar with the issue of sexual harassment".

- [13] Chandra, Sudhir. July 3, 1999. Gender Injustice: Supreme Court Mandate. [article online] Mumbai: Economic and Political Weekly. Accessed on June 7, 2008 at www.epw.org.in/epw/uploads/articles/9035.pdf

c) PRESENCE OF COUNSELLORS OR OTHER SUPPORT SERVICE

Both the GJC and CUCC do not have any counsellors, lawyers or medical experts to assist them.

Note: Although not mandatory, having atleast one counsellor on board may help the victim open up to the committee better while deposing the case. Legal opinion is particularly important in the proceedings since sexual harassment is a criminal act.

d) CONTACT ADDRESSES/NUMBERS OF COMMITTEE MEMBERS

I requested both chairpersons to provide a list of the present complaints committee (preferably the latest copy sent out as notice to all the Departments and affiliated colleges).The list of Committee members furnished from Calicut University and Kerala University date back to 2006 and 2001 respectively.

Note: The Vishakha guidelines might not specify the same, but this line of argument is drawn out of sheer logic. Both the committees have undergone changes since then, yet there is no circular which list out the changes in the committee members from time- to- time. If this the situation at the university committee level itself, one can imagine the information asymmetry at the level of the departments/colleges. It is also interesting to observe that the GJC list does not even specify the contact addresses and numbers of the committee members. As opposed to this, the Calicut University has atleast published the relevant information alongside the list of members. But what mars this effort is the fact that the latest list of the committee members has still not been published (and received by the researcher).There is a strong possibility of the victims inability to approach her seniors/professors to lodge a complaint. Perpetrators of sexual harassment are usually employers, superiors or co-workers[14].

***3) MEETINGS***

There is much ambiguity in the statements given by the committee members with regard to the frequency of the committee meetings. According to the Chairman of the GJC, meetings are held every six months. The CUCC on the other hand claims to be only a complaints committee, which meets only to investigate complaints. Both the chairpersons said that the meetings were convened by formally inviting the committee members. Minutes of the meetings were prepared by both the complaints committee.

Note: It is interesting to observe the frequency of meetings of the GJC in the light of the notification sent out directing the committees in affiliated colleges that they meet once in every two months. As one committee member in the GJC put it " Normally such meetings should be held once in two months but no one turns up for the meetings". Another member interviewed in the GJC had not attended a single meeting during her tenure of one year. The scenario was no different at the CUCC. Infact one of the committee members was unaware of his appointment to the complaints committee till I approached him for an interview!

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- [14] IWRAW Asia Pacific. 2005.Sexual Harassment in the Workplace: Opportunities and Challenges for Legal Redressal in Asia and the Pacific. *IWRAW Asia Pacific Occasional Paper Series* No. 7: 1-34

**TABLE 2**

| University | Frequency of meetings | Last meeting attended |
|---|---|---|
| Kerala* | 4-6 months | 6 months back |
| Calicut* | When complaints are registered | 2-3 months back |

* as per the information given by the Chairman of the GJC and CUCC respectively.

***4) CASES HANDELED***

a) NUMBER OF COMPLAINTS RECIEVED TILL DATE

There exists a similar lack of clarity with regard to the numbers of cases handled. Take for example the GJC where, according to the Chairperson, the number of cases reported was two cases. However, on filing the RTI it was found that only one case has been officially recorded by the GJC[15].Likewise, as per the information provided by the committee members in Calicut University, the number of complaints received ranges between two and three. However, there is still no official reply from the University with regard to the same.

b) NATURE OF CASES RECIEVED

GJC: The details of the cases were gathered from the Chairperson and Convenor of the GJC, Dr. Thankamoni Amma and Mrs. D Rajam respectively. i) One case was registered by an employee of the non-teaching staff against one of her own colleagues. The recommendation made by the committee was to transfer the accused. ii) Another case was apparently registered by a member of the non-teaching staff. The accused in this case was asked to submit a letter of apology.

CUCC: Barring the identity of the victims and harasser, a brief gist of the total number of cases handled was given by a faculty member on the CUCC, Dr. Molly Kuruvilla. The Chairperson of the committee was not forthcoming in discussion about the cases and chose to give a very broad outline of the cases. i) A case was registered by a non-teaching staff against one of her colleague for making some defamatory remarks. The case was dismissed as the committee contended that there was not enough evidence. According to the chairperson, this case was extremely politicised. ii) A case was registered by a student against a university employee. The committee contended that there was no element of sexual harassment and hence no punishment was given. The employee was let off with a warning. iii) A case was put forward by a student. However, again the committee contended that it had nothing to do with sexual harassment. iv) Currently a case has been registered by a research scholar against a fellow student in the university. The proceedings are underway.

[15] Refer Appendix Number 2. RTI reply dated June 7, 2008 .

Note: It is interesting to observe that how in a majority of cases, no punishment is awarded to the harasser. The outcome of the case is reconciliation or apology letters. The outcomes of the cases handled by the CUCC are particularly interesting.

c) TIME TAKEN TO DISPOSE OFF CASES

According to the GJC chairman an average of 6 months was taken to dispense with the cases, whereas in the CUCC an average of 2-3 months is taken to dispense with the cases according to the Chairman.

d) FOLLOW UP PROCEDURES

As per the chairpersons of the GJC and CUCC, the committees have been given only recommendatory powers. Thus, the final action/punishments is to be awarded by the university officials.

There is no clarity as to which university official has the final say in implementing the punishments.

Both the committees do not have any follow up procedures. On being asked whether the recommendations made by the committees were followed, the chairpersons from both the committees said that they had no idea.

Note: On being asked whether the recommendatory committee powers were a handicap at times for effective implementations of the guidelines, all the committee members interviewed felt that the powers of the committees should not be restricted to recommendatory powers only. They should also be given the powers to implement it.

e) WHICH GOVERNMENTAL AUTHORITY DOES THE COMMITTEE REPORT TO?

On being asked as to which Governmental department the annual reports were submitted to, there was a lot of uncertainty. According to the chairman of the GJC, reports were given "to any Govermental Agency that asked for reports". While the chairman of the CUCC stated that the minutes of the meetings and decisions are submitted to the Registrar's office.

Note: The Vishaka guidelines lay down that "complaints committees must make an annual report to the government department concerned of all the complaints and actions taken by them". Also, "The employers and person in charge will also report on the compliance with the aforesaid guidelines including on the reports of the complaints committee to the government department".This is just another instance that proves that the Vishakha guidelines are not followed in the entirety by the Universities.

f) WHETHER THE DECISION HAVE BEEN MADE PUBLIC?

The final outcome of the cases has not been made public in both the universities.

Note: This exercise can prove helpful because not only does this make the students/staff aware about the existence of a complaints committee but makes the working of the committee known to more people.

g) IS THERE A LOW TURNOUT OF CASES?

On being asked why there is such a low turnout of cases, the general perception was that the University is a safe place. So was the presumption that incidents of sexual harassment occur rarely on campuses. Women were adept at handling such cases on their own. Only two of the committee members attributed it to lack of awareness about such a complaints committee. The former stand was reiterated by all the members of the University of Kerala as well. One member felt that the low turnout could be attributed to the fact that no major case has come up in the university as yet, so the students are not aware of the working of the committee. The chairman of Calicut University was of the opinion that "2-3 cases is indeed not a low turnout."

Note: The committees in both the universities were formed nearly eight years ago. Yet, to this date, there have been very low instances of cases reported. This infact is a good indicator that the committee has not been able to reach out to the various interest groups as yet. Instead of acting only as a complaints committee, such committees could also consider conducting monthly meetings giving details about the date, time and venue of meetings. Another simple and effective measure, would be to place complaints box at prominent places on campus so that victims or interested parties can lodge complaints with the committees directly, thus avoiding a tedious bureaucratic approach to such issues.

Awareness about the committees is a crucial factor. The information regarding such committees/university guidelines is done by sending notices. The frequency of such notices itself is highly questionable. Instead the committees should consider more innovative measures such as posters, pamphlets, workshops, street plays. What must be kept in mind is that most women are apprehensive about revealing such issues. There needs to an attitudinal change within the university/complaints committee officials. The need of the hour is for the committee to reach out to the affected party and not vice-versa. This just one way in which a University can be "pro-active".

"A distinguishing characteristic of sexual harassment is that employees subjected to it often will be reluctant to complain. An absence of complaints in a particular organization, therefore, does not indicate an absence of sexual harassment. It may mean that the recipients of sexual harassment in a particular organization think that there is no point in complaining because nothing will be done about it, or because it will be trivialized or the complainant subjected to ridicule, or because they fear reprisals. Implementing the preventive and procedural recommendations outlined should facilitate the creation of a climate at work in which such concerns have no place." (Bhasin 2007, p. 249)

## *5) ALLOCATION OF FUNDS*

Both the committees in Kerala University and Calicut University have not been allocated funds from the University for their day-to-day functioning.

The following response was given to my query in the RTI application regarding funds allocated to the GJC :"*A sum of Rs. 2701/- was sanctioned to the cell to conduct a workshop on 2nd December 2000 to formulate guidelines, action plan, ect of the cell. No funds have been received from the UGC.*"[16]

According to the Chairman of the CUCC no separate funds have been allocated to the committee till date.

Note: It is important to earmark some funds to the committees since it will facilitate the day-to-day functioning of the committees. For example, if the committee members have to make a visit to the spot where the incident occurred, they would need funds. Moreover, the funds can be utilised for spreading awareness about the committee itself by bringing out brochures, pamphlets, conducting seminars, workshops or cultural events. Though it is not necessary that the funds should be set aside for the complaints committee itself, a separate fund *should* be set up from where the complaints committees can draw funds as and when required.

## *6) PERCEPTION, ORIENTATION TO ISSUES OF SEXUAL HARASSMENT*

a) ORIENTATION AND POLICY

In the University of Kerala, the orientation programme attended by the committee members was as part of the seminar conducted in 2000, when the guidelines were framed. Subsequent entrants into the committees over the years have not been given any orientation. Thus of the four members that were interviewed, only two members had attended some sort of orientation before joining the committee.

None of the members interviewed from the Calicut University had been given training or orientation before joining the committee. While one member emphatically stressed on the need for gender sensitization of the committee members itself, another member was of the opinion that it was not required as "committee members are aware of the Vishakha guidelines." Thus, none of the four committee members I interviewed had been given orientation before joining the committee.

b) INDIVIDUAL PERCEPTIONS ABOUT SEXUAL HARASSMENT

As part of the questionnaire, all the committee members were asked as to which of the below mentioned instances they would consider as an act of sexual harassment. The following figures represent the number of members who consider the particular instance as sexual harassment.

Four members from each committee were interviewed. While, it can not be presumed to be the view of the majority, it certainly does provide an insight into how some of the committee members view such issues.

[16] Refer Appendix Number 2. RTI reply dated 07/06/2008.

**TABLE 3**

| Instances (if they are unsolicited or unwelcome) | Kerala University (number of members) | Calicut university (number of members) |
|---|---|---|
| Physical contact/advances | 4 | 4 |
| Demand or request for sexual favours | 3 | 4 |
| Sexually coloured remarks* | 4 | 4 |
| Showing pornography | 4 | 4 |
| Any other unwelcome act of sexual nature | 4 | 4 |
| Physical contact | 4 | 4 |
| Molestation | 4 | 4 |
| Gestures | 4 | 4 |
| Stalking | 4 | 3 |
| Slander* | 3 | 3 |
| Remarks/Jokes* | 2 | 3 |
| Loaded Comments* | 4 | 3 |
| Letters | 4 | 3 |
| E-mails | 3 | 3 |
| Lurid Stares* | 4 | 3 |
| Derogatory Sounds/Displays* | 4 | 4 |
| Phone Calls | 4 | 4 |

* Although the members chose to define instances of slander, remarks/jokes and loaded comments as sexual harassment, it was not done expressly. There were certain observations made alongside each instances.

GJC: Two of four members said that it depended on the intensity/degree of the remark. While yet another member felt that the remarks must be directed at a single person in particular and not to a group of persons to constitute a case of sexual harassment.

CUCC: Two out of the four members felt that these cases may constitute a case of sexual harassment if the victim finds it offensive. Similar observations were made by two members for instances of lurid stare and sound or display of a derogatory nature.

A set of ten questions was administered to Group I and Group III. Thesource for the same is a study conducted by Sophia's College Mumbai (2003)[17] and thought it would be helpful in gauging the personal opinion of some committee members on the issue of sexual harassment. These were general statements/myths that often crop up in discussions and in more than one ways goes to show how gender sensitized we are. The respondents were asked to give answers using yes/no/maybe. However, during the while undertaking this segment a few of the

[17] Department of Sociology, Sophia College and India Centre for Human Rights and Law. 2003. *Sexual Harassment of Women at the Workplace, A Study by The Department of Sociology, Sophia College and India Centre for Human Rights and Law*. Sophia Centre for Women's Studies ad Development.

committee members chose to make a few interesting statement that have been added along with. These questions were included to see how aware the members themselves are about sexual harassment, whether they could possibly lay some guilt at the part of the victim. The rational behind including these statements has also been mentioned below.

i) Do women provoke harassment by the way they look, behave and dress

*Rationale:* Usually, a women's dressing sense and her demeanour are one the first things that come under scrutiny when issues of sexual harassment are considered.

*Response: GJC:* One member responded with a yes. It was interesting to note how another committee member chose to defend her option, responding with a maybe, in the questionnaire stating that "there has to be a dress code for the women. They can't wear bikinis and come to office. The dress code has to be socially accepted". Two members said no.

*CUCC:* one member responded with a maybe. The other three said no.

ii) Women who are bold and speak to men without any inhibitions invite attention

*Rationale:* This is yet another perception that most people have in cases of sexual harassment. The onus is put on the victim for being too forthcoming usually, hinting at provocative behaviour on part of the victim.

*Response: GJC:* One member felt that women who are bold and speak to men without inhibition invite attention. Another member said no stating that "it depended on the behaviour of the women". Two members said denied that there was such a correlation.

*CUCC:* one member responded yes. Another member opted for a maybe. The other two members responded with a no.

iii) Women use sex to get ahead

*Rationale:* One of the most common myths surrounding cases of sexual harassment, this statement stems out of the fact that women are mostly viewed as object of pleasure. Hence the correlating analogy that is drawn, where a women would go out of her way to make ends meet using sex as a means to do so.

*Response: GJC:* Two committee members felt that women may use sex to get ahead while the other two said no.

*CUCC:* All the committee members felt that there was no such correlation.

iv) If you ignore a case of harassment, it will go away

*Rationale:* Most cases of sexual harassment are brushed aside or ignored in the belief that by doing so the occurrence of another instance can be avoided. More often than not, the peer group or sometimes even as the authorities incharge, might discourage a victim from complaining.

*Response: GJC:* One member responded with a yes, while another responded with a maybe. Two members responded in the negative.

*CUCC:* The responses to this statement were similar where one member responded with a yes, while another responded with a maybe. Two members responded in the negative.

v) The men are often only joking about it, its just that the women have no sense of humour to appreciate it.

*Rationale:* A common perception is that instances of sexual harassment are not meant to degrade or harass women. Rather, they are only meant as a "light joke" which should be taken

in the "right spirit". A common example for this would be a crude joke or a loaded comment which is usually not treated as a case of sexual harassment.
*Response: GJC:* one member responded with a yes, two with a no and one with maybe.
*CUCC:* All the four committee members responded with a no.

vi) Women make false complaints of sexual harassment
*Rationale:* This is the most common myth surrounding any case of sexual harassment.
*Response: GJC:* One member felt that women make false complaints of sexual harassment, while two members responded with a maybe.
*CUCC:* One member responded with a maybe stating that "it could be used to get personal advantage" and another member felt that the statement is true. Two members did not agree with the statement.

vii) Most so called sexual harassment is really trivial and harmless flirtation
*Rationale:* most cases of sexual harassment are brushed aside as trivial issue.
*Response*: All the members interviewed from the GJC and CUCC did not agree to this statement.

viii) Sexual harassment is a women personal problem
*Rationale:* More often than not, when a women is harassed, it is viewed as her personal problem. So if the harasser has to be stopped, the onus is on the victim herself. This explains why in most cases there is no interference or involvement by third parties (including friends).
*Response: GJC:* One member felt that the statement is true, while the remaining three responded with a no.
*CUCC:* All the members interviewed responded with a no.

ix) Sexual harassment is a western phenomenon
*Rationale:* This is also a common myth that is attributed to cases of sexual harassment.
*Response: GJC:* All the members responded with a no.
*CUCC:* One member responded with a yes, while the other three did not concur with the statement.

x) Men are as easy targets in cases of sexual harassment as women.
*Rationale:* Although not a part of the present study, I feel that men are sidelined when it comes to issues of sexual harassment.
*Response: GJC:* one member responded with a yes, while another did not agree with the statement. Two members responded with a maybe.
*CUCC:* One member felt that the statement was true, while the remaining three responded with a no.

c) SUGGESTED PUNISHMENTS TO BE GIVEN FOR CASES OF SEXUAL HARASSMENT

The answers given to such questions were also very ambiguous. Each committee member was asked as to what punishment they would recommend for the instances of harassment as laid down in table 3. Severe punishment was recommended only for cases like physical contact and molestation. For all the other instances, most of the committee members felt that the harasser

should be let off with a warning or be asked to submit an apology letter to the victim. One member of the CUCC also felt that publishing the name of the harasser in notices is not necessary as it will ultimately have adverse impact on the future of the victim.

Note: The recommended punishments by themselves indicate how cases of sexual harassment generally dealt with. More often than not, the harasser is let off with extremely mild reprimands, which is sometimes ineffective in curbing instances of sexual harassment.

d) SUGGESTIONS FOR REACHING OUT TO THE WOMEN IN THE UNIVERSITY

A large number of the committee members themselves felt that the students and employees are not aware of the existence of such committees. All the members interviewed felt that the committee should be allocated funds from the Universities.

## B) ANALYSIS OF INTERVIEWS WITH GROUP (II)

The guidelines in Vishakha case begin with the following words "it is necessary and expedient for employers in workplaces as well as other responsible persons (emphasis supplied) or institutions to observe certain guidelines to ensure the prevention of sexual harassment."

The guidelines go on to lay down the following aspect of worker's initiative too " Employees should be allowed to raise issues of sexual harassment at worker's meeting and in other appropriate forum and it should be affirmatively discussed in Employer-Employee meeting."

It can be said that in laying down the guidelines the Supreme Court had clearly envisaged a crucial role for the Unions to play in promoting greater awareness about issues of sexual harassment. And its relevance in State like Kerala becomes all the more obvious.

Kerala is known for having strong political movements in the past. For a State that brought the first communist party to power by elections, workers have always been on the forefront. It is common knowledge then that Unions play a very strong role in every sector of the workplace, spearheading every cause of worker's rights.

As I progressed into the project, I realised that the Universities in Kerala were no different. Thus, I decided to interview few representative s from a few students, teachers and non-teaching staff unions in both the universities.

### *1) KERALA UNIVERSITY*

The respondents interviewed included representatives from the following organizations in the Kerala University:

a) THE KERALA UNIVERSITY TEACHERS ASSOCIATIONS

This outfit has a total strength of 180 odd members; of this a substantial portion consists of female members. Yet the organization does not have a committee of its own to deal with issues of sexual harassment. The representative empathically said that the organization will support

what is right, irrespective of the political backing of the persons involved and make sure that justice is served to the aggrieved party. On being asked what stand the KUTA takes on the issues of sexual harassment, she said that if the case is proved the harasser should be suspended.

b) THE STUDENT'S FEDERATION OF INDIA

The SFI is the single most influential students Union in Kerala. With a membership of nearly eleven lakh members in Kerala itself, the SFI has been at the forefront of all student's issues such as fee hike. It has also been the ground base for some of the most prominent politicians in the state. Not surprisingly then, tracking down the Vice-Chairman of the Kerala University Union proved to be the toughest of the lot. So I decided to put across the questions to the Research Scholars Union Vice-Chairman. According to her, at present there are only six active female members in the outfit. This unit too does not have a committee to deal with such issues. On being asked what stand the outfit takes on such issues of sexual harassment, she responded saying that the organization will take a very clear stand, the political leanings of the victim or harasser will not play a role in such cases. Yet at the same time she insisted the stand taken depends on the nature of the case. She felt that such cases should be politicised in such a manner that it is in the interests of the victim.

c) THE KERALA UNIVERSITY EMPLOYEES ASSOCIATION

This organization has approximately 70% female members in its total membership. Despite the high membership, women are still excluded from the policy making. Their participation too is limited and more often than not the women are just dummy candidates required to project the image of such unions beings as pro-active. According to this particular member, all unions would like to take a strong stand on issues of sexual harassment. However, if it is a politically sensitive issue, it becomes very complicated. Attempts are usually made to patch things up, in case superiors are implicated in such cases. The political outfit does not have a committee to deal with issues of sexual harassment nor have they conducted any seminar for their party members on such issues. On being asked if the political backing of the victim/harasser makes a difference, the representative said that if it is a clear case of sexual harassment, the erring member should be thrown out of the outfit keeping in mind the code of conduct. If the complaint is against one of its own members then the Union should take action. Whether this is done outwardly by keeping him away from party depends on how sincere a union is towards such issues. Although very few cases have come out in the public, there is a huge chance of victimization of female members.

### *2) CALICUT UNIVERSITY*

I met representatives from the following organizations in the Calicut University:

a) THE STUDENTS FEDERATION OF INDIA

The SFI has a strong presence in the Calicut University campus also. However, on being asked about the active female members, she said that there were 6 girls on the committee. Here again there was no committee to deal with issues of sexual harassment. She felt that there can be no bias on the basis of the political affiliations. If the charges are proved, then harasser should be removed from the party. She cited an instance where female students on campus

were harassed by outsiders, and reported that the female members of this outfit were at the forefront of reporting the incident to the Calicut University Registrar.

b) THE CALICUT UNIVERSITY EMPLOYEES UNION

The response from the Calicut University Employees Union was no different. Despite having a membership of more than 50% female members, the organization had not considered conducting classes or seminars for its own members. This outfit also does not have a complaints committee to deal with issues of sexual harassment. On being asked what stand the party will take on such issues, she said that it all depends on the nature of the case and the parties involved.

## *3) OBSERVATIONS*

All the members I had interviewed acknowledged that sexual harassment is a very serious issue that needs to be addressed. Yet 11 years after the Vishakha case, these outfits had done very little in spreading awareness regarding these issues inside/outside the organisation.

Two of the members interviewed also hinted that even though women join such outfits, the participation of women in the policy and decision making is very limited. They felt that even though it is acknowledged everywhere, very few organizations are willing to take up these issues seriously, let alone allocate separate funds from within the organizations for awareness building, mainly because issues of sexual harassment are not high on any organization's agenda.

It is clear from these interviews that women's issues are still considered from a man's perspective. During the interviews a few members gave answers that were politically correct but off record they spoke at length about how the unions approach cases when one of their own members is an interested party. This admission was not surprising in the light of the P Usha case.

Following is an excerpt from the article Sexual Violence and Predicament of Feminist Politics in kerala, which in looked into the role of left backed politics in the case of P Usha:[18]
*Women, it seems, must keep themselves within the paternal care of the mainstream Left, content with, and grateful for such paternalism. In return, they must keep quiet, endure sexist insults, complaining to no one but the Party and waiting for the Party to solve the problem of internal sexism in its own sweet time! It is no wonder, then, that in contemporary Kerala, even those feminists who would want to sustain conversation with the mainstream Left (or at least with the non-sexist elements within it) are left with a sense of despair.*

What is even more saddening is the fact that instead of spreading awareness about issues of sexual harassment, most unions come into the picture only to politicize the cases. An approach that is adopted fairly often is that be the victim, being of a particular ideological persuasion/political allegiance is filing a case against the accused due to political vendetta.

[18] Devika, J., Kodoth, Praveena. August 18, 2001. Sexual Violence and Predicament of Feminist Politics in Kerala. [article online] Mumbai: Economic and Political Weekly. Special Articles. Accessed on May 16, 2008 at www.epw.org.in/epw/uploads/articles/6566.pdf

What needs to be borne in mind is the fact that politicising cases not only shifts attention from the real issue of sexual harassment but ends up taking very different tones. This defeats the purpose of the guidelines in most cases as the unions end up taking stand not based on gender issues but political lines, an excellent example of which would be the P Usha case.[19]

To view sexual harassment as a menace will not be sufficient unless it is followed by more pro-active measures. Admittedly, all the unions take notice of issues of sexual harassment only when a case comes to their notice. However efforts are seldom made to address such issues by means of talks, discussions or seminars.

In a state like Kerala where cases of sexual harassment are rarely reported, thus, there is a high probability that cases reported get entangled in political overtones, where the unions will step in only to get political mileage.

## C) ANALYSIS OF INTERVIEW WITH GROUP III

Seventeen respondents were approached from each university. This sample consisted of 10 students, 5 teachers and 2 members from the non-teaching staff. In all, a total of 34 women were surveyed from both the universities.

Women generally tend to be very uncomfortable talking about issues of sexual harassment. While a large section of them would openly talk about experiences of a third party, they seldom referred to their own personal experiences. This was a hurdle that had to be overcome not only with personal contacts but also respondents with whom the interviewer had no personal connection. Most women also had a problem expressing themselves, often because they themselves had very little understanding about issues of sexual harassment. This added to the fact that most of the respondents were apprehensive about being named. Only after a lot of reassurances, did some respondents decided to even engage in a conversation.

Prima-facie, the study also helps identify the large gap between what the women tend to adhere to in theory and how they actually respond to harassment in practise. The following is an analysis of the interviews with Group III, namely the students/teachers/non-teaching staff employees in both the Universities.

### *A) KERALA UNIVERSITY*

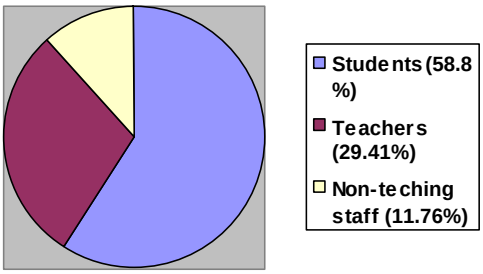
A total of 17 respondents were interviewed from the Kerala University. These interviews were conducted primarily in the Kerala University Campus, Palayam and Kariavatoom and a few affiliated colleges in Trivandrum.

1) PROFILE OF THE RESPONDENTS

a) Composition: The study group consisted of women the student and staff of the University (both teaching and non-teaching members), where:

[19] Ibid

- 10 respondents (58.8%) were students
- 5 respondents (29.4%) were teachers
- 2 respondents (11.76%) were from the non-teaching staff




b) Age: The following is the age composition of the group:

- 11 (64.70%) belonged to the age group of 20-30 years
- 3 (17.64%) belonged to the age group of 31-40 years
- 3 (17.64%) belonged to the age group of 41-50 years

c) Location:

- 10 (58.8%) of the respondents interviewed were from the Kerala University Campus, Palayam and Kariavattom (Trivandrum)
- 7 (41.17%) of the respondents were from the colleges affiliated to the Kerala University located in Trivandrum

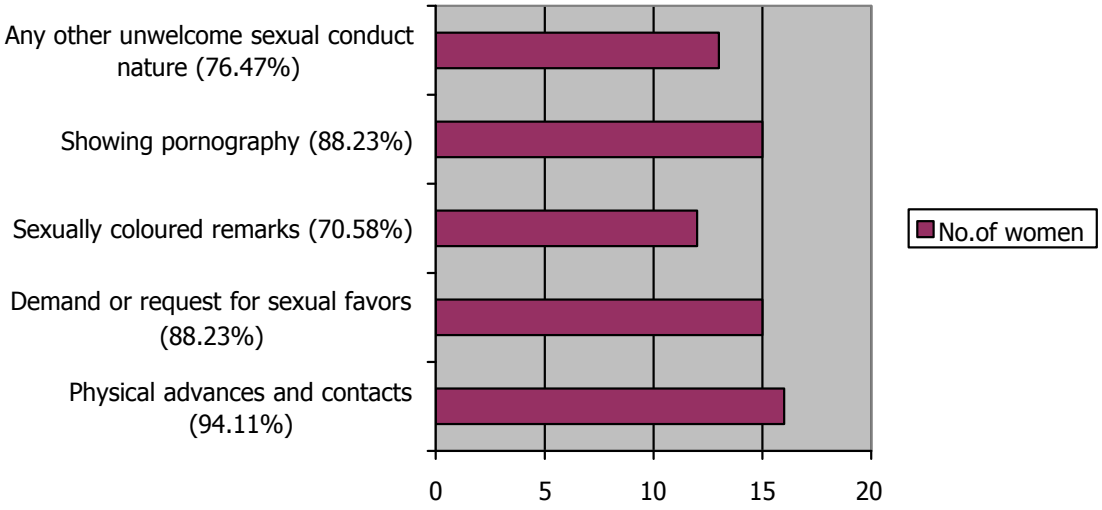
d) Designation: The students interviewed were from different streams such as Arts, Sciences, Commerce, Management studies. The course ranged from Bachelors degrees to Phd. The teachers interviewed were all lecturers. The non-teaching staff staff mainly consisted of clerical staff.

2) PERSONAL UNDERSTANDING OF SEXUAL HARASSMENT

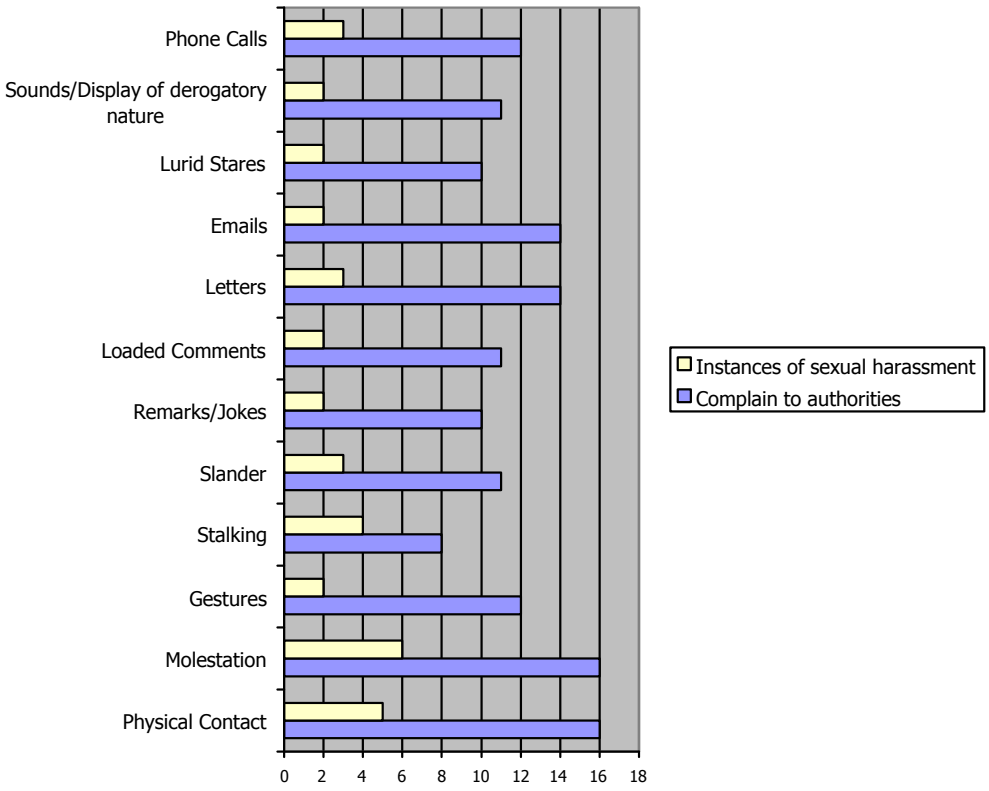
a) Sexual harassment as laid down in Vishakha case: It would be crucial to know whether the respondents agreed to the classification laid down in the Vishakha guidelines. The respondents were asked as to which of the following incidents would amount to sexual harassment, if it is unwelcome or without their consent. Following is the response of the respondents.

- 16 (94.11%) responded that physical advances and contacts would amount to a case of sexual harassment.
- 15 (88.23%) responded that demand or request for sexual favours would amount to a case of sexual harassment.
- 12 (70.58%) responded that sexually coloured remarks

- 15 (88.23%) responded that showing pornography would amount to sexual harassement.
- 13 (76.47) felt that unwelcome physical, verbal or non-verbal conduct of nature would amount to sexual harassement.

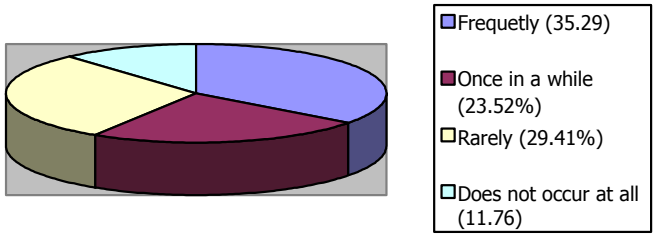



b) Examples to the above mentioned categories: The following data has been represented by the means of a graph as follows. The yellow blocks represent instances which the respondents in group III considered to be a case of sexual harassment and blue blocks indicate instances where they would lodge a complaint officially.

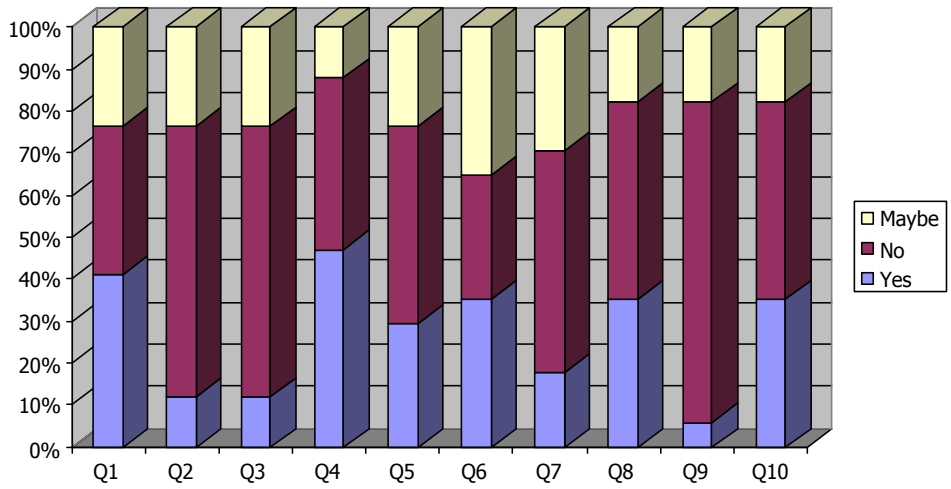



c) Occurrence: On being asked how frequently cases of sexual harassment come up in colleges/universities, the respondent answered as follows:

- 6 respondents (35.29%) said that it occurs frequently
- 4 respondents (23.52%) said that it occurs once in a while
- 5 respondents (29.41%) said that it occurs rarely
- 2 respondents (11.76) said that instances of sexual harassment do not occur at all.

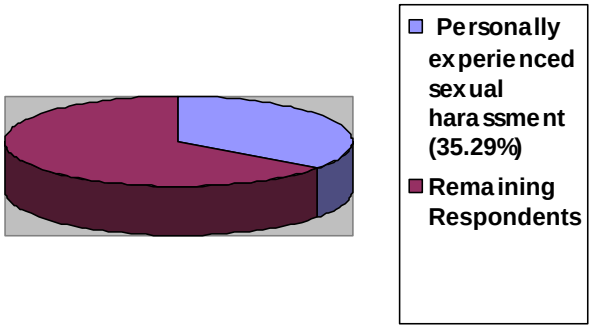



d) Response to questions in Appendix 1



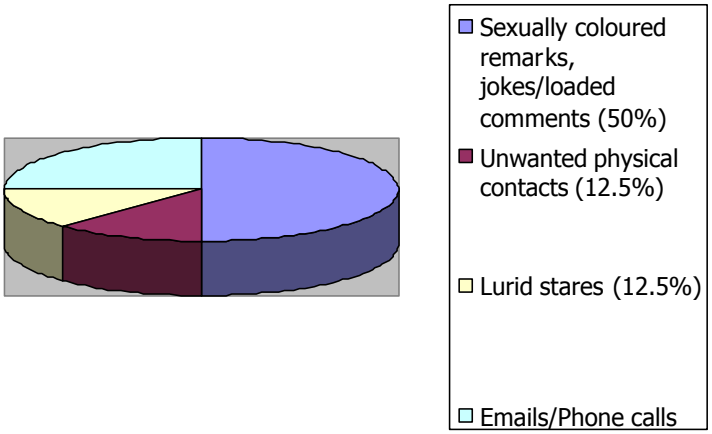

3) PERSONAL EXPERIENCES

6 (35.29%) of the women interviewed stated that they had experienced sexual harassment personally in the university/college. Some of the respondents shared more than one instance of sexual harassment faced by them in the university/college.




a) Nature of harassment:

- 4 cases (50%) of the harassment came in the form of sexually coloured remarks such as jokes and loaded comments.
- 1 (12.5%) of the instance cited was that of unwanted physical contact
- 1 (12.5%) of the cases mentioned involved lurid stares
- 2 (25%) said that they received emails or calls that were sexually motivated




b) Profile of the harasser:

- 7 cases cited, the perpetrator (87.5%) was a colleagues/co-student
- 1 (12.5%) stated that the harasser was an outsider.

c) Emotional response on being harassed: The victims experienced a series of emotions. Thus answers were not restricted to one specific emotion.

- 3 (33.33%) of the respondents got extremely angry when they underwent such an experience.
- 5 (55.55%) of the women stated that they were extremely saddened and upset by it.
- 1 (11.11%) respondent felt extremely helpless or scared when she was sexually harassed.

d) Personal response to the sexual harassment: 5 (83.33%) of the respondents did not even consider approaching the university/college authorities. Instead all the respondents chose to discuss the matter with their friends. Only one respondent chose to complain to the authorities (16.66), after a lot of deliberation from her friends. On being asked what action was taken against the harasser, the victim stated that no action was taken rather she the authorities kept finding faults in everything that she did after that incident.

- Most of the respondents chose to cope with such incidents by discussing it with friends, 5 (37.87) cases out of the eleven put forward.
- 4 (36.36%) respondents chose to ignore the case of harassment altogether.
- One respondent (9.09%) tried to avoid the harasser.
- One respondent (9.09%) tried to complain to the authorities.

d) Perceived threat in complaining: There were diverse reasons given for the following heading. They are listed hereunder.

- Surprisingly a majority of respondents felt that there was no use complaining to the authorities.
- Another prominent reason given was the stigma of getting a 'bad name' in the institution

- 4 (36.36%) respondents felt that there was no use in complaining to the authorities mainly due to their unresponsiveness.
- 4 (36.36) respondents also feared complaining to the authorities fearing a bad reputation
- One reason put forward was complicated and unnecessary procedures
- Yet another respondent felt, it would be difficult for her to explain the incident or produce evidence for the same
- One respondent said she did not complain fearing that she would be abandoned by her friends.

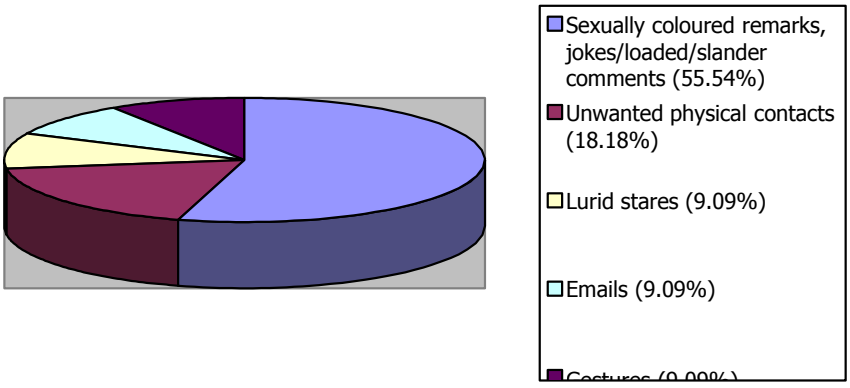
4) WITNESS/KNOWLEDGE ABOUT SOMEONE ELSES HARASSMENT

52.94% of the respondents stated that they had either personally witnessed some one else being harassed or that they had heard of someone else being harassed on campus. Two of the respondents shared more than one instance:

- In 3 of the 11 cases( 27.27%), it was friend who had faced harassment
- In one case (9.09%) of the case a senior had faced some sort of harassment
- 6 (63.63%) of the cases, it was an acquaintance who had faced harassment.

a) Nature of harassment:

- 2 (18.18%) of the instances mentioned, involved unwanted physical contacts and advances
- 6 (54.54%) cases involved sexually coloured remarks by means of jokes, slander, loaded comments. They were witnessed in person or over the phone.
- 1 case(9.09%) case where the victim was harassed via emails
- 1 case (9.09%) case where the victim was shown gestures
- In 1 case (9.09%) the victim was subjected to unwelcome conduct of nature like lurid stares.




b) Profile of the harasser:

- In two (18.18%) of the cases mentioned, the harasser was a senior/superior

- In 8 (72.72%) cases the harasser was a colleague/co-student.
- In one case the harasser was a junior.

c) How did the victim respond to it:

- 3 (27.27%) cases, the victim felt helpless and unable to react
- Majorty of the victims, i.e. 5 (45.45%) women chose to ignore the case
- In 1 (9.09%) case the victim discontinued her course
- In 1 case the victim confronted the harasser
- 1 of the respondents was not aware of the victims personal response

d) Respondent's personal response to the above mentioned incident: in many way the respondents reaction to the above mentioned instances is also reflective of our general perception to such case.

- 5 (45.45%) chose to ignore the case
- 5 (45.45%) chose to discuss it amongst friends
- Only 1 (9.09%) encouraged the victim to complain to the authorities.

5) VISHAKHA GUIDELINES – IMPLEMENTATION

a) Awareness about the Kerala University guidelines on sexual harassment:

- 15 (88.23%) respondents did not know that the Kerala University had separate guidelines on sexual harassment.
- Only two (5.34%) of the respondents interviewed knew that the University has guidelines on sexual harassment. On being asked what the guidelines contained, they responded that they were not sure.

b) Does your university/college have a committee to deal with issues of sexual harassment: The response to this question also highlighted how ineffectively the Vishakha guidelines had been put into practise

- 2 (5.34%) respondents stated that the university had a complaints committee to look into these matters
- 14 (82.35%) respondents responded No
- 1 (5.88%) respondent wasn't sure about such a committee in the University

The respondents who knew about the exisitence of such a committee where then asked whether they aware about the procedure to file a complaint, contact addresses/numbers of the committee members, when/where/how frequently the committee met. They both responded in the negative.

c) Perceived threats in complaining: On being asked the possible threats in complaining an overwhelming majority of the respondents felt that they would be further victimised if theylodged complaints (8). Another major threat was the uncertainity of the outcome of the case, once it is filed (7). A lot of women also felt that evidence for cases of sexual harassment would be hard to adduce (4). Another concern was the lack of support from colleagues/friend and the implications that such a case might have on their future (3). One respondent expressed the lack of confidence to file such a complaint while another feared possible media scrutiny. Three respondents felt that there is no threat in complaining to the authorities.

d) Gender sensitization/ awareness classes: All the respondents were also asked whether they had attended any gender sensitization/awareness class in their university/college.

- Only 1 out of the 17 respondents had attended a seminar in the university.

e) Expectations from authorities:

- 11 (64.70%) respondents felt that awareness about the guidelines and the committee formed therein should be given by means of notices, posters, seminars and workshops. Like one responded put it "only should committees be set up, there working should not be bureaucratic and they should be active even if the complaints are not being lodged"
- 4 (15.22%) of the victims felt that strict punishment should be given to harassers and the verdict of the cases should be published
- Another suggestion that came up was that the victims identity should not be revealed (2)
- 2 respondents had no expectations from the authorities.

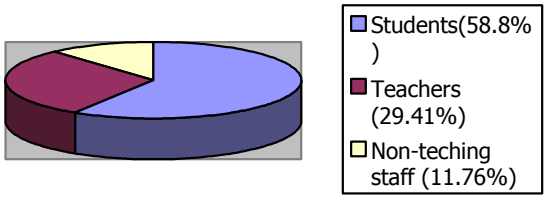
## *B) CALICUT UNIVERSITY*

A total of 17 respondents were interviewed from the Calicut University. These interviews were conducted primarily in the Calicut University Campus, Calicut and a few affiliated colleges in Calicut and Trissur.

1) PROFILE OF THE RESPONDENTS

a) Composition: The study group consisted of women the student and staff of the University (both teaching and non-teaching members), where:

- 10 respondents (58.8%) were students
- 5 respondents (11.76%) were teachers
- 2 respondents (29.4%) were from the non-teaching staff




b) Age:

- 10 (58.82%) belonged to the age group of 20-30 years
- 3 (17.64%) belonged to the age group of 31-40 years
- 4 (23.52%) belonged to the age group of 41-50 years

c) Location:

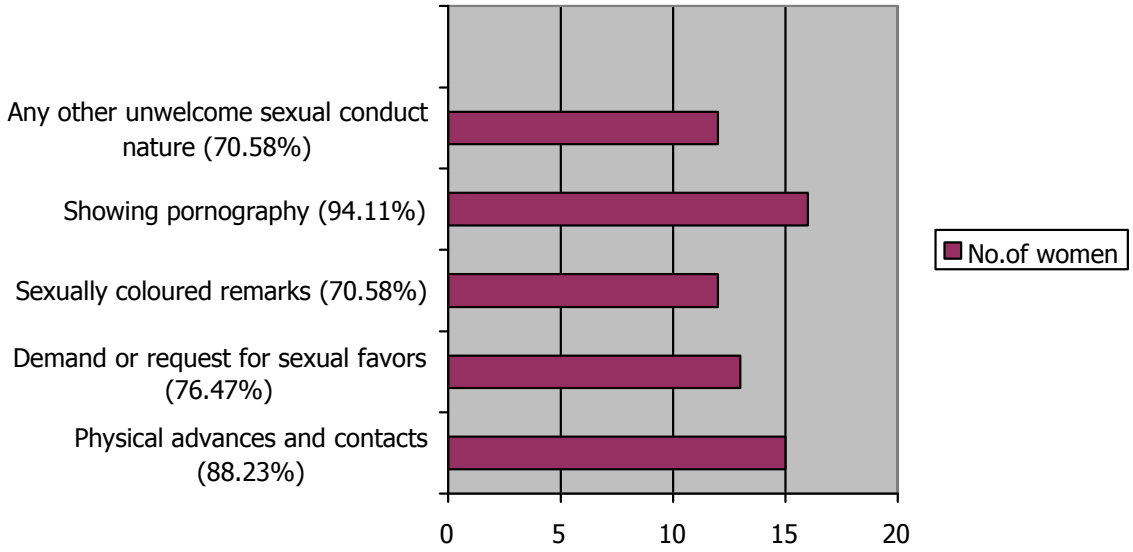
- 9 (52.94%) of the respondents interviewed were from the Calicut University Campus, Calicut
- 8 (47.05%) of the respondents were from the colleges affiliated to the Calicut University located in Calicut and Trissur

d) Designation: The students interviewed were from different streams such as Arts, Sciences, Commerce, Management studies. The course ranged from Bachelors degrees to MPhil. The s teachers interviewed were mostly lecturers, an HOD and non-teaching staff.

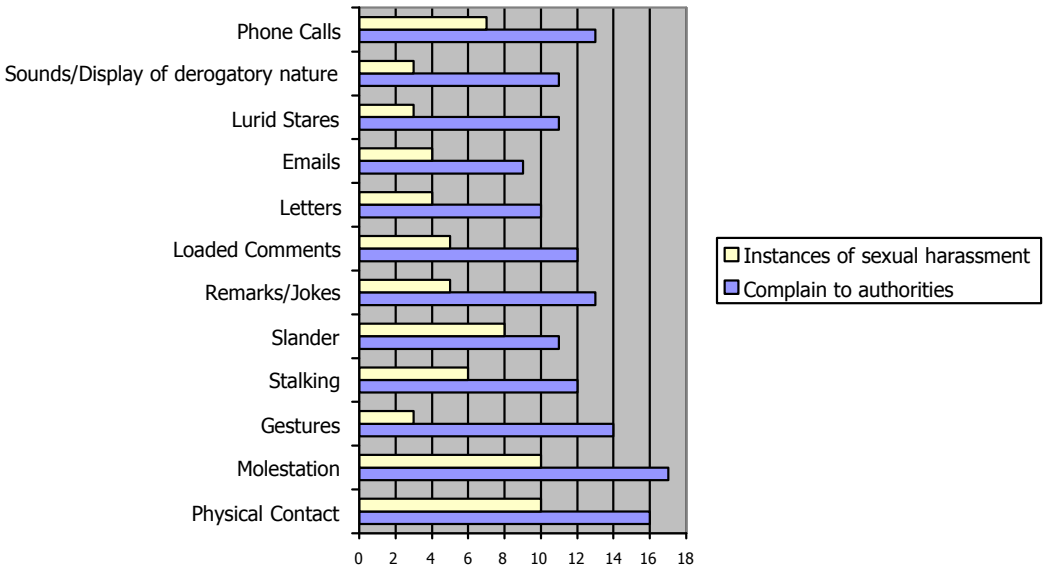
2) PERSONAL UNDERSTANDING OF SEXUAL HARASSMENT

a) Sexual harassment as laid down in Vishakha's case: It would be crucial to know whether the respondents agreed to the classification laid down in the Vishakha guidelines. The respondents were asked as to which of the following incidents would amount to sexual harassment, if it is unwelcome or without their consent. Following is the response of the respondents:

- 15 (88.23%) responded that physical advances and contacts would amount to a case of sexual harassment.
- 13 (76.47%) responded that demand or request for sexual favours would amount to a case of sexual harassment.
- 12 (70.58%) responded that sexually coloured remarks and unwelcome physical, verbal or non-verbal conduct of nature would amount to sexual harassement.
- 16 (94.11%) responded that showing pornography would amount to sexual harassement.



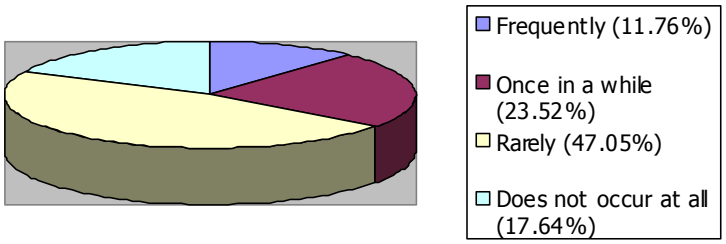

b) Examples to the above mentioned categories: The following data has been represented by the means of a graph as follows. The blue blocks represent instances which the respondents in group III considered to be a case of sexual harassment and yellow blocks indicate instances where they would lodge a complaint officially.




c) Occurrence: On being asked how frequently cases of sexual harassment come up in colleges/ (17.64%) said that it does universities, the respondent answered as follows:

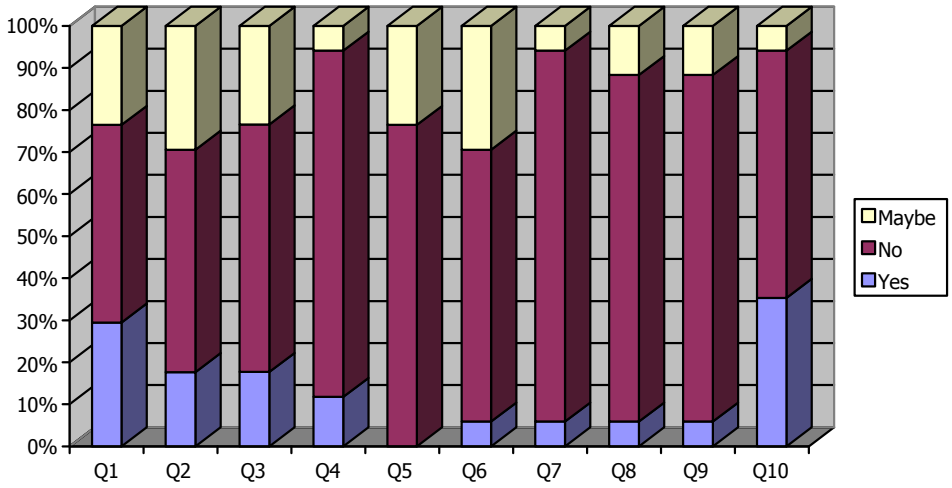
- 2 respondents (11.76) said that it occurs frequently
- 4 respondents (23.52%) said that it occurs once in a while
- 8 respondents (47.05%) said that it occurs rarely

- 3 respondents not occur at all



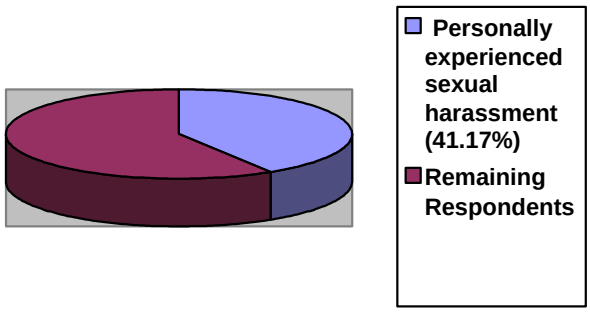

a) Response to questions in Appendix Number 1

Kindly refer to the questions included in Appendix number 1.



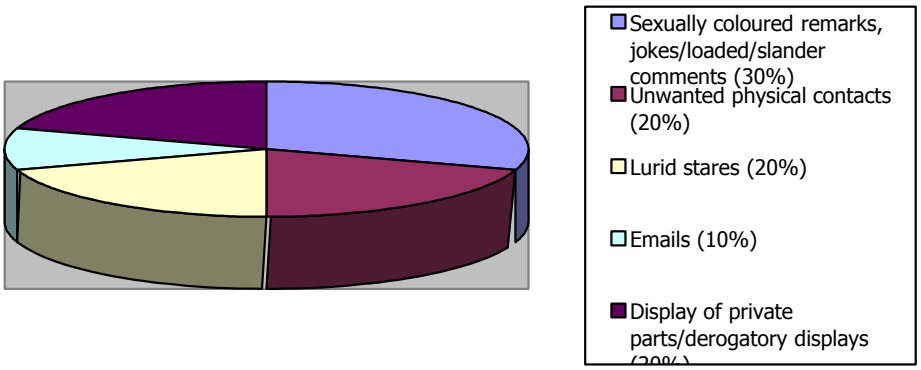

3) PERSONAL EXPERIENCES

Seven (41.11%) of the women interviewed stated that they had experienced sexual harassment personally in the university/college. Some of the respondents shared more than one instance of sexual harassment faced by them in the university/college.




a) Nature of harassment:

- 3 cases (30%) of the harassment came in the form of sexually coloured remarks such as jokes and loaded comments.
- 2 (20%) of the instances cited were that of unwanted physical contact
- 2 (20%) of the cases involved flashing or derogatory displays
- 2 (20%) of the cases mentioned involved lurid stares
- 1 (10%) said that they received emails




b) Profile of the harasser:

- 1 (10%) stated that it was a superior
- 4 (40%) said that they faced harassment from collegues/co-students
- 4 (40%) stated that the harasser was an outsider
- 1 (10%) held that the harasser was a junior

c) Emotional response on being harassed:

- 2 (20%) of the respondents got extremely angry when they experienced such an instance
- 3 (30%) of the women stated that the were extremely saddened and upset by it
- 2 (20%) of the women felt extremely helpless or scared

- 1 (10%) held that such cases did not affect them
- 2 (20%) got irritated by such instances

d) Personal response to the incident of sexual harassment: Not surprisingly 90% of the women did not report the incident to the university/college authorities. Instead all the respondents chose to discuss the matter with their friends. 10% of the cases were brought to the notice of the authorities. The personal responses can be summed up as follows:

- 40% of the respondents chose to ignore the case of harassment.
- 20% tried to avoid the harasser.
- In only 10% of the cases observed, did the respondent choose to confront the harasser.
- 60% of the instances, the respondents chose to discuss the issue with their friends.

e) Perceived threat in complaining: There were diverse reasons given for the following heading.

- Only 10% of the respondents claimed that they did not perceive any threat in complaining to the authorities.
- 50% felt that in complaining to the authorities the reputation in the university/college would be tarnished
- 10% felt that she faces the possibility of being abandoned by her friends
- 20% felt that the college authorities would not give a just and favourable outcome in such cases
- 10% felt that reporting instance to the college authorities is not required
- 87.5% of the respondents felt a threat in complaining to the authorities..etc.

4) WITNESS/KNOWLEDGE ABOUT SOMEONE ELSES HARASSMENT

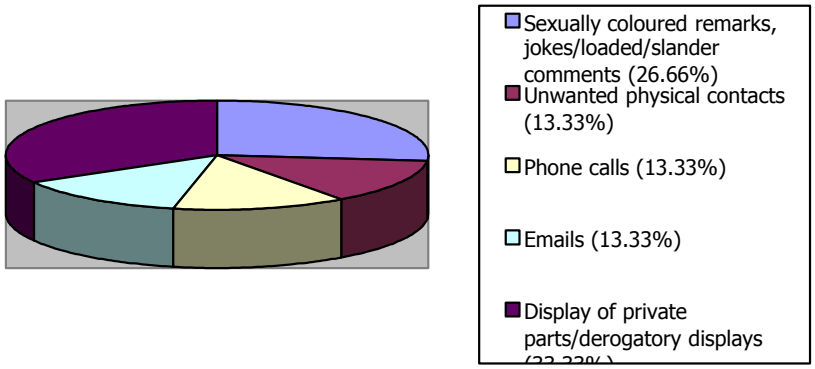
11 of the 17 (64.70%) of the respondents stated that they had either personally witnessed some one else being harassed or that they had heard of someone else being harassed on campus. Some of respondents shared more than one instance

- In 3 of the 15 cases( 20%), it was friend who had faced harassment
- In 9 cases (60%) of the case a senior/junior/colleague had faced some sort of harassment
- In 3 cases (20%), it was an acquaintance who had faced harassment.

a) Nature of harassment:

- 2 (13.33%) of the instances mentioned, involved harassment by the means of letters and emails
- In 2 (13.33%) cases the harassment was over the phone.
- 2 of the reported instances involved unwanted physical contact (13.33%)
- In 4 cases (26.66%) the victim was subjected to sexually coulored remarks in the form of jokes and slander

- 5 (33.33%) cases mentioned the harassment was by display of private parts




b) Profile of the harasser:

- In 2 (13.33%) of the cases mentioned, the harasser was a senior/superior
- In 4 cases (26.66%) of the cases mentioned, the harasser was an outsider.
- In 5 (33.33%) cases the harasser was a colleague/co-student.
- In 2 cases the harasser was a junior/student
- In 2, the respondent was not sure about the identity of the harasser

c) How did the victim respond to it:

- In a majority of cases 5 (33.33%) cases, the victim chose to complain to the college authorities
- In 3 cases (20%) women felt helpless and unable to respond
- In 1 (6.66%) case the victim chose to ignore the harassment
- In 3 cases (20%) the victim confronted the harasser
- In 3 cases (20%) again the victim decided to lodge a complaint with the police

d) Respondents personal response to the above mentioned incident: In many ways the respondent's reaction to the above mentioned instances is also reflective of our general perception to such case.

- 10 (66.66%) chose to discuss the matter with their friends
- In 3 cases (20%), the respondents chose to ignore the harassment
- Only in 2 cases (13.33%) did the respondent encourage the victim to complain to the authorities.

5) VISHAKHA GUIDELINES – IMPLEMENTATION

a) Does your university/college have a committee to deal with issues of sexual harassment: The response to this question also highlighted how ineffectively the Vishakha guidelines had been put into practice.

- 6 (23.52%) respondents stated that the university had a complaints committee to look into these matters of sexual harassment

- 8 (47.05%) respondents responded saying that their university/college did not have a complaints committee
- 3 (17.64%) responded that they were not sure about such a committee in the University/college.

The respondents who knew about the existence of such a committee where then asked whether they aware about the procedure to file a complaint, contact addresses/numbers of the committee members, when/where/how frequently the committee met. While only 3 of the 6 responded in yes, they were not sure about the procedures and the functioning of the committee.

b) Perceived threats in complaining: On being asked the possible threats in complaining the following responses were given:

- An overwhelming majority of the respondents felt that they would be further victimised if they lodged complaints (11).
- Another major threat was that in most cases the harasser is in a dominant position, thus, he could hamper the outcome of the case (3).
- Some women also felt that the case itself could be twisted nad blown out of proportion (2).
- Another concern was the lack of support from colleagues/friend and the implications that such a case might have on their future (2).
- A few respondents felt that there is no threat in complaining to the authorities (2).

c) Gender sensitization/awareness classes: All the respondents were also asked whether they had attended any gender sensitization/awareness class in their university/college.

- Only 2 out of the 17 respondents had attended a seminar in the university/college

d) Expectations from authorities:

- 11 respondents felt that awareness about the committee.
- 4 respondents felt that the authorities should be given classes on gender sensitization
- 4 responded saying that there should be more seminars, posters,memos,etc. Giving information about the committee as well as the awareness about issues of sexual harassment.
- 4 respondents felt that strict punishment should be given to harassers and the verdict of the cases should be published
- 4 respondents felt that measures should be taken to remove the stigma attached with reporting cases to authorities.
- 3 respondents felt that the university should come up with more specific guidelines on the workings of the committee
- 2 respondents felt that there should be no political involvement in cases reported
- Another suggestion that came up was that the victims identity should not be revealed (1)
- 1 respondent felt that the committees formed should be strictly monitored.

# PART III – CONCLUSION

At the outset, this research examined how the general framework provided by the Vishakha guidelines can be customised to meet the needs of specific universities in Kerala. However, the assumption regarding the benefits of the formulation of separate guidelines by a university is inadequate. In comparing the University of Kerala and Calicut University, it is evident that even elaborate guidelines (for instance the "guidelines for cell to combat sexual harassment" instituted by the University of Kerala) prove to be ineffective if they are not followed up by prompt action and dissemination within the campuses. However, the researcher still feels that specific customised guidelines for each university prove advantageous. Such categorical guidelines lay down a general policy and code of conduct in the University, including the affiliated colleges therein. In addition, the success of the guidelines is contingent on the commitment of the university officials and the committee members, the involvement of employees/students and on the broad dissemination of the policy among the staff.

The findings of the report confirmed that committees on sexual harassment, even when constituted as per the guidelines, remain largely ineffective, a good indicator of which is the low turnout of cases. While meetings are held regularly and records are kept there still exits ambiguity in regard to the Governmental authority that these committees are accountable to. As of now, the committees seem to be completely focused only on case redressal, acting mainly as a complaints committee. The members do not seem to perceive a broader role for the committees in terms of awareness building and university wide gender sensitisation. Most of the committee members interviewed have not themselves participated in the gender sensitization/awareness classes before taking charge. Another concern was the lack of decisionmaking power vested with the committees. For instance, the CUCC is only authorized to investigate a case and declare a person guilty/no guilty and therefore is unable to unable to negotiate initiatives for addressing gender issues with the management. Members themselves continue to be confused about the range of behaviour that may be termed as sexual harassment. This confusion may lead not only to dismissal of complaints, but also discourages women from complaining in the future. Thus there exists the need for adequate orientation of the members, which in turn will enable complaints committees to respond effectively to the problem of sexual harassment.

Another concern is the absence of a third party in the CUCC. The complaints committees are spaces where women have been legally mandated to take leadership initiatives. The study however indicates that to enable women take up such positions, capacity development programmes geared towards orientation on law and rights need to be initiated. Finally, effective implementation of the Supreme Court guidelines on sexual harassment depends both on the constitution of proactive complaints committees and development of adequate monitoring mechanisms. Take for example publishing upto date contact addresses of committee members. In fact, that in itself would amount to appropriate measure towards "the maintenance of confidentiality" as laid down in the guidelines. This implies developing policies that provide overall directions including developing case redressal procedures that ensure confidentiality, protection of the complainant from victimisation, timely addressal of complaint, capacity development, and an environment that empowers women workers to raise their concerns.

While, ensuring a safe campus environment is the primary responsibility of the University officials, this does not absolve the unions from discharging their own responsibility to maintain a conducive environment. Unions also have responsibilities to their own members and they *can*

and *should* play an important role in the prevention of sexual harassment in the University. This perhaps can be aptly summed up in the following words: "Unions have a duty to make members aware of the nature and scope of the problems involved, to take action to prevent sexual harassment occurring and to set up a grievance procedure to deal with it. Male trade unionists will need to examine their behaviour towards women at work and in the union. The more the problem of sexual harassment is discussed in the open by the trade unionists, both female and male, the easier it will become to eliminate it from the workplace. Unions will need to be aware of the existence of any sexual harassment in their own ranks and take steps to eradicate this." (Bhasin 2007, p. 250)

It is evident from the interviews with Group III that there is a high prevalence of cases of sexual harassment on campus. In the University of Kerala, 39.25% of respondents had personally undergone sexual harassment, while and 59% were aware of someone else's harassment on campus. 35.29% of the respondents felt that instances of sexual harassment occur frequently in the university/campus. Likewise in Calicut University 41.11% of the respondents had personally undergone sexual harassment, while 64.70% were aware of someone else's harassment. 11.76% of the women felt that such instances occurred frequently in the university/college. The majority of the respondents in both the universities were able to identify cases of sexual harassment. However, when asked to identify certain instances regarding which they would personally complain to the authorities, the figures were very low. (refer graph on P. 28 and P. 35) The most common form of harassment came in the form of sexually coloured remarks (jokes, slander, loaded comments) followed by display of obscene visuals (such as private parts), and unwanted physical contact. The majority of the respondents fail to report instances of sexual harassment to the authorities, with most of them opting to either ignore the whole incident or limiting it to a discussion with friends. On being asked if there is a threat in complaining to the authorities, a majority of the respondents confirmed it, the issues of social ostracisation and further victimisation being significant concerns. The most common response to harassment was fear and helplessness, with an over-riding sense of being upset and embarrassed. The majority of the respondents interviewed felt that the university/college should spread awareness sexual harassment and the committees by means of seminars, posters, pamphlets, workshops.

In conclusion, though the Universities have set up committees, they still fail to reach out to the concerned sections. In that sense, the Vishakha guidelines alone cannot single-handedly address the issue of sexual harassment. There is an need for subsidiary interventions in the form of policy, programmes and awareness amongst the students and employees, as is the participation of all these sectors in such initiatives.

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## APPENDIX 1

Along with the individual questionnaires for each group, a set of ten questions were administered to group (I) and group (II). They are follows:

1) Do women provoke harassment by the way they look, behave and dress.
2) Women who are bold and speak to men without any inhibitions invite attention
3) Women use sex to get ahead.
4) If you ignore a case of harassment, it will go away.
5) The men are often only joking about it, its just that the women have no sense of humour.
6) Women make false complaints of sexual harassment.
7) Most so called sexual harassment is really trivial and harmless flirtation.
8) Sexual harassment is a women personal problem.
9) Sexual harassment is a western phenomenon.
10) Men are as easy targets in cases of sexual harassment as women.

## APPENDIX 2

**UNIVERSITY OF KERALA**

PRO/PIO/RTI/249/2008.

Thiruvananthapuram
Dated 07.06.2008

From

**The Public Information Officer.**

To

Kum.Vishishta Sam,
Room No. 706, CSI Ladies Hostel,
Nanthencode,
Thiruvananthapuram.

Kum.Vishishta Sam.,

Sub:- RTI Act 2005 – Information furnishing of - reg.

Ref:- Your request under RTI.

With reference to the above, the Deputy Registrar (Academic) has furnished the following information.

1 & 2) Copy of the documents have been made available in the Public Relations Section. You may remit an amount of Rs 130/- to Kerala University Fund and collect the same from the Public Relations Section during office hours.

3) A sum of Rs.2701/- was sanctioned to the cell to conduct a workshop on 2nd December 2000 to formulate guidelines, action plan etc of the cell. No funds have been received from the UGC.

4) One case has been brought before the Committee.

5) One case has been disposed of by the Committee.

6) International Women's Day is celebrated evey year under the auspices of the cell. Seminars, talks etc are held as part of this. Teaching and non-teaching members and students of the University participate in the event.

7) No Department/Affiliated colleges have set up committees according to guidelines for the cell to Combat Sexual Harrassment.

Thanking you,

Yours faithfully,

PRO / PIO