

In This Issue

Sexual Harassment at work: Efficacy and Implementation of Laws



(Source- <https://www.npr.org/2016/10/15/497944137/workplace-sexual-harassment-a-threat-to-victims-a-quandary-for-bystanders>)

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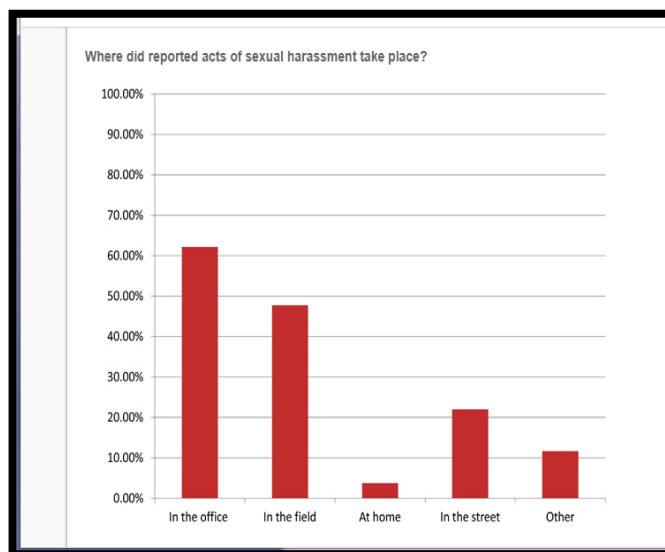
Sexual Harassment at work: Efficacy and Implementation of Laws

Despite the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal Act, 2013 harassment of women at their workplaces has not reduced. “38% women say they faced sexual harassment at workplace out of which 70% refrain from filing complaint due to fear, embarrassment and lack of confidence.” - Indian National Bar Association (INBA)

Introduction

A safe workplace is a woman's legal right. The Constitutional doctrine of equality and personal liberty is highlighted under the Articles 14, 15 and 21 of the Indian Constitution. These articles ensure a person's right to equal protection under the law, to live a life free from discrimination on any ground and to protection of life and personal liberty. This was further reinforced by the UN Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), adopted by the UN General Assembly in 1979 and later ratified by India. Sexual harassment, in this case constitutes a gross violation of women's right to equality and dignity. It has its roots in patriarchy based on the notion that men are superior to women and that violence against women (in any form) is normal. In fact, it involves serious health, human, economic and social costs, adversely affecting the woman's overall development. **As per the NSSO official data 2011-12, women's work participation rate stands at around 25.3 per cent in rural areas and 14.7 per cent in the urban areas as compared to 1999-2000 data (according to which 35% of rural women and 17% of women over 15 years old were working).** Women's work participation rates are relatively low resulting in an overall decline in their contribution towards India's GDP. One of the reasons behind the fewer women joining the work force is the unsafe working conditions that they are subject to. Therefore it becomes the responsibility of this nation to provide and secure their workplace and entitlements.

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(Source: <http://www.iwmf.org/blog/2014/03/07/sexual-harassment/>)

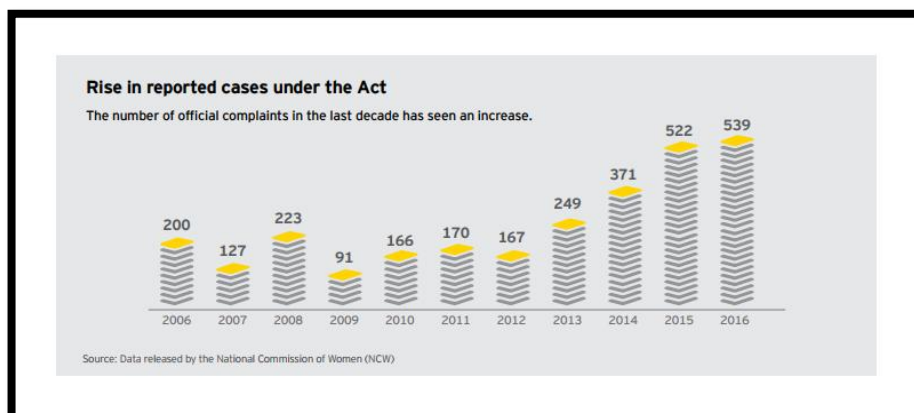
In 2013, the Government of India implemented the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act¹ (referred to as Act hereinafter) consistent with the Vishaka judgment of 1997. The Act seeks to ensure women's right to workplace equality and freedom from sexual harassment through compliance.



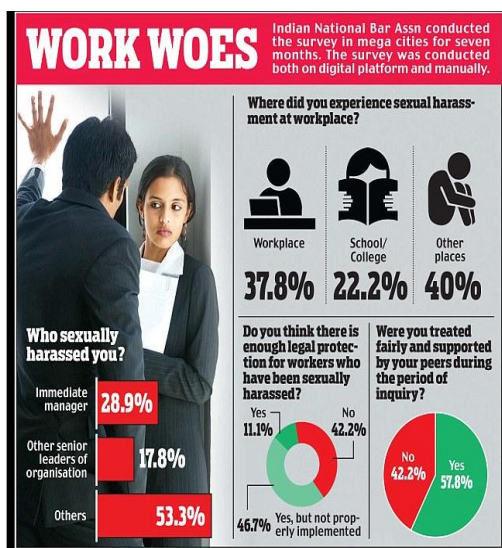
(Source: <http://www.shesays.in/law/offences>)

¹ <http://www.iitbbs.ac.in/notice/sexual-harrassment-of-women-act-and-rules-2013.pdf>

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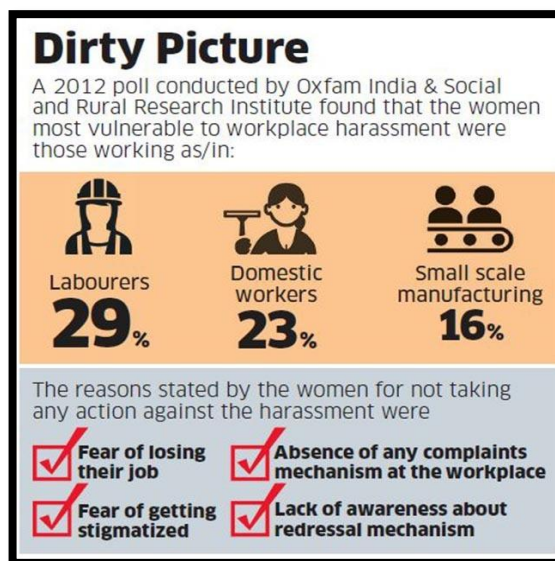
In the present time, reports of women employees reporting instances of sexual harassment by their bosses are becoming relatively more frequent. **Between 2014 and 2015, cases of sexual harassment within office premises more than doubled—from 57 to 119—according to National Crime Records Bureau data. There has also been a 51% rise in sexual harassment cases at other places related to work—from 469 in 2014 to 714 in 2015. In the year before, between 2013 and 2014, the National Commission for Women reported a 35% increase in complaints from 249 to 336, according to this December 2014 reply filed in the Lok Sabha (the Lower House of Parliament)².**



(Source: <http://www.dailymail.co.uk/indiahome/indianews/article-4085296/The-harassment-Capital-India-Delhi-tops-survey-revealing-women-suffer-shockingly-high-number-lewd-comments-inappropriate-touching-demands-sexual-favours-workplace.html>)

² <http://www.indiaspend.com/cover-story/despite-law-70-working-women-do-not-report-workplace-sexual-harassment-employers-show-poor-compliance-94743>

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(Source: <https://economictimes.indiatimes.com/news/politics-and-nation/why-women-contract-workers-are-among-the-most-vulnerable-to-sexual-harassment-at-work/articleshow/61313168.cms>)

However, the victims are unable to find the courage to stand up and seek legal remedy. A recent survey by the Indian Bar Association³ found that 70% of women did not report sexual harassment by their superiors. In case of women belonging to the informal sector, the situation is worse as they are not protected by any health and safety legislation. It is clear that laws alone cannot bring about change in behavior which are the result of deep-rooted gender bias, of beliefs and attitudes in society itself. Why women chose to remain silent in face of such exploitation?

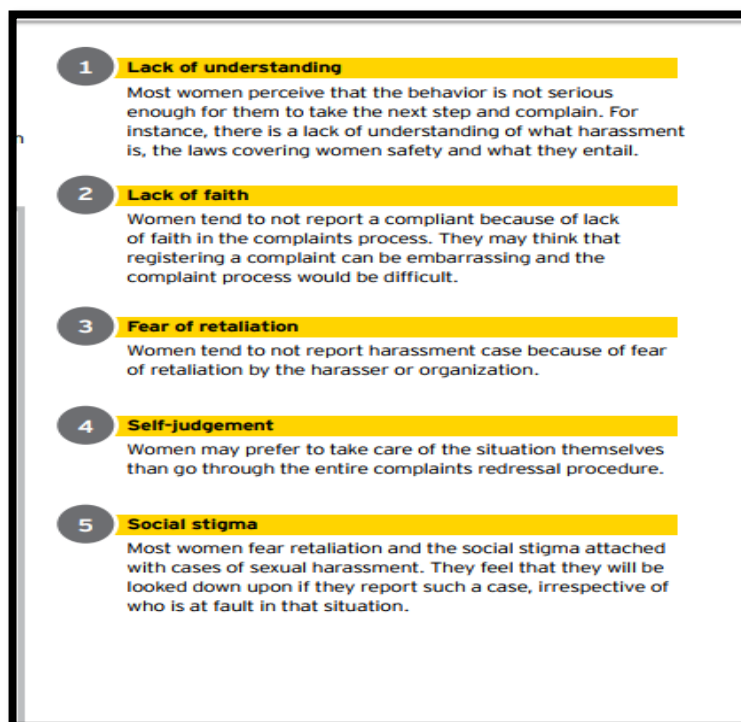
Reasons for failure to report safety concerns

The reasons for not reporting cases of sexual harassment include victim's lack of trust in the organisation to handle such an issue comprehensively and fear of retaliation⁴. Added to this is the apprehension of being blamed by colleagues and family for the incident and last but not the least it might lead to missing out on future promotions or eventually being forced to quit the company. A similar result emerged recently in the studies conducted by the National Commission of Women in August 2017. According to NCW member secretary, Satbir Bedi, "Seventy percent, rather 69 percent of women who perceive sexual harassment at work never complain," she said.

³ <http://www.livelaw.in/tag/indian-national-bar-association/>

⁴ <http://www.livelaw.in/tag/indian-national-bar-association/>

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(Source: [http://www.ey.com/Publication/vwLUAssets/EY-reflections-on-the-state-of-women-safety-at-the-workplace-in-india/\\$FILE/EY-reflections-on-the-state-of-women-safety-at-the-workplace-in-india.pdf](http://www.ey.com/Publication/vwLUAssets/EY-reflections-on-the-state-of-women-safety-at-the-workplace-in-india/$FILE/EY-reflections-on-the-state-of-women-safety-at-the-workplace-in-india.pdf))

“Women, when they complain, are invariably forced to leave their jobs. There are no preventive measures that employers are taking. Employers are not taking this Act seriously, the state is not monitoring the implementation of the act and therefore it is still a highly underused law. The state is not asking workplaces to implement it and there is no accountability of the employer. The women when they’re complaining are put in a position where invariably they are victimised and forced to leave. In such circumstances it is very hard for women to actually make the complaint. But the only way to change this is for women to report, irrespective of the consequences” – Vrinda Grover (lawyer, researcher, and a women's rights activist.

Research shows that ⁵ sexual harassment can be trivialized by organizations or result in hostility and retaliation against the victim. Another reason individuals may fail to speak out against sexual harassment is something called the bystander effect, which says that we are less likely to help a victim when others are also present. The bystander effect occurs for two reasons: diffusion of responsibility (if others are present, someone feels that other observers are responsible for intervening) and social influence (bystanders observe others’ behavior to determine the correct behavior; so if no one is intervening then that seems to be the correct behavior, as people abide by the status quo). This can even give the appearance that the behavior is condoned by observers.

A third factor that may reduce the likelihood of reporting sexual harassment is a highly male-dominated organization and/or highly masculine culture. In very masculine work cultures, some men use the subjugation of women as a way to relate to other men and prove their masculinity, while reinforcing women’s lower status within the organization and also in the society. At the same time, women who want to be part of the high-status group may play along with sexual harassment because they do not want to be further alienated from the high-status group (men).

⁵ <https://hbr.org/2016/10/why-we-fail-to-report-sexual-harassment>

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Sexual Harassment: A Global Issue

There is no chance of the welfare of the world unless the condition of women is improved. It is not possible for a bird to fly on one wing- Swami Vivekananda

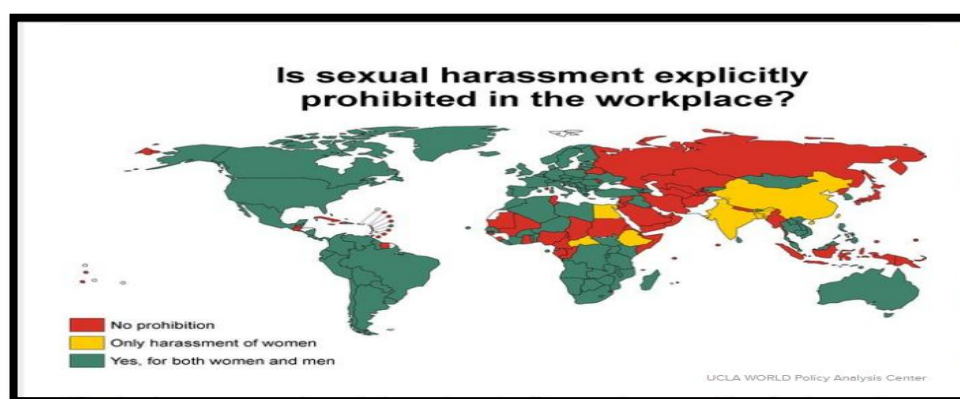
Sexual harassment is a global issue. More than one-third of the world's countries do not have any laws prohibiting sexual harassment at work, leaving nearly 235 million working women without this important protection⁶. A study by UCLA's **WORLD Policy Analysis Centre** also found that nearly 82 million working women live in 24 countries that do not have any legal protection against gender-based discrimination.

To understand whether countries are doing enough to prevent sexual harassment and gender discrimination at work, WORLD performed a comprehensive analysis of national laws and policies related to sexual harassment and employment discrimination in all 193 countries that are members of the United Nations.

Among the findings:

- Legal gaps in legislation leave too many women vulnerable to sexual harassment during the workday: Sixty-eight countries do not have any workplace-specific prohibitions of sexual harassment.
- Twenty-five countries do not extend any explicit protection from discrimination in workplace compensation.
- There are 126 countries that protect women from discrimination in promotions and/or demotions based on both gender and race/ethnicity.

From Hollywood to the corridors of power in Westminster to New Delhi, we face a gender inequality crisis on a large scale. Sexual and gender-based exploitation, harassment and violence thus should be addressed as a global issue. The recent allegations against film producer Harvey Weinstein have initiated a global conversation about the issue of sexual harassment in the workplace and we saw women coming out in large numbers and sharing their experience on sexual harassment through various social media platforms by using the hashtag #MeToo. This brought to the fore the numerous experiences of sexual exploitation and women who had been silent for years spoke up.



(Source: <http://newsroom.ucla.edu/releases/nearly-235-million-women-worldwide-lack-legal-protections-from-sexual-harassment-at-work>)

⁶ <http://newsroom.ucla.edu/releases/nearly-235-million-women-worldwide-lack-legal-protections-from-sexual-harassment-at-work>

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Ernest Young in 2015 came up with a report, “Reflections on the state of women safety at the workplace in India: A report by Fraud Investigation & Dispute Services conducted in India that analyzed the status of implementation of the Act to prevent sexual harassment at the workplace. Major finding of the survey include:

- In regard to implementation of Internal Complaints Committees (ICCs) mandated in the Act, almost half of the respondents’ organizations had not displayed this clearly at prominent places within their premises. The survey revealed that around 31% of the respondents were not compliant with the Act (after its enactment), which mandates ICCs being constituted to address complaints relating to sexual harassment. In many organizations, ICC members have not undergone training mandated by the Act. According to the survey, 40% of the respondents are yet to train their ICC members
- 31% of the respondents were not compliant with the Act (after its enactment), which mandated ICs being constituted to address complaints relating to sexual harassment.
- Recent statistics released by the National Commission of Women (NCW) suggest that complaints regarding sexual harassment at the workplace are rising every year some also include cases filed with malicious intent. 12% of the respondents stated were unclear and rather shocked about women filing malicious complaints for personal gain. The efficacy of an anti-sexual harassment program depends greatly on awareness levels among a company’s employees. 44% of the respondents’ organizations did not display the penal consequences of sexual harassments at conspicuous places. 67% electronics and telecom companies and 59% banking and financial services companies did not display at conspicuous places, the penal consequences of sexual harassment.
- Under the provisions of the Act, establishments face a penalty of INR 50,000 for their first violation and double the sum for subsequent ones. Repeated violations can lead to cancellation of their business license. Therefore, they need to tighten their internal processes to respond to complaints and take the requisite steps (as laid down by the Act) to appropriately respond to such cases. 35% of the respondents were unaware of the penal clause for non-compliance with laws relating to how ICCs should be constituted.

Impact of inappropriate behavior

One in three women has experienced sexual harassment, violence, assault or rape in their lifetime. The United Nations Commission on the Status of Women estimates that 35 per cent of women worldwide have experienced either physical and/or sexual intimate partner violence by a non-partner at some point in their lives, with some national studies suggesting the figure may be as high as 70 per cent. **What could be the impact of inappropriate behavior on the lives of these women?**

Dr. Colleen Cullen, a licensed clinical psychologist, says that for victims of sexual harassment, the most common diagnoses are depression, anxiety, and even post-traumatic stress disorder (PTSD) and that patients may also see a worsening of symptoms. Research also indicates that sexual harassment early in one's career in particular can [cause] long-term depressive symptoms. Among women who experience sexual assault, 90 percent who experience sexual violence in the immediate aftermath exhibit symptoms of acute stress, according to Dr. Helen Wilson, a licensed clinical psychologist with expertise on the effects of trauma. Sometimes sexual harassment registers as a trauma, and it's

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difficult for the [patient] to deal with it, so what literally happens is the body starts to become overwhelmed. Nannina Angioni, a labor and law employment attorney who has worked on hundreds of sexual harassment cases describes it as slithering snake that ripples its way through a work environment causing disastrous results. "Employees talk of having a pit in their stomach commuting to work, having anxiety, panic attacks, inexplicable fits of crying and physical manifestations of stress: hair falling out, hives, weight gain or loss, sleeplessness and lethargy," says Angioni.

Tackling sexual harassment at the workplace

Working in a safe environment is the right of all employees. Today, with more and more women joining the workforce, companies need to ensure that their establishments are safe so that their women employees feel secure and can work at ease.

Some of the measures that organizations can adopt to enhance women safety in India as suggested by the EY Report are:

- Encourage women to step up and speak to the relevant committee in the organization in case of any issues such as harassment and improper conduct and situation.
- Organizations need to conduct gender-sensitization trainings and awareness programs for both men and women across their operations. Besides providing regular training to employees, there exists a need for robust training modules in organizations that concentrate on gender discrimination. A grievance guideline could help a distressed woman in raising her concerns and solving problems along with safe working conditions.
- A zero tolerance policy toward any form of harassment at the workplace should be incorporated. Continuously monitoring and revising policies to address specific concerns could also help in mitigating harassment cases in the long run.

Way forward: Enhancing women safety in India

An act of sexual harassment is an infringement of one's universal human right to equality, dignity and personal liberty. In recognition of India's international obligation to protect human rights, India needs to provide the minimum legal standard of protection that every employee rightfully deserves. Domination is one of the greatest causes leading to sexual harassment to the women's in the society even today. The most shameful thing is that even after good legislations, sexual harassment against women in workplace is still prevalent in India. Much more needs to be done for making this objective a reality. Employer organizations need to realize their responsibility of eradicating sexual harassment in all forms within their workplace and this call for a humane outlook and a firm commitment. In order to protect women from such crime, it is very important to introduce various programmes in order to protect themselves from such sexual harassment in the employment places, in schools, in colleges, in any place by any person known, or stranger. This is where the Government needs to take full charge. It should implement, monitor and review on a regular basis the provisions for a protected environment in order to ensure women in India finally feel safe. Sexual harassment is a stigma on the society, which not only hurts the women but also takes away her dignity. All sections of society have to work for a better environment for its women to be able to speak up and fight for justice.

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Headline

Demonetisation, a year later: businesses unravel, jobs scarce in Delhi textile hub

(Malini Nair, *The Wire*, November 12, 2017)

Already stressed by competition with other Asian nations, the Indian garment sector served a body blow due to demonetisation. With about 1.5 million jobs already lost during January-April 2017, according to an analysis by CMIE, the repercussions of demonetisation continue as the year ends. Businesses in Noida-Greater Noida region are down by 40% and around 50-70 units in the apparel sector have shut down, says Lalit Thukral, head of the Noida Apparel Export Cluster. The apparel sector, 80% of which consists of cash-based informal units, employs casual, unskilled labour primarily from rural areas in Uttar Pradesh and Bihar. Workers in the sector say they have not held jobs for almost a year now.

Read more: <https://thewire.in/196412/demonetisation-a-year-later-businesses-unravel-jobs-scarce-in-delhi-textile-hub/>

Date accessed: 13.11.2017

Read More: <http://www.livemint.com/Opinion/dYjxld7K7mhw2QHp0Quu7N/The-long-road-to-fiscal-sanity.html>

Date Accessed: 17.04.2017

Governance and Development

Banking on legislation

(Meera Nangia, *The Hindu*, November 09, 2017)

The new Financial Resolution and Deposit Insurance Bill, 2017 seeks to establish a specialised resolution mechanism to deal with bankruptcy situations in banks, insurance companies and financial sector entities. The bail-in instrument under the Bill empowers the proposed Resolution Corporation to cancel a liability owed by the bank or to modify or change the form of an existing liability to another security. This, the author suggests, changes the relationship between the customer and the bank, whereby an account would lose its sovereign guarantee and instead become an investment – through being converted into, say, preference shares. For the depositor, putting away money in a bank would be akin to buying shares of a company or units of a mutual fund.

Read more: <http://www.thehindu.com/opinion/op-ed/banking-on-legislation/article20005363.ece>

Date accessed: 10.11.2017

Read More: <https://thewire.in/124653/labour-news-india-workers-rights/>

Date Accessed: 17.04.2017

Governance and Development

SECURITY

MHA forms new divisions to check radicalisation, cyber fraud

(*The Hindu*, November 10, 2017)

In the light of growing threats increased online radicalisation and terrorism, the MHA has created two new divisions, Counter Terrorism and Counter Radicalisation (CTCR) and Cyber and Information Security (CIS). The CTCR division will devise quick strategies for de-radicalisation and to check terrorism while the CIS division will be responsible for monitoring online crimes and threats and suggest ways to minimise and fight them. These divisions have been formed as a part of administrative restructuring with several existing departments now merged into these two new departments. Another new wing formed is the Coordination and International Cooperation department while the judicial wing has been merged with the centre-state division.

Read more: <http://www.thehindu.com/news/national/mha-forms-new-divisions-to-check-radicalisation-cyber-fraud/article20104313.ece>

Date Accessed: 13.11.2017

EDUCATION

New Education Policy draft by December

(*The Hindu*, November 12, 2017)

The Union Minister for Human Resource Development has confirmed that the Kasturirangan Committee on the new education policy would submit its first draft by December. The eight member committee has met 5 times so far and in the last meeting, declared the completion of the first draft. The policy is expected to be implemented before 2020 and according to the Minister, will be relevant at least for the next 20 years. The policy has been drafted after taking into consideration the opinions of MPs and MLAs of all parties, educationists and teachers and will ensure quality education with a new vision of growth.

Read more: <http://www.thehindu.com/news/national/new-education-policy-draft-by-december/article20356639.ece>

Date Accessed: 13.11.2017

HEALTH

Investing in health: healthcare industry in India

(Indira Chakravarthi, Bijoya Roy, Indranil Mukhopadhyay, Susana Barria, *Economic and Political Weekly*, November 11, 2017)

Abstract: The publication of "Investing in Health," the World Bank's highly influential 1993 World Development Report, has guided structural adjustment policies and health sector reforms in many developing countries. This study looks at how investment in health has since taken place in India with the withdrawal of the state from healthcare, transformation of healthcare into a commodity, and promotion of the private healthcare sector by the state. This has led to an unregulated industry that is aggressively seeking expansion and profits from the provision of healthcare, and attracting investments by global finance capital.

Read more: <http://www.epw.in/journal/2017/52/special-articles/investing-health.html>

Date accessed: 13.11.2017

Governance and Development

AGRICULTURE

Maharashtra plans to bring 44 lakh farmers under group farming

(Shubhangi Khapre, *The Indian Express*, November 13, 2017)

After witnessing a positive result to the past efforts at group farming, aimed at countering higher investments and lower returns, the government has decided to extend the model to most vulnerable segments of the farming community like the drought prone areas and marginalised landholders. The group farming model was announced during the Budget Session of March 2017 and received the cabinet approval this year in July. So far, the targeted group consisted of 1,200 groups set up covering 40,762 farmers although officials acknowledge that expanding to 44 lakh farmers will require greater and more coordinated efforts both in terms of logistics and financial support. This model of farming is seen to be becoming inevitable since 78 per cent farmers have small and marginal landholding and most of them are debt ridden.

Read more: <http://indianexpress.com/article/india/maharashtra-plans-to-bring-44-lakh-farmers-under-group-farming-4934857/>

Date Accessed: 13.11.2017

Opinion/Books

INDIA IN THE WORLD

India to face UK in the International Court of Justice judge election

(Suhasini Haidar, *The Hindu*, November 10, 2017)

After failing to secure the required votes in the first few rounds of voting, India is determined to offset this setback and is putting all efforts to ensure that it retains judge in ICJ especially in view of the ongoing Kulbhushan Jadhav case against Pakistan. The next round of voting will be between Justice Bhandari and UK candidate Justice Greenwood. While India has a firm lead in the General Assembly, UK wields a disproportionate influence in the Security Council. To be elected, a candidate must obtain a majority of 97 votes or more in the General Assembly and also a majority of eight votes in the Security Council. PM Modi has personally requested States to support its nomination bid during his bilateral meets.

Read more: <http://www.thehindu.com/news/national/icj-election-india-to-face-uk/article20112991.ece>

Date Accessed: 13.11.2017

Opinion/Books

Prioritising the Poor

(C.T. Kurien, *Frontline*, Print Edition: November 24, 2017)

In his new book 'Sense and Solidarity: Jholawala Economics for Everyone,' development economist and activist Jean Dreze critically touches upon a number of issues, ranging from specific questions such as health, education, child development, school meals, etc., to broader questions of technocracy, corporate power, war, and the paradox of 'GDP growth – the rising contradictions emerging out of the 'development' agenda. Additionally, Dreze also sheds light on methods of research and makes an important distinction between academic research and action-oriented research, highlighting the need for the researcher in the latter field to develop a language of day-to-day discourse, as opposed to escaping into the language of profession, clouded with abstractions. The book is a collection of around 50 pieces written and published from the early 2000s to 2016 in newspapers and other popular publications features.

Read more: <http://www.frontline.in/books/prioritising-the-poor/article9946813.ece?homepage=true>

Date accessed: 13.11.2017

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