

THE POSH ACT OF 2013 – SAFEGUARDING WOMEN AT WORK

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ABSTRACT

Workplace harassment stays a critical problem that influences a worker’s well-being and productiveness. The POSH Act, 2013 was introduced to offer a felony framework for preventing and addressing sexual harassment at workplaces in India. While the Act mandates the established order of Internal Complaints Committees (ICCs) and gives procedure for handling the issues and complaints, but demanding situations persist in its powerful implementation. This study into the subject delves into the important provisions of the Act, examines its impact and effectiveness, and highlights regions desiring development and current gaps in implementation, necessary steps to make sure safer work environments for women.

KEYWORDS – POSH Act, workplace harassment, sexual harassment laws, corporate compliance, corporate governance, women’s rights, workplace safety, workplace ethics, harassment prevention, labour laws, legal redressal mechanisms

INTRODUCTION:

Workplace safety, particularly for women, has turn out to be a pressing problem in present day professional environments. Despite widespread development in gender inclusion, many women hold to stand harassment at work, often in subtle or unreported methods.

POSH refers to the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, which was enacted to offer a secure and harassment-free place of work for females in India. It was a legislative response to the Vishaka Guidelines, which were laid down by using the Supreme Court in 1997 following the landmark Vishaka v. State of Rajasthan case. The POSH Act of 2013 brought about a big change in India. It aimed to stop and deal with sexual harassment at work across the country. However, even as the felony

framework exists, its realistic enforcement varies significantly.¹²⁷

A major question lies in cognizance as many personnel, particularly in smaller corporations and informal sectors, stay unaware of their rights. Additionally, fear of retaliation often or mostly discourages victims from reporting misconduct.¹²⁸

KEY PROVISIONS OF THE POSH ACT, 2013:

- The POSH Act, 2013 defines sexual harassment widely, encompassing unwelcome physical contact, sexual advances, inappropriate comments, and any conduct that creates an ill work environment.

¹²⁷ The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013, Act No. 14 of 2013 (India)

¹²⁸ Bhattacharya, "Corporate Responsibility and Workplace Harassment Laws in India", Cambridge University Press, 2018

- The objective of this Act is to prevent sexual harassment at workplaces; prohibit any form of harassment via legal safeguards; redress grievances through a structured grievance mechanism.
- It is Applicable to all workspaces in India, which include government offices, private corporations, NGOs, work-from-home cases, and even domestic workers. All women employees, interns, volunteers, and part-time staff.
- The law regulations call for corporations that have over ten employees to set up an Internal Complaints Committee (ICC) to deal with such complaints. And where ICCs are not applicable, then Local Complaints Committee (LCC) at the district level for workplaces with less than 10 employees.
- Complaints ought to be resolved within ninety days, and anonymity is ensured for victims.
- Employers are held accountable for making sure a safe workspace, and failure to comply can lead to fines and prison motion.
- Legal consequences and penalties include fines of as much as Rs. 50,000 for failing to put into effect the Act; license cancellation for repeat violations; legal liability for employers who fail to make sure place of work protection.

CHALLENGES IN IMPLEMENTATION:

While the POSH Act is a progressive legal step,¹²⁹ its real-world influence is often interrupted by many factors.¹³⁰¹³¹¹³²

- **Limited awareness:** Employees, especially in unorganized areas are often unaware of their rights.
- **Fear of backlash:** Many victims hesitate to report harassment due to career failures and social stigma.

- **Improper enforcement:** Some organizations install ICCs as a formality rather than an active grievance redressal body. And many companies, in particular smaller ones, lack proper ICCs or do not actively teach employees about available redressal mechanisms.
- **Under-reporting:** Cultural factors, strength dynamics, and workplace hierarchy prevents many women from filing complaints.
- **Inconsistency:** Despite its well-described structure, the regulation's execution is inconsistent.
- **Compliance rift:** The gap between provisions and sensible enforcement remains a crucial issue.

STATISTICS IN INDIA:

- According to a 2022 survey by the Indian National Bar Association (INBA), almost 70% of working women confirmed experiencing work harassment, but just 25% filed official complaints.¹³³
- A 2021 of FICCI-EY discovered that best 31% of organizations surveyed were compliant with the POSH Act, 2013.¹³⁴
- The National Commission for Women (NCW) recorded 1,682 workplace harassment proceedings in 2022, a 37% boom from the previous 12 months.¹³⁵
- Global research implies that nations with strict penalties and unbiased oversight mechanisms, which includes Sweden and Canada, document lower rates of work harassment.¹³⁶

OVERVIEW OF INDIAN AND GLOBAL WORKPLACE:

Laws against workplace harassment vary from country to country with some foreign countries having more stringent criminal laws and enforcement systems than others.

¹²⁹ Ministry of Women and Child Development, Reports on POSH Implementation – Available at: <https://wcd.nic.in/>

¹³⁰ Live Law, "How Effective is the POSH Act in India?" (2022) – Available at: <https://www.livelaw.in/>

¹³¹ The Hindu, "Challenges in Implementing Workplace Harassment Laws" (2023) – Available at: <https://www.thehindu.com/>

¹³² Centre for Law & Policy Research, "Gaps Identified in the Implementation of the POSH Act: Ambiguities in the Law" (2024) – Available at: <https://clpr.org.in/blog/gaps-identified-in-the-implementation-of-the-posh-act-ambiguities-in-the-law/>

¹³³ INBA's 3rd Edition of Sexual Harassment Survey – Available at: <https://www.indianbarassociation.org/>

¹³⁴ FICCI & EY Report (2020) – "Workplace Harassment in India: Compliance and Challenges"

¹³⁵ National Commission for Women (NCW) Guidelines & Reports – Available at: <http://ncw.nic.in/>

¹³⁶ International Labour Organization (ILO) Report (2019) – "Sexual Harassment at Work: National and International Responses"

- **United States:** Sexual harassment is forbidden under the Title VII of the Civil Rights Act, 1964, and employers are made accountable. The #MeToo campaign heavily promoted corporate policies and stepped-up workplace vigilance.¹³⁷
- **United Kingdom:** The Equality Act, 2010, legally mandates that employers must avert harassment and discrimination in the workplace.¹³⁸
- **European Union:** The EU Directive on Sexual Harassment ensures all member states put into effect complete criminal protections.¹³⁹
- **India:** The POSH Act, 2013, gives a sturdy framework, but enforcement challenges restrict its full effectiveness.

GLOBAL CASE STUDY:

In 2017, Susan Fowler, who used to work as an engineer at Uber, exposed the company's harmful and toxic work environment, where sexual harassment complaints were dismissed or ignored. Her revelations led to a sweeping inquiry, which saw top executives being fired and a corporate policy shake-up. The scandal is popularly known as Uber's #MeToo movement. This instance highlights the need for corporate accountability, independent scrutiny, and creating a culture where victims don't fear reporting misconduct.¹⁴⁰¹⁴¹

INDIAN CASE STUDIES:

- **Vishaka v. State of Rajasthan (1997):** This turning point suit resulted in the Vishaka guidelines which laid the groundwork for place of work harassment legal guidelines in India. The Supreme Court determined that sexual harassment breaches simple rights beneath

Articles 14, 19, and 21 of the Indian Constitution paving the way for the POSH Act 2013.¹⁴²

- **Binu Tamta v. High Court of Delhi (2019):** This case brought into question weaknesses in Internal Complaints Committees (ICCs). The petitioner objected to the ICC's procedure in dealing with her complaint on grounds of bias and non-compliance with due process. The Delhi High Court reiterated that ICCs need to operate with fairness, confidentiality, and impartiality, further necessitating stricter regulatory control.¹⁴³
- **Farooqui v. State Government of Delhi (2017):** This case raised vital debates about consent and energy imbalances in professional settings. The Delhi High Court overturned a sexual harassment conviction, bringing up insufficient proof of loss of consent. The ruling underscored the felony challenges ladies face in proving place of business harassment.¹⁴⁴
- **Uber India Case (2021):** A female Uber worker's criticism in opposition to a senior executive revealed principal shortcomings in company compliance with the POSH Act. Investigations exposed a weak ICC structure and absence of transparency, highlighting the need and want for stricter corporate duty and external tracking.¹⁴⁵

ROLE OF HR AND CORPORATE POLICIES AT WORKPLACE:

The human resources (HR) departments play an essential position in ensuring place of business protection and legal compliance. Organizations should initiate various techniques, enforce legal compliance, and actively create a place of job in which employees experience reputable and guarded. A few of the suggestions include:

- Mandatory POSH training to teach personnel about harassment and grievance techniques.

¹³⁷ U.S. Equal Employment Opportunity Commission (EEOC), Title VII of the Civil Rights Act of 1964 – Available at: <https://www.eeoc.gov/statutes/title-vii-civil-rights-act-1964>

¹³⁸ Financial Times, "UK's Equality Act 2010 and workplace harassment prevention" – Available at: <https://www.ft.com/content/fd2ab196-b3e5-4e24-a5b4-44f9e9e7e229>

¹³⁹ European Parliament, EU Directive on Sexual Harassment – Available at: <https://www.europarl.europa.eu>

¹⁴⁰ TIME, "Susan Fowler's Book Details Her Fight Against Uber's Culture of Harassment" (2020) – Available at: <https://time.com/5784464/susan-fowler-book-uber-sexual-harassment/>

¹⁴¹ Business & Human Rights Resource Centre, "Allegations of Sexual Harassment & Gender Discrimination Against Uber Lead to Company Wide Investigation" (2017) – Available at: <https://www.business-humanrights.org/en/latest-news/allegations-of-sexual-harassment-gender-discrimination-against-uber-lead-to-company-wide-investigation/>

¹⁴² Vishaka & Ors. v. State of Rajasthan & Ors., 1997 6 SCC 241

¹⁴³ Binu Tamta v. High Court of Delhi, 2019 16 SCC 625

¹⁴⁴ Farooqui v. State (Govt. of NCT of Delhi), 2017 1 SCC 372

¹⁴⁵ Uber India Systems Pvt. Ltd. v. Union of India, 2021 SCC Online SC 622

- Zero-tolerance policies to prevent misconduct.
- Set up strict results for violations.
- Anonymous reporting channels to inspire victims to speak up without fear.
- Independent ICC audits to prevent bias and certainly ensure right functioning.
- Gender-sensitivity workshops to foster a greater inclusive workspace.

CONCLUSION:

Although legal guidelines via themselves cannot bring about cultural exchange, the POSH Act of 2013 is a vital step in ensuring workplace safety. The Act is a critical step in ensuring gender-sensitive workplaces, however its effectiveness depends on strict enforcement, organizational dedication, and extended recognition.

While the framework exists, cultural limitations, fear of retaliation, and lack of training continue to hinder its complete implementation. Strengthening compliance and fostering a tradition of zero tolerance could make places of work certainly safe for women. Stronger enforcement, company accountability, and a trade in place of job attitudes are important for real progress. Beyond their other responsibilities and obligations, companies need to proactively try to set up inclusive, harassment-unfastened offices. Apart from their legal duties, organizations need to work hard to create workplaces that welcome everyone and don't allow harassment.¹⁴⁶

Real progress will only happen if we have stronger enforcement of the rules, companies taking responsibility, and a change in the way people think about work. When lawmakers, businesses, and individuals join forces, they can build an environment where all employees sense valued, protected, and able to succeed.

¹⁴⁶ International Bar Association, "India's Workplace Sexual Harassment Law: A Decade On" (2023) – Available at: <https://www.ibanet.org/india-decade-of-posh-act>