

## SEXUAL HARASSMENT OF WOMEN IN THE WORKPLACE: A LEGAL, SOCIAL, AND COMPARATIVE ANALYSIS

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### Introduction

Sexual harassment in the workplace continues to be a systemic and pervasive issue that undermines gender equality and workplace dignity. It is not merely an individual grievance but a structural manifestation of discrimination rooted in unequal power relations. Despite legislative interventions such as the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, implementation gaps and socio-cultural barriers persist.

Recent discourse has also been shaped by global movements such as the #MeToo movement, which exposed the scale and normalization of harassment across industries.

### Historical Evolution of Law in India

Before statutory codification, India lacked specific legislation addressing workplace sexual harassment. The turning point came with *Vishaka v. State of Rajasthan*, where the Supreme Court laid down the Vishaka Guidelines, drawing from international conventions such as CEDAW.<sup>1</sup>

These guidelines remained the governing framework until the enactment of the POSH Act in 2013, which transformed judicial guidelines into binding statutory obligations.

### Meaning and Scope of Sexual Harassment

Sexual harassment encompasses a wide spectrum of unwelcome conduct, including physical, verbal, non-verbal, and digital actions. It is critical to recognize that harassment is determined by the perception of the aggrieved woman and its impact on her dignity.<sup>2</sup>

The scope extends beyond traditional workplaces to include:

- Remote work environments
- Work-related travel
- Virtual communication platforms

### Statutory Framework and Key Provisions

The POSH Act provides a comprehensive framework:

- **Section 2(n):** Definition of sexual harassment
- **Section 3:** Prohibition of harassment
- **Sections 4–6:** Constitution of Internal and Local Committees
- **Section 11:** Inquiry process
- **Section 19:** Duties of employers

The Act also recognizes circumstances such as threats, humiliation, or hostile work environments as forms of harassment.<sup>3</sup>

### Judicial Trends and Case Law Analysis

Indian courts have consistently reinforced workplace dignity:

- In *Vishaka v. State of Rajasthan*, sexual harassment was recognized as a violation of fundamental rights.
- In *Apparel Export Promotion Council v. A.K. Chopra* (1999), the Supreme Court expanded the interpretation of

harassment to include non-physical conduct.

- In *Medha Kotwal Lele v. Union of India* (2013), the Court emphasized strict implementation of Vishaka Guidelines.

These cases demonstrate a progressive judicial approach toward safeguarding women’s rights.

### Comparative Legal Perspective

A comparative analysis highlights global approaches:

- **United States:** Title VII of the Civil Rights Act recognizes both quid pro quo and hostile work environment harassment.
- **United Kingdom:** Equality Act, 2010 provides protection against harassment related to sex.
- **International Framework:** The International Labour Organization’s Convention No. 190 (2019) addresses workplace violence and harassment.

India’s POSH Act is considered progressive but faces challenges in enforcement compared to these jurisdictions.

### Socio-Economic Impact of Sexual Harassment

Sexual harassment has far-reaching consequences:

- **Psychological Impact:** Anxiety, depression, and trauma
- **Economic Impact:** Job loss, reduced productivity, career stagnation
- **Organizational Impact:** High attrition rates, reputational damage

It ultimately affects not only individuals but also institutional efficiency and economic growth.

### Intersectional Dimensions

Sexual harassment disproportionately affects vulnerable groups:

- Women in informal sectors
- Contractual and domestic workers

- Women from marginalized caste or socio-economic backgrounds

Intersectionality reveals that harassment is compounded by class, caste, and employment insecurity.

### Emerging Issues: Digital and Remote Workspaces

With the rise of hybrid work:

- Harassment now occurs through emails, chats, video calls
- Lack of physical oversight complicates reporting
- Existing laws are still adapting to digital misconduct

This necessitates reinterpretation of workplace boundaries under the POSH Act.

### Challenges in Implementation

Beyond basic issues, deeper structural problems include:

- **Token Compliance:** Organizations form ICCs only on paper
- **Confidentiality Misuse:** Used to suppress complaints
- **Retaliatory Culture:** Subtle career disadvantages for complainants
- **Informal Sector Gap:** Large workforce remains outside effective coverage

These challenges weaken the intended impact of the law.

### Preventive Measures and Institutional Reforms

A more advanced reform-oriented approach includes:

#### 1. Legal Reforms

- Expansion of scope to gender-neutral protection
- Stronger penalties for non-compliance

#### 2. Institutional Strengthening

- Independent external oversight bodies
- Mandatory audits of ICC functioning

### 3. Cultural Transformation

- Leadership accountability
- Gender-inclusive organizational policies

### 4. Technological Solutions

- Anonymous reporting platforms
- AI-based monitoring of workplace communication (with safeguards)

### Analysis and Contemporary Developments

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, while progressive in its intent, has been subject to critical scrutiny for its structural and practical limitations. One of the primary concerns is its gender-specific nature, which excludes male and LGBTQ+ victims, thereby raising questions regarding inclusivity and equality within workplace protections. Further, the Act places significant reliance on Internal Complaints Committees (ICCs), which, being employer-constituted bodies, may lack independence and be susceptible to institutional bias, particularly in cases involving senior officials. In addition, the limited reach of the law in the informal sector and the absence of stringent enforcement mechanisms continue to weaken its effectiveness. Moreover, workplace sexual harassment also intersects with criminal liability under provisions such as Sections 354A and 509 of the Indian Penal Code, thereby creating a dual framework of civil and criminal remedies; however, victims often hesitate to pursue criminal proceedings due to procedural complexities and social stigma.<sup>2</sup> The evidentiary framework under the Act, which follows the standard of preponderance of probabilities rather than proof beyond reasonable doubt, acknowledges the inherent difficulty in proving such offences but simultaneously raises concerns regarding subjective interpretation and inconsistent application.<sup>3</sup> The debate surrounding misuse of sexual harassment laws has also gained prominence, although empirical studies suggest that false complaints remain minimal and that such narratives often undermine genuine grievances. From a

governance perspective, compliance with anti-harassment norms has increasingly become part of corporate accountability frameworks, including Environmental, Social, and Governance (ESG) standards, thereby linking workplace safety to organizational reputation and investor confidence. Furthermore, technological advancements have introduced both opportunities and challenges, with digital reporting mechanisms and AI-based monitoring systems enhancing accessibility while simultaneously raising concerns related to privacy and surveillance. At the international level, sexual harassment is recognized as a violation of human rights under instruments such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and ILO Convention No. 190, which have significantly influenced Indian jurisprudence, particularly in *Vishaka v. State of Rajasthan*. Consequently, there is a growing need for reform-oriented approaches, including gender-neutral legislation, stronger enforcement mechanisms, independent oversight bodies, and expansion of legal protection to informal and gig economy workers, in order to bridge the gap between legislative intent and practical implementation.

### Evolving Challenges and the Way Forward

While the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 marks an important milestone in recognizing and addressing workplace sexual harassment, its real-world implementation reveals several complexities that continue to challenge its effectiveness. One of the key concerns is that the law is limited in scope to women, which raises broader questions about inclusivity in today's diverse work environments. Additionally, the reliance on Internal Complaints Committees (ICCs), though well-intentioned, can sometimes place victims in uncomfortable situations, particularly when complaints involve senior officials or when organizational pressures influence the process. In practice, especially within smaller organizations and the informal sector, these

mechanisms often exist only on paper or function inadequately, leaving many women without meaningful access to justice.

The relationship between workplace remedies and criminal law adds another layer of complexity. Acts of sexual harassment may also fall within the ambit of the Indian Penal Code, including Sections 354A and 509, offering victims an alternative route for redress. However, the stigma attached to criminal proceedings, along with procedural difficulties, often discourages victims from pursuing this option, making internal mechanisms their primary recourse. The evidentiary standard adopted under the Act—based on the preponderance of probabilities recognizes the sensitive nature of such cases, but it also brings challenges where evidence is limited and cases depend largely on personal accounts, sometimes resulting in inconsistent outcomes.

Public discourse frequently raises concerns about the potential misuse of sexual harassment laws. However, such concerns must be approached with caution, as available studies indicate that false complaints are relatively uncommon, and overemphasis on misuse risks undermining genuine grievances. At the same time, the issue of workplace harassment has increasingly become part of broader corporate responsibility frameworks. Organizations today are expected to address such concerns not only to comply with legal requirements but also to meet evolving Environmental, Social, and Governance (ESG) standards, recognizing that employee safety and dignity are integral to institutional credibility.

Furthermore, the rapid shift towards digital and remote workspaces has expanded the scope of workplace interactions, bringing with it new forms of harassment through virtual communication channels. While technology has made reporting more accessible through anonymous platforms and digital systems, it has also raised important concerns about privacy and the ethical use of monitoring tools.

On a global level, sexual harassment is now firmly acknowledged as a human rights issue under frameworks such as CEDAW and ILO Convention No. 190, which have also influenced Indian jurisprudence, particularly through decisions like *Vishaka v. State of Rajasthan*.

Ultimately, addressing workplace sexual harassment requires more than the existence of legal provisions it demands a shift in institutional culture, stronger enforcement, and a more inclusive approach that reflects the realities of modern workplaces. Strengthening implementation, ensuring independence in grievance mechanisms, and extending protection to all sections of the workforce are essential steps toward bridging the gap between legal intent and lived experience.

### Conclusion

Sexual harassment at the workplace is not merely a legal issue but a reflection of societal inequality. While the POSH Act provides a robust framework, its success depends on effective implementation, awareness, and cultural transformation.

A safe workplace is integral to constitutional morality, gender justice, and economic progress. The way forward lies in bridging the gap between law and practice, ensuring that every woman can work with dignity and without fear.

### References

1. *Vishaka v. State of Rajasthan*, (1997) 6 SCC 241.
2. Catharine A. MacKinnon, *Sexual Harassment of Working Women* (1979).
3. POSH Act, 2013
4. *Apparel Export Promotion Council v. A.K. Chopra*, (1999) 1 SCC 759.
5. *Medha Kotwal Lele v. Union of India*, (2013) 1 SCC 297.
6. Equality Act, 2010 (UK).
7. Title VII, Civil Rights Act, 1964 (USA).
8. ILO Convention No. 190 (2019).