

WORKPLACE DIGNITY AND SEXUAL HARASSMENT LAWS: A CRITICAL ANALYSIS OF LEGAL AND PRACTICAL CHALLENGES

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ABSTRACT

Workplace sexual harassment constitutes a serious violation of constitutional and human rights, undermining equality, dignity, liberty, and safe working conditions. It adversely affects employees' mental well-being, professional autonomy, and equal participation in employment. The enactment of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act), following the landmark *Vishaka v. State of Rajasthan* judgment, marked a significant milestone. The Supreme Court in *Vishaka* recognized sexual harassment as a violation of fundamental rights under Articles 14, 15, 19, and 21 of the Constitution.

This paper examines the conceptual and legal dimensions of workplace sexual harassment through constitutional principles, statutory provisions, judicial precedents, and India's international obligations, particularly CEDAW and ILO standards. It analyses various forms of harassment including *quid pro quo*, hostile work environment, verbal, non-verbal, physical, and emerging cyber harassment highlighting how misconduct extends to psychological intimidation and digital platforms in virtual workplaces.

The study evaluates the impact on women's professional opportunities, economic independence, and mental health, while scrutinizing employers' obligations to constitute Internal Committees, implement preventive mechanisms, and establish effective redressal systems. Despite progressive legislation, persistent challenges such as poor implementation, lack of awareness, fear of retaliation, social stigma, procedural gaps, and inadequate institutional compliance remain.

The paper concludes that ensuring harassment-free workplaces is a constitutional and human rights imperative. It recommends stricter enforcement of the POSH Act, regular awareness programmes, enhanced compliance monitoring, gender-sensitive policies, and adaptive frameworks to address technological advancements in modern employment. Continuous judicial and legislative evolution is essential to uphold dignity, equality, and safety at work.

Keywords: Workplace Sexual Harassment, POSH Act, Constitutional Rights, Gender Equality, CEDAW, Hostile Work Environment, Workplace Dignity, Human Rights.

INTRODUCTION

Besides being unlawful, sexual harassment in the place of work is a major societal problem because it denies the society the rights of equality and dignity of individuals. It threatens the universally guaranteed rights to equality,

nondiscrimination and proper life that Articles 14, 15 and 21 of Indian Constitution guarantee⁵⁶³. The first well-known case of *Vishaka v. State of Rajasthan*, recognizing the lack of statute protection and establishing legally binding principles had a powerful effect on the Indian

⁵⁶³ Constitution of India

legal approach towards sexual harassment⁵⁶⁴. Subsequently, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSHA) based on these suggestions and offers a versatile model on preventions, prohibitions, and redressals.

Meaning and Legal Definition of Sexual Harassment

A broad and extensive definition of sexual harassment is used in the POSH Act to ensure that different obstacles of misconduct are effectively addressed. Sexual harassment refers to any unwelcome action or behaviour, whether in a direct or indirect manner, such as:

- Physical contact and advances
- Demand or request for sexual favours
- Making sexually coloured remarks
- Showing pornography
- Any other unwelcome physical, verbal, or non-verbal conduct of a sexual nature

Key to this interpretation is the unwanted part of the act, which gets considered through the prism of the enraged woman rather than the intentionality of the respondent. This victim approach guarantees that the law covers any type of harassment, regardless of its nuances and indirectness.

Essential elements of Sexual harassment

To conduct to be considered as sexual harassment there are a number of elements that have to be met. These elements are fundamental to prove responsibility, according to the Sexual

Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and past judicial decisions. In addition, they can be applied to legally differentiate between harassment and other types of inappropriate behaviour within the workplace. All these

components collide to ensure that laws are able to address both blatant and nuanced forms of wrongdoing and remain focused on the victims. In addition, they offer a systematic way of addressing allegations by the Internal Committees and courts fairly with regards to the actual experiences of the victims.

Unwelcome Conduct

The basic requirement is that the behavior must be unwelcome when it comes to sexual harassment. This proves that the affected person does not like or want the behaviour, and considers it to be ugly. Since it relies more on how the victim feels and the answer to the behavior than the intent of the alleged perpetrator, it is subjective to determine whether a behavior is unwelcome⁵⁶⁵. This will make people not be forced to accept behaviors that are not aimed to harm.

Legal frameworks and courts assert that consent should be provided voluntarily and with known. In a hierarchical place of employment, where individuals might be fearful of the repercussions, it is worth pointing out that silence might not incur assent among employees. A series of minor movements may lead to the development of making an individual feel unwelcome or threatened, with time. Hence, the law recognises both an isolated and long-term type of unwanted behaviour.

Sexual Nature of Conduct

Sexual overtones or undertones need to exist in the behavior too whether implied or not. Besides blunt sexual requests, there are also some behaviours that are inappropriate, provocative or may be perceived to have sexual tinge⁵⁶⁶. The legality of non-verbal messages like facial expressions and body language has been deemed long before verbal communication was given preference over non-verbal communication.

The sexual aspect of the behaviour is of utmost importance because it involves indirect or

⁵⁶⁴ Vishaka v. State of Rajasthan (1997) 6 SCC 241; AIR 1997 SC 3011.

⁵⁶⁵ Meritor Savings Bank v. Vinson 477 U.S. 57 (1986).

⁵⁶⁶ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

implied behaviour and open offers. Harassment can be of various types such as the spreading of sexually explicit content, recurring remarks about appearance, sexual over toned jokes. To determine whether the behaviour is sexual, the context within which the behaviour is taking place is taken into account.

Impact on Work Environment

Sexual harassment in the workplace needs either to make the workplace uncomfortable, scare, or disgusting or it needs to hinder the work of the employee⁵⁶⁷. This element is where the victim view is essential in defining harassment, shifting the focus to action to its consequences. It can produce a strong impact on the mental well-being of a person because behaviour causing uneasiness or fear can be experienced when there are no evident threats.

The law recognizes a single traumatic event could be sufficient to produce an unsafe situation if it has a significant impact on the victim. At the same time, the hostile work environment can be accumulated through small acts that are reiterated. This two-tented approach will ensure that not only single cases of harassments are addressed but also regular harassments are also dealt with in a proper manner. Besides the apparent adverse impacts on mental health, productivity, and professional development, there can be indirect effects of harassment. Victims may experience anxiety, low esteem and lack motivation to engage in job related activities. Looking at such broader implications, it is important to note that there is a great need to address harassment as a key issue in the workplace.

Power Dynamics and Abuse of Authority

The issue of power imbalance because of the position of authority or influence of the harasser puts the victim of sexual harassment at a disadvantage. People who hold powers within an organization who fail to use such powers to influence the subordinates to do what they desire; may be considered to be within this

group. Due to such lopsides of power, victims can tolerate inappropriate behaviour in an attempt to evade injury.

The impact of power structure in enabling individuals to oppose or report a case of harassment is significant. Victims might be terrified of retaliation, negative performance ratings, or even being fired. It is due to such reasons that the role of authority in promotion of harassment should be acknowledged in legal systems and solved.

Besides the official or hierarchical differences, the differences in power in the working environment can also be based on the social, economic or the professional differences. Only by being able to discern these complex inter-relationships do we get the statutory safeguards properly applied, but they also serve to get us into a larger picture about what must be taxed by harassment. This has led to increased legal mandates on the companies to avoid abuse of power as well as to have in place proper mechanism of reporting safe.

Lack of Consent and Coercion

To define sexual harassment, there cannot be free and spontaneous consent⁵⁶⁸. Assent gained under coercion, or threats, or through the abuse of power or other coercive tactics is not legally binding. The difference between harassment and consensual engagement is based on the fact that the victim has a realistic choice to reject without being afraid of any repercussions.

When victims are threatened, addicted or forced, they will be obliged to pretend that they are tolerating the unethical actions of the perpetrator. This does not rule out the occurrence of harassment, since it is normally the coercion and not voluntary consent that leads to such cooperation. Due to this, legal systems highlight the necessity of taking into account the context of consent.

⁵⁶⁷ Harris v. Forklift Systems Inc. 510 U.S. 17 (1993).

⁵⁶⁸ Meritor Savings Bank v. Vinson 477 U.S. 57 (1986)

Repetition or Severity of Conduct

Sexual harassment can either be the result of a single serious incident or a series of smaller incidents. Harassment can be of various types such as repeated comments, gestures, approaches where it can create an unsafe working environment. This pattern-based approach can be utilized to easily detect accumulated damage and handle it.

Nevertheless, the law recognizes the fact that a single serious behavior may be regarded as harassment, including measures of force, physical or verbal violence or threats. In that case, large-scale incidences will not be undermined due to only one time occurrence. Therefore, two elements that need to be looked into when measuring harassment are frequency of the behaviour and the level of behaviour.

Forms of Sexual Harassment

Depending on the character of the behavior involved, the nature of the environment involved and the dynamic concerned within the relationships, sexual harassment at the workplace can take a very diverse range of forms. The behaviours included under this umbrella are in a continuum which comprises of overt behaviours to the more subtle ones. Because we have various legal systems in various countries that are now starting to appreciate that harassment may take many varied forms depending on many different factors among them being the culture of the company, power structure and even the mode of communication, a broad and adaptable legal structure is required. It is in this regard that the rules are developed to not only deal with the specific behavior but also the habit pattern of behaviors that might be time consuming to demean the employee and his feeling of safety at work.

Quid Pro Quo Harassment

The quid pro quo (this in exchange) is a term used to characterize situations where

employment benefits or evasion of punishment require sexual favor also known as consent. A typical type of sexual harassment is where an employer, manager or supervisor requests sexual favours in order to receive professional benefits such as a promotion, increase in pay, more reviews, more training opportunities or even the opportunity to remain employed. Quid pro quo harassment is characterized by the indivisibility between the reaction of an employee to the said behavior and actual career decisions.

Hostile Work Environment Harassment

Harsh work environment harassment, is where objectionable sexual behaviour causes an unpleasant, harmful or degrading work climate that causes employees to feel insecure and hinders their capacity to effectively fulfil their work duties⁵⁶⁹. Rather than explicitly asking or insinuating sexual favours or a connection to employment benefits, this type of harassment focuses on the overall impact of inappropriate behaviour to the workplace, unlike quid pro quo harassment. The constant use of sexual jokes, sexual content, comments which are improper in regards to the appearance of another person, displaying graphic or obscene material, posing probing questions and making unwanted gestures and actions are all examples of behaviours that could result in this kind of harassment.

Physical Sexual Harassment

Physical sexual harassment is any unwanted physical touch or overture which is the sexually suggestive action that contravenes the bodily autonomy of a person⁵⁷⁰. Harassment can be in lots of different forms, as furling personal space, touching, patting, brushing and physical contact of some sort with another person, to more serious ones, such as sexual assault, forced physical contact or groping. Physical harassment helps in its overt and intrusive nature when it comes to workplace

⁵⁶⁹ Harris v. Forklift Systems Inc. 510 U.S. 17 (1993)

⁵⁷⁰ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

misbehaviour. It infringes the right of a person to bodily integrity and dignity.

Verbal Sexual Harassment

Verbal sexual harassment is also a term used to describe any oral or written statements which unwillingly leave the target feeling uncomfortable or offended because of its sexual undertones. Sex exclamations incorporate improper jokes, remarks on how a person looks or on the physicality, constant begs to dine out, excessive inquiries or direct and open sexual efforts. An oral bully does not engage in physical contact, but can still cause the same adverse effect on your dignity and mental health⁵⁷¹.

Non-Verbal and Visual Harassment

Non-verbal harassment is any form of sexually suggestive behaviour that does not involve any form of words or written language⁵⁷². Some such behaviour can be staring, winking, ogling, unseemly hand movements, or gesticulations of sexual interest. This behavior regardless of how indirect or covert it might be, can have grave sexual implications and leave the victim in distress. Lacking the vocal expressions does not reduce the gravity of the issue as non-verbal communication can be in some cases more powerful and persistent hence conveying the message.

Cyber or Digital Sexual Harassment

Remote and hybrid work patterns along with advancement in technology have prompted the movement of sexual harassment to an online community. Cyber or online sexual harassment refers to inappropriate sexual behaviour conducted through electronic media like social networking sites, email, instant messaging, video conferencing, and workplace work collaboration media⁵⁷³. This can involve sending indecent messages, releasing pornographic materials, making sexually suggestive remarks during online conferences or having undesired online conversations. Harassment at workplace could

take place anywhere, and with the increased virtual workplaces, it is needful now more than ever to understand that boundaries have been crossed.

The ability of cyber harassment to be repeated and intrusive, even when one is not in normal business hours is a characteristic of this type of harassment. Harassment can now creep into even personal spaces as never before since with the convenience of internet communication, the offenders can now get to their victims at any time of their choosing. This valuable connectivity can cause increased stress, anxiety, and an overall feeling of being a target or surveyed by the victims. The lack of physical contact with people does not decrease the severity of the behavior more likely, its ubiquity and continuity may increase its impact.

CONSTITUTIONAL RIGHTS

The question of sexual harassment in the workplace cannot simply be about adhering to the legal framework; the problem is a compromise in the human rights provisions established in the Indian Constitution. According to the Indian court, sexual harassment in the workplace is an infringement of fundamental constitutional rights. These rights consist of the right of equality, the right of non-discrimination, the right of speech and the right to a decent existence. *Vishaka v. State of Rajasthan* was a landmark case, which solidified safeguarding against sexual harassment and gender equality as fundamental aspects of fundamental rights.

Article 14 – Right to Equality

In Article 14 of the Indian Constitution, there is a guarantee of equal protection to all before the law. This is an important provision in the Indian constitution that guarantees that no citizen should be discriminated upon by the government. It comprises real and effective equality in reality, which the state must offer and

⁵⁷¹ *Vishaka v. State of Rajasthan* (1997) 6 SCC 241; AIR 1997 SC 3011.

⁵⁷² *Meritor Savings Bank v. Vinson* 477 U.S. 57 (1986)

⁵⁷³ Equal Employment Opportunity Commission
<https://www.legalbluebook.com/bluebook/v21/tables/t1-united-states->

[jurisdictions/t1-2-federal-administrative-and-executive-materials/equal-employment-opportunity-commission-ecoc](https://www.legalbluebook.com/bluebook/v21/tables/t1-united-states-jurisdictions/t1-2-federal-administrative-and-executive-materials/equal-employment-opportunity-commission-ecoc) (last visit 06/05/2026)

formal equality, the equal treatment before the law, and substantive equality.

The Indian court has made a huge contribution in expanding the definition of Article 14 to encompass the concept of substantive equality. In the case of *Vishaka v. State of Rajasthan*, the Supreme Court realised that sexual harassment was the violation of some fundamental rights such as the right to equality⁵⁷⁴. The gender bias of harassment is a recognised type of systemic injustice which does not allow women to exercise their rights completely as equal to men, as the Court put it. Such a position reflects a transformation of an over-simplified idea of equality into a more complex and realistic one when it comes to tackling social and institutional obstacles.

Article 15 – Prohibition of Discrimination

Following up on the discussions of equality in Article 14, in Article 15 the Indian Constitution specifically outlaws discrimination based on religion, race, caste, sex or place of birth⁵⁷⁵. Article 15(3) takes legal equality to be not enough to eliminate centuries of historical disparities and allows special action to be taken by the state against children and women simultaneously. This two-pronged solution of the case concerning gender-related injustices, including sexual harassment in the workplace is based on the constitutional basis by banning discrimination, in addition to establishment of protective policies.

Sexual harassment is often perceived as a form of discrimination based on sex in the workplace due to women being a disproportionate sample of the harassment and it being a consequence of societal and institutionalised power disparities between men and women⁵⁷⁶. This form of harassment disrupts the participation in the workforce, advancement in a career and limits available opportunities to have equitable access to employment opportunities. Availability of

harassment strengthens unequal terms of presence, even at the age-neutral setting, and, thus is not in conformity to the constitutional obligation of non-discrimination.

The Indian courts have consistently ruled in favour of sexual harassment that is a breach of Article 15. In the instance of the case *Vishaka v. State of Rajasthan* the Supreme Court was able to clearly point out that sexual harassment was a form of gender discrimination which goes against the basic rights. This Court held that this would not only be a violation of equality, but would also disenfranchise women to a safe and dignified working environment. This view is not fuelled in opposition to UN-and other international sanctioned legal standards which view female harassment and violence as discrimination.

Article 19(1)(g) – Freedom to Practice Profession

Article 19(1)(g) of the Constitution of India ascertains the assurance to all individuals of the right to engage in any profession or practice any employment, trades, and business as a fundamental right⁵⁷⁷. This paragraph ensures economic freedom, self-sufficiency and the capacity to engage in all the civic and work related duties. Considering employment is not only a matter of earning a living but of proving oneself and nurturing personal growth.

Sexual harassment at the workplace is the open denial of this fundamental right by making it hard, risky or impossible to the people especially women to stay in the professions they are in. Due to fear, discomfort or punishments, victims can be pressured to resign, evade particular jobs, forego promotions or quitting the job altogether. In some cases, people cannot exercise their professional judgements independently and uninterred with, which can be rendered the meaningless right of Article 19(1)(g).

⁵⁷⁴ *Vishaka v. State of Rajasthan* (1997) 6 SCC 241; AIR 1997 SC 3011.

⁵⁷⁵ The Constitution of India, Art. 15(1). While Article 14 guarantees general equality before the law, Article 15 provides a specific prohibition against discrimination based on protected personal characteristics. It further allows the state to make special provisions (affirmative action/reservations) for women,

children, and socially/educationally backward classes, including SCs and STs, to achieve substantive equality.

⁵⁷⁶ United Nations

⁵⁷⁷ *The Constitution of India*. Part III, Article 19(1)(g).

The Indian court has given an interpretation of Article 19(1)(g) similar to other basic rights i.e., to oppose the necessity of practicing professional autonomy within a system of protective of dignity and equality. In the case of Vishaka v. State of Rajasthan, the Supreme Court acknowledged that sexual harassment disturbs the capability of a woman to work and to practice her trade in a secure environment⁵⁷⁸. The Court stated that women are violated in exercising their constitutional rights as there are no safeguards that they can exercise their full rights in the workforce.

Article 21 – Right to Life and Personal Liberty

Article 21 of the Indian constitution specifies that no one should be denied the right to life or liberty without being taken through the legal procedure. The meaning of judgement has evolved

over ages to extend this condition to physical existence but to a right to exist not only psychologically, but also in space and danger-free. As a result of these changes, Article 21 is now a guide to human rights in the present day, which means that the majority of individuals are protected against various kinds of violations to someone, including sexual harassment at work.

The article 21 is transparently an abacus where sexual harassment in the workplace is concerned since it interferes with the dignity, the mental stability of the individual as well as physical safety. All this humiliation, emotional upheaval, worry and the general sense of insecurity all of which are experienced by the victim make it hard to live and work with dignity. In addition to the right to life, Article 21 declares the right to live in a fearless, coercive and degraded kind of treatment. Workplaces where harassment is tolerated are contrary to this constitutional protection.

The dignity in the right to live entails that one has a secure and safe working environment, and has been severally held by the Supreme Court.

Ultimately in the case of Vishaka v. State of Rajasthan, the Supreme Court determined that sexual harassment violates the right of women in articles 14, 15 and 21. The issue that the report brought up is that the right of people to live is being violated because there are no effective means of avoiding harassment and, therefore, permits no reputable work environment. It was a historic decision that led towards the recognition of workplace safety as one of the crucial elements of Article 21.

The adoption and subsequent adoption of the Sexual Harassment of Women at Workplace

(Prevention, Prohibition and Redressal) Act, 2013 was in response to a requirement under Article 21 of the Constitution. The law in strengthening the right to a safe working place has a number of measures issued that are oriented towards the prevention, avenues of complaint and dispute resolution procedure so that the right may be attainable. It disproves that the state must ensure rights and institutional safeguards based on constitutional principles.

ANALYSIS OF INTERNATIONAL CONVENTIONS

CEDAW and Its Relevance to Workplace Sexual Harassment

The Convention on the Elimination of All Forms of Discrimination Against Women⁵⁷⁹ is a worldwide bill of rights of women, aimed at ending discrimination against women in all areas of society including the workplace and any other aspect within it. It sets in place a broad framework, which legally and by practice requires that State Parties ensure gender equality.⁵⁸⁰ The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) aims at doing away with social and structural barriers in such a way that women can fully participate in and contribute equally to all facets of professional life devoid of fear of harassment or discrimination.

⁵⁷⁸ Vishaka v. State of Rajasthan (1997) 6 SCC 241; AIR 1997 SC 3011.

⁵⁷⁹ Convention on the Elimination of All Forms of Discrimination against Women, 1979, 1249 UNTS 13 (adopted on 18 Dec. 1979, entered into force on 3 Sept. 1981).

⁵⁸⁰ CEDAW, Art. 2, Art. 3 and Art. 11.

Sexual harassment has not been defined in the text of CEDAW, but tremendously extended in relation to its meaning through the use of this instrument like General Recommendations.⁵⁸¹ Specifically, the UN among other international organisations regard sexual harassment, as well as other violence against women, as a type of discrimination.⁵⁸² Such perceptions acknowledge that harassment is a systemic issue that ensures that women are not able to enjoy their rights equally and that is more than merely an anomaly of a wrong act.

CEDAW recognizes that workplace sexual harassment is detrimental to respect, equality and career growth. This forms obstacles to work as it disheartens women to draw or stay in the field, restricts their involvement in some fields, and curtails their promotion and leadership. This type of behaviour, as per the Convention, strengthens the dynamic of power disparities and gender stereotypes within organisational settings, which do not only impact the victims in a direct manner.

Moreover, the expectation of the State parties to cease, prevent and penalize sexual harassment in the workplace is evident under CEDAW.⁵⁸³ These obligations do not limit to the administrative and judicial spheres but rather oblige governments to enact laws, create complaint mechanisms, and open access to justice as well as create greater awareness. Harassment needs to be fought with legal actions and cultural change within organisations and the society in general, and the focus on a multi-dimensional approach is an indication of this.

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Moreover, the States are not only required to dismantle structural barriers; but to go beyond legal non-discrimination because of the focus of CEDAW on substantive equality. The Convention emphasises the importance of proactive action that should establish the necessity to combat the social and institutional inequalities of a basic nature by acknowledging sexual harassment as a discrimination. This is a critical means of influencing the development of contemporary responses to law, including the enactment of an extensive law like the POSH Act in India.

CEDAW being a critical global tool, has played a significant role to increase awareness of sexual harassment in the workplace as well as regulate it. Its dynamic interpretations still influence legal frameworks in their pursuit of new challenges, providing that all employees enjoy safe, inclusive and fair work environments.

Other Relevant International Instruments

Two cases of examples of global treaties that have included a great deal of strength to the law on harassment in the workplace are international labour organization convention no.

⁵⁸¹ Committee on the Elimination of Discrimination against Women, General Recommendation No. 19: Violence against Women, UN Doc. A/47/38 (1992); General Recommendation No. 35 on gender-based violence against women, updating General Recommendation No. 19, UN Doc. CEDAW/C/GC/35 (2017).

⁵⁸² UN General Assembly, Declaration on the Elimination of Violence against Women, UN Doc. A/RES/48/104 (20 Dec. 1993).

⁵⁸³ CEDAW, Art. 2 (general obligations), Art. 11 (employment) read with General Recommendation No. 19 and No. 35

190⁵⁸⁴ and Convention on the elimination of all forms of discrimination against women.⁵⁸⁵ Having made the effort towards a clear recognition of poverty in employment, Convention No. 190 focuses on violence and harassment in the workplace, whereas CEDAW only developed the framework by acknowledging gender based discrimination and harassment but is more current and comprehensive. It is a landmark global commitment to the acknowledgment of the right of every human being to work in a workplace with no violence and harassment and the International Labour Organization endorsed it in 2019.

The definition of harassment and violence proposed by Convention No.190 is broad in the sense and includes a broad spectrum of undesirable behaviors that hurt the physical, mental, sexual and economic welfare of a person.⁵⁸⁶ This broad definition, by factoring in not only physical but also psychological and monetary losses, is an example of an approach to misbehaviour in the workplace that is contemporary. By addressing these specific manifestations, the Convention makes sure that any form of harassment, including those which are based on gender discrimination, is safeguarded by a law.

Convention No. 190 stresses that both states and businesses should collaborate in an effort to fight workplace harassment. Member States should enact laws, statutes and enforcement systems that outlaw workplace violence and harassment. Also, a requirement should be to have companies establish workplace regulations, conduct risk analysis, and develop awareness programs. By having a more efficient and comprehensive structure of safeguard, this combined strategy will make sure that both the preventative and accountability are realised at an organisational as well as an institutional level.

In addition to prohibition and prevention, Convention No. 190 emphasizes the importance of the availability of proper remedies to the victims. States must avail avenues of complaining, dispute resolution procedures, and meaningful compensation to persons. Victim-centered remedies emphasize the significance of intervening on the harassment and its effects on the health and career of the victim.

When these global norms are included at the end of day, sexual harassment is seen as a critical human rights issue in the workplace. To assist the formulation of more inclusive and rights oriented legal systems in various jurisdictions, the conventions provide the framework of harassment within the larger framework of dignity, equality, and safety.

Evolution Of Workplace Safety Jurisprudence Globally

Absence of harassment, being respectful to the dignity of the workers and protection against physical harm at the workplace are currently gaining popularity as components of a safe workplace in its extended impact on the definition of the concept of a safe workplace. The main effects of the labour laws in different regions in the past were to safeguard workers against accidents and hazards as well as against occupational diseases. The early conventions such as that of International Labour Organization stressed safety of equipment, time limit in the work place and basic health facilities in accordance to the industrial conditions of the day.

But it turned out that physical threats were the least of the problems they were to be worried about at the workplace and increasing numbers of women came to work at work and variety of working conditions became more noticeable. It turned out that psychological distress issues, sexual harassment and gender discrimination were major impediments on the way to creating

⁵⁸⁴ Violence and Harassment Convention, 2019 (No. 190), International Labour Organization (adopted 21 June 2019, entered into force 25 June 2021)

⁵⁸⁵ Convention on the Elimination of All Forms of Discrimination against Women, 1979, 1249 UNTS 13 (adopted 18 Dec. 1979, entered into force 3 Sept. 1981).

⁵⁸⁶ ILO Convention No. 190, Art. 1

safe and just working conditions. This was made possible because of the global campaign on human rights and treaties that were aimed at gender violence and systemic discrimination in the workplace such as the Convention on Elimination of All Discrimination against Women.

Early Focus on Physical Safety and Labour Welfare

The aim of the occupational safety laws has never been to cause any bodily harm to the workers due to manufacturing processes. The main areas of focus of the first labour laws were the hazards on the job or at work, the working conditions and the maximum hours that the workers could work. These frameworks did not tackle the non-physical versions of the injury like harassment and discrimination, yet they played a critical role. The main focus was put on promoting employer liability towards injuries and accidents instead of a comprehensive safe working environment.

Shift Towards Equality and Non-Discrimination

The development of human rights rhetoric following World War II led to the incorporation of equality and nondiscrimination into workplace safety jurisprudence. Legal frameworks began to acknowledge that discriminatory behaviors, such as gender-based inequity, might potentially lead to dangerous workplaces.

A major change was brought about by instruments like the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which recognized workplace discrimination as a human rights violation. During this time, rules pertaining to nondiscrimination, fair pay, and workplace dignity emerged, especially in countries like the US and the UK.

Recognition of Sexual Harassment as a Legal Issue

The acknowledgement of sexual harassment as a type of discrimination was a significant

advancement in international workplace safety law⁵⁸⁷. Feminist legal study, such as the work of Sexual Harassment of Working Women, which conceptualized sexual harassment as a violation of equity rather than just personal wrongdoing, had a particularly significant impact on this change.

Under pre-existing equality legislation, courts and legal systems, particularly in the United States, started to construe sexual harassment as discrimination. Sexual harassment is now included in the larger framework of workplace rights and safety as a result of this strategy's subsequent international adoption.

Expansion to Psychological Safety and Workplace Dignity

Occupational Safety law has increasingly developed over the past decades to encompass safeguards on the mental health and dignity of workers at work. In light of this, the current legal framework acknowledges that psychological and emotional injuries as a result of hostile workplaces, harassment, and bullying are equally a component of damage to the workplace as is bodily injury.

Modern Approach: Preventive and Inclusive Frameworks

Understanding that safety refers not just to physical protection, but also to dignity, equality and to mental well-being, the present-day understanding of safety in the work place has undergone a paradigm shift of placing more emphasis on preventative and inclusive nature of safety. The contemporary legal framework is subjecting companies into increased stress and pressure to institute gender-sensitive policies, conduct regular awareness campaigns, and put in place internal ability to address complaints.⁵⁸⁸ Employers have both a duty to prevent and respond to harassment in the workplace, and to do so, such as the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, which requires the

⁵⁸⁷ Sexual Harassment of Working Women

⁵⁸⁸ See generally, International Labour Organization, Violence and Harassment Convention, 2019 (No. 190).

establishment of Internal Committees.⁵⁸⁹ This demonstrates that the business organizations are abandoning the responsive approach and adopting proactive compliance schemes.

This contemporary approach is based on the focus on consciousness and empathy. Organisational rules, training programs and seminars are all created with the aim of informing the workers how to conduct themselves in the job, how to report misconducts and the consequences when misconduct happens. The abolition of harassment and the encouragement of a culture of responsibility on the part of all people is an objective of these efforts. Organisations can go beyond regulation; they can also assist in making workplaces safer and more accepting to everyone through awareness raising.

Intersectionality, the increased awareness of which emphasizes the fact that people may belong to various types of discrimination at the same time, is closely connected with inclusion. Women can be harassed based on other factors like caste, ethnicity, or handicap, and not on gender. Existing laws and global institutions, including the Convention on the Elimination of All Forms of Discrimination against Women, are increasingly encouraging states and institutions to adopt intersectional approaches in the struggle to eliminate workplace harassment.⁵⁹⁰ This will make the policies exhaustive and able to tackle complex and multidimensional forms of prejudice.

The shift toward a preventative paradigm is supported by the fact that international Labour Organization Convention No. 190 and other frameworks emphasize the need of proactive measures, risk examination and duty of the employer.⁵⁹¹ As per these models, it is far superior to prevent harassment rather than cure the harms once they are there. The legislation aims at instilling a zero-tolerance culture and

minimizing cases of harassment by ensuring that states and firms are taking action over it.

The recent perspective on human rights and workplace safety is that they are inseparable. Safety is not only the lack of danger; the international standards mentioned the presence of the situation, which promotes equality, dignity, and well-being as a component of safety. Through such a wider perspective, legislators and courts across most jurisdictions have agreed that safe working environments are important in promoting social justice and economic activities.

Suggestions

Strengthening Implementation of the POSH Act

The effective implementation of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 remains one of the most important requirements for ensuring safe and dignified workplaces in India. Although the legislation provides a comprehensive statutory framework, its practical implementation continues to suffer due to lack of institutional compliance, inadequate monitoring, and limited awareness among employers and employees. Many organizations either fail to constitute Internal Committees or establish committees that exist merely as formalities without proper functioning. Therefore, stricter enforcement mechanisms and periodic compliance assessments are necessary to ensure that organizations fulfil their legal obligations effectively.

The government and regulatory authorities should introduce mandatory reporting requirements and regular audits to verify whether organizations are complying with statutory mandates under the POSH Act. Penalties for non-compliance should be implemented more rigorously to discourage institutional negligence. In addition,

⁵⁸⁹ The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (Act No. 14 of 2013), Ss. 4, 9-10

⁵⁹⁰ Convention on the Elimination of All Forms of Discrimination against Women, 1979, 1249 UNTS 13, Art. 11; Committee on the Elimination of Discrimination against Women, General Recommendation No. 35 on gender-

based violence against women, updating General Recommendation No. 19, UN Doc. CEDAW/C/GC/35 (2017)

⁵⁹¹ Violence and Harassment Convention, 2019 (No. 190), International Labour Organization (adopted 21 June 2019, entered into force 25 June 2021), Arts. 4-9.

organizations should be encouraged to develop transparent reporting systems, maintain proper documentation of complaints, and regularly review workplace policies to ensure alignment with evolving legal and workplace standards. Strengthening implementation would significantly improve confidence in workplace grievance mechanisms and promote safer professional environments.

Mandatory Awareness and Sensitization Programmes

Awareness and sensitization programmes are essential for preventing workplace sexual harassment and promoting a culture of dignity and respect within professional spaces. In many cases, employees remain unaware of what legally constitutes sexual harassment, the remedies available under the law, and the procedures for filing complaints. Lack of awareness often results in normalization of inappropriate behaviour, underreporting of incidents, and hesitation among victims to seek legal protection. Therefore, regular educational initiatives are necessary to create informed and responsible workplace environments.

Organizations should conduct mandatory workshops, orientation sessions, and gender-sensitization programmes for employees at all levels, including senior management and supervisory personnel. Such programmes should focus on appropriate workplace behaviour, professional ethics, consent, gender equality, and legal consequences of misconduct. Awareness campaigns should also address subtle forms of harassment such as verbal comments, inappropriate jokes, online misconduct, and hostile workplace behaviour. By promoting empathy, accountability, and respect, sensitization programmes can help reduce discriminatory workplace culture and encourage safe participation for all employees.

Strengthening Internal Committees

Internal Committees constitute the primary grievance redressal mechanism under the POSH Act and therefore play a crucial role in ensuring workplace safety and justice. However, in many

organizations, these committees lack proper training, legal understanding, and procedural sensitivity required for handling complaints effectively. Victims often hesitate to approach Internal Committees due to concerns regarding confidentiality, impartiality, retaliation, or social stigma. Consequently, strengthening the structure and functioning of Internal Committees is necessary for building trust in institutional redressal systems.

Committee members should receive specialized training regarding legal procedures, principles of natural justice, confidentiality obligations, psychological sensitivity, and gender-inclusive approaches. The inclusion of external experts with experience in gender justice and workplace rights can further improve neutrality and credibility in investigations. Internal Committees should also ensure timely disposal of complaints, fair hearing opportunities, and protection of complainants against retaliation. A transparent and professionally functioning grievance mechanism would encourage victims to report misconduct and strengthen organizational accountability.

Addressing Cyber and Digital Harassment

The increasing use of technology, remote work structures, and digital communication platforms has significantly expanded the scope of workplace sexual harassment. Harassment now frequently occurs through emails, video conferences, instant messaging applications, social media interactions, and virtual workplace platforms. Cyber harassment often extends beyond traditional office boundaries and may continue even outside official working hours, thereby creating constant psychological stress and insecurity for victims. Existing workplace policies must therefore adapt to the realities of digital employment structures.

Organizations should formulate comprehensive digital conduct policies that clearly define and prohibit online harassment, inappropriate virtual communication, circulation of offensive content, and misuse of electronic platforms. Employees

must be educated regarding acceptable digital behaviour and reporting mechanisms for cyber misconduct. In addition, organizations should adopt technological safeguards, maintain confidential complaint channels, and ensure prompt investigation of online harassment complaints. Legislative and institutional frameworks should also continuously evolve to address emerging technological challenges and ensure effective protection within virtual workplaces.

Promoting Gender-Sensitive Workplace Policies

Organizations should adopt inclusive and gender-sensitive workplace policies aimed at promoting equality, dignity, and respectful professional interactions. Workplace culture must actively discourage abuse of authority, discriminatory practices, and hostile work environments.

Protection Against Retaliation

Fear of retaliation remains one of the most significant reasons why victims hesitate to report incidents of workplace sexual harassment. Employees often fear adverse consequences such as professional isolation, loss of promotion opportunities, negative performance evaluations, workplace hostility, or termination of employment after filing complaints. Such concerns discourage victims and witnesses from participating in grievance proceedings, thereby weakening the effectiveness of workplace harassment laws and institutional mechanisms.

Organizations must therefore establish strong anti-retaliation policies that provide explicit protection to complainants, witnesses, and individuals participating in investigations. Confidentiality should be strictly maintained throughout the inquiry process to protect the dignity and safety of affected individuals. Employers should also ensure that complainants are not subjected to discriminatory treatment, intimidation, or hostile work conditions after filing complaints. Effective protection against retaliation would increase confidence in grievance mechanisms and encourage

reporting of workplace misconduct without fear of professional consequences.

CONCLUSION

Workplace sexual harassment constitutes a serious violation of constitutional guarantees, human dignity, equality, and professional freedom. The evolution of workplace harassment jurisprudence in India reflects a progressive recognition that sexual harassment is not merely individual misconduct but a systemic and structural issue rooted in unequal power relations, gender discrimination, and institutional imbalance. Through judicial interpretation, statutory developments, and international influence, workplace safety has evolved beyond the traditional understanding of physical protection to include psychological well-being, dignity, equality, and freedom from hostile work environments.

The landmark judgment in *Vishaka v. State of Rajasthan* marked a transformative moment in Indian constitutional jurisprudence by recognizing workplace sexual harassment as a direct violation of Articles 14, 15, 19(1)(g), and 21 of the Constitution of India. The judgment established that equality, non-discrimination, dignity, and safe working conditions are inseparable constitutional rights that must be protected within professional spaces. The subsequent enactment of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 institutionalized these principles by introducing preventive mechanisms, grievance redressal systems, and employer obligations aimed at ensuring safe and dignified workplaces for women.

This study demonstrates that workplace sexual harassment may manifest in numerous forms including quid pro quo harassment, hostile work environment harassment, verbal harassment, physical harassment, non-verbal misconduct, and cyber harassment. The emergence of digital workplaces and remote employment structures has further expanded the scope of workplace harassment, making online misconduct and

virtual intimidation increasingly significant concerns. The law therefore recognizes that harassment extends beyond physical acts and includes psychological coercion, intimidation, humiliation, offensive communication, and abuse of authority. Such conduct adversely impacts mental health, professional autonomy, workplace participation, and economic independence, thereby undermining the constitutional promise of equal opportunity and dignified existence.

The research further highlights the important role played by international conventions such as Convention on the Elimination of All Forms of Discrimination Against Women and International Labour Organization Convention No. 190 in shaping global and domestic approaches towards workplace harassment. These international instruments emphasize that workplace safety cannot be limited to physical protection alone but must encompass substantive equality, freedom from discrimination, and protection of mental and emotional well-being. The influence of such conventions is evident in the development of Indian workplace harassment jurisprudence and legislative policy.

Despite the existence of a comprehensive legal framework, significant challenges continue to affect the effective implementation of workplace harassment laws in India. Lack of awareness, fear of retaliation, misuse of authority, social stigma, procedural inefficiencies, inadequate institutional compliance, and reluctance to report incidents continue to undermine the effectiveness of existing safeguards. In many workplaces, Internal Committees remain non-functional or lack adequate training and sensitivity, thereby weakening the confidence of victims in institutional redressal mechanisms. Furthermore, the persistence of gender stereotypes and unequal power structures within workplaces continues to create environments where harassment may remain normalized or underreported.

BIBLIOGRAPHY

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- **The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013** (commonly referred to as the POSH Act).

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- **The Constitution of India.** Specifically referencing fundamental rights:
 - **Article 14** (Right to Equality).
 - **Article 15 and 15(3)** (Prohibition of Discrimination based on sex, and special provisions for women).
 - **Article 19(1)(g)** (Freedom to Practice Profession).
 - **Article 21** (Right to Life and Personal Liberty, encompassing dignity and safe working conditions).

Judicial Precedents (Case Laws)

- **Vishaka v. State of Rajasthan:** A landmark judgment by the Supreme Court of India that laid the foundation for recognizing workplace sexual harassment as a violation of fundamental rights and established legally binding guidelines prior to the POSH Act.

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- **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW):** A global treaty recognizing sexual harassment as a form of gender-based discrimination and requiring state parties to proactively ensure gender equality in the workplace.
- **International Labour Organization (ILO) Convention No. 190 (2019):** A landmark global commitment recognizing the right to work free from violence and harassment, and advocating for

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A foundational feminist legal study referenced for conceptualizing sexual harassment as a violation of equity and a form of discrimination, rather than just personal wrongdoing.

