



Sexual Harassment At Workplace: Understanding Its Frequency, Causes, Proactive Prevention, And Effective Management Approach At Workplace

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Abstract

In recent decades, there has been a significant increase in instances of workplace sexual harassment and gender discrimination within professional environments. Workplace sexual harassment is a term used in legal contexts to refer to repeated and unwelcome sexual conduct that includes verbal, physical, psychological, and visual aspects. It is important to note that workplace sexual harassment often involves actions that can lead to humiliation, insult, and potential harm. The aforementioned conduct encompasses acts of gender harassment, unwelcome sexual attention, and sexual coercion. The spectrum of behaviors encompasses a variety of actions, including but not limited to making sexually suggestive remarks, sharing explicit imagery, and displaying hostility, all with the intention of devaluing the victims involved. The prevalence of harassment exhibits variation in research outcomes as a result of methodological disparities. Workplace sexual harassment is a prevalent issue that is often underreported due to concerns about potential retaliation. The present abstract underscores the significant issue of underreporting. In order to formulate comprehensive prevention and management strategies, it is imperative to have a thorough understanding of underlying factors such as power imbalances, stereotypes, cultural norms, and limited awareness. Proactive measures encompass the implementation of comprehensive anti-harassment policies, educational initiatives, and the cultivation of respectful and inclusive work environments. The practice of effective management encompasses several key elements, including but not limited to transparent reporting, maintaining confidentiality, conducting unbiased investigations, and providing support to victims. The importance of conducting research, promoting awareness, and fostering collaboration cannot be overstated when it comes to establishing secure and inclusive work environments. The occurrence of workplace sexual harassment has significant effects on various aspects of employment, including employee retention, absenteeism, workplace dynamics, and overall well-being. Discussions, which have historically faced societal disapproval, garnered worldwide attention following the emergence of the "MeToo" movement in 2017.

The purpose of this research is to evaluate the consequences experienced by victims and the efficacy of current policies and legal provisions in the realm of employment.

Keywords: Workplace Sexual Harassment, Gender Discrimination, Measurement Tools, Reporting Attitudes, Prevention Strategies, Policies, Legal Regulations.

I. Introduction

Sexual harassment is a pervasive issue that affects individuals in various spheres of life, including the workplace, educational institutions, and public spaces. It is a form of gender-based discrimination that violates the fundamental rights of individuals, particularly women, to live and work in an environment free from harassment and discrimination. This paper provides an overview of sexual harassment, its definition, forms, and the legal framework governing it in India.

Sexual harassment, as defined in the Indian context, is a critical issue that has been addressed through legal provisions and judicial interpretations. This section will elaborate on the definition of sexual harassment in India, with references to the relevant legal framework and case law.

Legal Definition of Sexual Harassment in India: In India, the legal definition of sexual harassment is primarily governed by the "Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013" (hereinafter referred to as "the Act"). Section 2(n) of the Act provides a comprehensive definition of sexual harassment. It states: "Sexual harassment" includes any one or more of the following unwelcome acts or behavior (whether directly or by implication), namely :—

- (i) Physical contact and advances;
- (ii) A demand or request for sexual favours;
- (iii) Making sexually colored remarks;
- (iv) showing pornography;
- (v) any other unwelcome physical, verbal, or non-verbal conduct of a sexual nature.³

³Sexual Harassment of Women at Workplace(Prevention,Prohibition,andRedressal)Act,2013,India, Section 2(n) of the Act provides the legal definition of sexual harassment in India.

This definition is crucial in identifying and understanding what constitutes sexual harassment under Indian

law.

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

The Act of 2013 is the corner stone of legal provisions addressing sexual harassment in workplaces in India. It not only defines sexual harassment but also lays down a comprehensive framework for its prevention, prohibition, and redressal.

Some key provisions of the Act include:

1. **Constitution of Internal Complaints Committee (ICC):** Section 4 of the Act mandates that every organization employing ten or more employees must constitute an Internal Complaints Committee (ICC) to address complaints of sexual harassment. This committee plays a pivotal role in investigating and resolving such complaints.⁴
2. **Duties of Employers:** Section 19 of the Act imposes responsibilities on employers to provide a safe and conducive environment for employees, prevent sexual harassment, and ensure the dissemination of information related to the Act.⁵
3. **Redressal Mechanism:** The Act outlines a structured redressal mechanism, empowering victims to file complaints and seek remedies through the ICC or, in the absence of ICC, the Local Complaints Committee (LCC).⁶

Thus, Sexual harassment in India is defined comprehensively under the Sexual Harassment of Women at Workplace Act, 2013. This Act, along with significant judicial pronouncements like Vishaka-vs-State of Rajasthan⁷ and Pinky Anand-vs- State of NCT of Delhi,⁸ forms the legal foundation for addressing and preventing sexual harassment in workplaces, ensuring a safe and respectful environment for individuals.

Objectives of the Research : The following are the objectives of the research:

⁴The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Section 4, "Constitution of Internal Complaints Committee." Government of India.

⁵The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Section 19, "Duties and Responsibilities of Employers." Government of India.

⁶The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, "Redressal Mechanism." Government of India.

⁷Vishaka v. State of Rajasthan (1997), Supreme Court of India.

⁸Pinky Anand v. State of NCT of Delhi (2006), Delhi High Court.

1. Analyze the prevalence and impact of sexual harassment.
2. Evaluate the effectiveness of legal frameworks.
3. Identify barriers to reporting.

4. Explore awareness and prevention efforts.
5. Propose policy recommendations.
6. Contribute to academic discourse.
7. Raise awareness and advocate for change.
8. Promote non-discriminatory and respectful environments.

Scope and Importance of the Issue: The issue of workplace sexual harassment is pervasive and extends across various sectors, including corporate environments, educational institutions, healthcare facilities, and government organizations. It affects individuals regardless of their gender, age, or position within the company, although women are disproportionately impacted. The scope also extends to various forms of harassment, including verbal, physical, psychological, and visual harassment. In the Indian context, the issue is further complicated by cultural norms and societal stigmas that often discourage victims from coming forward.⁹

Importance

1. **Psychological Well-being:** The psychological trauma experienced by victims can have long-lasting effects, impacting their overall well-being and mental health.¹⁰
2. **Professional Consequences :**Harassment can lead to decreased productivity, increased absenteeism, and high turnover rates, which are detrimental to both the individual and the organization.¹¹
3. **Legal Implications:** Failure to address workplace harassment can result in severe legal consequences for organizations. Under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, employers are mandated to provide a safe working environment ,and non-compliance can result in

⁹The Sexual Harassment of Women at Workplace (Prevention,Prohibition and Redressal)Act,2013,"Scope and Definitions." Government of India

¹⁰P.Resick."The Psychological Impact of Rape."Journal of Interpersonal Violence,8(1993):223-255. <https://doi.org/10.1177/088626093008002005>.

¹¹ Rebecca S. Merkin. "The Impact of Sexual Harassment on Turnover Intentions, Absenteeism, and Job Satisfaction:Findings from Argentina,Brazil and Chile."Journal of international women's studies,10(2008):73- 91.

penalties.¹²

4. **Social Consequences:** The issue has broader societal implications, reinforcing gender inequalities and contributing to a culture of discrimination and disempowerment.¹³
5. **Economic Impact:** The economic cost of workplace harassment is significant, including legal fees, settlement costs,and the loss of skilled employees,which can be detrimental to the growth and competitiveness of an organization.¹⁴
6. **Ethical Considerations:** From an ethical standpoint, it is the responsibility of organizations to ensure the dignity and safety of their employees, making it imperative to address the issue proactively.¹⁵
7. **Global Relevance:** The issue has gained global attention, especially in the wake of movements like "MeToo, "emphasizing the need for international co-operation and standards.¹⁶

Addressing the issue is not just a legal requirement but a moral and ethical imperative that has significant implications for social justice and gender equality.

Research Questions: These questions aim to explore the efficacy of existing mechanisms, the level of awareness among employees, and the shortcomings in current legal provisions and policies.

How effective have Internal Complaints Committees (ICCs) been in addressing and resolving complaints of sexual harassment in Indian workplaces, and what challenges have they faced

¹²SupraNote2.

¹³L.Heise,M.Greene,N.Opper,Maria Stavropoulou,C.Harper,M.Nascimento,D.Zewdie,G.Darmstadt,M. Greene, S. Hawkes, Sarah K Henry, J. Heymann, J. Klugman, Ruth Levine, A. Raj and G. Gupta. "Gender inequality and restrictive gender norms: framing the challenges to health." *The Lancet*, 393 (2019): 2440-2454. [https://doi.org/10.1016/S0140-6736\(19\)30652-X](https://doi.org/10.1016/S0140-6736(19)30652-X).

¹⁴Max Spry. "Workplace Harassment: What Is It, and What Should the Law Do About It?." *Journal of Industrial Relations*, 40 (1998): 232 -246. <https://doi.org/10.1177/002218569804000203>.

¹⁵Kristen Lucas, Andrew S. Manikas, E. Mattingly and Cole J. Crider. "Engaging and Misbehaving: How Dignity Affects Employee Work Behaviors." *Organization Studies*, 38 (2017): 1505 - 1527. <https://doi.org/10.1177/0170840616677634>.

¹⁶D.Jackson. "MeToo": Epistemic Injustice and the Struggle for Female Philosophy quarterly Recognition." (2018). <https://doi.org/10.5206/FPQ/2018.4.31>.

in ensuring unbiased investigations and justice?

1. To what extent are employees in various sectors aware of their rights and the procedures for reporting harassment under the existing legal frameworks, including but not limited to Sections 4 and 19 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013?

2. What gap exists in the current legal provisions and organizational policies that need to be addressed for a more comprehensive and effective approach to preventing workplace sexual harassment in India?

II. Literature Review

The literature underscores the importance of addressing workplace sexual harassment through both preventive measures and effective management strategies. Organizations must adopt a proactive approach in educating employees about sexual harassment and implementing clear policies and procedures for dealing with complaints.¹⁷ Additionally, there is a need for cultural change within organizations, promoting an environment of respect and dignity, where every employee feels safe and valued.¹⁸ Moreover, the legal and societal frameworks surrounding workplace sexual harassment must be strengthened and enforced. There is a critical need for laws and regulations that clearly define sexual harassment, provide adequate protections for victims, and establish strict penalties for perpetrators.¹⁹ Only through comprehensive and collective efforts can workplace sexual harassment be effectively combated and a safer, more inclusive work environment be established for all employees. Workplace sexual harassment is a complex issue that requires the concerted

efforts of individuals, organizations, and societies to eradicate. Through education, policy implementation, cultural change, and legal enforcement, it is possible to create a workplace where everyone can work free from fear and intimidation.

The phenomenon of sexual harassment in the workplace has been a persistent and disturbing issue, drawing significant concern and activism, particularly within the women's movement in India.²⁰ The legislative efforts, exemplified by attempts to pass the Sexual Harassment at the

¹⁷Brennan,M.,&Rajan,N.(2019).HR Issues:Sexual Harassment,Workplace Diversity,Cultural Sensitivity, Privileging, Credentialing, Denying Privileges, Difficult Conversations.Manual of Practice Management for Ambulatory Surgery Centers.

¹⁸Emudainohwo,E.(2023).The Inadequacy of Legal Provisionson Workplace Sexual Harassment in Nigeria and Ghana: The Way Forward. PADJADJARAN Jurnal Ilmu Hukum (Journal of Law).

¹⁹Zeighami,M.,Zakeri,M.,Shahrbabaki,P.M.,&Dehghan,M.(2022).Bitter silence allows sexual harassment to continue in workplace: A qualitative study in Iranian nurses. *Frontiers in Public Health*, 10.

²⁰Aqeel,M.,Abbas,J.,Raza,S.,&Aman,J.(2022).Portraying the multifaceted interplay between sexual harassment, job stress, social support and employee's turnover intention amid COVID-19: A Multilevel

Workplace Bill(2005),under score the critical need for formal structures to address and mitigate this pervasive issue.²¹ Research and surveys, such as those conducted by Sakshi Organization, provide alarming statistics, revealing high prevalence rates of harassment and a lack of organizational adherence to established guidelines, like the Vishakha guidelines.²²

Further studies, highlight a common pattern of harassment, where women of lower rank are targeted by higher officials, stressing the interplay of power dynamics in harassment incidents. The adverse effects of such environments extend beyond personal trauma, impacting victims' health and job performance, thereby underlining the importance of a safe working environment for exercising one's profession.²³Shiu-Yik Au, Ming Dong and A. Tremblay discusses the insufficiency of robust laws to curb the rising incidents of workplace sexual harassment, indicating that despite legal frameworks, the issue persists, primarily due to deeply ingrained gender biases and societal norms. This environment not only hampers women's participation in the workforce but also their economic and social empowerment.²⁴ Research by B. Gutek, Bruce Morasch (1982) provides a breakdown of the forms of harassment experienced by women, highlighting that verbal abuse is the most common, followed by physical and non-verbal gestures. This underlines the multifaceted nature of harassment and the significant percentage of women affected in their professional spaces.²⁵ The diversity of these studies highlights a multifaceted problem deeply embedded within organizational and societal structures. It underscores the need for a multifaceted approach, including legal, organizational, and cultural changes, to effectively combat sexual harassment in the workplace. The studies collectively call for enhanced awareness, better implementation of existing laws, and cultural shifts towards greater gender sensitivity and respect. The legal discourse surrounding workplace harassment in India has seen significant contributions from scholars and practitioners alike, aimed at addressing the multifaceted nature of the issue.

Flavia Agnes, a pioneering women's rights lawyer, has made substantial contributions through her articles and book chapters that delve deep into women's legal issues, including workplace harassment. Agnes's work is notably grounded in the Indian socio-legal context and provides a

²¹Friesen,P.,Wilson,R.,Kim,S.,&Goedken,J.(2022).Consent for Intimate Examson Unconscious Patients:Sharpening Legislative Efforts. The Hastings Center Report.

²²Kaurani,P.,Batra,K.,Hooja,H.R.,Chander,N.,Bhowmick,A.,Arora,S.,Baba,S.M.,Khateeb,S.,Abdulla,A.,Grover,V.,&Saluja,P.(2022).Assessing the Compliance of Dental Clinicians towards Regulatory Infection Control Guidelines Using a Newly Developed Survey Tool: A Pilot Cross-Sectional Study in India. Healthcare.

²³Sánchez-Ortega,B.,Pérez-Galavís,A.,&Ron,M.(2023).Condition,Working Environment and Health Effects on the Medical Personnel. In Community and Interculturality in Dialogue.

²⁴Shiu-YikAu,Ming Dong and A.Tremblay. "Employee Sexual Harassment Reviews and Firm Value."Labour Personal Economic e journal(2021).<https://doi.org/10.2139/ssrn.3437444>.

²⁵ B. Gutek and Bruce Morasch. "Sex-ratios, sex-role spillover, and sexual harassment of women at work.."Journalof Social Issues, 38 (1982):55-74. <https://doi.org/10.1111/J.1540-4560.1982.TB01910.X>.

nanced understanding of the challenges faced by victims of harassment. Her analysis underscores the necessity of a robust legal framework that caters specifically to the intricacies of workplace dynamics in India.²⁶

III. Legal Framework in India

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act,2013, a crucial piece of legislation in India,defines sexual harassment comprehensively under Section 2(n), encompassing physical contact, sexual advances, demands for sexual favors, sexually colored remarks, and other unwelcome sexual conduct; further, the Act mandates the constitution of Internal Complaints Committees (ICCs) in organizations employing ten or more employees, as per Section 4, to address and investigate sexual harassment complaints, establishes duties of employers under Section 19 to ensure a safe workplace and promote awareness about the Act, and outlines a structured redressal mechanism, as noted in the Act, empowering victims to seek remedies through the ICC or, when absent, the Local Complaints Committee (LCC).The Internal Complaints Committees (ICCs), as explicitly mandated by the Sexual Harassment of Women at Workplace (Prevention ,Prohibition and Redressal)Act,2013,assume a central and indispensable role in the multifaceted process of addressing sexual harassment complaints within the workplace ecosystem. These committees serve as a critical institutional mechanism entrusted with the solemn responsibility of not only receiving and processing complaints but also conducting impartial inquiries into alleged incidents of sexual harassment .One of the fore most functions of ICCs is to ensure the thorough and impartial examination of the complaints brought before them. This involves meticulously scrutinizing the details of each case, gathering relevant evidence, and affording all parties involved a fair and unbiased platform for

presenting their perspectives. By conducting such impartial inquiries, ICCs endeavor to ascertain the veracity of allegations and ensure that justice is served, thereby upholding the principles of due process and fairness in the resolution of workplace sexual harassment complaints. Furthermore, ICCs are vested with the authority to take necessary actions based on the findings of their inquiries. These actions may encompass a wide spectrum of measures, ranging from counseling and awareness-raising to more stringent disciplinary actions, depending on the gravity and context of the harassment. Importantly, the power to take such actions is exercised judiciously, with a keen eye on striking a balance between the rights of the complainant and the principles of natural justice, all while aligning with the overarching objective of curbing sexual harassment in the workplace. Beyond their investigatory and

²⁶Agnes, Flavia. *Women and Law in India: An Omnibus Comprising Law and Gender Inequality, Enslaved Daughters, Hindu Women and Marriage Law*. Oxford University Press, 2019.

punitive roles, ICCs play an equally vital role in fostering and maintaining a safe and respectful workplace environment. This entails not only addressing individual complaints but also proactively working to prevent the occurrence of sexual harassment. ICCs may engage in educational initiatives, sensitization programs, and awareness campaigns to create a workplace culture that rejects harassment in all its forms. By doing so, they contribute substantially to the Act's primary objective of preventing and prohibiting sexual harassment in workplaces. The ICCs represent a cornerstone of the legal framework established by the Act, serving as guardians of the rights and dignity of individuals within the workplace. Their multifaceted responsibilities encompass the realms of inquiry, action, prevention, and ultimately, the realization of a workplace environment that is not only safe but also marked by respect and dignity for all employees. In this capacity, they become instrumental in the broader mission of preventing and redressing workplace sexual harassment, thereby aligning with the overarching goals of the Act.

Vishaka v. State of Rajasthan (1997): In the landmark case of *Vishaka and Others –v- State of Rajasthan and Others (1997)*, the Supreme Court of India addressed the issue of sexual harassment of women in the workplace and laid the foundation for the legal framework to combat such harassment. The case involved a petition filed by several non-governmental organizations (NGOs) seeking legal intervention to address the issue of sexual harassment faced by women in the workplace.²⁷

Facts of the Case: The case originated from an incident in Rajasthan where a social worker named Bhanwari Devi was gang-raped by upper-caste men for her efforts to prevent child marriage in the village. Bhanwari Devi's case highlighted the vulnerability of women in the workplace, especially in rural areas, and the absence of legal safeguards to address sexual harassment. The petitioners sought the enforcement of fundamental rights guaranteed under Articles 14 (right to equality),²⁸ 19 (right to freedom of speech and expression),²⁹ and 21 (right to life and personal liberty)³⁰ of the Indian Constitution in the context of workplace sexual harassment.

²⁷*Vishaka and Others v. State of Rajasthan and Others*, AIR 1997 SC 3011.

²⁸Article 14 of the Indian Constitution, 1950: "Right to Equality" –This article guarantees equality before the law and equal protection of the laws to all individuals within the territory of India. It prohibits discrimination on various grounds, including gender.

²⁹ Article 19 of the Indian Constitution, 1950: "Right to Freedom of Speech and Expression" -Article 19(1)(a)of the Indian Constitution grants citizens the fundamental right to freedom of speech and expression,which includes the right to express oneself freely.

³⁰ Article 21 the Indian Constitution, 1950: "Right to Life and Personal Liberty" - Article 21 of the Indian Constitution ensures the right to life and personal liberty.It encompasses a wide range of rights, including the right to live with dignity and without harassment or violence.

Judgment and Vishaka Guidelines: In its landmark judgment, the Supreme Court recognized that sexual harassment at the workplace violates a woman's fundamental rights and dignity. The court acknowledged the absence of specific legislation addressing workplace sexual harassment and, therefore, issued a set of guidelines known as the "Vishaka Guidelines" to provide immediate protection to working women until comprehensive legislation was enacted. These guidelines were framed under the powers of Article 32 (remedies for enforcement of rights)³¹of the Indian Constitution and aimed to protect the fundamental rights of women under Articles 14, 19, and 21. The Vishaka Guidelines emphasized that employers had a duty to prevent and redress sexual harassment in the workplace. They mandated the setting up of a Complaints Committee to inquire into complaints of sexual harassment. The guidelines also emphasized the importance of creating a safe and harassment-free workplace environment and preventing the occurrence of sexual harassment through education and awareness programs.

Impact on Subsequent Legislation: The Vishaka case and its guidelines had a profound impact on the legal landscape in India. The absence of specific legislation to address sexual harassment led to the eventual enactment of the "Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013." The Act of 2013 was influenced by the principles and guidelines established in the Vishaka case.³² It provided a comprehensive legal framework for addressing workplace sexual harassment, defining it clearly and outlining procedures for redressal. The Vishaka Guidelines, though not legally binding, played a pivotal role in shaping subsequent legislation and establishing the legal duty of employers to prevent and address sexual harassment in the workplace.

The Vishaka case and the issuance of the Vishaka Guidelines marked a significant milestone in the recognition of the rights and dignity of women in the workplace, setting the stage for comprehensive legal measures to combat sexual harassment in India.

Other Relevant Laws and Regulations:

1. **Indian Penal Code, Section 354:**Section 354 of the Indian Penal Code (IPC) is a legal

³¹Article 32 of the Indian Constitution, 1950: "Remedies for Enforcement of Rights" - Article 32 of the Indian Constitution provides individuals with the right to move the Supreme Court for the enforcement of their fundamental rights. It is often referred to as the "Right to Constitutional Remedies" and serves as a powerful mechanism to seek legal remedies when fundamental rights are violated.

³²Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, India.

provision that addresses offenses related to assault or the use of criminal force against a woman with the intent to outrage her modesty. While this provision is not specifically tailored to workplace sexual harassment, it assumes relevance in cases where sexual harassment escalates to physical contact or the use of criminal force. Section 354 of the IPC, in essence, seeks to safeguard the dignity and modesty of women by making certain actions punishable under criminal law. Section 354 states that any person who assaults or uses criminal force against a woman with the intent to outrage her modesty shall be subject to legal penalties. These penalties can include imprisonment for a term that may extend to two years, or a fine, or both. By defining such actions as criminal offenses, Section 354 serves as a deterrent against behaviors that infringe upon a woman's modesty and personal space.

Section 354 of the IPC holds significance in the context of sexual harassment because it provides a legal avenue for recourse when sexual harassment involves physical contact or criminal force. It underscores the seriousness of such actions and ensures that they are subject to criminal prosecution. This legal provision contributes to the protection of women's rights and dignity by holding perpetrators accountable for their actions.³³

2. The Equal Remuneration Act, 1976: The Equal Remuneration Act, 1976, is a notable piece of legislation in India that addresses the issue of gender-based wage discrimination in the workplace. While it may not be directly related to sexual harassment, it plays a pivotal role in promoting gender equality within work environments. The Act focuses on the principle of equal pay for equal work, ensuring that men and women receive equitable remuneration for similar tasks and responsibilities. The Act mandates that employers must provide equal remuneration to both men and women for work of the same nature or involving similar tasks. It goes further to prohibit discrimination based on gender in various employment-related aspects, including recruitment, training, transfers, and promotions. Employers are required to maintain records that detail employees' work, remuneration, and other specified particulars, facilitating transparency and accountability in remuneration practices. The Equal Remuneration Act, 1976, holds great significance in the broader context of gender equality in the workplace. By requiring equal pay for equal work, it helps eliminate wage disparities based on gender, promoting a fair and just work environment. While it does not directly address sexual harassment, it addresses one of the foundational aspects of gender-based discrimination in employment, contributing to a more inclusive and equitable workspace where women are treated with fairness and respect.³⁴

³³Indian Penal Code (IPC),Section 354."Government of IndiaAct,No.45of1860.

³⁴The Equal RemunerationAct,1976."Government of India Act,No. 25of 1976.

These two legal provisions, Section 354 of the IPC and The Equal Remuneration Act, 1976, may not directly pertain to sexual harassment, but they are vital components of the legal framework aimed at protecting women's rights, dignity, and equality in the workplace in India. While Section 354 addresses physical aspects of harassment, The Equal Remuneration Act focuses on addressing gender-based wage discrimination, both contributing to a comprehensive approach to workplace issues affecting women.

IV. Frequency and Causes

Frequency

Prevalence Rates: Various studies indicate that the prevalence of workplace sexual harassment varies across sectors and demographics. However, it is universally acknowledged as a widespread issue. In India, a 2018 survey by the Indian National Bar Association found that nearly 38% of women had faced harassment at the workplace.³⁵

Underreporting: Despite its prevalence, workplace sexual harassment is significantly underreported. Concerns about retaliation, stigmatization, and lack of awareness about reporting mechanisms contribute to this underreporting.³⁶

Causes

Power Imbalances: One of the most significant causes of workplace harassment is the power dynamic that exists in hierarchical organizations. Those in positions of authority may exploit their status to harass subordinates.³⁷

1. **Cultural Norms and Stereotypes:** Cultural norms often perpetuate gender roles and contribute to an environment where harassment is tolerated or normalized. Stereotypes about gender can also play a role in perpetuating harassment.³⁸

2. **Lack of Awareness and Education:** Many employees and employers are not fully

³⁵Sexual Harassment in the Indian Workplace:A Survey, Indian National Bar Association, 2018.

³⁶L.Fitzgerald,F.Drasgow,C.Hulin,M.Gelfand,M.Gelfand, V.MagleyandV.Magley."Antecedentsand consequences of sexual harassment in organizations: a test of an integrated model." The Journal of applied psychology,82 4 (1997):578-89 <https://doi.org/10.1037/0021-9010.82.4.578>.

³⁷S.Einarsen,B.I.Raknes andS.B.Matthiesen."Bullying and harassment at work and their relationships to work environment quality: An exploratory study."EuropeanJournalofWorkandOrganizationalPsychology,4(1994): 381-401. <https://doi.org/10.1080/13594329408410497>.

³⁸ I.Folgero and Ingrid H.Fjeldstad."On Duty —Off Guard:CulturalNorms and Sexual Harassment in Service Organizations."Organization Studies, 16 (1995): 299 - 313. <https://doi.org/10.1177/017084069501600205>.

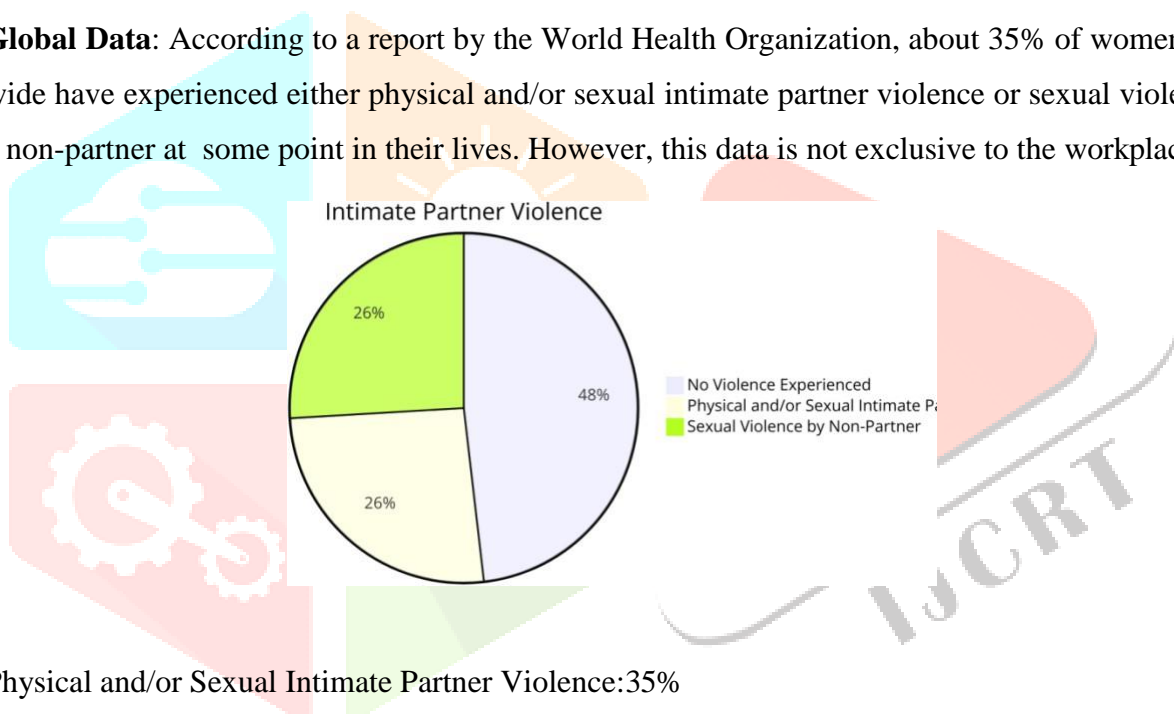
Aware of what constitutes harassment or the legal repercussions of such actions. This lack of awareness can lead to both unintentional and intentional harassment.³⁹

3. **Organizational Culture:** A workplace culture that does not prioritize diversity and inclusion is more likely to foster an environment where harassment occurs.⁴⁰

4. **Economic Factors:** In some cases, economic dependency on a job can make individuals more vulnerable to harassment, as they may be less likely to report incidents for fear of losing their livelihood.⁴¹

V. Statistical Overview: Frequency of Workplace Sexual Harassment Various studies and surveys have been conducted to understand the frequency of workplace sexual harassment. While the data varies depending on the sample size, sector, and methodology, some key statistics are worth noting:

Global Data: According to a report by the World Health Organization, about 35% of women worldwide have experienced either physical and/or sexual intimate partner violence or sexual violence by a non-partner at some point in their lives. However, this data is not exclusive to the workplace.⁴²



Physical and/or Sexual Intimate Partner Violence:35%

Sexual Violence by Non-Partner:35%

No Violence Experienced: 65%

³⁹ M. Henning, Chen Zhou, P. Adams, F. Moir, Jennifer Hobson, C. Hallett and C. Webster. "Workplace harassment among staff in higher education:a systematic review."Asia Pacific EducationReview,18(2017):521 - 539.<https://doi.org/10.1007/s12564-017-9499-0>.

⁴⁰Nicola M.Plessand Thomas Maak."Building an Inclusive Diversity Culture:Principles,Processesand Practice."Journal of Business Ethics,54 (2004): 129-147. <https://doi.org/10.1007/S10551-004-9465-8>.

⁴¹K.Austrian and E.Muthengi."Can economic assets increase girls' risk of sexual harassment?Evaluation results from a social, health and economic asset-building intervention for vulnerable adolescent girls in Uganda.", 47(2014):168-175. <https://doi.org/10.1016/J.CHILDYOUTH.2014.08.012>.

⁴²SarahL.Desmarais, K.Reeves,Tonia L.Nicholls,R.Telfordand MartinS.Fiebert."Prevalence of Physical Violence in Intimate Relationships,Part1:Rates of Male and FemaleVictimization."PartnerAbuse,3(2012): 140 - 169. <https://doi.org/10.1891/1946-6560.3.2.140>.

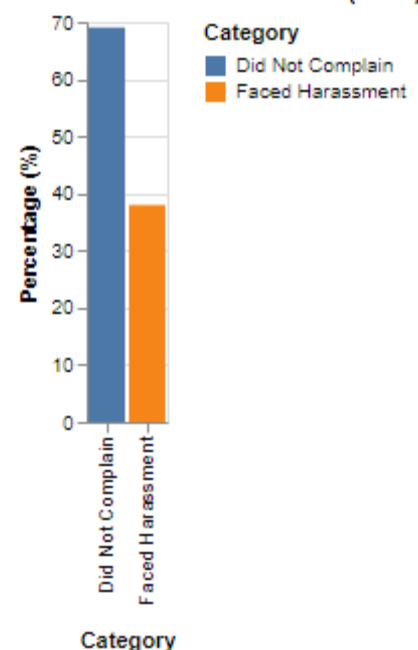
While the data is not exclusive to the workplace, it does highlight the prevalence of violence against women in various settings. Addressing this issue may require multi-faceted approaches, including legal measures.

In the context of India, for instance, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, aims to provide a safe working environment for women. The Act is a legislative step towards ensuring that women are protected from sexual harassment at their place of work. The landmark judgment in the case of Vishaka and Others vs State of Rajasthan (1997) laid the groundwork for this Act, emphasizing the need for guidelines to address sexual harassment at the workplace.

1. **Indian Context:** A 2018 survey by the Indian National Bar Association found that nearly 38% of women had faced harassment at the workplace. This survey also revealed that about 69% of victims did not complain about the harassment.⁴³

- **Faced Harassment:** 38%
- **Did Not Complain:**69%

Workplace Harassment in Indian Context (2018)



The chart illustrates the prevalence of harassment and is a significant concern that needs to be addressed through awareness campaigns. In the Indian legal framework, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, aims to tackle such issues. However, the high percentage of victims who did not complain highlights the need for robust implementation and awareness of this Act, which was established in the case of Vishaka and Others vs State of Rajasthan.

⁴³A.Aina-Pelemo,M.C.Mehanathan and Pradeep Kulshrestha."Indian Legal Profession and the Sexual Harassment of Women at Workplace Act."Sexuality & Culture, 24 (2020): 248-272. <https://doi.org/10.1007/S12119-019-09637-Z>.

VI. Proactive Prevention Measures

A. Anti-Harassment Policies

1. **Elements of an Effective Policy:** The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013, mandates employers to establish a comprehensive anti-harassment policy to prevent, prohibit, and redress sexual harassment in the workplace.

According to Section 19 of the Act, an effective policy should include the following elements:

1. **Definition and Examples of Sexual Harassment:** The policy must clearly define what constitutes sexual harassment in the workplace, providing examples to ensure understanding among employees.
2. **Complaint Mechanism** The policy should outline detailed procedures for lodging a complaint. This includes who to approach, how to file a complaint, and the process that will be followed once a complaint is made.
3. **Consequences for Perpetrators** : There should be a clear outline of the disciplinary actions and consequences faced by perpetrators of sexual harassment.
4. **Internal Complaints Committee (ICC):** As per Section 4 of the Act, the policy must provide for the constitution of an Internal Complaints Committee. The composition, powers, and duties of the ICC should be clearly outlined, ensuring that it includes a senior woman employee, two or more employees preferably committed to the cause of women or having legal knowledge, and one external member familiar with the issues of sexual harassment.
5. **Protection and Confidentiality:** The policy should guarantee the protection of the complainant and witnesses from victimization and assure confidentiality during the inquiry process.
6. **Awareness and Training:** Employers should also include provisions for regular awareness and training programs for all employees to educate them about the policy and the legal consequences of sexual harassment.
7. **Monitoring and Reporting:** The policy should include provisions for regular monitoring and reporting of sexual harassment incidents within the organization to the appropriate authorities.

By implementing these elements in the anti-harassment policy, employers can ensure compliance with Section 19 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013, and foster a safe and respectful working environment.⁴⁴

2. **Implementation Challenges:** Despite the legal mandate, the implementation of anti-

harassment policies faces numerous challenges. Employers often lack the expertise to draft comprehensive policies, and even when policies are in place, employees may not be fully aware of them.⁴⁵ Additionally, the absence of a robust mechanism to monitor the effectiveness of these policies can result in their being reduced to mere formalities, thereby failing to provide the intended protection to employees.⁴⁶

B. Educational Initiatives

1. **Workshops:** Workshops aimed at educating employees about the nuances of sexual harassment and the legal framework surrounding it are essential.⁴⁷ These workshops can be designed to fulfill the requirements of Section 19 of the Act, which mandates employers to organize awareness programs. Such workshops should not only focus on what constitutes harassment but also on the rights of the employees and the responsibilities of the employers under the Act.

2. **Training Programs:** Training programs for the members of the ICC are crucial for the effective implementation of the Act. These programs should cover the legal aspects, including the Vishaka Guidelines and the 2013 Act, as well as the procedural aspects like conducting inquiries and ensuring natural justice. This is in line with the Act's emphasis on the ICC's role as a quasi-judicial body.⁴⁸

C. Creating Inclusive Work Environments

1. **Diversity and Inclusion Initiatives :** Creating an inclusive work environment goes beyond the legal requirements and addresses the root causes of harassment. Employers should take

⁴⁴Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013, Sections 4 and 19.

⁴⁵L. Fitzgerald. "Sexual harassment. Violence against women in the workplace.." *The American psychologist*, 48 10 (1993): 1070-6 . <https://doi.org/10.1037/0003-066X.48.10.1070>.

⁴⁶R. Peters. "Strategies for encouraging self-protective employee behavior." *Journal of Safety Research*, 22 (1991): 53-70. [https://doi.org/10.1016/0022-4375\(91\)90014-M](https://doi.org/10.1016/0022-4375(91)90014-M).

⁴⁷ A. Barak. "A Cognitive-Behavioral Educational Workshop to Combat Sexual Harassment in the Workplace." *Journal of Counseling and Development*, 72(1994):595-602. <https://doi.org/10.1002/J.1556-6676.1994.TB01688.X>.

⁴⁸E. Perry, Carol T. Kulik and James M. Schmidtke. "Individual Differences in the Effectiveness of Sexual Harassment Awareness Training 1." *Journal of Applied Social Psychology*, 28 (1998): 698-723. <https://doi.org/10.1111/J.1559-1816.1998.TB01727.X>.

proactive steps to promote diversity and inclusion in the workplace. While the Act does not explicitly mandate such initiatives, they are in the spirit of the broader objectives of gender justice and equality.⁴⁹

2. **Employee Well-being Programs:** Employee well-being programs that focus on mental health

can provide an additional layer of support for victims of harassment. These programs can offer counseling services, stress management workshops, and other resources that can help employees cope with the psychological impact of harassment. While not explicitly covered under the Act, such initiatives can be seen as part of the employer's broader responsibility to provide a safe and conducive work environment as stipulated in Section 19 of the Act.⁵⁰

D. Gap Analysis

1. **Policy Gaps:** While the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, provides a comprehensive legal framework, there are still gaps in the policy. For instance, the Act primarily focuses on women, leaving a gap in the protection offered to men and non-binary individuals. Additionally, the Act does not explicitly mandate preventive measures like diversity and inclusion initiatives, which could address the root causes of harassment.

2. **Implementation Gaps:** Even when policies are robust on paper, the real challenge lies in their implementation. The absence of stringent penalties for non-compliance with the Act's provisions, such as the formation of an ICC, often leads to lax implementation. Moreover, the lack of awareness among employees about their rights and the procedures for lodging complaints contributes to the under-reporting of harassment cases. These gaps undermine the efficacy of the existing legal provisions.⁵¹

Case Studies

1. **Successful Implementations:** One of the landmark cases that demonstrate the efficacy of current policies is the implementation of anti-harassment measures in a leading IT company in India. The company not only established a robust Internal Complaints Committee (ICC)

⁴⁹Scott B.Button. "Organizational efforts to affirm sexual diversity : a cross-level examination.."

86 1(2001):17-28 . <https://doi.org/10.1037/0021-9010.86.1.17>.

⁵⁰JanaL.Raverand L.Nishii."Once,twice,or three times as harmful?Ethnic harassment,gender harassment,and generalized workplace harassment.."*The Journal of applied psychology*, 95 2 (2010): 236-54 . <https://doi.org/10.1037/a0018377>.

⁵¹M.Bond."Prevention and the Ecology of Sexual Harassment." Prevention in human services(1995) "https://doi.org/10.1300/J293V12N02_07.

But also conducted regular workshops and training sessions for its employees. This led to a significant decrease in reported cases of harassment and an increase in employee satisfaction.⁵² The company's measures were in strict compliance with the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, particularly Sections 4 and 19, which mandate the formation of an ICC and the duties of employers, respectively.

2. **Failures and Shortcomings** : Conversely, there have been instances where the policies have fallen short. A notable example is a case in the healthcare sector where the ICC was found to be biased, leading to the victimization of the complainant.⁵³ This case highlighted the failure in the implementation of unbiased investigations and the absence of a transparent reporting mechanism, both of which are crucial elements under the 2013 Act.

Recommendations Strengthening Internal Complaints Committees (ICCs)

1. **Regular Audits:** ICCs should undergo regular third-party audits to ensure their effectiveness and impartiality.
2. **Diverse Composition:** The committee should be diverse in terms of gender, seniority, and department to minimize bias.
3. **Legal Training:** Members of the ICC should receive specialized training in legal procedures and ethical considerations.

Enhancing Employee Awareness

1. **Comprehensive Induction Programs:** New employees should undergo a comprehensive induction program that includes a detailed session on workplace harassment policies.
2. **Regular Updates:** Employees should be regularly updated about any changes in harassment laws or company policies through internal communications.
3. **Anonymous Reporting Channels:** Establish secure and anonymous channels for reporting harassment to encourage more victims to come forward.

⁵²S. Dinesh and T.Maruthi. "Sexual Harassment at Working Place:A Need for Law." Preventive, Curative & Community Medicine, 1(2015):182-190.

⁵³Alaa M. Althubaiti."Information bias in health research: definition, pitfalls, and adjustment methods." Of Multidisciplinary Healthcare, 9 (2016):211 -217. https://doi.org/10.2147/JMDH.S104807.

General Recommendations

1. **Cultural Sensitization:** Given the role of cultural norm shaping attitudes towards harassment, cultural sensitization programs could be beneficial.

2. **Employee Well-being:** Implement well-being programs that offer psychological support to harassment victims.
3. **Transparency:** Maintain transparency in the reporting and investigation process to build trust among employees.

By implementing these recommendations, organizations cannot only comply with existing laws but also go beyond them to create a safer and more inclusive work environment.

Conclusion

The issue of workplace sexual harassment remains a pervasive problem in India, despite the existence of comprehensive legal frameworks such as the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. This research paper aimed to evaluate the efficacy of existing policies and legal provisions by focusing on three key areas: the effectiveness of Internal Complaints Committees (ICCs), employee awareness of their

rights and reporting procedures, and the gaps in current legal provisions and organizational policies. The findings indicate that while some organizations have successfully implemented robust ICCs, there are glaring inconsistencies and failures across sectors. Employee awareness remains low, contributing to the underreporting of harassment cases. Furthermore, existing policies and legal frameworks have significant gaps, particularly concerning the protection of men and non-binary individuals and the absence of preventive measures.

Based on these findings, the paper offers a set of recommendations aimed at strengthening ICCs, enhancing employee awareness, and addressing policy gaps. These include regular audits of ICCs, comprehensive induction programs for employees, and the inclusion of preventive measures like diversity and inclusion training. The paper also advocates for stricter penalties for non-compliance and greater transparency in the reporting and investigation process. Tackling workplace sexual harassment in India requires a multi-faceted approach that goes beyond mere legal compliance. It necessitates a cultural shift, increase awareness, and proactive organizational policies that are inclusive and comprehensive. While the Sexual Harassment of Women at Workplace Act provides a strong foundation, there is an urgent need for organizations, policymakers, and society at large to collaborate in addressing the gaps and challenges to create safer, more respectful workplaces for all.

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