



Evaluating The Effectiveness Of Workplace Sexual Harassment Protections For Women In India: A Critical Study

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ABSTARCT

Gender equality and empowerment of women in India continue to be a challenge to workplace sexual harassment despite the fact that a complex legal framework is in place. The introduction of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 was an important step of eliminating this problem by offering prevention, prohibiting and redressing of grievances. This act was much informed by the historic ruling in the case of Vishaka v. State of Rajasthan which provided the guidelines upon which women would be protected in the workplace.

This paper is a critical analysis of whether sexual harassment measures taken towards women in the Indian workplace have been effective. It discusses the legal and conceptual framework that regulates sexual harassment, discusses legal developments in a court of law, and evaluations on how the statutory provisions are applied practically. The study takes an analytical and also doctrinal approach where it depends on statutes and case laws, reports and the secondary literature in order to make sense of the discrepancies between the law and its application.

The study recognizes some of the challenges such as underreporting of cases, ignorance of employees, poor operation of Internal Complaints Committee and socio-cultural barriers that dishearten victims to seek redressal. It also points out institutional inadequacies and variation in how legal provisions are applied in various areas, especially, among the unorganized workforce.

Next, the study also provides a comparative study of the frameworks in different countries to determine the level of India in dealing with workplace harassment. The evidence indicates that the legal system is powerful in the text, yet it has poor performance, nearly due to the poor implementation system,

inefficiencies in the procedures, and absence of accountability.

This paper concludes by highlighting the necessity of more stringent enforcement, periodical compliance checks, raising awareness campaigns and institutional changes in the light of safer and more inclusive working places. It also suggests policy interventions to enhance enforcement of the law and creation of a culture of zero-tolerance approach towards sexual harassment at work.

LIST OF ABBREVIATIONS

Abbreviation	Full Form
AIC	All India Council
CIC	Central Information Commission
CPC	Civil Procedure Code
HRD	Human Resource Development
ICC	Internal Complaints Committee
ICHR	Indian Council of Historical Research
ILO	International Labour Organization
NCW	National Commission for Women
NGO	Non-Governmental Organization
POSH Act	Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013
SC	Supreme Court
SCC	Supreme Court Cases
SHWW	Sexual Harassment of Women at Workplace
UNCEDAW	United Nations Convention on the Elimination of all Forms of Discrimination Against Women
UN	United Nations
WCD	Ministry of Women and Child Development

Abbreviation	Full Form
VAW	Violence Against Women
WHO	World Health Organization
WPC	Women's Protection Commission
HR	Human Rights

LIST OF CASES

Case Name	Citation	Page No.
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CHAPTER 1: INTRODUCTION

1.1 INTRODUCTION

Sexual harassment of women in the workplace is a deep affront to the right to equality, dignity, and a safe working environment. Not only does it hinder the career advancement of women but also undermines their mental well-being. As more women are joining India's workforce, safety in the workplace, especially against sexual harassment, has become a major legal and social issue. The problem goes beyond the confines of individual inconvenience and crosses over into the public domain, requiring a close scrutiny of legal systems, institutional processes, and social attitudes.

The phenomenon of sexual harassment at the workplace emerged into the limelight in India in the late 20th century, specifically after the Supreme Court's landmark ruling in *Vishaka v. State of Rajasthan*,¹ which enshrined legally binding principles in the absence of a specific statutory regime. This verdict set the precedent for subsequent codification in the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (popularly referred to as the POSH Act). This notwithstanding, reports and surveys indicate rampant underreporting, stigma in society, procedural delays, and lack of awareness among employees and employers. These enduring challenges cast uncertainty regarding the effectiveness of the legal system intended to protect women's rights in the workplace.²

¹ *Vishaka v. State of Rajasthan*, AIR 1997 SC 3011.

² The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

Sexual harassment is a legal issue as any other fact of socio-culture, which is hidden in the patriarchy and the inequality of genders. Women are afraid of stigmatization, retaliation or blame which makes them not report cases of harassment. Moreover, organizational work arrangements and imbalances of power also tend to enable offenders to work without restraint. As the judicial and legislative branches continue addressing the given issues, it is pivotal to understand that sexual harassment must not only be treated as an infringement of individual dignity but a professional, organizational challenge, which could influence the productivity of the workforce and economic empowerment.

This problem has become a global concern with international campaigns such as #MeToo, which introduced the omnipresence of sexual offenses both in geographies and sectors. These trends underscored the need of not just pre-emptive, but also remedial legal interventions. On the global level, international treaties like a Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention No. 190 of the International Labour Organization form an acknowledgement of the necessity of a secure and inclusive working environment. India being a signatory to such convention is under duty to conform its domestic legal framework with those of the rest of the world as this is provided by the CEDAW of the United Nations General Assembly, Resolution 34/180, 18 December 1979.

This has changed in recent years when the Indian legal system has been characterised by implementation of new criminal codes such as Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Adhinyam (BSA) which aim at modernisation of criminal justice procedures and rules of evidence. These codes cut across instances of sexual harassment, especially in terms of procedural treatment, standards of evidence, and protection of victims. It is most timely and necessary to carefully examine how the provisions can empower or go against the POSH Act.

Regardless of the existence of laws, compliance is not even. A study has shown that most workplaces do not form Internal Complaints Committees (ICCs) which is required to be established by organizations employing ten or more workers as required by the POSH Act and which are not properly trained to fulfill their mandate. Poor anonymity of reporting avenues and inefficiency of protection of witnesses are likely to put the victims off. Thus, a significant percentage of harassment in the workplace remains unreported, leaving women vulnerable to abuse and inviting those who can harass them in the workplace.

Also, intersectionality needs to be identified in cases of harassment how caste, and class, religion, and disability can disadvantage women. The women who are marginalized are more likely to experience compounded discrimination and access to system of redress is limited. In these cases, the legal framework must be sensitised in order to address multiple layers of vulnerabilities and to step out of the paradigm of one size fits all.

This study will explore the issue and effectiveness of legal remedies of sexual harassment in the Indian workplace. It tries to identify loopholes in the law, failure to implement it, and how the society is unemotional progressing towards justice. A specific focus will be given to court interpretations, especially before and after the Vishaka ruling, and the impact of recent legislative developments like the BNS, BNSS and BSA..³

.A multi-pronged approach is necessary to make workplaces harassment-free, including formidable laws, effective enforcement of these laws, gendered trainings, conducive work cultures, and empowered grievance systems. Women will be able to work in a workforce without fear and stigma only then, to bring their full input to the economic and social development of India.

Sexual harassment in the workplace is not the new thing. It is deeply rooted and has been caused by centuries of patriarchal authority, institutionalized inequality and discrimination based on gender. Historically, the spheres of the people and the private world have been separated and the traditionally regarded as a male-dominated workplace was a battleground, to which women joined the workforce and sought to be provided with some space, to be independent. The issue of workplace safety has remained non-existent in India where the introduction of women into the organized labor force was a long-running thorny issue. With a growing involvement of the female in the second half of the twentieth century, though, the problem of workplace harassment is one of the critical concerns of a legal and policy.

Articles 14, 15 and 16[Constitution of India, arts] give equality before the law and forbids sex discrimination by the Indian Constitution. 14, 15, 16 and 21. The right to life and personal liberty is also guaranteed in the Constitution under Article 21 that also incorporates the right to live with decency. However despite such promises, there was no clear legislative policy on sexual harassment in the workplace until the late 1990s. Although, in fact, women were laughed at, propositioned, threatened, and made to feel threatened in the workplace with no systematic grievance redressal policies being enforced. These events were very restrictive to the involvement of women in the workforce as well as contravene their rights of the constitution.

This was actually thru the pushing force of law in the Vishaka v. State of Rajasthan[Vishaka v. State of Rajasthan, AIR 1997 SC 3011.] case that occurred in 1997. In the absence of local legislation, the Supreme Court established rules which made the duty of the employer to establish a safe working environment and establish the necessity of Complaints Committees a priority. These were the guidelines that were adopted as the binding law of Article 141 of the Constitution. The Vishaka decision was a judicial response to the senseless gang rape of a Rajasthan social worker, Bhanwari Devi, who was

³ Bharatiya Nyaya Sanhita, 2023; Bharatiya Nagarik Suraksha Sanhita, 2023; Bharatiya Sakshya Adhinyam, 2023.

assaulted when she tried to prevent child marriage. Her example was a revelation of the profound failure of legal safeguards of females both in formal and informal employment.

The need for a broad law continued to be unfulfilled until the passage of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act in 2013. This law defines sexual harassment, provides for the constitution and functioning of Internal Complaints Committees (ICCs) and provides default penalties. It applies to workers in the government and those working in the private sector and acknowledges harassment of women in what can be described as non-traditional workplaces like homes, farms or building sites. The Act was a milestone in Indian labour jurisprudence but it has received criticism on being poorly implemented and gender-limited, with no provision about men and LGBTQ+ individuals.

In most parts of the world, harassment at the workplace has been condemned globally through various human rights and labour laws. India ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)[The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.], which commits the states to ensure that women have a right to work in equality, security, and dignity. Violence and harassment in the world of work are also specifically included in an International Labour Organization Convention No. 190 that was adopted in 2019. The domestic policy has been influenced by these international standards as well as making the international scope of the workplace sexual harassment more prominent as a human rights issue.

Socio-cultural sexual and gender taboos exacerbate such an issue in India. The reason women do not report being harassed is because they are afraid of being stigmatized, or are worried of employment repercussions, or even victim-blaming. The long-settled patriarchal thinking brings about myths that women elicit harassment due to their behavior or attire, thus diverting the focus from the culprits. In addition, most of Indian workplaces particularly within corporate and service sectors, are characterized by hierarchical structure, which offers an environment where power disparities discourage victims to report the instances.

In a 2017 report by Indian Bar Association, it was found out that approximately 70 percent of women subjected to workplace harassment did not even report about the same, primarily due to fear of reprisal or job opportunities. In a good number of organizations, there were no Internal Complaints Committees or they were ineffective. Moreover the workers in the informal sector, who form the largest number of working women in India are not covered by the POSH Act due to jurisdictional limitations and lack of awareness

The issue further reaches government establishments, where enforcement of the law has been languid. Organizations like National Commission for Women (NCW) and the Ministry of Women and Child

Development (MWCD) have conducted ad-hoc audits which have revealed weak compliance of the statutory provisions in the Act. Despite the government circulars that indicated the formation of ICCs, a majority of the departments never did so denying women their legal rights to safe working environment.

Reporting, prosecuting and adjudicating sexual harassment complaints will be affected by the recent Indian government reforms on criminal law that is, the introduction of Bharatiya Gyta Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS) and Bharatiya Sakshya Adhiniyam (BSA). To illustrate, victim statement provisions, electronic evidence provisions, and safeguarding provisions can either empower or alienate women, depending on the way that these provisions are executed. These new laws should be aligned to the POSH Act to have the consistency in legal safeguards.

Non-governmental organizations (NGOs), civil society groups as well as women rights organizations have played a pivotal role in ensuring more constructive legislations and institutional support to victims. They have also held ICC member awareness, legal literacy and capacity-building trainings. These attempts, however, are usually opposed by conservative social institutions and institutional inertia.⁴

Therefore, the problem of workplace sexual harassment in India is situated at the confluence of legal shortfall, social stigma, and policy lethargy. The problem cannot be tackled in silos; it requires an integral approach encompassing legal reform, organizational responsibility, gender sensitization, and cultural shift. This research aims to examine these interlinked facets, providing a critical analysis of the current legal framework while suggesting pragmatic strategies for establishing harassment-free workplaces.

1.2 LITERATURE REVIEW

Sexual harassment in the workplace is a topic that has been changing the legal philosophy, judicial activism, policy changes as well as scholarly criticisms. The analysis of the literature within the context indicates underpinnings of different frameworks, policy arguments, practical issues, and theory critiques that can be utilized in relation to this socio-legal problem. The scholarly literature and reports presented below are key reference points in comprehending the nature of development and existing gaps in the legal and institutional responses towards workplace harassment in India and elsewhere.

1. Kapur, Ratna (1999) - "The Patriarchy to Personal Laws: Sex Discrimination by the Legal Process in India"

Kapur argues that Indian legal thought has a tendency to act in the patriarchal assumption that it cannot address gender-based violence. Her resentment of the role of the state in defining and regulating bodies

⁴ Ministry of Women and Child Development, "Handbook on the POSH Act," (2022).

and autonomy of women, she frames the idea of sexual harassment not only as a form of misconduct but as an outcome of established power relations.

Gap: The book does not mention any legal clauses or remedies of a workplace character after 2013, though it is a critical, feminist perspective.

2. National Commission for Women (NCW) Reports (2005-2022)

The NCW has conducted a number of surveys and research on the complaint of sexual harassment, the level of awareness and institutional response, at the state level. These reports blame implementation failures of ICCs, insufficient training, and insufficient outreach to rural and semi-urban regions.

Gap: The articles are statistically or descriptively oriented, but not analytically profound in relation to the enforcement of the POSH Act or contact with criminal law.

3. S. Dhanda and A. Parashar (2013) - Engendering Law: Essays in Honour of Lotika Sarkar.

This collection of writings criticizes how the mainstream law is inclined to put into the periphery gendered approaches. It discusses the case of Vishaka judgment as a progressive constitutional high point that transcends traditional bounds of the statutory interpretation by referring to international documents like CEDAW.

Gap: The essays are less pragmatic and practical and more philosophical and jurisprudential in their focus.

4. Jaising, Indira (2015) - Handbook on Law of Sexual Harassment at Work Place.

This is a reference guide outlining the extent and processes of the POSH Act, 2013. It offers a methodical way of cognizing the obligations of employers, the composition of ICCs, fines, and ritual of the investigation process.

Gap: It is not critical of ground level realities like non-compliance, underreporting, and workplace retaliation.

5. Martha C. Nussbaum (2001) - Women and Human Development: The capabilities approach.

Although not workplace harassment, Nussbaum capabilities approach gives a philosophical foundation on analyzing laws based on human dignity, bodily integrity, and autonomy, which were directly threatened values of sexual harassment.

Gap: Abstract, and requiring translation to Indian legal mechanisms, through contextual translation.

6. India's Parliamentary Standing Committee Report (2022) on Implementation of the POSH Act

This report noted that on a fairly large proportion of private or public sector workplaces, ICCs had not been made up nor awareness initiatives undertaken. It suggested regular checks, more penalties for defaulting, and adding coverage to gig and informal laborers.

Gap: The report is policy-specific and recent and lacks scholarly or empirical research of grassroots-level enforcement.

7. International Labour Organization (ILO), 2019 - "Violence and Harassment Convention (C190)"

The Convention demands comprehensive safeguarding against gender-based violence at the workplace including psychological harassment and cyberbullying. Though India is not a signatory of C190, its principles have informed the debate on expansion of definition of harassment in Indian laws.

Gap: The issue to consider is that between international standards and the Indian dual-layer laws of labour and criminal law.

8. Kameswari, V. (2021) – "Sexual Harassment at the Workplace in India: Problems and Concerns.

This article explores the shortcomings of the POSH Act, e.g. its exclusion of same-sex harassment, requiring the complainants to prove their claims and vague provisions on the composition and autonomy of ICCs.

Gap: It addresses real-world problems but does not explore new criminal law provisions (BNS, BNSS, BSA) or new forms of sensitisation based on digital technologies at work.

9. V.R., Krishna Iyer (1983) - Law and Social Change: An Overview.

The writing of Justice Iyer is marked with an obsessive concern with social justice taken to be rigorously achieved through innovative adjudication. Although his vision pre-dates modern laws on harassment, his constitutional morality can be seen as the means of ensuring that women have their rights in the mass society and in personal life.

Gap: The texts should be updated situational and to incorporate post-Vishaka judicial or legislative history.

Major Themes that have come to light in Literature.

Strong theoretical basis: Feminists theorists and scholars provide a critical discussion concerning the patriarchal basis of law interventions.

Vishaka as a break in case: The majority of texts recognise this as a breakthrough in Indian law in the move by turning sexual harassment into a labour challenge to a constitutional and human rights challenge.

Ignorance of enforcement research: The literature continues to largely end with the passage of the POSH Act without dedication to finding out whether the provisions of the Act are realized substantial enforcement in work places.

Rudimentary intersectionality: Little attention is given to the effects of caste, classes, disability, or LGBTQ+ status on experiencing harassment.

Underreporting and retaliation: The studies show that there exists widespread fear, stigma, and distrust in the reporting of complaints especially in sectors that are dominated by males.

Identified Research Gaps

Lack of coordination between POSH Act and new criminal law provisions under the BNS, BNSS, and BSA.

Inadequacy of gender-neutral policies or measures to assist men and LGBTQ+ victims.

Lack of quality data and academic attention to unorganised and informal economy.

Minimal analysis of self-regulation and nominal compliance by the corporate world.

There exists a lack of empirical data on ICC effectiveness, training, and sanctions.

Very little research on technology enhanced workplace harassment (cyberstalking, online harassment).

1.3 RESEARCH GAPS

1. Remote Work and Sexual Harassment.

As a remote working practice becomes more popular, there is a knowledge gap about the ways sexual harassment can occur in a virtual setting (e.g., online meetings, video calls). Research has extensively studied the subject of the physical work place and little has been done to study the issue of sexual harassment in the cyber world.

2. Gendered Workplace norms and Cultural Influences.

Although the aspect of a legal framework and legal policies has been studied widely, little has been paid to the culture and gender norms in workplaces which are sources of perpetration of harassment. It might

also be possible to study how stereotypes and traditional gender roles might affect the chances of being harassed or condoned to be harassed in some professions or cultures.

3. Generosity of Gender Sensitization Programs.

Despite the prevalence of gender sensitization programs in most organizations, little research has been conducted to determine the effectiveness of such a program in the long run. Future research might be in determining whether such programs have any long-term contribution to attitude change, behavior change, and ultimately change in the rates of harassment.

4. Intersectionality of Sexual harassment.

It will need more in-depth development of the intersectionality (e.g., how gender, race, caste, disability and other social identities work together to affect the experience of sexual harassment). Investigation could explore the ways in which women belonging to marginalized groups experience various forms of harassments or encounter difficulties with reporting and justice.

5. Underreporting, and Psychological Impact.

Although incidents of sexual harassment are known to be underreported, there remains a knowledge gap regarding the psychological and social factors which cause the victims to hesitate in reporting incidents. Additional studies might examine how psychological trauma, fear of retaliation, or absence of support systems plays a role in preventing victims of sexual harassment to make complaints.

6. International Prevention Comparative.

The gap in the literature on the effectiveness of various workplace harassment prevention strategies in various countries is present. Research might involve comparisons between POSH Act of India and other global systems in place such as the US, UK and Australia and differences between implementation, awareness, and results.

7. Corporate Legal responsibility and compliance.

Although legal compliance is an essential subject of interest, the study might explore further the corporate responsibility as going by the law rather than, being law abiding. There is a lapse in literature on how organizations implement proactive policies on harassments, corporate social responsibility (CSR) and the role played by the top leadership in ensuring a harassment-free workplace.

8. Effects of Sexual Harassment on Career advancement.

Long term implications of sexual harassment in the career including stalling a career, distress, self-doubt are aspects that are not well researched. A study might examine the effect of being harassed on career, professional image and relationships at work.

1.4 STATEMENT OF PROBLEM

The sexual harassment of women in the workplace is an endemic and a poorly covered issue in India in spite of the legal and constitutional safeguard. Despite the fact that the landmark ruling of the Supreme Court in the case of Vishaka v. State of Rajasthan (1997) laid the basis of a legal framework, and the creation of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 codified the protections, the real situation on the ground tells otherwise.

Indian workplaces, be it formal or informal, remain to be unsafe to many women. The societal nature of patriarchal attitudes, fear of retaliation, social stigma, and absence of an effective implementation systems have fostered a culture where women do not report harassment, or are systemically entombed in trying to gain justice. Most establishments do not have (or have non-functional) Internal Complaints Committees (ICCs), and little awareness of the legal rights by the female employees, particularly those in rural and unorganised sectors.

Moreover, the existing law has a number of loopholes and shortcomings. The POSH Act, 2013, is gender based, and fails to recognize harassment against men, trans personalities and non-binary people. It is also deficient of detailed enforcement guidelines and it does not offer rehabilitation assistance to victims like legal aid, rehabilitation or psychological counselling. Although the new criminal law reforms (BNS, BNSS and BSA) focus on enhancing efficiency in the procedure, it is not clear how they can be combined with the laws on the harassment at the workplace, since when they intersect or contradict, it can be interpreted in two ways.

The lack of alignment between the intent that the legislation is supposed to embody and the ways it is applied casts critical doubts on whether the legal framework is effective. The post Vishaka judicial interpretations, despite their progressive sound, have not worked out to achieve systemic change on the grassroot level. Also, the social hesitation on making harassment an issue of severe infringement of dignity and safety is a deterrent to reforms.

The aim of this dissertation is to critically analyze the causes, development of the law, issues in implementation and systemic failure of sexual harassment of women in places of work in India. It seeks

to offer a holistic insight into why despite the legislative and judicial actions, the problem remains firmly rooted and what changes need to be made to make the workplace a safe, inclusive, and gender-sensitive one.

1.5 AIM AND OBJECTIVES OF THE RESEARCH

Aim:

To critically examine the legal, judicial, and institutional structure with respect to sexual harassment of women at the work place in India, gauge how it has evolved and been applied over time and suggest reforms toward effective implementation and gender sensitive work places.

Objectives:

- 1.To present and frame the problem of sexual harassment in the work place, defining the scope, methodology and organization of the study.
- 2.To investigate the idea, shapes, reasons and the evolution of sexual harassment in the workplace.
- 3.To examine the legal guidelines based on sexual harassment at work related to both national and international law, the latest Indian legislation BNS, BNSS, and BSA.
- 4.To research the case law and developing jurisprudence to sexual harassment, focusing on the Vishaka case and later case law.
- 5.To determine major issues in the adoption of the existing laws such as underreporting, ignorance and institutional failure.
- 6.The study aims to offer the conclusions and practical recommendations on the legal, institutional and social reforms to enhance redressal measures and occupational safety of women.

1.6 RESEARCH QUESTIONS

In this study, the following questions will be answered:

- 1.What are the essential legal relations in the sphere of sexual harassment at the workplace, which are observed in India, and what are the relations with the international standards and conventions?
- 2.To what extent have judicial declarations, and in particular the Vishaka decision, worked to define the legal framework, where sexual harassment in the workplace is concerned?
- 3.What do you find are the main issues in enforcing and implementing sexual harassment laws in the workplace, and what can be done to address those issues?
- 4.What role do underreporting, victim-blaming and lack of awareness play in perpetuating sexual harassment in the workplace in India?
- 5.What can be done to reinforce organizational policies, training and gender-sensitive programs to combat sexual harassment and ensure that victims can receive effective redress?

6. What are governmental organizations, nongovernmental and commissions doing to enforce sexual harassment and how can they be improved with regards to safeguarding women in the work place?

1.7 RESEARCH HYPOTHESIS

This study aims to test and examine the following hypotheses:

H1: Despite the legal advances attained by the POSH Act, 2013 and the other legislative initiatives, the legal framework in place is ineffective in deterring and responding to sexual harassment at the work place due to implementation gaps and ignorance.

H2: Courts and judicial intervention, particularly in the form of milestone decisions, such as Vishaka v. State of Rajasthan, have brought about greater positive changes to the law, yet its implementation and institutional opposition remain obstacles in addressing effectively the matter of workplace harassment.

H3: The existence of some socio-cultural aspects such as victim-blaming, organizational resistance, and gender insensitivity continue to make it difficult to effectively redress sexual harassment complaints and place women in a hostile working environment.

H4: International conventions and international laws, including the International Labour Organization (ILO) and the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) play a significant role in the impact on the national legal regimes, but are poorly integrated into the workplace sexual harassment policy in India.

H5: There is a need in addition to regulation and legislation, an increase in the strength of organizations structures, gender insensitive training and the availability of complaint mechanisms that will offer a safe working environment and enhance law enforcement.

1.8 RESEARCH METHODOLOGY

The current study combines both doctrinal and empirical approaches aimed at critically evaluating legal and institutional frameworks of sexual harassment of women in the workplace in India. The doctrinal approach entails a substantive examination of the primary and secondary law and legal materials which are the statutory provisions against sexual harassment including the Prevention of sexual harassment (POSH) act, 2013 and the Indian law legislative provisions such as the BNS, BNSS, and BSA. It also sets out a close look at major judicial cases, especially that of Vishaka v. State of Rajasthan which is central in establishing laws related to sexual harassment in the workplace in India. The study also covers international treaties like CEDAW conventions and ILO conventions and examines how they impact on the national legislations. An empirical approach is used to complement the doctrinal research; this is the

collection of qualitative and quantitative data in different sources. Surveys and questionnaires will be performed among women who are employed, HR experts and legal professionals to learn how they feel and experience sexual harassment laws and their application. There will also be the use of case studies to discuss a real-life story regarding how the sexual harassment cases are dealt with in various sectors. The interviews conducted with victims of sexual harassment, legal practitioners, and the governmental, non-governmental organizations and workplace safety commissions will provide additional details on the issues encountered in enacting the POSH Act. The research also utilizes the comparative analysis to assess India legal provisions in regards to the international provisions and content analysis to assess the effectiveness of existing laws. The survey data will be analyzed statistically and reveal the trends with an emphasis on such problems as underreporting and unawareness, as well as the resistance of the institutions. These comprehensive methods, however, come with some limitations; the research identified that due to underreporting and time constraint, access to data could be limited and hence the research could not encompass all the sectors or regions in areas.

1.9 SCOPE AND LIMITATIONS TO THE STUDY.

Scope of the Study

The current research is aimed at assessing whether the women in India are effectively protected under the law against sexual harassment in the workplace. It mainly focuses on the legal and institutional environment enshrined in Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and how it is applied in different industries in practice.

Within the sphere of the proposed study, the analysis of major judicial events, especially the case of Vishaka vs. State of Rajasthan that defined a new legal framework, should be discussed. The study also elaborates on the role and operation of the Internal Complaints Committees (ICCs) and the responsibility of employers, redressal practices offered through the Act.

The research also evaluates the international best practices in dealing with sexual harassment at the workplace by conducting the comparative study of the chosen legal regimes internationally to evaluate how India performs in relation to addressing sexual harassment in the workplace. The socio-legal part of the research, such as the workplace culture, gender relationships, and witnessing barriers are also included and so, a full picture of the legal and practical facets of the problem is presented.

The study is mainly doctrinal based using secondary sources including statutes, case laws, books, journal articles and government reports. It strives to unite the gap between law and its application, critically examining the viability of prevailing mechanisms.

Limitations of the Study.

Although the study does attempt to give an in-depth analysis, some limitations should be admitted. To begin with, the study is mostly founded on secondary sources such as legal texts, judicial ruling, and academic sources, which are not necessarily reflective of the reality on the ground about workplace sexual harassment.

Secondly, there is no thorough empirical research or field survey as a part of the study because of time and resource limitations. Consequently, first-hand experiences of victims and organisational practice might not be fully registered.

Third, the range of the research is restricted mostly to India, and the comparative reference to the international laws is minor. Thus, the results might not adequately represent the international differences in, responding to sexual harassment in the workplace.

Moreover, the problems of the unorganized sector and informal employment when the legalization is typically poor are addressed in a moderate way because of the lack of available data and documentation.

Finally, social and cultural determinants of reporting and redressal systems are intertwined and dynamic, and might not be fully evaluated in the context of the proposed research.

1.9 CHAPTERIZATION

Chapter 1: Introduction

In this chapter, the research background will be outlined; the background of sexual harassment at workplace, the legal environment and the purpose of the research. It sets the goal, questions and objectives of the research, the hypothesis, the methodology and the format of the chapter.

Chapter 2: Concept, Meaning, Definition, and Historical Background of Sexual Harassment.

This chapter addresses the meaning, concept and different definitions of sexual harassment in the workplace. It addresses the various barbarities of harassment, reasons why it occurs, and how sexual harassment legislation and standards have developed through history, which is both internationally and in India.

Chapter 3: Legal Provisions Related to Sexual Harassment at the Workplace

This chapter explores the legal aspects of sexual harassment in the work place. It contains an examination of international agreements and declarations like the one of the United Nations and the International

Labour Organization (ILO), and the national legal framework along with the provisions of the POSH act, 2013, and the corresponding provisions of the BNS, BNSS, and BSA.

Chapter 4: Judicial Approach to Sexual Harassment of Women at the Workplace

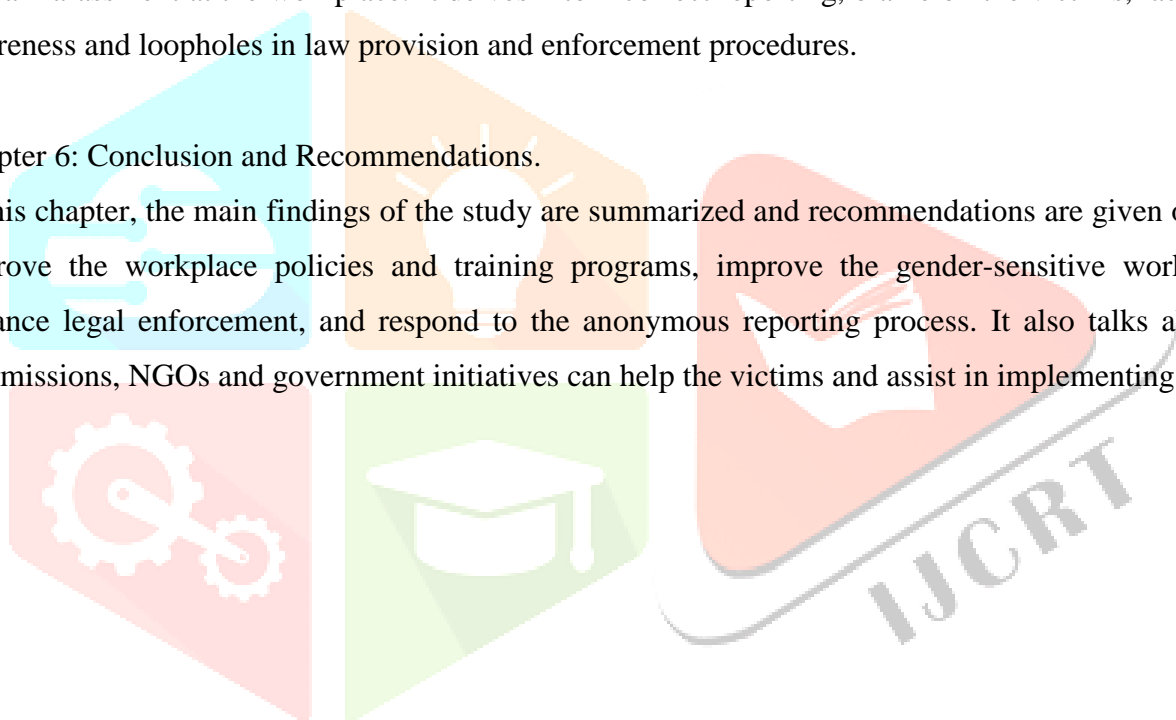
This chapter focuses on how the sexual harassment in the workplace has been treated by the judiciary and starts with what was happening prior to the Vishaka judgment. It gives an in-depth analysis of the case of Vishaka v. State of Rajasthan and explores how the changes in legal protections for women involved after a judgment were significant. It also includes pertinent international cases that have influenced the discussion on sexual harassment in the workplace.

Chapter 5: Challenges in Legal Framework or Implementation

This chapter discusses the key challenges in the enforcement and implementation of laws related to sexual harassment at the workplace. It delves into incorrect reporting, blame on the victims, lack of legal awareness and loopholes in law provision and enforcement procedures.

Chapter 6: Conclusion and Recommendations.

In this chapter, the main findings of the study are summarized and recommendations are given on how to improve the workplace policies and training programs, improve the gender-sensitive work culture, enhance legal enforcement, and respond to the anonymous reporting process. It also talks about how commissions, NGOs and government initiatives can help the victims and assist in implementing the laws.



CHAPTER 2: CONCEPT, MEANING, DEFINITION, AND HISTORICAL BACKGROUND OF SEXUAL HARASSMENT

2.1 CONCEPT, MEANING, AND DEFINITION

Workplace sexual harassment is a widespread problem which affects dignity, safety and wellbeing of women and gender minority. It is unwelcome, sexual behaviour in a manner that becomes an intimidating, hostile or offensive working environment. In this chapter the concept, meaning and other definitions of sexual harassment will be explored, to give people even a deeper understanding of the significance of the topic in the contemporary work places.

2.1.1 The meaning of Sexual Harassment.

Sexual harassment is a concept that emerged as a response to the increased awareness of the increased exposure of women and other areas of weakness to unwanted sexual advances, remarks and behaviors in the workplace. Sexual harassment was originally young-minded and physical in nature since it concerned physical actions like groping or rape. Sexual harassment has, however, over the years come to be characterized as a collection of behaviours, both verbal and non-verbal that can create a toxic work environment. Response and Legal: Sexual Harassment in the Workplace. p. 45, Oxford University Press.

Sexual harassment at the workplace not only constitutes a solitary behavior but is a contributing factor of power inequity and discrimination rooted in the system. It is a product of people interaction and more typically, it is an abuse of power or social status to use power over other people in either a close-up or coercive manner. The term, workplace in this view implies, encompasses all those factors that relate to the employment such as offices, company meetings, conferences as well as virtual place as in the case of video conferences which are becoming a reality in this modern age.

2.1.2 Sexual Harassment and meaning.

A social and legal problem, sexual harassment has several levels of meaning. It is its nature, unwanted or uninvited behaviour of some sort, that is somehow sexual in nature being hurtful to the victim. Sexual harassment can take many forms where it can include a physical act, verbal harassment, visual harassment among online harassment which can have terribly devastating effects on the victim.

The law definition of sexual harassment usually intends to encompass the behaviors that could subject the victim to the insults that could damage their dignity, create a hostile or embarrassing work environment or affect the performance capacities of the victims. This age into a large extent of behavior such as suggestive comments, inappropriate gestures and unwanted bodily exchanges all the way up to the most extreme of sexual assault and coercion. (2006). *Women: Work. Feminist Movements*. SAGE Publications, p. 68.]

2.1.3 meaning of Sexual Harassment in Indian Law.

Sexual harassment in the workplace has particularly been defined in the Prevention of Sexual Harassment (POSH) Act, 2013 in India. Section 2(n) of POSH Act has a broad definition of sexual harassment encompassing any unwanted sexual act or behavior (including but not limited to physical contact, sexual advances or sexual favor demands, any other sexual behavior or conduct) that is charged or is suggestive in character. Verbal harassment (e.g., unwanted comments/ jokes) and visual harassment (e.g., the display of some sexually explicit content) are also a part of the Act [Prevention of Sexual Harassment Act, 2013, Section 2(n)]

The Indian Supreme court ruling of Vishaka (1997) made available a guideline on which sexual harassment would be addressed depending on the fact that sexual harassment is any undesirable sexual conduct that causes hostile, intimidation and offensive workplace atmosphere. The POSH Act also reinforced and added to this definition, specifically decree that requires the formation of complaints committees in the workplaces to address incidences of sexual harassment and make sure that correct measures are put in place. [Vishaka v. State of Rajasthan, (1997) 6 SCC 241].

The sexual harassment is covered by international conventions on human rights, and the definition based on the international law is as follows:

Various conventions and systems on the global front have stipulated and endeavored to curb sexual harassment at work. To illustrate the importance of defining sexual harassment as seen in the International Labour Organization (ILO)[International Labour Organization, Convention No. 190 (2019) defines sexual harassment with a wider scope to encompass verbal, visual and non-verbal harassment.

Moreover, the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) reiterates the responsibility of the States to make sure that women are not sexually harassed in any form, including in the workplace. Though CEDAW has not provided a specific definition of sexual harassment, it has insisted on the integration of detailed laws to make sure that women become the victims of gender-based violence (including harassment).

2.1.5 Expanding the Scope of the Definition to cover Harassment by Gender

Sexual harassment has been redefined to cover not only acts which are crimes against women, but also the other minorities. With this, a number of the contemporary legal systems have liberalized their understanding of sexual harassment to include it in gender-based harassment, encompassing any act that the person feels offended by based on his/her gender identity or sexual orientation.

This change signifies change in social attitudes towards gender and sexuality. Non-binary/transgender identity is also becoming a more accepted reality that is pushing the traditional binary of gender male-female dichotomies. Consequently, discrimination on gender identity or sexual orientation is exceptionally coming under the legal guidelines of sexual harassment law, on the international and Indian front as well. One such area is that, discrimination based on gender, and mistreatment has been listed under the POSH act as a sexual harassment.

Sexual harassment in the workplace has drastically changed in concept, meaning, and definition. Initially a highly limited and narrow concept, sexual harassment has been considered a grand spectrum of behaviors that lead to infringement of decency and a sour environment that one may be subjected to at the work place. Such issues are supposed to be addressed in a more holistic and inclusive manner by legal definitions e.g. the POSH Act in India but also other international instruments such as ILO Convention No. 190. Moreover, the extension of the definition to include gender-based harassment is election-assuring that eventually the laws are actually evolving to accommodate all individuals who are being harassed at the workplace, and not just women. It is imperative that workplaces and systems in the law practice persistently modernize these dynamic definitions, so that all instances of harassments can be properly handled and eliminated.

2.2 TYPES OF SEXUAL HARASSMENT

Sexual harassment in the workplace is a complex issue that is inclusive of a great number of actions. Such actions may be mild and rough such as inappropriate comments or signs to the extreme acts of physical attacks. One should be made aware of the different forms of sexual harassment in order to be able to be sensitive to them and contain them. Overall, there are some various forms of sexual harassment,

which will rely on the character of the action, its consequences, and the manner, in which it occurred. This section will put into consideration these different types of sexual harassment in the workplace.

2.2.1 Physical Harassment

Any unwanted contact or increased attention that results in an unpleasant, frightening or offensive workplace is considered physical harassment. In this form of bullying there is groping, touching or any other physical assault.

Certain types of physical harassment would be visible such as hugging or unwillingly kissing someone, but, others would be not that noticeable such as touching them or rubbing their bodies in a specific way that will make them feel uncomfortable. Sexual assault is also a form of physical harassment, and the most extreme type of physical harassment. Sexual assault that can either be coercive intercourse or attempted rape is a criminal offense that needs to be dealt with immediately.

The POSH Act offers a significant basis of the legislation to tackle physical harassment especially on line one of its objectives which states that any kind of sexual advances or invitation to engage with sexual favors is not acceptable at the workplace. Physical harassment may cause a fearful atmosphere, and it may negatively affect whether a person can effectively work at his job or not[Prevention of Sexual Harassment Act, 2013, Section 2(n) .

2.2.2 Verbal Harassment

A verbal harassment is considered as one of the most peaceful and widespread sexual harassment in the workplace. It is characterized by using sexually suggestive, unwelcome or inappropriate language. Verbal harassment can include:

Sexual remarks or sexual jokes, either express or not.

Inappropriate comments on the body/physical appearance of an individual.

Cumulative Sexual innuendo or suggestive remark, which causes the recipient to feel uneasy.

Unwanted invitations or propositions of a sexual nature.

Verbal harassment is not necessarily in terms of explicit and direct sexual references. It may also involve derogatory remarks about another person in terms of gender, looks and sexual orientation. These remarks can add to the climate of intimidation and discomfort in the work place causing big emotional pains on the victim.

This harassment is very easy to pass unnoticed at times since it does not necessarily imply any physical contact, direct behavior, but still can produce a stamp of oppression. Verbal harassment according to legal factors, such as the POSH Act and international provisions, is taken into account not in regard to the intent underlying the comment, but rather the effect that the comment has on the victim. [Vishaka v. State of Rajasthan, (1997) 6 SCC 241]

2.2.3 Visual Harassment

Visual harassment can be described as any sort of sexual harassment, one rooted in some visual aspect. This could include:

- Showing sexually explicit or suggestive pictures or contents like pornography within the working environment.
- Offensive or suggestive poster presentations or objects in the common areas, such as bathrooms, office desks or break rooms.

3 Looking at a person with the intention to sexually objectify them.

Visual harassment gets especially disturbing in the current digital era where an inappropriate content may be easily spread through the use of digital media, emails or messaging applications. Solicited sexually explicit photographs or images may be either emailed, or shared using social media resources. All these actions may have lasting psychological effects on the victim especially when it brings about feeling of constant uneasiness or discomfort at the work place.

Although visual harassment does not require direct contact with the victim, along with the possible lack of verbal communication, it is also quite significant in the context of the victim feeling rather insecure and discomforted [Prevention of Sexual Harassment Act, 2013, Section 2(n)].

2.2.4 Non-Verbal Harassment

Non-verbal harassment is when there is a sexual suggestion or unwelcome body language or gesture. This may include:

- Inappropriate winks, gestures, or facial expressions that are sexually suggestive.

Unwelcome body contact, including standing too close to a person, bothering or scaring.

- sexy movements of the body including suggestive dancing, rude behavior.

The non-verbal harassment can be sometimes the hardest to analyze, because it may not consist of the actions associated with any physical or verbal form of harassment that could be directly traced back to the culprit. But its effect on the victim is no light-weight. Such practices foster an unpleasant working experience and may end up alienating, injuring, or harassing the victim.

2.2.5 Cyber Harassment

Due to the emergence of remote working and electronic communication methods, cyber harassment is an issue of great concern. Cyber harassment is using digital media, like emails, social media, or messaging apps, to sexual harass. This may include:

Sexually explicit or suggestive email messages or any other online means.

Sexting improperly or asking sexual favors through online means.

Posting nude photos or videos on social media outlets or any other websites, which are usually done without the knowledge of the victim.

Cyber harassment particularly in the shape of cyberstalking can be of great detriment since it may run 24/7 and even the harassment may occur beyond the physical boundaries of the working place. This can also be more challenging to prevent by the victim since technology enables the culprit to proceed with their harassment even after work timings.

Laws have started to view cyber bullying as a sexual harassment. The Information Technology Act, 2000, in India, discusses certain types of cyber harassment, and the POSH Act, 2013 is expansive enough to encompass cyber-harassment as an online space, making sure that the employment protection measures are replicated online. Convention No. 190, [International Labour Organization, Convention No. 190 (2019)].

2.2.6 Quid Pro Quo Harassment

Quid pro quo harassment is the act in which an individual in authority (i.e. a supervisor or employer) expects an employee to have a sexual relationship with them in an attempt to receive work related advantages or evade adverse actions. The given form of harassment is especially harmful as it implies an obvious power disparity and may lead to the development of a coercive atmosphere when the victim becomes compelled to follow the unwanted sexual requests to retain his or her job, secure promotions, or beneficial actions.

Some examples of quid pro quo harassment include:

- An employer or supervisor who gives a promotion or raise, based on sexual favors.
- An employer who threatens to dismiss or demote a worker in order to make him or her act upon sexual advances.

Quid pro quo harassment is especially cunning as it plays on the weak nature of the victim, and capitalizes on the hierarchical nature of organizational structures. This is not only unethical to the workplace but a direct violation of the right of the individual to work without intimidation. (Prevention of Sexual Harassment Act, 2013, Section 2(n)).

The hostile Environment Workplace harassment.

Harassment of hostile work environment Although this is not the appropriate term, the use of sexual inappropriate conduct be it verbal, physical, or visual is so widespread that the result is an intimidating, hostile or offensive working environment. This type of harassment is not based on direct request based on sexual favours as in quid pro quo harassment but rather the behaviour does not allow the employee to work in comfort and productively.

The primary consideration on the harassments created by the hostile working environment relies on the effects introduced in the work environment on the victim in terms of functionality. When the harassment is so frequent as to disrupt the working performance of the victim or it has created a condition which is intolerable to work in, then this will be viewed as hostile [Vishaka v. State of Rajasthan, (1997) 6 SCC 241].

Sexual harassment is a complex problem which may assume one or a combination of several forms such as physical harassment, verbal and even visual or even online harassment. To detect, treat and prevent sexual harassment in the workplace, it is important to understand the various types of sexual harassment. By being aware of these categories, workplaces can create a more extensive policy and training program which will assist in creating a safer and more respectful environment by all the employees.

2.3 CAUSES OF SEXUAL HARASSMENT

Workplace sexual harassment is a highly sedimented form of problem that has several causes, cutting across societal, organizational and individual elements. These reasons are usually interconnected and can be related to the established attitudes, power relationships, the culture at work and socio-economic conditions in general. To avoid the occurrence of sexual harassment and form a more inclusive and respectful work environment, it is important to understand the underlying causes of sexual harassment. This section discusses the different aspects that cause sexual harassments in workplace.

2.3.1 Societal/Cultural Attitudes.

High prevalence of sex harassment in the society is fuelled by the deep-seated societal and cultural values concerning gender, power, and sexuality. In most cases, women, as well as other oppressed genders have long been considered subordinate to men, which have created stereotypes and widespread discriminatory actions. These cultural values tend to promote the myth that men have a right to exercise their power over women including sexual power that is evidenced in different forms of harassments [POSH Act, 2013, Section 2(n) – Legal definition of sexual harassment under Indian law.

Gender inequality: A gender inequality culture has the way of condoning unbecoming conduct and making conditions under which sexual harassment are given free pass to go.

Categorization of women and vulnerable groups: By objectifying women, considering them inferior or they become objects of sex, women are likely to be harassed. This is especially the case in sectors in which gender stereotypes exist like in advertising or the entertainment industry.

Harassment can be either considered by the nature of the rigidly defined gender roles and marginalised women as work-related male dominance thus good command of these offending behaviours in the workplace becomes commonplace in such societies [Miller, L. (1999). Sexual Harassment in the Workplace: Gender and Power Dynamics Study. Journal of Social Issues.]

2.3.2 Power Imbalance and Hierarchical Structures

Work environments tend to be arranged in a way that fosters power which may give rise to sexual harassment. Under these environments, people who are in high statuses can be tempted to exercise their authority to impose their will over others even by sexually harassing them. The given power imbalance is particularly problematic if the people in the authority positions abuse their positions and manipulate or threaten subordinates to engage in sexual advances.

Authority figures: Supervisors, managers, and executives can abuse their power to demand sexual favors in work, promising increases in salary or promotion, or treatment.

Weakness of subordinates: Economically vulnerable or position-constrained employees are less likely to report harassment because they are afraid of reprisal or being deprived of employment security or career advancement.

The POSH Act, 2013, recognises that sexual harassment may be actual in an environment where there is a lack of equilibrium between the person who has perpetrated the act and the victim, and mitigates this through provision of committees to hear this type of complaints [POSH Act, 2013, Section 2(n) - Legal definition of sexual harassment under Indian law.

2.3.3 Work Environment and Organization Culture.

Work environment is a very important factor that encourages or discourages sexual harassment. The culture of the organization, policies, and the leadership behaviors have a great impact on whether harassment behaviors would continue to exist or be directly dealt with. Employees have a higher likelihood of exposing and committing harassment in environments that condone, discourage or even signal other people that such a habit is acceptable.

Absence of accountability: In case, an employer is not putting anti-harassment rules in place or punishing those, who commit the crime, it may create a culture in which the sexual harassment becomes a normalized behavior.

Poor policies or inadequate training: Organizations lacking clear policies about sexual harassment or guidelines to train the employees properly might unwillingly facilitate inappropriate behavior as employees are not aware of what sexual harassment is and how to report it.

An unfriendly workplace atmosphere that condones jokes, remarks or actions of sexual connotation is a pointer to systemic organization weaknesses. The employers and the management should create a working environment in which they respect, promote dignity and equity among all employees and show their concern through policies and leadership. [Lloyd, L. (2001). Corporate Culture and the Prevention of Sexual Harassment. Review of Human Resource Management.

2.3.4. The poor Legal and institutional frameworks.

Although several nations, such as India, have passed documentation to curb sexual harassment in the work environment, implementation of such laws is rather weak and workers may not have the backing to handle harassment efficiently. Weak or no legal frameworks or ineffective institutional response may embolden those who perpetrate offences and discourage the victims who want to emerge with their grievances.

Lack of reporting: Victims may not report due to lack of a proper reporting system or fear of retaliation of coming forward.

Lacking consistency of implementation: When sexual harassment laws or company policies are not implemented to the latter, or when the penalty inconsistencies are similarly lenient, offenders might develop bravery to go on with their actions.

Lack of training: Sometimes due to the absence of guidelines, most workplaces do not adequately train employees on sexual harassment laws or how to effectively respond to the incident, leading to experiencing sexual harassment.

The POSH Act, 2013, aims at providing the entire structure to curb this problem, though implementation and enforcement has remained a challenge in most organizations. [POSH Act, 2013, Section 4 - The Internal Complaints Committee (ICC), role in complaints.

2.3.5 Individual Psychological Factors

The sexual harassment can also be related to individual psychological factors. Perpetrators of sexual harassment may have personal characteristics or attitudes that support or justify inappropriate behavior. As a case in point, those who have a sense of entitlement, lack empathetic characteristics, or have low impulse control might be more likely to resort to harassing behaviors.

Mental notions: In psychology, there is an entitlement of some people that their job role, or sexual status, gains them sexual favors, or advances, and they may defend their actions as part of their social or job status.

Macho attitudes or misogyny: Strongly felt prejudices toward women or minority groups can also direct an individual and lead to his or her tendency to act in sexual harassment or tolerate it.

Personal traits of an offender tend to combine with the large societal and organizational determinants to enable harassment. These psychological motivators need to be focused on not only through legal and organizational change but also through society change to confront entrenched notions of gender and power.

2.3.6 Technology and Social Media

Digital communication with social media has new areas where sexual harassment can be perpetrated. Such technological innovations enable the perpetrators to attack their victims outside the physical work place and during other times other than normal working hours and thus victims find it difficult to avoid being harassed. People may also have the courage to do something that they would not have done in reality due to the anonymity which technology offers.

Cyber harassment: Unsolicited sexually explicit material or communication using social media networks or emails may have serious psychological effects on the victim.

Virtual harassment: As work turns more and more remote, virtual meetings and digital communications provide new opportunities to be harassed, such as making inappropriate comments, gestures, or even revealing oneself through a webcam.

Technology leads to the further difficulty in responding to sexual harassment through the process of further facilitating the continuation of harassment, anonymously or with minimal immediate repercussions. Many employers and organizations are still adapting to the digital realities of the workplace and must develop strategies to address these new forms of harassment. [Hinduja, S., & Patchin, J. W. (2009). Cidikovskiy et al. 2013. The Youth Violence and Juvenile Justice.

Sexual harassment in the workplace is a complex phenomenon that is shaped by the views of society, organizations, individuals, and technology. These causes should be looked at in a holistic manner that focuses less on just the legal reforms but also the change in organizational culture, attitude in the society and the overall attitude of people towards gender in the work trip. The development of a safe and inclusive environment that all employees can perform without any harassment and discrimination requires a multi-layered approach.

2.4 HISTORICAL BACKGROUND

The case of sexual harassment in the workplace has a complicated long history that is interwoven with the general social movement, legal emendations, and a shift in attitudes towards gender equality. It is also crucial to understand the historical context of sexual harassment in order to deal with the occurrence and effects of sexual harassment in the contemporary working environment. This subtopic investigates the history of sexual harassment law, milestones in the acknowledgement of sexual harassment as a form of discrimination, and how the policy and practices in the workplace have evolved with the hope of preventing this behavior.

2.4.1 Pre-20 th Century: The initial acceptance of Gender Inequality.

In most societies, gender roles were strictly established before the 20 th century and the idea of workplace harassment especially sexual harassment did not exist. Most women have been relegated to house duties or menial employment with few rights or protection. Sexual harassment was either overlooked or regarded as a normal outcome of men in power in the work place.

Women in most of the early industries, like in factories or the service industry, frequently became targets of blatant sexual exploitation, including being forced to engage in sexual favors to be hired or given a promotion. Yet this action was not considered harassment but rather was a subset of the unimaginable power play between men and women. (2001). The Title is called Corporate Culture and the Prevention of Sexual Harassment. Human Resource Management Review.]

No official laws existed against gender-related discrimination or harassment at the time and concerns of women fell on deaf ears. Overall perception of women in society was of being inferior and sexual

exploitation (or any other form of mistreatment at work) did not exist in the eyes of the general population as an issue.

2.4.2 Early 20 th Century: Social Movements and Gender Equality.

Women organized rights and labor reforms that were rife in the early 20 th century, especially in the West. The women started getting exposed in the labor force especially in World War I and World War II, as many of them performed jobs that men were supposed to do. Women had become increasingly a part of the labor force, but discrimination and exploitation were widespread.

In the U.S., e.g., women started to defend themselves to improved working conditions, such as sexual harassment. But there was yet no legal structure to address such problems. The harbor of the principle of female harassment was mostly not recognized in a formal legal manner.

2.4.3 1960s-1970s: Feminist Movements and Sexual Harassment Becoming Legal.

The 1960s and 1970s witnessed a major shift in the appreciation of sexual harassment prompted by the wider feminism movements in the west, especially the United States. The activists of women began to approach the issue of sexual harassment as a barrier of equality and a manifestation of gender-based violence at the workplace.

This term, (sexual harassment) was used globally in 1975 and it became accepted as a type of discrimination at the workplace. The U.S. Equal Employment Opportunity Commission (EEOC) started to deal with sexual harassment cases and the evolution of the perception of such behaviour started. The Civil Rights Act of 1964 (especially Title VII) in the U.S. was instrumental in making sexual harassment an issue of prominence in the workplace law. Title VII outlawed treatment based on sex and in 1986, the U.S. Supreme Court strengthened its judgment on Meritor Savings Bank v. Vinson that the hostile work environments caused by sexual harassment violated Title VII [Meritor Savings Bank v. Vinson, 477 U.S.57 (1986)]. The U.S. Supreme Court has ruled that sexual harassment was a form of violation of Title VII.

The initial legal recognition of sexual harassment in India was in the late 20th century, as social movements of gender equality started to gain momentum. Sexual harassment, especially in the workplace, was brought into the limelight during the feminist movements of the 1980s and 1990s. Not till, however, the groundbreaking Vishakha case of 1997 [Vishakha v. State of Rajasthan, AIR 1997 SC 3011] did sexual harassment emerge as a serious issue in which women have unilaterally been subjected to and on the basis of their constitutional rights. The guidelines of Vishakha, established by the Supreme Court of India required the establishment of internal complaint systems and established rules on the management of sexual harassment complaints within the workplace. These were later included in the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 (POSH

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

2.4.4 Late 20 th Century: Broadening Frameworks of Law and Institutional Responses.

At the end of the 20th century, a large number of states started to implement a legal system with references to sexual harassment. A case in point is that of the United Kingdom which passed legislation under the Sex Discrimination Act, 1975, which was against sexual harassment within the workplace. By early 1990s, similar laws and regulations were started to be enacted in many nations in the West such as Canada, Australia and European Union.

Workplaces also started formulating in-house policy to deal with sexual harassment complaints, with success rates normally being uneven. Whereas some of the organizations came up with formal grievance procedures, other ones became complacent without having full knowledge as to how harassment affected the well-being and the productivity of the employees.

2.4.5 21st Century: World Recognition and Continued Problems.

The 21st century witnessing the world shift in their conceptualization and resolving sexual harassment, the international human rights institutions and governments of countries have started to acknowledge sexual harassment as a case of abhorrent of human rights. High profile cases, most especially in entertainment sector and politics have resulted to a major shift in people awareness and institutional reactions.

The movement that rose to prominence in 2017, called the #MeToo, became an international phenomenon, which pointed to the high rates of sexual harassment in all industries. The movement helped people, especially women, to find their voices and raise the issue of the prevalence of the problem. Consequently, the problem of workplace harassment is no longer viewed as privacy but it must be brought to light and legal actions taken against it. Social movement that made the world aware of the issue of sexual harassment.

International efforts to discourage sexual harassment and contain it in such ways as the United Nations have urged elaborate frameworks that would greatly help to increase the participation of women in the workforce. The fight against sexual harassment has, however, been changing as more countries are now creating laws that mandate work places to avoid, ban, and counter-react against sexual harassment. In spite of this, there are still issues regarding the implementation of such laws and victims getting justice despite the development.

The history of sexual harassment shows that a pattern of discrimination based on gender has existed over a long time, which has been supported by the societal, cultural and legal conditions. Although much has

been achieved in the last century to acknowledge sexual harassment and deal with it, it is still rampant and more efforts should be deployed to fight the vice. Legal frameworks and institutional reactions, including the POSH Act, 2013 in India, have established a foundation of a more holistic approach to prevention and response against harassment but issues regarding the effective implementation of these laws and ensuring a supportive workplace continue to be challenges to ensure that workplaces are safe and respectful to everyone.

CHAPTER 3: LEGAL PROVISIONS RELATED TO SEXUAL HARASSMENT AT WORKPLACE

3.1 CONSTITUTIONAL FRAMEWORK

The constitution of India has created the basis of protecting the rights, dignity of women and equality of women in all aspects of life including workplace. It does not identify or specifically discuss sexual harassment; nonetheless, its core rights and the values largely furnish a solid legal framework to fight against this kind of behavior. Work place sexual harassment is not just a question of handling of wrong behavior, but a grave infringement of constitutional provisions that provide equal treatment, non discrimination, and the right to live with dignity. These constitutional provisions have been seen by the judiciary in an advancing way to acknowledge the act of sexual harassment as a breach of fundamental human rights [· K. S. Pradeep, Sexual Harassment Laws in India: Evolution and Impact (Wiley India, 2021) p. 77]..

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3.1.1 Article 14 -Equality before Law.

Article 14 ensures that all people in the territory of India will have equal protection of laws as well as equality before the law. This provision safeguards that no individuals should be treated differently in the same situation without any unreasonable discrimination. The problem of sexual harassment in the workplace exposes women to unequal and hostile working environment and as such, denies them equal treatment and opportunities in work place. It puts women in a disadvantageous position relative to their male counterparts and erodes the notion of fairness of Article 14. Gender-based inequality is one of the

harms that is enabled due to the presence of harassment, hindering participation and professional development, which is why it is evident as a violation of the right to equality.

3.1.2 Article 15 – Prohibition of Discrimination on Grounds of Sex

The 15th amendment against discrimination on basis of religion, race, caste, sex or place of birth. Sexual harassment is well known as a gender-based discrimination and occurs against a woman just because of their sex. It strengthens patriarchal views and systemic inequality that restrain freedom and involvement of women in the workforce. Such a behavior is a direct violation of the spirit of Article 15 by destroying a safe and comfortable atmosphere and instilling fear in people. Meanwhile, Article 15(3) brings in the possibility of the State providing special treatment to women, which underlies such acts of legislation as a workplace protection legislature intended to make sure that women are safe and equal.

3.1.3 Article 16 - equality of Opportunity in Employment.

Article 16 guarantees equality of opportunity in citizenship on all aspects concerning employment or appointment into government office. It seeks to eradicate discrimination and advance on the basis of merit. Sexual harassment is however a great obstacle towards the realization of this constitutional requirement. Harassed women can be put off pursuing some professions, retain onto their jobs or further their career. With fear of harassment and unsafe working conditions, it is difficult to have equal access to employment opportunities and hence it is half-defeating the intention of Article 16. In this regard, workplace harassment not only impacts the individual dignity but also derails other purposes of equal involvement in economic life [P. Ishwara Bhat, Law and Social Transformation (Eastern Book Company, 2014) p. 112).

3.1.4 Article 19(1)(g) - Right to Practice Profession.

Article 19(1)(g) ensures the right of professing any profession or conducting any occupation, trade or business. This freedom is necessary in establishing economic autonomy and individualization. Nonetheless, female employees are neither able to exercise this right freely because of the presence of sexual harassment at workplace. Harassed women are forced to either quit their employment, work in certain professions or stay quiet in a bid to secure their income. This makes their professional freedom indirectly limited. Hence, it would be required that a secure and safe working environment is created to make this constitutional right meaningful.

3.1.5 Article 21- Right to life and person liberty (Dignity)

Article 21 ensures the right to life and personal liberty that has widely been understood by the judicial

system to mean right to live dignified, privately and mentally healthy. At the workplace, sexual harassment is a direct infringement of this right as it exposes women to humiliation, emotional distress, and mental trauma. It is a severe violation of their dignity since it touches their self-esteem and personal safety. The courts have restated numerous times that a safe working environment is a component of the right to life though Article 21. Therefore, it is crucial to ensure that women are afforded a basic human decency by not having to be harassed at the working place.

3.1.6 Directive Principles of State Policy (DPSPs)

Though not a binding authority, the Directive Principles of State Policy is important in informing the State to formulate laws and policies. The right to a sufficient means of livelihood, contained in Article 39(a), the right to equal pay to equal work in Article 39(d) and the need to work under humane conditions as stated in Article 42 are just but a few examples, which depict the necessity to provide a safe and fair working environment. Such principles support the necessity of defensive actions against harassment at work and they act as a moral and constitutional duty of the State to advance gender justice and the social well-being.

3.1.7 Basic Responsibilities and Gender Sensitivity.

Under Article 51A of the Constitution, there are some Fundamental Duties of the citizens as well. Clause (e) clearly states that all citizens must take an oath to abandon activities that are disrespectful to the respect of women. The given provision serves as a societal contribution to the larger extent of promoting respect, equality, and gender sensitivity. It focuses on the fact that sexual harassment should be prevented, not only by the State or employers, but also a task of the society. Nurturing awareness, respect and ethical conduct in work places correlates with this constitutional requirement as well as enhancing the provision of safer and inclusive work places to women.

3.2 JUDICIAL DEVELOPMENTS IN INDIA

The active role of the judiciary in the evolution of the legal measures against sexual harassment in the workplace is mostly credited to the Indian context. The pre-2013 courts played an important role in providing interpretations of the constitutional guarantees to deal with gender-based injustices because of the lack of any special legislative framework. The judiciary, by issuing a series of ground-breaking cases, did not only acknowledge the fact that sexual harassment constituted a gross contravention of the human rights of women, but it also established measures of enforceability used to make the workplace a safe and dignified working environment. These judicial interventions indicate the progressive attitude where there is a gap between the law and the social reality and the resulting outcome is the formation of the complete legal regime in India.

3.2.1 Pre-Vishaka Legal Position

Another policy that was not enacted is the fact that prior to the historic ruling of Vishaka v. State of Rajasthan, India did not have a particular legal framework to handle sexual harassment in the workplace. Cases of harassment were handled by general criminal laws, especially those along the Indian Penal Code, 1860, including; 354 (assault or criminal force to outrage modesty), 509 (insulting the modesty of a woman), etc. These provisions though they gave some measure of protection were more punitive in nature rather than the preventive or remedial aspect of harassment in the workplace.

Lack of a specific legal mechanism led to a number of problems. Institutional structures to address complaints, neither a requirement on the employers to provide a safe working environment nor a clear definition of sexual harassment in employment were in place. This has meant that in most cases, victims have had a tough time reporting incidences as some of them are afraid of being punished, socially stigmatized and not aware of where and how to report. This legal gap reflected the necessity of a systemized and gender-focused plan to tackle the problem of harassment at work.

3.2.2 Vishaka vs State of Rajasthan.

The Vishaka case was the watershed in the history of India where women and their rights, as well as workplace safety were regarded in court. The case was born out of the sexual assault of a grassroots worker in Rajasthan, Bhanwari Devi, who was the victim after she went on with her work of preventing child marriage. There were unsuccessful legal mechanisms to bring justice and that is why a Public Interest Litigation was filed before the Supreme Court. [Vishaka v. State of Rajasthan, (1997) 6 SCC 241.

When realising that there is no particular law, the Supreme Court took a progressive and creative course of action. It affirmed that sexual harassment in the workplace is a violation of fundamental rights that under Articles 14, 15, 19(1)(g), and 21 of the Constitution guaranteed fundamental rights. The Court stressed that these rights include gender equality and a right to work with dignity. Notably, the Court used the provisions of international conventions, especially CEDAW, to interpret the constitutional provisions such that they aligned with international provisions addressing human rights. 14, 15, 16, 19(1)(g), 21.]

This ruling was not only important in that it recognised sexual harassment in the work place as a constitutional matter, but also in providing judicial precedent, which would act as a source of binding law until the implementation of the relevant legislation.

3.2.3 Vishaka Guidelines -Characteristics and importance.

Without any statutory inputs, the Supreme Court in the Vishaka case developed a detailed list of guidelines that would be applied in preventing and fixing sexual harassment of women in the workplace. The guidelines automatically gave positive responsibility to the employers and institutions to provide women with safe working conditions. They needed organizations to be proactive, such as outlawing sexual harassment by the establishment of express policies and by arranging awareness workshops.

Among the most significant aspects of the guidelines was the Orin that a committee on complaints would be created and that the committee will be led by a woman with a third party member to ensure objectivity. Also highlighted in the guidelines were confidentiality, immediate inquiry and the disciplinary measure taken against the guilty. In such a way, they came up with an organized redressal system in workplaces.

The importance of the Vishaka Guidelines is that it has revolutionized. They were proclaimed to have a binding effect on the Constitution under Article 141, and thus gained the law-making power. The sexual harassment did not occur in the workplace, but was now officially recognized and addressed in a legal system. These principles were effective throughout the period of more than ten years and they acted as the basis of the establishment of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

3.2.4 Post-Vishaka Judicial Developments

After the case of Vishaka, Indian courts started expanding on the principles stipulated by the Supreme court and strengthened the need to observe the guidelines. The law Owing to decisions of the courts in this time, the responsibility of the employer was stressed upon and the environment should be conducive and respectful to work in. Cases were interfered by the courts when organizations did not form complaints committees or did not care about due process in handling complaints.

The courts also elucidated procedural issues, including the requirement of a fair investigation, the safety of the complainant, and justification of the case. These advances helped promote the solidification of the legal framework and make sure that the Vishaka Guidelines were not a mere window dressing but put into practice. As the years went by, the accumulating judicial rulings emphasized the drawbacks on following guidelines exclusively hence rapidly increasing the need to seek enacting holistic laws. This eventually resulted in the establishment of POSH Act, 2013 that formalized most of the principles developed by the courts.

3.2.5 Case Law Development of Workplace Definition.

The other important contribution of the judiciary has been the extension of the meaning of work place to suit the changing professional environment. Courts have connected the word to mean not just typical office areas but also schools, hospitals, places of fieldwork and other areas where professionals may be performing their duties. This broad principle acknowledges that workplace harassment is not limited to important office environments but can take place in different contexts related to work.

Additionally, as the workplace culture exchanges have also evolved, the courts have recognized that the realm of interaction in the workplace does not only end with the physical premises but the virtual and digital premises. The broad interpretation has allowed the judiciary to allow the law to be current and useful to deal with the current issues. This would not allow the employers to restrict their liability through a restriction of the definition of the workplace, and it also supports the aim of ensuring overall protection to women.

3.2.6 Sexual Harassment Recognition by the judiciary as the violation of fundamental rights.

The acknowledgment of sexual harassment as the violation of fundamental rights is one of the most significant contributions of the judiciary. Courts have continually stated that this acts as violation of the right to equal under Article 14, bar to discrimination under Article 15, right to profession under the Article 19(1)(g), the right to life and dignity under Article 21. This constitutional context makes the problem not just a workplace complaint, but a grievance that grossly violates human rights.

Having established a connection between sexual harassment and the basic rights, the judiciary has provided greater protection and responsibility under law. It has also had impacts in legislative action and policy formulating by insisting on the need to take an approach that is rights-based. This acknowledgment has been significant towards the generation of awareness and strengthening the efforts to establish secure and non-discrimination work environments. In the end, it also highlights the principle that dignity, equality and safety are non-negotiable in employment within a constitutional democracy.

3.3 THE SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013[The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013] is a great milestone towards the protection of the rights of women in India. This act was enacted to give a detailed legal framework of preventing and dealing with sexual harassment within the workplace, thus guaranteeing the women a safe and a decent working environment. It came into effect when there was no specific statutory law and to provide formal recognition to the principles of the Supreme Court as affirmed in the Vishaka judgment. The Act corresponds to the constitutional principle of equality, non-discrimination, and upholding of dignity, and is supposed to turn such principles into work place

mechanisms.

The Act sets clear goals of prevention, prohibition, and redress of sexual harassment. It is broad and inclusive in that it can be extended to both organized and unorganized societies and so encompasses a vast scope of workplaces including the government offices, organization, educational, hospitals and other professional environments. It also grants coverage to every woman regardless of whether she is a regular employee or not; a temporary worker or a contractual worker; an intern or even a visitor. This broad coverage spares protection the dependent on the nature or the length of employment.

The main aspect of the Act is that it broadly defines sexual harassment that encompasses physical contact and advances, demands or requests sexual favors, making sexually colored statements, display of pornography and any other unwelcome physical, verbal or non-verbal behavior of a sexual nature. By identifying explicit and implicit types of harassment, the Act appreciates the fact that this vice can occur in many different ways, and that it may include finer kinds of conduct that result in a hostile or intimidating workplace. This broad definition is significant because it can deal with the multifaceted aspects of interactions in the workplace and shield women against various forms of unacceptable behavior [P. Ishwara Bhat, Law and Social Transformation (Eastern Book Company, 2014) p. 112.

The Act also embraces a broad interpretation of the term workplace; it not just the physical office location, but any place that the employee might have visited in the process of employment, including transportation offered by the employer. This makes sure that women are safe even in off site areas, work events and field assignments. By so doing, the Act indicates the changing landscape of the contemporary workplaces and barricades employers hoping to avoid responsibility by narrowly defining the workplace.

They include the establishment of institutional mechanisms that will enable employees to be heard as a condition to the effectiveness of the implementation by establishing the Internal Complaints Committee (ICC) in establishments that employ more than ten employees. ICC plays the responsibility of receiving complaints, researching and counseling on the correct course of action. The Act provides the opportunity to create Local Complaints Committee (LCC) in districts, in cases where the organization is too small, or the employer is the source of a complaint. The mechanisms are to make the redressal process both accessible and fair particularly to women who work in intimate environments or unorganized sector. An external member of the board can be added to such committees to make such committees more impartial and transparent

A lot of responsibility also involves the employers in the implementation and upkeep of a safe working environment according to the Act. Employers will undertake preventive practices, such as running awareness campaigns, conducting workshops, and publishing without including the sexual harassment policy and procedures on how to file a complaint. These are needed to provide the necessary support to

complaints committee in making inquiries and ensure that none victimize or take revenge on the complainant. These requirements assist to affirm that it is an individual responsibility to avoid sexual harassment, as well as an institutional one.

The Act originally provides a formal mechanism of complaint filing and resolution. An exception is usually meant to be filed within a specific time and the panel to conduct a due and proper enquiry within the specified period. The law also may issue interim relief measures (transfer or leave) to the complainant to safeguard him during investigation. At the termination of the investigation, the committee gives findings, and suggestions to the employer who must take appropriate action. Such a conceptual approach is going to encourage accountability and effectiveness of complaints system.

There is also the punishment envisaged by the Act, in the event of non-conformity. The non-compliant employers are subject to monetary fines should they fail to act in accordance with the provisions of the Act such as the formation of the requisite committees and the provision of their services, to the extreme wherein the business licenses of non-compliant employers can be canceled in case of repeat offenders. These clauses are conducive to worry and command the seriousness of sexual harassment at work.

The Act is fraught with many problems though it is comprehensive in terms of implementation. There are other issues such as lack of awareness, lack of execution by complaints committees and under reporting due to social stigma and delays in the process all remain dead but give it a blow to curb its effectiveness. Such limitations imply that the powerful laws found in the Act still apply, but in the end it is a matter of successful execution, institutional buy-in and social change.

CHAPTER 4: JUDICIAL APPROACH TO SEXUAL HARASSMENT OF WOMEN AT WORKPLACE

4.1 Legal Scenario Before the Vishaka Judgment

Prior to the landmark decision of sexual harassment of women at workplace in Vishaka v. State of Rajasthan delivered in 1997, there was no much literature on the subject in the Indian juristical system. Even though some general provisions of the Indian Penal Code, 1860 (announced in 2023 by the Bharatiya Nyaya Sanhita) (some of which were used in cases of harassment), including 354 (outraging the modesty of a woman) and 509 (word, gesture or act with an intent to insult a woman) are relevant, no specific legal framework was developed to address This has left the harassment of women at the workplace flim and flam and neither properly reported nor classified as a breach of the basic rights of a woman.

Lack of legal standards in the form of codification implied that women did not have either preventive measures or remedial provisions to pursue justice. In the vast majority of cases, employers swept complaints away, citing the need to keep the organization in that regard. Moreover, there were gender-insensitive or victim-focused measures of women reporting of such wrongs in work places because procedural laws, such as the Code of Criminal Procedure, 1973, and the Indian Evidence Act, 1872, (which are now the Bharatiya Nagarik Suraksha Sanhita and Bharatiya Sakshay Adhiniyam respectively) do not. Furthermore, harassment in workplace was hardly seen as contravening Articles 14 (Right to Equality), Article 15 (Right against Discrimination) and Article 21 (Right to Life and Personal Liberty) of the Indian Constitution that ensure equal protection and dignity.

The pre-Vishaka judicial responses were infrequent and mainly relied on general laws interpretation because of such a gap. The victims had to prove a lot in most situations, as the victim might not have institutional support, privacy or even the guarantee of non-retaliation. The courts could only punish offenders through the misconduct that constituted a cognizable criminal offence under the IPC, and this also left a mammoth of misconduct in the work place without any legal action against.

Only with events like the gang rape of Bhanwari Devi, a social worker in Rajasthan trying to limit child marriage that the question of workplace harassment as a human rights violation surfaced. The perceived anger of the populace and absence of a system which would redress to the grievances instigated the efforts of women groups and non-governmental organizations to access judicial redress on their grievances. This resulted in a Public Interest Litigation (PIL) of herself (Vishaka) and others and the Supreme Court came up with binding guidelines in 1997.

State of Maharashtra v. Tukaram AIR 1979 SC 185.

This case, also called the Mathura Rape Case, brought about outrage among the people and reforms to rape laws under the IPC. The accused was acquitted by the court citing no resistance on part of the victim thereby leading to protests and a national debate on consent [Tukaram v. State of Maharashtra, AIR 1979 SC 185].

Sheoraj Singh Ahlawat vs. State of U.P., AIR 1976 SC 2279.

Discussed the problem of outrage against the dignity of a female under Section 354, IPC. It contributed to clarify the initial understanding of modesty in criminal law[Sheoraj Singh Ahlawat v. State of U.P., AIR 1976 SC 2279].

Major Singh v. State of Punjab, AIR 1967 SC 63.

A case in point that contributed to the conceptualization of the term "modesty" under Indian law as per Section 354 IPC. It diversified the area of protection of the law to include all women regardless of age.[State of Punjab v. Major Singh, AIR 1967 SC 63.

Bhanwari Devi Case (Inciting Incident, 1992).

Though unofficially reported, this fact life situation in the form of the gang rape of a government worker in the process of doing his government duty was the catalyst in the filing of the PIL in Vishaka. The case highlighted the fact that women were not secure in the work environments [Bhanwari Devi Case (Inciting Incident, 1992)].

Delhi Domestic Working Women vs Union of India, (1995) 1 SCC 14.

Court pointed out the necessity of the guidelines that helps rape victims and introduction of support mechanisms. Not necessarily relating to workplace harassment, this case paved the way to state

responsibility and jurisprudence based on the victim being the priority[Delhi Domestic Working Women's Forum v. Union of India, (1995) 1 SCC 14).

Rupan Deol Bajaj v. K.P.S. Gill, AIR 1996 SC 309

In this case, a senior female IAS officer was molested by a senior police officer. It became a landmark in the perception of the judicial system toward sexual misconduct by people in authority and the way they handled such cases thereafter

Therefore, the legal context prior to Vishaka was marked by lack of such specific legislations, a lack of judicial consciousness and a lack of systemic concern making judicial activism as the only way to close the legislative gap and enforce guarantees of the constitution.

4.2 Vishaka v. State of Rajasthan – A Detailed Study

The Vishaka case of state of Rajasthan (1997) case is one of the most historic cases in feminine rights protection in India and especially in the area of sexual harassment at the work place. It was a landmark case, and it not only solved the immediate problems of sexual harassment in the workplace, but also established a precedent regarding legal reforms to come, in particular the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 (often referred to as the POSH Act).

[Vishaka v. State of Rajasthan, AIR 1997 SC 3011.]

The decision of the Supreme Court in Vishaka v. State of Rajasthan was a clear guideline to the employers to provide safety working environment to females. This decision has turned out to be a necessary point of reference in the larger debate on gender equality in India. Here we further explore the facts of this case, questions of law which were posed by the case, the decision of the Court, and the contributions of the case to the body of law, the society and work culture in India.

The facts of the case are as follows:

The case of Vishaka was the response to a very tragic case which showed the absence of the law against sexual harassment of the woman in India. The victim, Vishaka was a social worker who had been actively engaged in agitating on the rights of the women especially in rural setting. She had when gone to work on a project, in a village in Bhilwara, in Rajasthan, when they subjected her to a gruesome sexual violence incident. Vishaka was gang-raped by a group of men who included government officials, to intimidate her on account of her social work.

Following the incident, Vishaka family sought justice in the courts. But the languid legal process did not bring the punishment and there was no particular statute to tackle the question of sexual harassments in the workplace. The case had national publicity and women rights groups, activists and civil society

organizations started to insist that sexual harassment be an issue to acknowledge that it violated the rights of women in the workplace. They also required a well-spelt out legal code which would guarantee the safety and dignity of women at work.

Since some explicit legal aspects were not present, dealing with sexual harassment, a Public Interest Litigation (PIL) was presented to the Supreme Court by legal representatives of Vishaka and women activists, complaining of the need to have a comprehensive legal provision that could be used to prevent women at the workplace. The petitioners pointed out that the lack of such a framework was a breach of the constitutional rights of women to equality, dignity, and the freedom to work without any fear of experiencing harassment.

4.2.2 Legal Issues in the Case.

The Vishaka case brought a number of important questions to the interpretations of constitutional rights of women and the necessity of special legislative actions to be taken in terms of the problem of workplace harassment. The legal problems raised were:

1. Constitutional Rights:

Is it possible that sexual harassment in the working place should be viewed as violation of the fundamental rights of women under the Indian Constitution, particularly in Articles 14, 19(1)(g) and 21?

Article 14: The right to equality before the law not to discriminate or otherwise unjustly treat any woman on the basis of her gender.

Article 19 (1) (g): This right to any profession, practice and on doing any occupation and a safe working environment free of harassment.

Article 21: The right to life and personal liberty, i.e., to live with dignity and to be spared of any form of violence or harassment, specially in the workplace.

The petitioners believed that the lack of sexual harassment laws at the work place would contribute to abuse of these core rights. They argued that dignity right of women and their ability to work without any fear of harassment was a fundamental human right that must be safeguarded.

2. State duty:

So, what is the role of the State and employers in providing women with a safe environment where they are not harassed in the workplace?

According to the petitioners, the State and employers had a duty to ensure that women had the freedom to work in an environment where their fundamental rights enhanced and could work without the fear of exploitation and intimidation. (Central Law Agency, Allahabad 2014) 184.]

3. Judicial Review:

With the lack of a certain legal framework back then what part does the Judiciary have in coming up with the law to ensure that women are not sexually harassed in the workplace?

The petitioners wanted the Court to establish an intermediate compromise by enacting sexual harassment as a breach of core rights and stipulating the development of principles according to which the safety of women in any workplace would be guaranteed.

4.2.3 Judgment and Reasoning of Supreme Court.

The Supreme Court of India in a ground-breaking statement gave an epic sentence in Vishaka Sex discrimination case by providing clear-cut guidelines to employers to abide by in order to avoid sexual harassment in the workplace. The Court observed that sexual harassment did not merely constitute infringement of the dignity of a certain individual, it was also a form of discrimination that prevented women full involvement in the labor market.

A Violation of Fundamental Rights: Sexual Harassment is a fundamental right violation.

The Court also declared that sexual harassment was a contravention of the basic right of a woman, in the name of equality, dignity, and freedom as stipulated in the Articles 14-19 and 21 of the Constitution. The Court noted that women should be allowed to work in a safe condition without being harassed, and that denial of an environment which ensures this is violation of the constitutional rights of the women.

2. State and Employers Duty:

The Court acknowledged that protection of women against sexual harassment in their work places is a legal responsibility of the State and employers. It believed that the State should make every effort to make the working environment safe to women, and that employers should make preventive efforts to make sure that no sexual harassment takes place. The Court stressed the fact that right to live with dignity was a cornerstone of the right of a woman to work, and lack of a safe working environment would not encourage women to join the workforce.

3. Establishment of Guidelines when There are No Legislation:

Since there was no particular law dealing with sexual harassment, this Court proceeded to establish a set of principles, which would act as a transition provision, pending the enactment of a full law. These directions were meant to give a roadmap to employers to use in the prevention and when addressing

allegations of workplace sexual harassment [V.N. Shukla, Constitution of India (Mahendra Pal Singh ed, 13th edn, Eastern Book Company 2017) 128.

4.2.4 Vishaka Guidelines

Vishaka Guidelines laid down by the Supreme Court formed an important part of Indian laws dealing with sexual harassment in the workplace. These guidelines specified certain measures that employers had to implement this included:

Definition of Sexual Harassment: The policies outlined sexual harassment as any unwanted act, gesture, or behavior of sexual nature that might result in the establishment of a hostile or threatening atmosphere at the workplace.

Introduction of Complaints Committees: Within organizations employing over ten employees the employer was obliged to create an Internal Complaints Committee (ICC) to handle sexual harassment complaints. At least two women were to be members of the ICC, one of them supposedly experienced in dealing with sexual harassment cases.

Preventive Measures: Employers were required to come up with measures to forestall sexual harassment and to make sure that women employees knew their rights. This also included evoking awareness programs to the male and female workforce.

Time requirement Action: The guidelines stated that sexual harassment complaints should be examined within 90 days of submission of such complaint. It was also the duty of employers to maintain confidentiality during the investigation.

Disciplinary Actions: Employers were told to discipline the accused and this can either involve a warning or dismissal depending on the offense.

Damage to the Victim: The Court suggested that the victims of sexual harassments be compensated paying regards to the emotional distress, economic damages and any other damages they have been experiencing due to the sexual harassment.

Gender-Sensitive Training: The Court pointed out that employers should undertake gender-sensitization training of both male and female employees to enlighten them on what sexual harassment is and the repercussions of such acts.

4.2.5 Legal Framework/Policy Impact.

The case of Vishaka was a revolution in not only the legal arena of the Indian government, but also the culture at work. The guidelines of Vishaka became the reference point of dealing with sexual harassment at the work place until they were enacted into legislation. These principles culminated in the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 that today became the POSH Act.

1. Legislative Impact:

The legislations influenced by the case of Vishaka directly led to the enactment of the POSH Act of law. The Act codified most of the principles that were pronounced by the Court, such as the creation of Internal Complaints committees, compulsory training and awareness, and payment of compensation to the victims. The POSH Act has made such a provision in regard to all those workplaces as well as the unorganized sector and domestic workers who were not covered by the Vishaka Guidelines.

2. Empowering Women:

The Vishaka case enabled the women workers to be empowered in India as it granted them the right under law to insist on a safe working environment minus harassment. It emboldened a greater number of women to step out and report about any form of harassment assuring them that there were legal systems in place to safeguard them and order their attackers.

3. Cultural Change in Workplaces:

The case of the Vishaka judgment also played a crucial role in creating a cultural change in the Indian workplaces where the problem of sexual harassment was persistently underestimated or even ignored. It not only increased awareness on the importance of gender equality but also highlighted the necessity of ensuring that the work place is non-discriminatory and free of violence [V.N. Shukla, Constitution of India (Mahendra Pal Singh ed, 13th edn, Eastern Book Company 2017) 128.

4. Challenges in Implementation

As the ruling was groundbreaking, it also highlighted the difficulty of implementation, particularly in work-places that were not well-equipped to process sexual harassment complaints. Awareness issues, unwillingness to report harassment, and the lack of training among employers and employees remained a problem, even with the legal framework.

Vishaka v. State of Rajasthan case is still one of the most important judicial in-interventions in the struggle against sexual harassment in India. In identifying the right to a safe workplace as a primary right, the Supreme Court has not only fulfilled a loophole in Indian law, but also highlighted the greater concerns of gender inequality and workplace discrimination.

4.3 Legal Developments After Vishaka

The Vishaka v. State of Rajasthan case was not only a milestone in Indian legal history but also the start of a series of legal and judicial reforms, as well as social movements, which put the issue of sexual harassment in the workplace into the limelight of India. The extensive influence of this judgment led to the establishment of new laws and legal principles in India, to offer material solutions to women who have experienced sexual harassment at the workplace.

4.3.1 Enactment of the POSH Act, 2013

In June 2013, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, often abbreviated as the POSH Act, was the final effort to put efforts to codify the Vishaka Guidelines into statute. It was passed with an aim to offer a more effective and enforceable legal structure in the handling of sexual harassment in the workplace. The major provisions of the POSH act, 2013 are:

Less restrictive Definition of Sexual Harassment: The Act was used to broaden the definition of sexual harassment to encompass not only physical acts of sexual harassment but also verbal and non-verbal actions, including unwelcome gestures, sounds, and text messages. It also entails harassment through a virtual or digital environment, as this is part of the new dynamics in workplaces in the digital era.

Internal Complaints Committees (ICCs): POSH Act requires all organizations that employ 10 or above employees to form an Internal Complaints Committee (ICC) to receive complaints of sexual harassment. These committees should be composed of a chair member, a female worker at the workplace and third parties who are experts in law or gender equality among others.

Conciliation Mechanism: The Act creates an option of conciliating non-litigation, which will resolve sexual harassment complaints, as an alternative to formal adjudication. It can however only be applied when both the parties willingly accept it and the agreement should be written.

Provision of protection to the employees: The act gives its protection to women employees as well as those clients, domestic workers and interns, which means that the act application has extended its general coverage to various groups of women, working in different settings.

On-time Investigation and Sanctions: The POSH Act highlights the need to have all sexual harassment claims properly investigated in a given period of time (90 days) and the perpetrators severely punished. This will make the processes timely and there will be a way of holding the culprits responsible.

The POSH Act embedded the principles established with the Vishaka case through this legislation and dealt with numerous loopholes especially on procedural fairness, protection of victims, and clarity of enforcement procedures.

4.3.2 Key Judicial Developments

Following the Vishaka judgment, a number of landmark court cases strengthened, clarified and widened the interpretation of sexual harassment in the workplace in India. These rulings made the application of the Vishaka Guidelines clear and gave even more specifics of how to approach the question of sexual harassment cases by employers and the authorities. Some of these significant judgments are as follows:

Medha Kotwal Lele vs Union of India (2013).

This Supreme Court ruling upheld the relevance of the Vishaka Guidelines by underlining it to be binding until the time the POSH Act came into effect. It was also directed by the Court to the establishment of Internal Complaints Committees (ICCs) by all the states and government departments as per the guidelines. This ruling made it clear that the Vishaka Guidelines were not only procedural but also had significant legal authority until the enactment of the new law [*Medha Kotwal Lele v. Union of India*, (2013) 1 SCC 297.

A.K. Chopra v. Apparel Export Promotion Council (1999).

This historic ruling, made prior to Vishaka, was a very instrumental one at the time in having the definition of sexual harassment extended in India. Even the Supreme Court had ruled that any effort to upset the modesty of a woman by a superior officer, who had not had physical contact with her, would constitute sexual harassment. This case acknowledged psychological harassment and extended what should be considered misconduct [*Apparel Export Promotion Council v. A.K. Chopra*, (1999) 1 SCC 759].

Shobha Bhatia vs. Union of India (2003).

Specifically, the Delhi High Court repeated that in order to fulfill the obligation of the employer under Vishaka, one must establish complaint committees. The case reinstated the obligation of the employer to establish measures to prevent and to deal with sexual harassment at the workplace. The employer in providing a proper and safe channel of complaint to the victim of harassment was also brought to the fore in this case [*Shobha Bhatia v. Union of India*, 2003 SCC OnLine Del 494].

Saurabh Kumar Mallick v Comptroller and Auditor General of India (2008).

This case represented a considerable development of the definition of the term "workplace" in reference to Indian law. The High Court of Delhi was of the view that harassment by the go of a guesthouse in line of duty would be covered as well as the workplace harassment, affirming that harassment was possible in the non-traditional office setting.

Dr. Punita K. Sodhi vs. Union of India (2010).

The argument behind this decision was that a just and impartial investigation by ICCs was necessary, and that complaints should have been treated with the precepts of natural justice. The decision reaffirmed that appropriate inquiry procedures should be conducted with respect to the dignity and rights of the

complainant offering transparency and accountability [Dr. Punita K. Sodhi v. Union of India, 2010 (172) DLT 409].

Rupan Deol Bajaj v. K.P.S. Gill (1995)

Even though the case was announced before Vishaka, its relevance still stands since it was a prime example of the judiciary system being eager to prosecute those in higher positions of authority due to their unbecoming behavior. A case involving the former Punjab DGP K.P.S. Gill was one of the first where a top-ranking officer was charged with a sexually inappropriate conduct resulting in an early case law use of accountability in judicial handling of a harassment case.

The case of State of Punjab v. Ramdev Singh (2004)

The case considered by the Supreme Court acknowledged that having or a collaborating superior officer behave indecently or receiving unwanted advances was misconduct which was not reported as harassment. The ruling underscored the wider scope of the laws that prohibit harassment that may include verbal and other non-corporal types of misconducts [State of Punjab v. Ramdev Singh, (2004) 1 SCC 421.

4.3.3 Institutional Strengthening

With the introduction of the POSH Act, 2013, a number of institutional changes were implemented to empower the mechanisms that could be addressed as complaints of sexual harassment. The reforms aimed to guarantee that the guidelines are effectively implemented and mechanisms used in the settlements of disputes. Key reforms included:

Compulsory Training and Sensitization: Employers were mandated to provide regular training and sensitization to the employees on sexual harassment prevention. This made the employees and employers stand equal to their rights and responsibilities, as well as to the procedures to undertake in case of an incident.

Annual Reporting: The Act requires that entities should submit annual reports on the number of sexual harassment complaints that they received, and the actions against them. The transparency measure will give public accountability and proactive steps towards addressing harassment by the organizations.

Role of Local Complaints Committees (LCCs): In any workplace with less than 10 employees or in the event where the respondent is the employer, the Local Complaints Committees (LCCs) were formed as a reserve measure to provide even the victims in small work places or remote locations the access to the justice.

4.3.4 Commissions and Activism.

Activism and Commissions have played a great role in ensuring laws dealing with harassment in the workplace are implemented in India. Such bodies have important functions such as:

National Commission for Women (NCW): NCW has also played an important role in promoting the implementation of the POSH Act. Not only has the Commission been involved in enforcing the law but it has also been actively involved in assisting the victim, proposing change in the policies and compelling both the state and the private sector to come up with effective mechanisms of handling complaints.

Civil Society and Non-governmental organizations: There are various non-governmental organizations that have been leading the front in championing the welfare of women in the work place, conducting workshops and awareness campaigns. Companies like Jagori, the Foundation of Barkha Dutt among others have helped to create awareness on sexual harassment law and help victims in taking their cases to court.

4.3.5 Encoding New Requirements and the impact of the #MeToo.

Another significant event that influenced sexual harassment in India was the promotion of women in media, academia, and corporate sector and made their voices heard together with the #MeToo Movement (2017/2018). The movement was a popular, but informal, widespread, social reckoning of sexual misconduct, in which women borrowed social media groups to provide personal accounts of harassment. This gave rise to great transformation of society towards sexual harassment.

The case of was one of the most important legal consequences of the #MeToo movement.

Priya Ramani v. M.J. Akbar (2021),

in which the Delhi High Court exonerated a journalist, Ramani, on an indictment of criminal defamation against him by a former Union Minister, M.J. Akbar. The court decided that Ramani could speak up and complain about her harassment and the right against the right to life and dignity under Article 21 of the Indian Constitution was upheld. The case reinforced the notion that women should be allowed to narrate their cases about harassment without being afraid to be criminally pursued, which strengthened the judicial stance of the Indian victims of sexual harassment [*Priya Ramani v. M.J. Akbar*, 2021 SCC OnLine Del 488.

The post-Vishaka jurisprudence can be considered as a key stage in the development of laws of sexual harassment in the workplace in India, as the law, the judicial and the institutional practices have been altered to create the present environment. The passage of POSH Act, 2013 and the major court decisions cemented the pledge to provide gender equality in working environments. However, there are still issues with effective adoption and development of these laws, especially given such social movements as #MeToo and new types of harassment in the online domain.

4.4 Post-vishaka Landmark Indian Case Laws.

Since the case of sexual harassment in the work environment, India witnessed some landmark cases after the ruling of Vishaka v. State of Rajasthan, which continued to influence the legal climate in India. These are examples of how judicial interpretation changed over time, and contributed to the development of policy [Vishaka v. State of Rajasthan, (1997) 6 SCC 241].

Medha Kotwal Lele vs. Union of India.

(2013) 1 SCC 297

In this instance, the Supreme Court has strengthened the Vishaka Guidelines by giving its interpretation of the application on the state and central government establishments. It highlighted the responsibility of the state in establishing proper systems of redressing grievances, protection against harassment at the place of work. The Court elucidated that sexual harassment must be regarded as a serious concern in both public institutions and in the private organizations.

Shobha Bhatia and Union of India.

2003 SCC OnLine Del 494

In this case, the Delhi High Court dealt with the institutions not abiding by the Vishaka Guidelines in the right way. It recommended that an effective committee be put up in every work place to address sexual harassment complaints. The judgment highlighted the significance of training, awareness and the right to a safe working environment[]

Rupan Deol Bajaj vs K.P.S. Gill.

(1995) 6 SCC 194

Although this case was earlier than the Vishaka decision, it is still relevant in the law of sexual harassment in India. The Court had created a case law to the effect that sexual harassment is not merely a crime, but a wrong to the Constitution especially in the right to life and personal liberty. It highlighted the necessity of the legal provisions that are particularly targeted on harassment in the high office.

Indira Jaising an above case v/s Supreme Court of India.

2016 (1) SCC 459

The Court in this situation was faced with the creation of an internal complaints committee (ICC) to handle sexual harassment cases within the judiciary itself. The case also illustrated the difficulty of developing a redressal system that is independent and free of any biased system in the institutions and especially in the high-authority institutions like the judiciary.

State of Punjab vs. Ramdev Singh.

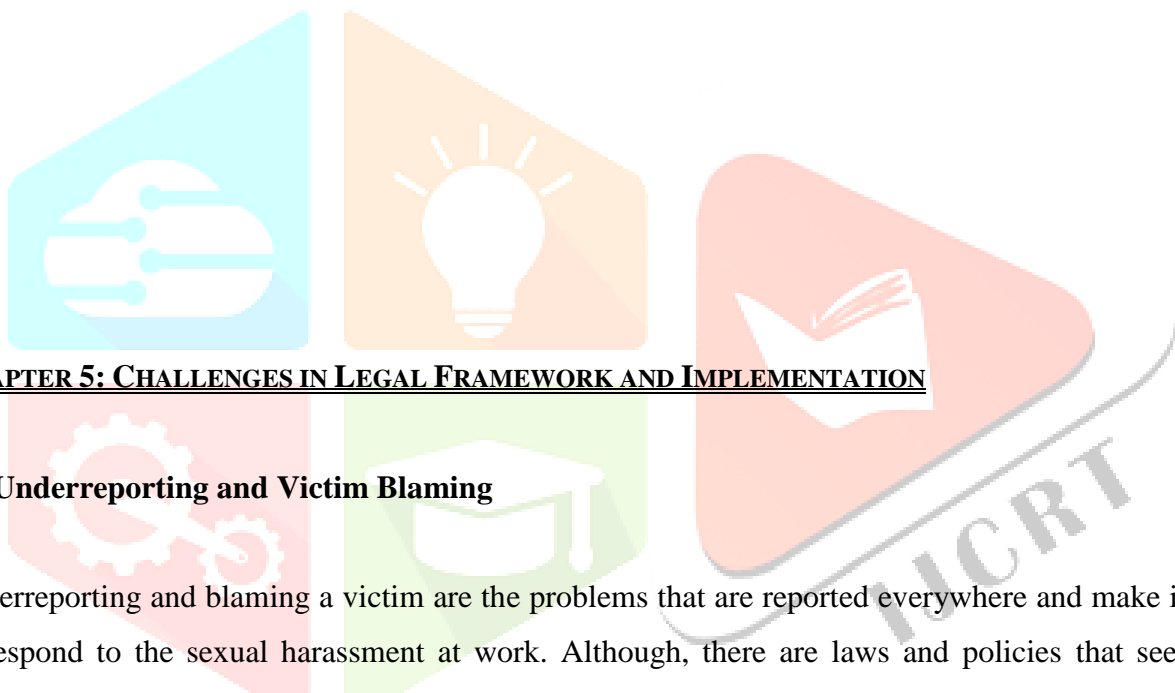
(2004) 1 SCC 421

The case is remarkable as it deals with sexual harassment within the government settings. The Supreme Court stressed on the importance of the Vishaka Guidelines and their application in the case of state-run organizations. The Court clarified that the State has a case to answer in failing to put in place proper measures to protect employees against harassment.

Mallick, Saurabh Kumar and Comptroller and Auditor General of India.

2008 SCC OnLine Del 623

This was a sexual harassment case in a government agency. The Court not only decided, but it is incumbent upon employers in government institutions to not only comply with Vishaka but also to make sure that the workplaces are safe, and that complaints are promptly reported into.



CHAPTER 5: CHALLENGES IN LEGAL FRAMEWORK AND IMPLEMENTATION

5.1 Underreporting and Victim Blaming

Underreporting and blaming a victim are the problems that are reported everywhere and make it difficult to respond to the sexual harassment at work. Although, there are laws and policies that seek to curb harassment, most of the victims do not report it because they fear being victimized. The retaliation can be in the form of losing a job, demotion, negative publicity or can be more mistreatment by the wrongdoer. The lack of trust in the internal reporting systems in the organization, which they may not see as objective and confidential, tends to add to the fears. At certain work places, workers feel that no actual action will be taken when the person reports harassment, or even worse, no action will be taken at all since it is considered ridiculous that a person can simply complain about any form harassment. This is a sense of hopelessness, which helps to create a culture of silence, in which it is appropriate to endure harassment, and the victims keep it all to themselves

Another impediment towards resolving sexual harassment in the workplace is victim blaming. As an alternative to scrutinizing the actions of the perpetrator, scrutiny of the actions of the victim, his/her appearance, or character is more likely to be performed. Inquiries such as What were you wearing or Why did you not report it earlier take the burden off the harasser and consequently sustain harmful

stereotypes over the roles of gender and the responsibility of those in a harassment scenario. Victim blaming comes about because of the inherent cultural norms and prejudices whereby the victim is mainly perceived to have been the aggressor or somehow really deserved the abuse. This makes the victims feel ashamed, guilty or responsible, to the harassment that they have endured and even more discouragement to report the harassment.

The implications of underreporting and victim blaming have far-reaching consequences. To the victims, such problems lead to emotional and psychological problems such as feelings of isolation, anxiety, and depression. The lack of confidence towards the legal or organizational systems, which should protect victims, may also prove to be disengaging to the workplace and deteriorate their overall health. In case of organizations, the inability to tackle underreporting and victim blaming leads to a negative working environment, as harassment will be accepted as a norm, and the culture of silence will be the order of the day. This, however, may be translated into a morale drop in the employees, productivity decline and a high rate of turnover.

In a bid to mitigate these problems, companies should adopt end-to-end and confidential reporting systems that will enable victims to report the crimes without any fear of intimidation. Moreover, it is important to establish a culture of transparency and accountability. This can be done by offering training courses to employees and management to learn more about the dynamics of sexual harassment and its effects on the victim and the value of supportive behavior and help eliminate negative stereotypes and promote a more sensitive attitude towards complaint management. The law needs to be changed in such a way that it provides more protections to the victims including better protections against retaliations, better definitions of harassments, and more severe punishments against harassers. Attitudes of victim-blaming can be combated by conducting public awareness campaign to disseminate the message that blame should never be on the victim of harassment. Through underreporting and victim-blaming, organizations can make their workplaces safer and more inclusive, as every employee will feel courageous to speak up and trust in their complaints, which will then be considered and dealt with accordingl

5.2 INSUFFICIENT LEGAL AWARENESS

Awareness of the law is a necessary element in having the proper implementation and enforcement of any law. In terms of workplace sexual harassment law in India, lack of legal knowledge among diverse stakeholders; victims, employers and even the legal practitioners has been one of the greatest impediments of ensuring that the laws are fully enforced. Although detailed legal frameworks such as the Vishaka Guidelines and the Sexual Harassment of Women in the Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act) do exist, there are still challenges because of ignorance of rules and responsibilities under these laws.

5.2.1.1 Unawareness of Workforce.

A lack of awareness on the rights of the employees, particularly the women, towards their rights and the solutions available to them regarding sexual harassment, is one of the most significant problems that influence the inability to enforce sexual harassment regulations successfully. Most women in the workplace either lack knowledge regarding the POSH Act, or lack full understanding of the expanses of sexual harassment according to the law. This being in the dark exposes them to exploitation, harassment, and discrimination without understanding how to find a remedy to the situation through legal means.

This knowledge gap can be explained by a number of factors:

Minimal Educational Programs: The POSH Act requires employers to carry out education and sensitization campaigns on the employees, but most organizations do not completely adhere to this requirement. This leaves employees and especially those in small businesses or organizations ignorant of the complaints processes or even the legal definition of sexual harassment. There are instances where no training or inadequate training is provided, so workers are not adequately prepared to deal with harassment in the workplace [Rajeev Kumar, Sexual Harassment at Workplace: Legal Remedies (Eastern Law House 2018) 112].

Cultural and Societal Factors: In most places of work, particularly in the rural or semi-urban set-ups, culture of silence exists as far as sexual harassment is concerned. Women can be afraid of acknowledging, or even reporting, harassment due to societal norms and cultural expectations. The workers in these settings have fewer chances of being aware of their legal rights, and they may be less able to invoke the available litigation as means of empowerment.

Poor communication by Employers: There are employers who do not effectively communicate to employees how to file complaints or seek redress in accordance to the provisions of the POSH Act especially in small organizations or less organized places of work. Lack of this knowledge means that victims of sexual harassment will not be aware of available resources and support. As an illustration, most employees might be unaware of the ability to approach an Internal Complaints Committee (ICC) and may not even be aware of the ability to go to Local Complaints Committees (LCCs) in the event that they are not able to reach one within their organization.

Absence of Trust in the System: It may happen that even having the knowledge that there is a legal system in place, workers are unable to report a case of harassment due to lack of trust in the system. The fear of retaliation, victim-blaming or social ostracism can lead to the unwillingness of people to file complaints especially when they think that the system will not be of actual protection or justice. This is

added to the overall ignorance on how complaints will be somewhat addressed and what is available to support believers complaining of being harassed.

5.2.2 Minimal Knowledge Employers and Management.

The lack of awareness regarding legal responsibility of employers and management is another important problem in the successful implementation of the POSH Act. The legislation requires any company that has over 10 workers to establish an Internal Complaints Committee (ICC), which would resolve any claims of sexual harassment. Nevertheless, a good number of employers particularly of small firms are either lacking in outright knowledge of these legal requirements or lack proper implementation of such requirements. The ramifications of non-observance can be far-reaching including to the organization and the workers.

Some of the reasons why there is a lack of employer awareness include:

Irregular Training and Resources: Larger corporations frequently have full-time HR departments, well versed in the POSH Act, whereas smaller businesses usually do not have the resources or even the training to comprehend what legal steps must be taken. The need to train the staff about sexual harassment and how to create safe working environments is not known to many employers [Neelam Sharma, *Understanding Gender and Law* (Routledge 2019) 63].

Failure to mention the Role of the ICC: Sometimes, an organization does not have an ICC; or the ICC is not given the required training to effectively deal with complaints. This absence of a properly working ICC can lead to the negligence, malmanagement or burying of harassment complaints, and leave employees with no means of redress.

Legal and Procedural Ambiguities: Although employers know about the POSH Act, it can be misunderstood about how the law would apply in practice. Clauses pertaining to ICCs formation, scope of conciliation and dealing with complaints are in some cases murky or ambiguous. It is unpredictable, which is likely to encourage employers to either not process these provisions at all or not with full compliance with the law.

Resistance to Change: There are employers with resistance towards implementing sexual harassment policies because they do not understand the importance of the policies or some may resist because they believe that the policies are unnecessary and cumbersome. The possibility of more litigation, administrative loads or organizational reputation loss because of harassment claims may also be of concern.

5.2.3 Lack of Legal Awareness of Legal Practitioners.

Legal practitioners are also instrumental in ensuring that POSH Act is enforced effectively. Regrettably, not all lawyers and other legal professionals are well trained on sexual harassment. Consequently, they might fail to offer efficient legal services to both victims and employers about the POSH Act. This inefficiency of legal representation or inadequate advice on compliance is destructive of this lack of specialization.

Poor Continuing Legal Education: Although in India law schools, the fundamentals of gender law are learned, the focus is not always on the current trends, such as sexual harassment in the workplace. Lawyers might not know the developing jurisprudence in this area of workplace harassment which might impair their service in either an effective manner or even success in litigating.

Misinterpretation of Legal remedies: Legal practitioners who are closely acquainted with sexual harassment legalities might have a misconception of the legal remedies as enshrined in the POSH Act. As an illustration, the POSH Act provides the arbitration of dispute resolution method in the form of conciliation and mediation; approaches that some law experts may not fully comprehend and adequately implement. Also, the legal professionals might fail to realize the need to develop procedural fairness or address sensitive information in such situations [Sandeep K. Verma, *Indian Employment Law: The Emerging Legal Landscape* (Wolters Kluwer 2018) 122.

Poor Awareness of the Commission role: Lawyers might also be ignorant of the role played by the National Commission on Women (NCW), and other state-based bodies in helping victims of sexual harassment. These organizations can provide legal aid, provide support and advocate to individuals who might encounter harassment but are not fully utilized because of the lack of awareness.

5.2.4 Government and Civil Society Exertions to fill in Legal Awareness Lapses.

In a move to control the problem of legal ignorance, the government, civil society groups and other stakeholders have implemented various initiatives. This is done to overcome the knowledge gap between employees, employers, and legal professionals leading to improved adoption of the POSH Act.

Public Awareness Campaigns: Central and state governments have conducted campaigns on public awareness, to inform the population about the POSH Act. Such campaigns usually involve advertisements, seminars and workshops that seek to enlighten both the employees and the employers on

their rights and duties. Nevertheless, these campaigns do not always have a wide reach and scope as is required in rural and remote locations.

Role of NGOs: Many non-governmental organizations (NGOs) have taken up the mantle of educating employees about sexual harassment laws. Workshops, training and legal awareness on women workers have been carried out by the NGOs (Self-Employed Women association (SEWA) and Centre of social Research (CSO) in order to give women workers- especially informal sector workers- an awareness of their legal rights.

Legal Aid Programs: There are several legal aid programs founded by government and non-governmental organizations, which deal with giving counsel on legal issues and assistance to sexual harassment victims. Such programs seek to seal the loophole in the lack of legal representation when the individual does not know about his or her rights or cannot afford an attorney.

Corporate Training Programs: Due to the POSH Act, several corporations have adopted training and sensitization programs so that their employees are knowledgeable of the laws as far as sexual harassment is concerned. Through these programs, the management and staff are also capable of being educated on how to carry themselves at the workplace and the steps they should follow in case of harassment.

Judicial Training: It also requires the judicial training programs to be carried out so that the judicial and other legal officers will be familiar with the emerging jurisprudence on sexual harassment suits. Such programs can assist in creating a more enlightened judiciary that can successfully tend to such cases with the sensitiveness it merits.

5.3.LAW AND LOOPHOLES AND ENFORCEMENT.

Although legislations such as the POSH Act, 2013, have gone a long way in offering legal context to the fight against sexual harassment in the workplace, it is still beset by a number of loopholes that tend to undermine the areas of law. Among the main problems are lackluster and imprecise definitions of sexual harassment that may bring ambiguity when the cases are brought before court. The absence of a unified definition creates opportunities to interpret and apply the law differently, which frequently results in unequal application of the law [Nandini Sahu, Workplace Safety and Legal Protections of Women (Cambridge University Press 2018) 45).

The other serious loophole is that not all the types of workplaces have been included in the coverage. The POSH Act mainly deals with organized sectors and larger employers, but fails to comprehensively apply to informal or unorganized sectors, in which women tend to be more susceptible to harassment. To provide an example, household workers, agricultural workers and unorganized retail workers might not necessarily enjoy equal legal protection or rights to file complaints. This deficiency places a large segment of the work force in danger of harassment.

The process of the POSH Act complaint filing is also condemned as overly complex time consuming process. The victim of sexual harassment might be obliged to make certain reports on the occurrence including evidence and witnesses, a detailed account of the incident may cost him/her delays or re-victimization. Furthermore, internal committees within organizations at times handle a complaint procedure, which might not be capable and neutral. In other instances, these committees are less capable of rendering an effective solution due to lack of training, awareness or being objective. This makes the efficacy and fairness of the redressal process of complaints in doubt.

Enforcement is another problem of importance. Although reported, lack of strict enforcement of the law is normally accompanied by either the impossibility or bad performance of the offenders. And in other scenarios those caught in the act of crime may walk off lightly without much disciplinary action taken against them and end up being hounded once again. Moreover, organizations may fail to design appropriate redressal mechanisms on grievances and conduct mandatory training and workshops further sabotaging the working of the law.

More powerful measures against retaliation are also necessary. The fear of being ostracized, demoted, or even dismissed is one of the main reasons as to why women cannot dare to report their complaints. Although the POSH act does offer a possibility of protecting retaliation, the act is usually not consistently enforced. Employers might also inadvertently provide a workplace where the victims believe that they will lack fair hearing or consider filing a complaint against the harassment as career suicide [Rajeev Kumar, Sexual Harassment at Workplace: Legal Remedies (Eastern Law House 2018) 112) 112.

The solution to these challenges is to reform the laws that do exist to seal the loopholes that are present and to tighten the belts around the necks of these laws to more effectively enforce the law. Sexual harassment must have plain and universally understood definitions to reduce uncertainties in lawsuits. The coverage of the POSH Act ought to be broadened to include the unorganized sector and any kind of workplaces. Moreover, it would serve well to institute external regulating authorities to supervise the internal complaint committees and provide checks and balances on them, thereby promoting trustworthiness to the redressal process. More than this, raising the awareness of more people concerning these laws and re-enforcing the value of stringent enforcement of these laws at all levels would contribute towards the provision of a safer and more accountable work environment to all the employees.

5.4 INSTITUTIONAL/ADMINISTRATIVE PROBLEMS.

There are institutional and administrative issues that pose a major impediment to the successful enforcement of legislation to prevent and deal with sexual harassment in the workplace. However, it means that despite the legal stipulations of the Prevention of Sexual Harassment (POSH) Act, 2013, the system is still fraught with impediments in terms of enforcing not only the provisions of the law but also making them a part of the organizational culture and practice.

Poor infrastructure to handle cases of sexual harassment is one of the key institutional issues. The POSH Act states that organizations with over 10 employees should have the Internal Complaints Committee (ICC) in order to hear complaints. Yet, there are a large number of organizations, in particular, small and medium, which do not establish such committees or establish them in the wrong way. In many cases, these committees are poorly staffed, do not have the expertise required and tend to be tainted by conflicts of interest, particularly where the top executives of the institution are serving on the committee. This makes the work of this committee partisan and doubtful, raising questions of fairness and justice to the complainant [B. K. Mahajan, *Legal Awareness and Workplace Safety* (Eastern Book Company 2016) 77]. In most organisations especially in the rural or small places of work, the ICC members are not trained. These committees are supposed to deal with sensitive complaints yet without appropriate training on the intricacies of the sexual harassment cases, they might end up mishandling the cases or even dismissing complaints that may need to be investigated. Also, a lot of employees do not know about the existence of such committees and when they do, they might not believe in the integrity of the system particularly when the harassment is meted on a senior co-worker or employer. Such distrust of the internal mechanisms results in underreporting and leaving many victims without an effective means of seeking justice.

Failure of administrative supervision of the situation and monitoring mechanisms is another significant problem. Though the law asks the employers to present annual reports on how the POSH Act has been implemented, the government authorities in most cases do not follow up on this to ensure compliance. In turn, this can lead to certain organizations having a nominal way of addressing the needs of the Act without actually being able to create a safe and supportive work environment. The lack of a powerful mechanism to supervise the operations of the organizations allows them to escape thorough inspection and those violating the law may remain unpunished.

Adding to the problem are the cultural and administrative unwillingness to accept sexual harassment as a significant problem. Sexual harassment is not taken seriously in most workplaces, especially where there is traditional or patriarchal culture. An attempt to understate the incidents, dismissing complaints as a misinterpretation of what has happened to the victim, or even accusing the victim of inciting the harassment is common. By not even accepting the problem, this continues to contribute to the hostile work environment and sends the message that the organization does not care about the safety and dignity of its employees. Administrative action becomes weak in such environments and sexual harassment issue

is not properly dealt with.

Along with these institutional obstacles, there are also administrative hurdles that can be caused by the slow nature of the legal processes. The complaints by victims of sexual harassment usually take long before they are resolved. This may be attributed to the pending cases, ineffective investigation process and the overworked judicial system. The delays in the legal process may frustrate the victims and deter them to follow up their grievances and in certain occasions, they permit the harassment to persist unabated [P. P. Srinivasan, The Law of Sexual Harassment in India: A Detailed Overview (Eastern Book Company 2019) 134]].

Finally, inconsistent reporting and data gathering of sexual harassment incidents is usually a result of administrative inefficiency. Most organizations do not maintain precise record of complaints, inquiry, and results, hindering the capability of policymakers to determine the extent of the issue, as well as develop effective interventions. It is also challenging due to the absence of data that is centralized, since it is impossible to determine the patterns of harassment within the sector or region and, therefore, direct corresponding prevention methods.

A few reforms are needed to address these institutional and administrative challenges. Companies have to be urged to more actively to adopt the POSH Act by creating fully equipped, unbiased and trained ICCs. The government must also do more to keep up with management and implementation such as regular audits of organizations and more strict punitive measures on failure to comply. In addition, the legal rights of employees and avenues that could be used to address harassment should be more popular among the populace

5.5 WORKPLACE SEXUAL HARASSMENT LAWS IN INDIA: EFFECTIVENESS.

The effectiveness of sexual harassment legislation in India, more that Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 is a very sensitive issue of discussion both practically and legally. The Act is a highly progressive framework on paper, but there are some holes in its implementation limiting its overall effectiveness. The law has definitely played a very significant role in the legalization of sexual harassment as a bitter violation of the rights of women and provision of institutional redress mechanisms. The question of the effectiveness of these mechanisms in the field is of concern.

Golden indicators of efficiency include awareness of the employees and employers. Lack of awareness on what is contained in the law impacts most organizations and particularly the organizations that are not organized in case of their size being smaller than the magnitude of the law. Underreporting of serious cases is serious because workers are unaware of their rights, and how to complain. In cases where people are conscious of it, social stigma, the fear of retaliation and fear of professional consequences makes

victims keep it in silence. It demonstrates that the preventive and protective projections of the law on the practice is not successfully carried out.

Another very sensitive issue that is likely to influence the effectiveness of the law is the operations of the Internal Complaints Committees (ICCs). Even though this is a compulsory requirement of the Act, majority of organizations lack such committees altogether and those that do have them merely are paying lip-service to the requirement. In other instances, the ICC members lack proper training and legal understanding of the procedures, thus indicating the quality and impartiality of investigations. There have been other cited issues including biasness, lack of autonomy and breach of confidence. These issues also undermine faith in the ability of the redressal process and discourage victims to seek justice.

There are institutional and administrative issues with the law as well in regard to its enforcement. Monitoring of compliance in different sectors and most predominantly monitoring unorganized work force is challenging. Local Complaints Committees (LCCs) that should facilitate provision of justice, in small establishments, are generally characterised by lack of resource, lack of awareness and poor access. Therefore, a large portion of the labor force is lawless.

Procedural constraints on its effectiveness also have a negative impact on the law framework. Practically, delays are generally incurred even though the timescales stipulated by the Act in either the investigation or resolution. Additionally, the stigma of needing to prove and the fear of reprisal against an accusation like falsified complaint may be an additional burden on the complainant. The law also lacks effective measures to enforce the law and harshness in the event of non-compliance hence the deterrence effect of the law is also not so great.

CHAPTER 6: CONCLUSION AND RECOMMENDATIONS

6.1 CONCLUSION

Sexual harassment in the workplace remains a vice, which is still unchecked in promoting gender equality and providing safe working conditions to women. The situation still continues despite the

historic Vishakha judgment and the introduction of legislation, including the Prevention of Sexual Harassment at Workplace (POSH) Act of 2013, because of gaps in the legal system and social stigmas and the lack of mechanisms in implementation. It is thus imperative to consider this problem in its entirety whereby different players such as the government, NGOs, civil society and corporate organizations are taken into consideration in order to come up with a sound mechanism of fighting sexual harassment. These essential elements, which must be discussed, are expounded on in the sections below: compensating victims, the role of commissions and government agencies and the large role the NGOs and civil society have in solving the problem.

6.1.1 Compensation to Victims

The compensation is a key instrument in getting the victims of sexual harassment justice and relief. The compensation process will have various benefits: it assists in reparation of the damage caused to the victim, is a financial payback, and is an deterrent to the offender. The POSH Act gives the Internal Complaints Committee (ICC) a model by which they can make a recommendation to the parties to pay compensation to the victim depending on how severe the harassment was in addition to the medical, legal and psychological costs incurred.

Victims can be compensated in two broad ways; in terms of financial relief and non-financial relief. Monetary rewards can be in the form of:

Money compensation: This is given to cover losses in earnings, bills or any other expenses incurred in connection with the harassment.

Psychological assistance: Sexual harassment is a traumatic experience causing other victims to experience psychological impairments in the long run. The payments may involve covering counseling or therapy to help in recovery.

Rehabilitation: It is common where the victim of harassment can find it hard to resume work. Career counseling and skill developing programs would assist the victims to feel confident in their careers again.

6.1.2 Importance of Commissions and Government Bodies.

Government agencies, commissions and regulatory bodies will be important in making sure that the law is well implemented, and that victims can seek justice. The Ministry of Women and Child Development, the National Commission for Women (NCW), and State Commissions of Women are crucial in regards to monitoring, reporting, and advocating to improve the sexual harassment laws and policies.

The National Commission for Women (NCW) is the highest body and its role is to provide advice to the government on policy reform, to look into the complaints, and to come up with legislative changes. It is also able to conduct the regular audits regarding the enforcement of the POSH Act and determine whether it is effective in the prevention and management of sexual harassment in the workplace. Moreover, it should advocate to broaden the coverage of POSH act to capture all the sectors such as informal work places.

The government, both at the state and at the national level, is to ensure that proper training is given to all organizations, especially small and medium enterprises, who may not even be aware of what the POSH Act contains. The state governments should also observe compliance in the workplaces and should be facilitators of having Internal Complaints Committee (ICCs).

There should be public awareness campaigns on top of enforcement to sensitize people about the legal gains and their rights in the POSH Act. Government intervention to make sure all these laws are passed across to the society would help to change the attitude of the society and increase awareness and adherence to them. Gender sensitivity and prevention of workplace harassment trainings should become the norm of working environments, and not legal necessity.

6.1.3 NGOs and Civil Society contribution.

Non-governmental organizations (NGOs) and civil society organizations are significant points in raising awareness, assisting victims, encouraging legal and policy changes. A great number of NGOs are aimed at providing the legal assistance, psychological counseling, and rehabilitation of sexual harassment victims. They even undertake social education activities in order to avoid harassment by altering cultural perceptions and empower women to voice against sexual harassment during their working hours.

NGOs like Jagori, SEWA, and The Centre of social Research have been very instrumental in initiating workshops, Sensitization and advocacy campaigns whereby the victims of sexual harassment are informed of the legal provisions thereof. These organizations assist victims to negotiate through the complicated legal procedures and assist those who cannot afford a lawyer.

There are also efforts by the civil society groups to transform the culture within workplace by advocating gendered working conditions. These organizations conduct classes on gender awareness, how to develop a respectful workplace atmosphere and avoid sexual harassment. They act as mediators between victims and the police, making sure that cases are properly handled within the required time and effectively. Moreover, the civil society organizations assist in filling the gap between the state and the citizens and having populations at risk, like women in the informal setting, excluded of the law.

Civil society is also involved in monitoring and enforcement of the laws. The NGOs can promote the law and accidents overlooked in the existing pattern. They also demand changes and reforms, e.g. the expansion of the POSH Act to cover gig workers, domestic workers, and informal economy workers, as they are often not categorized under the current laws.

Furthermore, campaigns and research activities held by NGOs are sources of valuable information which contribute to policy development and advocacy. Through civil society groups, the voices of a marginalized group, e.g. women in the lower socio-economic background; women with disability; and migrant workers are heard and listened into during the lawmaking and implementation process.

Investigation of the topic of prevention and redressal of rights issues at work has revealed a thorough approach to address the issue under consideration.

A comprehensive approach to preventing and dealing with sexual harassment in the workplace is one which entails collaboration with the government, the corporate sector, NGOs and the civil society. The legal framework offers a great guideline but the actual implementation is important. All stakeholders should see their efforts combined towards developing a supportive and safe working environment among women.

It is important to incorporate gender-sensitive policies into corporate governance systems and make harassment-free workplace one of the ethical standards of a company. Business organizations have to draft explicit anti-harassment policies that establish what should not be done and the grievance redress is to be confidential, available, and effective.

The training and education programs should be more than compliance. The programs must be focused on altering cultures at the workplace, attaining respect and addressing unconscious biases. Executive team members as well as managers should lead by example to establish an environment where sexual harassment would not be tolerated and minority victims have the heart to come to the front.

Moreover, monitoring and evaluation of workplace policies must be carried out regularly. They should force companies to publish an annual report about the conditions of the sexual harassment complaints, the results and steps that have been implemented to make the working position better.

Finally, India has come a long way towards overcoming the issue of sexual harassment in the workplace, however, enforcement and implementation of legislation remains a huge problem. The system of payments, which exist, should be more effective and sufficient. Government bodies and commissions are necessary to ensure legal compliance, however, its work needs to be more open and all types of workplaces, including informal sectors, covered. This is because NGOs and civil society institutions are important in assisting the victims, lobbying the government on the need to change laws, and raising

awareness of sexual harassment, hence their participation is a vital aspect of combating sexual harassment.

Finally, a multi-stakeholder strategy in overseeing sexual harassment at the workplace should be implemented through a joint partnership between the government, the civil society, non-governmental organizations, and employers to help make the work environment safe and stress free to women. The reinforcement of legal frameworks, compensation systems, elevated awareness and effective enforcement are important measures when it comes to making the working environment a much safer and more equal place to all.

6.2 RECOMMENDATIONS

The issue of workplace sexual harassment is a multidimensional phenomenon which needs to include legal reforms, organizational commitment, change of culture and constant monitoring. Although some improvements have been achieved since the implementation of the POSH Act, 2013, there are still major gaps. The widened suggestions that are to follow will serve to reinforce the law, improve prevention, and provide more effective enforcement, which will help make workplaces safer to all workers.

6.2.1.1 Enforcement of work place policies and training programs.

Training programs and policies in the workplace are key in eliminating sexual harassment through awareness creation, establishment of clear expectations and provision of the victims with the tools needed to report an incident safely. Enhancing these policies through creation of sound anti-harassment policy is just one aspect through which these policies can be enhanced, but their implementation and effectiveness should also be ensured.

Certain Anti-Harassment Policies and Guidelines: In order to address the issue we need to establish detailed policies on anti-harassment which should provide a clear definition of sexual harassment and also leave the means of reporting a case. These policies need to encompass physical harassment and non physical harassment such as verbal harassment and online harassment, and psychological intimidation. The employers are encouraged to make these policies easily available to every employee irrespective of his or her experience or whether he or she is a new worker or an established employee. Such policies must be clearly communicated during induction training, handbooks, and intranet portal of the organization.

Real-Life Case Study Training Programs: Training programs should be prepared to contain real life cases on which employees may be encountering. Consequently, case studies or role plays with real life scenarios should be employed in the training sessions to demonstrate how different forms of harassment can occur and how to deal with them. Also, the importance of observing boundaries, consent, and the

effects of the harassment on the victims should be highlighted in training programs. How employees ought to conduct themselves in the event that they observe harassment or wrongful behavior within the workplace should receive special consideration.

Compulsory Periodic Training: Although initial training is important, constant learning is vital to place the problem of harassment on the agenda. Employers must make sure that every employee including entry level employees, as well as top executives are trained at optimum intervals and that the policies are rewritten with the changes in law and the evolving norms in the society. Regular refresher courses can be used to remind the employees that the problem is serious and they should remember about their rights and duties. Also, other areas such as the bystander effect and the contribution of coworkers towards preventing harassment should be trained.

Development of Special Programs in individual departments: Each department might be at risk and exposure with a different level of exposure to harassment. As an illustration, employees who deal with customers or those who exist in a high-stress setting might experience various dynamics to those employed in an office setting. Training must thus be designed to match the needs of individual job roles with the consideration of how structural forces of power, gender dynamics and job tasks might lead to harassment.

Gender Sensitivity to Leadership Training: The aspect that therefore requirements must incorporate is that those, who are in leadership or managerial position, supervisors and human resources should not only have knowledge of the policies of the company but rather be trained on how to identify the subtleties of harassment, how to handle complaints without any bias and how to investigate the case according to the rules. Training on leadership skills should be on the ability to listen to others and show empathy and respect to them so that they may handle sensitive situations.

6.2.2. fostering a Gender-Sensitive Work Culture.

To build a gender-sensitive work culture, organizations must not just meet the minimum standards laid by the law, but also eliminate the fundamentals of gender disparity and power baselessness that propagate an environment where sexual harassment can prevail. Organizations are to lay emphasis on inclusivity and create a setting where every employee can be safe, valued, and respected.

Equal treatment of Genders in every Link of Employment: Firms should do their share in encouraging gender equality by offering equal pay to equal services, encouraging female leadership and encouraging all employees, irrespective of gender to climb the career ladder. The establishment of gender-neutral work policies, where both sexes have an equal opportunity to grow in their careers, hold mentorship opportunities and develop skills that will enhance their careers are vital in eradicating the sources of power that leads to harassment.

Developing Supportive Leadership and Peer Networks: Leadership should play an active role in promoting a work environment based on mutual respect. Women leaders especially can facilitate gender sensitive policies and act as role models to other employees. Peer networks, e.g. women networks or affinity networks can also provide beneficial support to the employees and serve as informal avenue of discussing problems at work, which include harassment. Such networks may be used to build a feeling of solidarity and provide an opportunity to communicate about how such issues can be settled before determining.

The Importance of Open Communication Channels: Workers must be encouraged to express themselves without the fear of being punished by any of their co-workers. Employers ought to practice free communication by heating up the notion that preventing harassment is the role of a team and not an individual victim or an HR. Regular halls in the town, surveys, and focus group discussions could give the employees a platform to air their grievances, experience and offer solutions.

Intersectionality in Work places: A gender sensitive workplace should also be open to people of all gender identities, sexual orientation and ethnicity. It is impossible to comprehend overlapping and influence of varied types of discrimination in marginalized groups without intersectional awareness. Firms must enforce diversity-respective policies, and promote inclusiveness, which accentuates the perception that every employee gets to feel appreciated and empowered.

6.2.3 Improving Legal Enforcement

Though the legal framework that regulates sexual harassments in Indian workplaces, especially the POSH Act has been a very important milestone towards the right direction, it has its loopholes in implementation. The law should also be enforced effectively so that it is not on the paper, but is in force and that working places are safe to all workers.

The creation of Specialized Courts/ Tribunals in Sexual Harassment Cases: The legal procedure in sexual harassment can be very cumbersome and traumatizing to the victims. To make it quicker, the establishment of special courts or tribunals that are focused on sexual harassment issues can be instituted. Such courts would offer a specialized court that would arbitrate solely on grievances of harassment at workplaces and see to it that the cases are handled by specialists who would be well informed on the proceedings in a case of such.

Empowering Internal Complaints Committee (ICC): ICC has a vital role to play in dealing with workplace harassment. Nonetheless, not all organizations, in particular smaller organizations have properly functioning ICCs. Regular audit and inspection of ICCs by the government should be done to verify if it is operational, unbiased, and properly trained. Moreover, organizations must be required to

maintain a list of all complaints and resolutions in order to be transparent.

Victim Assistance: Legal aid should be provided to those victims who want to take legal action but cannot afford it. There would be options such as legal clinics or collaboration with NGOs who would help victims to go through the legal procedure. That is particularly noteworthy when it comes to women in low-income spheres or rural communities who might have other obstacles to justice.

Assuring Reasonable Payments to the Victims: Victims of sexual harassment need to be compensated well in damages they have incurred. This not only involves financial compensation but also non-financial compensation like counseling or job placement services. The reforms in the law must make the compensation claim fast and fair without placing the strain on victims to have to undergo protracted litigation.

6.2.4 Rewarding Anonymous Reporting Arrangements.

The fear of retribution is among the highest deterrents in the case of sexual harassment victims and is especially high in a workplace that is hierarchical or where one has power because the harasser could be in a high level position. Companies should establish safe, non-identification, and open forums whereby victims can come forward to report the harassment cases without intimidation or career damages.

Confidential Reporting Online Places: Online facilities can be used to have employees report to each other out of fear of being crushed. To avert this, companies ought to implement anonymous reporting mechanisms where individuals can report through online means. These systems must make sure that there is protection of identities, secure storage of information to avoid access by unauthorized parties. All that would be required in protection of confidentiality would be the use of high-tier encryption technologies.

Reporting and Protection against retaliation: Employers should be emboldened to promote retaliatory action against any worker who has to report sexual harassment by assuring them that such victimizer of employees will face serious consequences. Anti-retaliation provisions should be an integral part of the reporting process. Protection against job loss or career setbacks to employees, should they choose to report on harassment, should be provided and also, their confidentiality should be observed during the investigation process.

Training on Effective Reporting Mechanisms: Employees ought to be trained on how to make effective use of the anonymous reporting mechanisms. This involves knowing how to record the incidents, the information needed to make a report, and the information needed after the process of investigation. Clear instructions on how to work on these processes will give employees the ability to report on the violations without fear or mishandling and non-duty.

6.3 FUTURE SCOPE OF RESEARCH

Sexual harassment in the workplace in India has been sexually harassing and is still adapting to changing socio-economic conditions, workplace structures, and technology, hence providing a lot of scope to the future research. Although the current research has mainly been aimed at assessing the legal framework and its efficacy, empirical research that is aimed at investigating practical application of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, is clearly required. Future scholars have an opportunity to conduct field-based research that will entail surveys, interviews, and case study to describe the biography of women working in various workplaces. This empirical research would give a more detailed insight into the discrepancy between the law and its implementation, and would thus enrich policy suggestions that are more substantiated.

The next significant area of future study is to investigate the operation and efficiency of Internal Complaints Committee (ICCs) in various fields. Although required by the law to be established, there is a dearth of information on their actual performance, independence, and fairness in dealing with complaints. Issues that can be investigated by research include delays in the process, decision bias, lack of training of the members, and how much confidentiality and protection of the victim is ensured. The variation, however, in implementation structures may also be seen through comparative in-depth analysis of the performance conducted in the public and the private sector and among large corporations and small businesses.

Research on the unorganized and informal sectors, in which a significant percentage of women work, but legal remedies are either ineffective or unavailable, also has a lot of room to explore. Small-scale industry workers, domestic workers, agricultural laborers often have no knowledge of their rights, as well as access to complaint mechanisms. Future research can investigate the effectiveness of Local Complaints committees (LCC) in this regard as well as whether other such redressal methods or other community based redressal methods can be built upon as a bridge to lapses that may exist.

Another important possible field of study is the existence of digital workspaces and remote work environments. As virtual means of communication continue to be more utilized, the emergence of new types of harassment like online abuse, sending inappropriate messages, and digital stalking are on the rise. The current legal system such as the POSH Act might not be able to cover these emerging misconducts. Future studies can seek ways through which the legislation can be modified to suit successful control of the virtual workplaces and guarantee protection in technologically mediated workplaces.

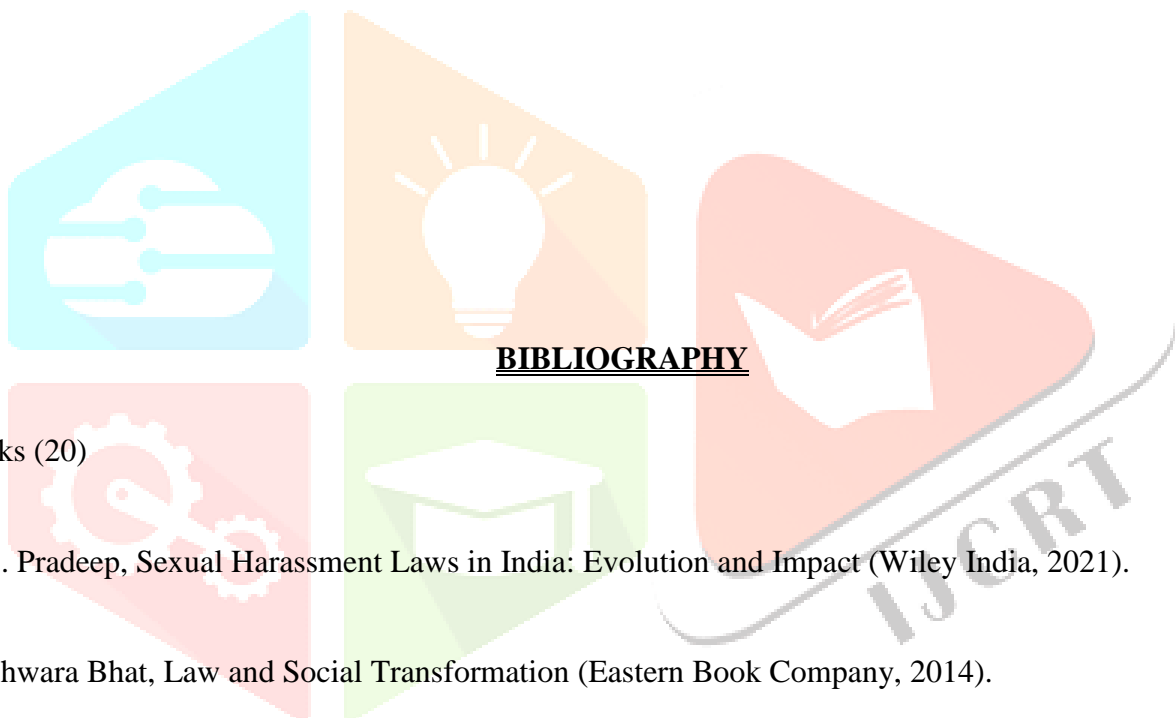
Intersectional approach can also be used to conduct more research to determine how women are variously impacted by sexual harassment in the workplace based on caste, class, religion, disability, age and sexual

orientation. As a result of these studies, the systemic weakness of the vulnerable populations would become more apparent and would contribute to the establishment of a more accepting and just legal framework. This is particularly applicable in the Indian context where social classes are one of the major determinants of access to justice and experiences in the workplace.

Additionally, it is possible to audit the performance of awareness, gender sensitization and, also, organizational policies, which prevent sexual harassment. These interventions can be measured on the basis of whether they lead to serious behavior change or are just mere token gestures to compliance. Best practices and effective models can be identified, both in the national and international perspective, to assist in defining more effective prevention strategies.

Future research could also explore the perceptions of corporate governance and compliance mechanism in promoting compliance with workplace harassment laws. A study may be carried out on the role of incorporation of POSH compliance into the overall organizational policies by the firms and relevance of audits and reporting policies and impact of non-compliance on image and responsibility of the organisation.

Lastly, the longitudinal studies that will examine the long term impacts of policy interventions and legal reforms on the employment culture and equal employment opportunities are required. The study would support the conclusion of whether the existing laws have provided occupational safety long-term benefits and the necessity to continue to reform. As a way of accommodating such differing quarters, future research may play a crucial role in improving the legal system, as well as ensuring that the objective of creating safe, inclusive and dignified working conditions by women in India is attained with the desired success.



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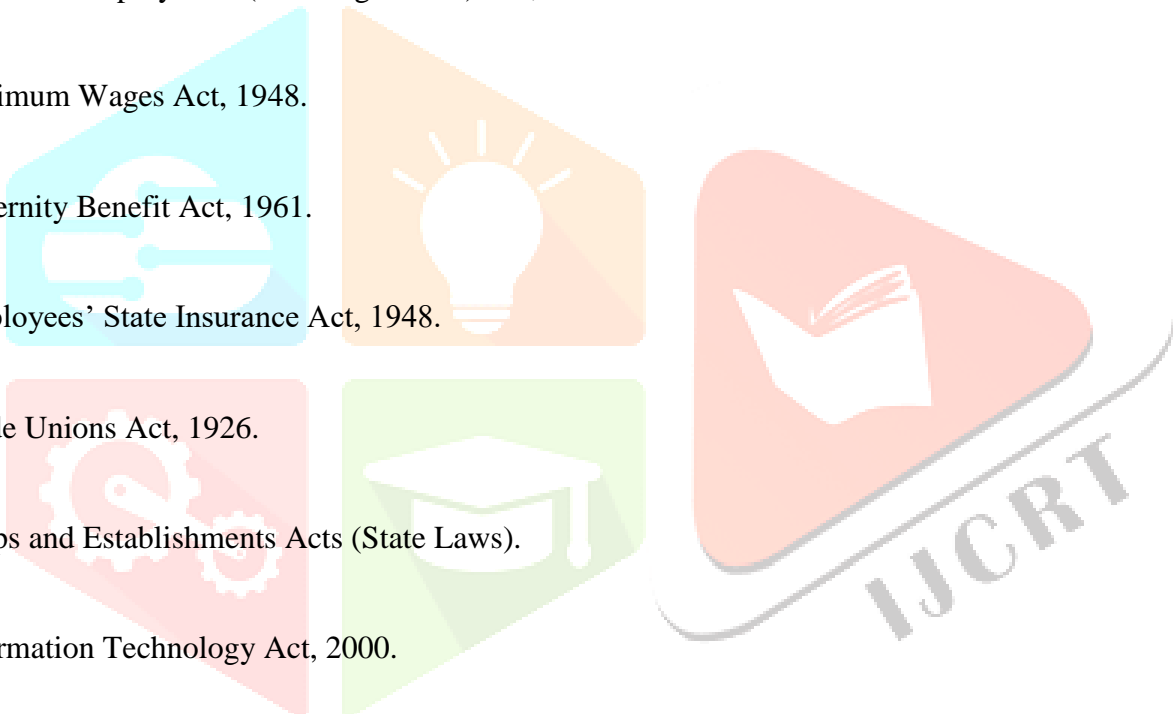
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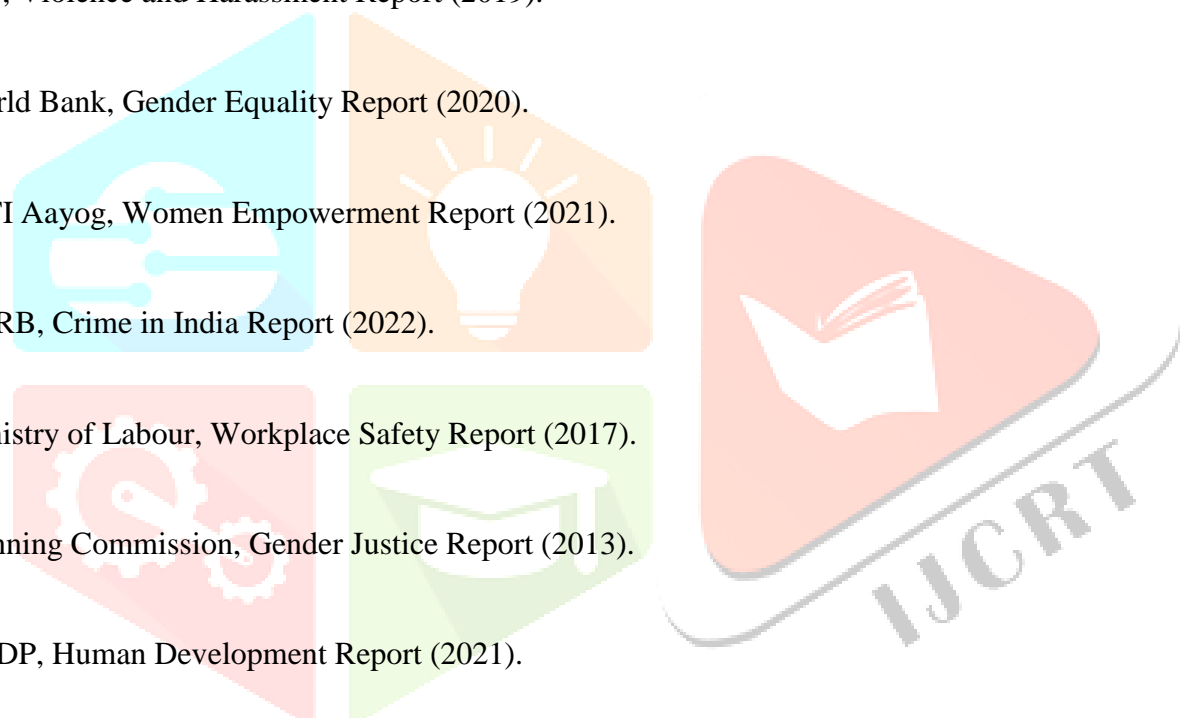
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