

Workplace harassment: Legal safeguards, and the road to safe work environment

Shalini. P, Abinayaa .B.P, B.Sairam, B.Adhavan Sundhar

Dhanalakshmi Srinivasan University (DSU)

Abstract:

Workplace harassment, particularly sexual harassment, remains a pervasive issue that undermines employee dignity, equality, and mental well-being. It not only violates fundamental rights but also creates a hostile work environment, leading to reduced productivity, job dissatisfaction, and, in many cases, forced resignation. This paper examines the concept of workplace harassment, highlighting its various forms such as sexual harassment, discriminatory practices, bullying, psychological abuse, verbal abuse, cyber harassment, retaliation, and third-party misconduct. At its core, sexual harassment is defined as any unwelcome conduct of a sexual nature that infringes upon an individual's dignity, irrespective of the perpetrator's intent.

The study further explores India's legal framework, particularly the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, which was enacted following the landmark judgment in Vishaka v. State of Rajasthan. The Act mandates preventive and redressal mechanisms such as Internal Complaints Committees (ICC) and imposes obligations on employers to ensure a safe work environment. Additional protections under the Bharatiya Nyaya Sanhita further strengthen the legal response to harassment.

The paper also assesses the broader impact of workplace harassment on individuals, organizations, and society, emphasizing its role in limiting women's workforce participation and affecting economic growth. Despite robust legal provisions, challenges such as underreporting, social stigma, victim blaming, and ineffective implementation persist.

A comparative perspective with countries like the United States and the United Kingdom reveals differing approaches, with India focusing on internal institutional mechanisms. The paper concludes by recommending stronger enforcement, increased awareness, and cultural transformation to eliminate harassment and promote safe, inclusive workplaces. Ultimately, addressing workplace harassment is essential not only for protecting individual rights but also for fostering equitable and productive professional environments.

Introduction:

Sexual harassment in work place has been an important issue worldwide where many employees faced this in their work place which leads them to quit from the job and losses their status because of joblessness. It

harms both physical and psychological health of the person. The fundamental rights are violated and some people losses their dignity in the society. Due to the harassment the people are not satisfied with their jobs and they are fear of their job loss. This also affect the mental health and they are not able to lead a peaceful life. The organizations have to foster a culture and with zero tolerance against sexual harassment.

Sexual harassment refers to any unwelcomed act or behavior of a sexual nature that violates an individual's dignity or creates an offensive and unsafe working environmen¹t. It is not limited to physical acts but also includes verbal and non-verbal conduct that makes a person uncomfortable. The essence of sexual harassment lies in the absence of consent and the impact it has on the victim, rather than the intention of the offender.

The sexual harassment of women at workplace (prevention, prohibition and redressal) Act(posh Act) defines sexual harassment broadly.

Types of workplace harassment:

Workplace harassment can be characterized in different ways, some of the major types are:

1. Sexual harassment:

In forms as in offers work, includes but is not limited to unwanted sexual advances, requests for favours of a sexual nature or sexually oriented conduct. Can be physical, as such unwanted touching, or verbal, as with lewd comments, jokes, or non-verbal like gestures, staring, showing obscene material and etc.

2. Discriminatory harassment:

Ifan individual is targeted because of the characteristics such as colour, sex or gender, religion, caste, race and sexual disability. Example: mocking a person based of gender.

3. Bulling and intimidation:

Repeated and aggressive behaviour used to intimidate, control or humiliate an employee. May involve shouting, insulting, spreading rumours or intentionally excluding someone. For instance, a manager who repeatedly yells at an employee in front of others to erode self-confidence.

4. Psychological or emotional abuse:

Micro-aggression is subtle, insulting behaviour (whether verbal or non-verbal) that has a deleterious effect upon the mental health of the recipient. This includes gaslighting, manipulation, passive aggressive behaviour and unjust criticism. For instance, chronically setting an employee up to fail by giving them impossible assignments demonstrates this type of abuse.

5. Verbal abuse:

The use of abusive, offensive, or derogatory language.

¹The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, No. 14 of 2013, § 2(n), India Code (2013).

6. Cyber abuse:

Nowadays, with technology at our fingertips, harassment can come from email or messaging applications in the form of Facebook, for example. For instance, sending an inappropriate meme, cyberstalking a co-worker or spreading untrue rumors over the Internet.

7. Retaliation abuse:

When an employee suffers negative treatment for making a complaint or accusation. Example like transferring or demoting an employee after they reported harassment to HR.

8. Harassment by a third party:

This occurs when the individual causing the harassment is not an employee of the organization but is instead a client, vendor, or customer. For instance, a client might make inappropriate remarks to an employee during business meetings.

Legal frameworks and provisions:

India has established a comprehensive legal framework to protect women from sexual harassment in workplace, that is sexual harassment at workplace (prevention, prohibition, redressal) Act, this is commonly known as PoSH Act.

Historical Background

This legal protection was established on the basis of Vishakha Guidelines, in a case known as *Vishakha VS state of rajasthan*². In this decision, The Court held that women's sexual harassment infringes the basic right to life contained in article 21 and finally directed government to take appropriate steps to address these cases which was effective. These principles were later codified as part of the PoSH Act.

Key Provisions of the PoSH Act, 2013**1. Clear Definition of Sexual Harassment:**

The PoSH Act³ elaborates the ambit of sexual harassment touching upon actual, verbal and non-verbal sexual behaviour. This may include any unwelcome physical contact, sexually explicit verbal or written statements, sexually oriented requests for sexual favours, implication of sex conduct, and the like.

²Vishaka v. State of Rajasthan, (1997) 6 S.C.C. 241 (India).

³The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, No. 14 of 2013, India Code (2013).

2. Complaint Mechanisms:

Any organization with ten or more employees is mandated under the law to have the all-important Internal Complaints Committee (ICC) in place to address harassment complaints. Local Committee(ing) (LC-ing) in smaller organizations; the role is undertaken by district-level Local Committees for resolving complaints. These bodies are expected to maintain fairness, confidentiality, and transparency in handling cases.

3. Employer Responsibilities:

Under PoSH Act, employers have various responsibilities:

- Create and disseminate sexual harassment policy.
- Provide employee training and awareness.
- Constitute an Internal Complaints Committee (ICC) and see to the effective operation of such committee.
- Maintain strict confidentiality during investigations.
- Regularly report the quantity and result of harassment to authorities.

4. Penalties for Non-Compliance:

Penalties for Non Compliance Even more dangerous, breaking PoSH act can lead to huge fine and possibility of getting business license suspended. These fines help to make sure that employers are taking their duties seriously.

Other Relevant Legal Provisions:

Besides the PoSH Act and to check workplace harassment, some sections of BNS⁴ may be used. These include:

- **Section 64:** sexual intercourse by a person in authority.
- **Section 74:** Assault or use of criminal force on a woman to outrage her modesty.
- **Section 75:** sexual harassment.
- **Section 76:** assault or criminal force to women with intent to disrobe.
- **Section 77:** voyeurism.
- **Section 78:** stalking.
- **Section 79:** words, gesture or act intended to insult modesty of a women.
- **Section 351(4):** Criminal intimidation.

The **Industrial Employment (Standing Orders) Act**⁵ also requires employers to specify rules of conduct, which may include provisions for addressing mental harassment and offering grievance redress mechanisms.

⁴Bharatiya Nyaya Sanhita, No. 45 of 2023, §§ 64, 74–79, 351(4).

Broader Coverage and Limitations

Although the PoSH Act primarily focuses on sexual harassment, many organizations have adopted broader policies that also cover psychological and other forms of harassment. The scope of the PoSH Act extends beyond employees to include any woman who may be present at the workplace for any reason. It also covers a wide range of locations related to work activities, including employer-provided transportation.

Despite these advances, there are still challenges in implementing the PoSH Act effectively, especially in small businesses or industries with a high turnover rate. Many employees, particularly in smaller organizations, may be unaware of their rights or hesitant to file complaints due to fear of retaliation or social stigma.

What are the steps for Victims of Harassment:

Victims of sexual harassment can take the following steps under the PoSH Act:

- **File a Complaint:** The first step is to report the incident to the **Internal Complaints Committee (ICC)** or **Local Committee (LC)**, depending on the organization's size.
- **Request Confidentiality:** Victims can request that their identity be kept confidential throughout the investigation process. The identity need to be protected, this is also mentioned in BNS section 72, that is disclosing identity is punishable.
- **Pursue Legal Action:** If the internal process does not yield a satisfactory outcome, victims can seek recourse through the civil or criminal courts.

India's legal framework for preventing and addressing workplace harassment, especially sexual harassment, represents a significant step toward creating safer, more equitable working environments. While there are still hurdles to overcome, such as increasing awareness and ensuring proper implementation, the **PoSH Act** stands as a crucial tool in the fight against workplace discrimination and harassment.

Impact of workplace harassment:

Due to the workplace harassment, not only the person who involved is affected but also the company or the place where the harassment happened also lose its reputation.

Impact on employee, organization, and society at large:

Due to the fear of workplace harassment the employee will have dissatisfaction in his/her job. This also affect their mental peace, career, and mostly their dignity is in question. And it is also important to note that, not only the person involved in the harassment is affected but also the organization lose their

⁵The Industrial Employment (Standing Orders) Act, No. 20 of 1946, India Code (1946).

reputation due to the crime they have committed. This may lead to low productivity because of the employees decided to move out of the organization.

society at large, due to the workplace harassment, the employee particularly women employees are affected at large, this will lead to the women employee to quit their jobs and, it not only affects the women in personal life but also the country's economy is affected, because the women are not participating in the economic development process.

Preventive measures:

A healthy workplace can be achieved by making policy and regulations in the organization which protects the employee from workplace harassment. And they can also give proper training to the employee and employer related to the rules and regulation. And they can also impose penalty or removing them from jobs if they commit any kind of harassment, that will bring a fear in the mind of the members.

And the important thing to be noted that, there should be a proper awareness about the sexual harassment, its affect and how they can get remedy for it. For this to be achieved there should be a proper awareness and they should come out of the safe pace and need to report about the problems that they face, thus the organization should have a committee or a body where the member of the organization can report about the harassment or the problem that they face⁶.

Challenges in implementation:

Even though there are many legal provision and law related to harassment, there are still workplace harassment are happening across the world this is due to the under reporting of cases, as we are living in the society were the victim is blamed for any mess that happened to them, without accusing the person who made the mess. Thus it is important to change the mind-set of the people at the primary level to protect the victim. And due to the ineffectiveness of the committees, even they report about the workplace harassment there is no proper action taken from the committee side. So these are all the challenges faced for the implementation of the legal provisions and laws that are available today. In the case *Tuka Ram And Anr vs State of Maharashtra, AIR 1979 SC 185 (Mathura Case)*⁷In Mathura rape case, a young tribal girl named Mathura was allegedly raped by two policemen while she was in custody. It was the incident of custodial rape, took place on March 26th, 1972, where the girl was raped in Desai Gunj Police Station in Maharashtra. This case raised so many issues in the context of Indian rape laws that were earlier existed in prevalent Criminal law like the issue of consent, the question of burden of proof, the reference to two-

⁶Ministry of Women and Child Development, Government of India, Handbook on Sexual Harassment of Women at Workplace (2015), <https://wcd.nic.in> (last visited Apr. 27, 2026).

⁷Tukaram v. State of Maharashtra, (1979) 2 S.C.C. 143 (India).

finger test and the reference to the girl's sexual history. They held that Sessions Court passed the judgment in favor of defendants and held them not guilty. It was held that Mathura gave her consent voluntary as she was habituated to sexual intercourse. Learned Sessions Judge found that there was a major difference between "sexual intercourse" and "rape" so, it was a case of sexual intercourse in which she had consented voluntary and not rape. Thus, Case was further appealed in the Bombay High Court which took note of all the findings arrived during the trial in Sessions Court. High Court appreciated the observation given by the learned Sessions Judge that there is a major difference between sexual intercourse and rape but they forgot to observe that there is a world of difference between "consent" and "passive submission". On the ground of such observations, the court held that the defendants were guilty of rape and the consent given was not voluntary and it was due to serious threats by policemen. It was held that "Mere passive or helpless surrender of the body and its resignation to the other's lust induced by threats or fear cannot be equated with the desire or will, nor can furnish an answer by the mere fact that the sexual act was not in opposition to such desire or volition."

Later, the case went to the Supreme Court, where court acquitted the accused and set aside the judgment passed by the Bombay High Court. The Court stated that no marks of injury were found on the person of the girl, there were no signs of any struggle, any resistance, also from the shreds of evidence it can be shown that the girl had not been put in fear of death or hurt so the consent would be considered as free or voluntary. Also, the girl was habituated to sex so, it may be possible that she might have incited the cops. So, it was concluded and held by the Supreme Court of India that the sexual intercourse which was in question in the given case is not proved to amount to rape.

Comparative perspective with other countries:

When we compare the laws related to harassment with other country it is very different for the Indian laws, the US have a broader anti-discrimination Statutes which includes practices like harassment based on race, religion, sex, and other factors providing broad protection against workplace discrimination⁸. While India have more specifically on sexual harassment through legislation like the posh Act. And US have equal employment opportunity commission (EEOC), for enforcement and India have internal complaint committees. And UK have employment tribunals for resolving harassment cases. And also there is an international organization for the labour that is international labour organization(ILO) that also regulate the anti- harassment provision related to the women⁹.

In US approach often involves government agencies and individual lawsuits, while India's POSH Act emphasizes internal mechanisms like ICC within companies.

⁸ Equality Act 2010, c. 15 (UK).

⁹Int'l Labour Org., Violence and Harassment Convention, 2019 (No. 190), <https://www.ilo.org> (last visited Apr. 27, 2026).

Way forward:

To make a workplace environment free from sexual harassment and from any forms of unrest environment for the members of the organization they must take proper action like, they need to stricter the enforcement, creating a safe and inclusive work culture. And society also play an important role in the improvement of the women safety, independence and not having a mind-set of victim blaming these will lead to the betterment of the society. And the person who is affected need to step forward and address the issue they faced, that is they need to complain to the committee about any case related to harassment.

Conclusion:

This article focus on, what is harassment and its types. And it also mentioned about the provisions and the legal laws related to harassment in India and other country. The main thing to be noted is that there should be a proper enforcement of the law which are present in India. And the member of the organization who is affected should also compline about the harassment case that they faced. The organization also need to have a proper committee or a body that address about the harassment related cases, and that committee also need to focus on the protection of the employee or the employer who is affected without the fear of losing their job.

