

Sexual Harassment at Workplace in India: Implementation of Laws and Issues

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Abstract

Sexual harassment has emerged as one of the most critical challenges faced by women in contemporary society, particularly within workplaces where it undermines their social, economic, and professional participation. Historically entrenched in patriarchal structures, women have long been subjected to subordination, making them highly vulnerable to different forms of harassment. Although sexual harassment has existed for centuries, its recognition as a serious violation of rights is relatively recent, gaining prominence with its growing acknowledgement in legal and institutional frameworks. Harassment not only demeans women's dignity but also infringes upon their fundamental rights guaranteed by the Constitution of India, including equality under Articles 14 and 15, the right to life and dignity under Article 21, and the right to a safe working environment. Legislative interventions such as the *Sexual Harassment of Women at*

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Workplace (Prevention, Prohibition and Redressal) Act, 2013 and the *Criminal Law (Amendment) Act, 2013* aim to address offences ranging from harassment and assault to voyeurism and stalking. Despite these developments, challenges in enforcement remain, largely due to social stigma, systemic barriers, and weak institutional mechanisms.

This chapter employs secondary data methods to analyze the persistence of workplace harassment, examine gaps in existing protections, and suggest ways to strengthen safeguards ensuring women's safety, rights, and dignity.

Keywords

Sexual Harassment, Assault, Stalking, Discrimination, Violation of Fundamental Rights, Legislation Policy.

Introduction

With globalization and modernization, the role of women has undergone a significant transformation. Women today are not confined to the traditional role of homemakers but are actively contributing to economic and social development, often managing households independently while also excelling in professional spheres. However, alongside this progress, women continue to face serious challenges in the workplace, with sexual harassment emerging as one of the most pervasive and unacceptable problems. Such behavior not only violates women's dignity and rights but also undermines workplace productivity and national growth by creating a hostile and insecure environment that discourages female participation in the workforce.

Sexual harassment has long existed but was only formally recognized as a serious issue in recent decades. Prior to the landmark Supreme Court judgment in *Vishaka & Others v. State of Rajasthan* (1997), complaints of harassment were registered under limited provisions of the Indian Penal Code (Sections 354 and 509). Sixteen years later, the enactment of the *Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013* provided a more comprehensive legal framework. This Act defines sexual harassment broadly, including unwelcome physical contact, requests for sexual favors, sexually colored remarks, showing pornography,

and other non-verbal or verbal conduct of a sexual nature. Section 354A of the IPC further criminalizes such acts, prescribing punishments ranging from fines to rigorous imprisonment.

Despite these legal safeguards, workplace harassment continues to persist. Examples of such misconduct include unwelcome touching, suggestive comments or jokes, sexually explicit messages or images, intrusive personal questions, and repeated unwanted invitations. Such acts severely impact employees' physical performance, mental health, job satisfaction, and overall well-being. Victims often report embarrassment, shame, anxiety, and depression, which in turn lead to absenteeism, poor productivity, or resignation.

In the age of rapid modernization, crimes against women have not diminished but rather taken new forms, reflecting deeper structural inequalities and ingrained violence in society. Violence, whether physical, verbal, or psychological, transcends age and background, leaving lasting scars not only on the victims but also on workplace culture and societal development. The persistence of sexual harassment highlights the urgent need for stricter enforcement of existing laws, creation of safe work environments, and sensitization of all stakeholders to ensure that women's constitutional rights to equality, dignity, and safe employment are meaningfully realized.

1. Sexual Harassment of Women at Workplace

Violence against women and children—such as rape, dowry deaths, molestation, child marriage, and trafficking—has been widespread in India since the inception of society. Despite the enactment of stringent criminal laws, these crimes continue to persist, and disturbing incidents still occur regularly. With the advancement of information technology, newer forms of crimes have also emerged, including sexual harassment at the workplace, honor killings, and cybercrimes against women. The *Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013* defines sexual harassment under Section 2(m) as any unwelcome, sexually determined physical, verbal, or non-verbal conduct. It encompasses bullying or coercion of a sexual nature, as well as the inappropriate promise of rewards in exchange for sexual favors. Such conduct is

illegal and constitutes a violation of women's fundamental rights, including the right to equality and the right to life and liberty.

In a progressive interpretation, the Calcutta High Court in *Dr. Malabika Bhattacharjee v. Internal Complaints Committee, Vivekananda College (2020)* held that complaints of same-gender sexual harassment are also maintainable under the Act. The Court emphasized that the law uses the term "person" for respondents, making it gender-inclusive, and reaffirmed that harassment is fundamentally an affront to human dignity irrespective of gender. Earlier, in *Vishaka v. State of Rajasthan (1997)*, the Supreme Court declared that sexual harassment violates a woman's fundamental right under Article 19(1)(g) of the Constitution, which guarantees the freedom to practice any occupation, trade, or profession. A safe working environment is essential for the meaningful exercise of this right. Subsequent judgments, including *Medha Kotwal Lele v. Union of India* and *Apparel Export Promotion Council v. A.K. Chopra*, further reinforced the necessity of robust mechanisms to address workplace harassment.

Under the Constitution of India, sexual harassment infringes upon gender equality (Article 14), the right to life and dignity (Article 21), and the prohibition of sex-based discrimination (Article 15). In addition, Article 32 guarantees the right to constitutional remedies, Article 42 ensures just and humane conditions of work and maternity relief, while Article 51A(e) obligates citizens to renounce practices derogatory to women.

Importantly, sexual harassment is not limited to physical misconduct but also includes psychological harm. This was acknowledged internationally in *Walker v. Northumberland County Council* (England & Wales High Court), where psychiatric damages arising from workplace harassment and stress were recognized. Hence, sexual harassment must be understood as encompassing both physical and psychological dimensions, requiring comprehensive legal and institutional responses.

2. Evolution of Law of Sexual Harassment in India

Sexual harassment may be described as any unwelcome sexual gesture or behavior, whether direct or indirect, including sexually colored remarks, physical contact and advances, showing pornography,

a demand or request for sexual favors, or any other verbal or non-verbal conduct of a sexual nature. The critical element in such offences is the “unwelcomeness” of the act, which places emphasis on the impact upon the recipient rather than the intent of the perpetrator.

To address this issue, the *Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013* was enacted. The Act filled a long-standing legislative vacuum by creating a comprehensive mechanism to prevent, prohibit, and redress instances of sexual harassment. Importantly, it extends protection to all women, irrespective of age or employment status, and mandates a safe and secure working environment across organized and unorganized sectors. The same year, the *Criminal Law (Amendment) Act, 2013* further strengthened the framework by criminalizing specific offences such as sexual harassment (Section 354A), assault or use of criminal force with intent to disrobe (354B), voyeurism (354C), and stalking (354D). Prior to 2013, complaints of harassment were largely dealt with under Sections 354 and 509 of the Indian Penal Code, which criminalized acts of assault to outrage modesty and insulting gestures. However, these provisions were limited and failed to provide adequate redress. Judicial interventions such as *Vishaka v. State of Rajasthan* (1997), *Medha Kotwal Lele v. Union of India* (2013), and *Apparel Export Promotion Council v. A.K. Chopra* (1999) played a crucial role in shaping the legal landscape, emphasizing that workplace harassment violates women’s constitutional rights to equality (Article 14), dignity (Article 21), and freedom of profession (Article 19(1)(g)).

The global #MeToo Movement (2018) further marked a watershed moment in India. Numerous women came forward with accounts of abuse by powerful figures across industries, forcing institutions to revisit their compliance with the 2013 Act. While the movement empowered women to voice their experiences, it also exposed them to retaliation, defamation suits, and societal stigma. In many cases, lack of evidence or procedural lapses resulted in the exoneration of the accused, highlighting gaps between law and enforcement. Despite progressive legislation, the reality remains that many women still hesitate to report harassment due to fear of ostracism,

victim-blaming, or the trauma of prolonged legal proceedings. Survivors often suffer long-term psychological consequences, including anxiety, depression, and loss of self-worth. Thus, while the *Prevention of Sexual Harassment Act, 2013* extends across all sectors—governmental, private, educational, industrial, healthcare, sports, and even domestic workplaces—the challenge lies in its effective implementation.

The evolution of law on sexual harassment in India reflects a journey from piecemeal provisions in the IPC to comprehensive legislation, supplemented by judicial activism and social movements. However, ensuring a truly safe and equitable work environment requires not only robust legal mechanisms but also cultural change, institutional accountability, and unwavering societal support for victims.

3. Obstacles in the Implementation of the Prevention of Sexual Harassment of Women at Workplace Act, 2013

3.1 Lack of Understanding and Awareness

One of the foremost challenges in implementing the Act is the limited understanding of what constitutes sexual harassment. Many organizations and members of society are still unclear about the distinction between general harassment and sexual harassment. In numerous cases, victims themselves are unaware of their rights or the proper channels to report incidents. These differing perceptions, despite the existence of legislation, hinder the Act's effective integration and enforcement, limiting its potential to provide meaningful protection.

3.2 Ill-Equipped Investigation Committees

Under the POSH Act, 2013, every organization is required to appoint an Internal Complaints Committee (ICC) with powers to investigate complaints of sexual harassment. While this provision has the potential to bring significant changes in addressing harassment, the proper functioning of such committees remains a challenge. Many organizations struggle to appoint qualified, trained, and sensitive members to the committee, undermining its effectiveness and compromising the timely and fair resolution of complaints.

3.3 Ambiguity in Hearings and Standard of Proof

A significant challenge in implementing the Act arises from the difficulty of establishing conclusive evidence in many cases. Often, incidents of sexual harassment lack direct or circumstantial proof, making it daunting for the Internal Complaints Committee (ICC) to reach fair conclusions within the stipulated timelines mandated by the Act. This ambiguity in hearings and the standard of proof can delay justice and impact the effectiveness of the law.

3.4 Need for a Gender-Neutral Sexual Harassment Act

Currently, the Act protects only women, leaving individuals of other genders unaddressed. This limitation has led to feelings of exclusion and differentiation among employees in certain organizations. Companies face challenges in drafting gender-neutral workplace policies that provide protection to all employees, regardless of gender, while still complying with the statutory framework.

3.5 Problem of Anonymous Complaints

The Act does not provide clear guidance on handling anonymous complaints, even though many victims may report harassment discreetly due to fear, reluctance, or distress. While employers are not legally obliged to act on anonymous reports, it is essential for ICC members to investigate allegations thoroughly to uphold the law's intent. Ignoring such behavior undermines workplace safety and organizational responsibility.

Key Points for Effective Implementation:

- Provide victims with a safe platform and eradicate the stigma associated with reporting harassment.
- Empower women to refuse advances and ensure their rights are respected.
- Foster women's active participation in socio-economic development.
- Address conflicts proactively rather than ignoring them.
- Conduct regular trainings and awareness programs to educate employees about responsibilities and rights.

- Take action against perpetrators, even if they are external to the organization.

Organizations, as integral parts of society, must view the Act as an **enabling law** rather than a policing mechanism. While the legislation can be strengthened, creating a broader supportive environment through sensitization workshops, awareness of consent, leadership, and systematic advocacy is essential for achieving meaningful results.

4. Conclusion

Sexual harassment of women is a pervasive issue, present in every nation and widely prevalent in India. With the increasing participation of women in the workforce, incidents of sexual harassment at the workplace have become more frequent. Such harassment not only poses serious risks to women's physical and mental well-being but also discourages other women from seeking independence and pursuing careers, thereby undermining their constitutional right to employment under **Article 19(1)(g)** and the right to life and dignity under **Article 21**.

Creating a safe and secure work environment is the shared responsibility of the government, employers, organizations, and society at large. The *Protection of Women from Sexual Harassment at Workplace Act, 2013* represents a significant step toward ensuring women's safety and a harassment-free workplace. It provides mechanisms for redressal through the **Internal Complaints Committee (ICC)**, which protects the identity of victims and addresses complaints sensitively. Anti-retaliation provisions within the Act are crucial to encourage reporting without fear of backlash.

Social awareness campaigns, including the impact of social media, have further promoted a zero-tolerance culture against sexual harassment and increased understanding of the issue. Building a culture of respect, awareness, and accountability within workplaces is essential not only for women's empowerment but also for creating a productive and equitable work environment. Ensuring that women feel safe at work is fundamental for realizing gender equality, fostering economic growth, and strengthening the social fabric of the nation.

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