



Preserving Respect at Work: An Analysis of the POSH Act, 2013

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Abstract

Sexual harassment in the work place is a big problem which infringes the rights of individuals, destroys working environments, and gender equality. To rein this, the Indian government enacted a new law (Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, to curb the vice. It traces the evolution of legal safeguards against workplace harassment from the landmark Vishaka *Guidelines* to the codification of the Act in 2013. This research paper analyses the Act's history, organization, goals, and implementation, focusing on provisions like Internal Complaints Committees, the law's effectiveness in promoting safe working environments, and challenges faced during implementation. The paper also critiques the Act's limitations, including its gender-specific focus and procedural shortcomings, and suggests recommendations for making it more inclusive, transparent, and effective. The findings underscore the importance of robust legal mechanisms in maintaining workplace dignity and fostering a culture of accountability and respect.

Keywords: POSH Act, 2013; workplace harassment; gender justice; respect at work; sexual harassment law in India.



1.INTRODUCTION

In today's professional environment, workplaces have to promote not only productivity and effectiveness but also equality, respect, and dignity for all workers. However, workplace harassment is still a prevalent and extremely concerning problem that affects women more than any other industry or sector. In addition to creating hostile work environments and undermining the right to work with dignity, it can have long-lasting psychological, social, and financial repercussions for

victims. Therefore, maintaining safety and respect at work is not only a question of corporate ethics; it is also required by law and human rights.

The POSH Act which is the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 was enacted by the government of India in 2013. This was done in consideration of the official Legal framework of dealing with harassment at work. The enactment of this law was a major milestone of instituting institutional frameworks of sexual intimidation investigation, prevention, and resolution. The Act, which has risen out of the landmark decision that the Supreme Court made in the case of Vishaka v. The Vishaka Guidelines have a legal force given by the state of Rajasthan (1997) which has put in place procedures where complaints of harassment will be handled.

The POSH Act, as part of its initiatives on safe working conditions, has made provisions that entail the creation of internal as well as local complaints committees, the responsibilities of the employer and a preference on preventive action together with remedial action. On the other hand, despite the fact that it has been in effect for more than a decade, there are still questions concerning its scope, implementation, efficiency, and inclusiveness. There are still a lot of workplaces that are either unaware of the law or do not comply with it in both spirit and practice.

The aim of this research paper is to furnish a comprehensive assessment of the POSH Act, 2013, including its history, its key provisions, performance, and difficulties. Additionally, it examines the ways in which the Act has affected the culture of workplaces in India and identifies failures in its implementation. This research highlights the importance of continuous reform and enlightenment by analysing legal provisions, real-world applications, and the perspectives of experts. The goal of this study is to ensure that respect at work is maintained and institutionalized across all levels of employment.

As the dynamics of the workplace continue to change, the idea of "respect at work" has emerged as a fundamental pillar of both the culture of the organization and the well-being of

its employees. Fair treatment, recognition of individual rights, development of a climate of inclusion, and the guarantee of a safe and harassment-free environment are all components that are included in this concept. Although there has been tremendous improvement as far as gender representation and diversity is concerned in regard to the sexual harassment persists in the workplace, even, on one hand, whereby women in India work in the official and informal employment sectors as well. The issue of sexual harassment in our country India is not just an inappropriate conduct, but a serious crime against human rights and violation of the right to safe working environment which is provisional under Article 21 of the Indian Constitution. A significant number of women are forced to quit their jobs or suffer in silence as a result of this issue, which also causes psychological trauma, interrupts effectiveness, and restricts equal opportunity. In a situation like this, the maintenance of respect in the workplace is not merely a cultural goal rather it is a legislative and legal requirement.

For decades, women were forced to depend on internal grievance mechanisms or risk having their voices not heard because there was no formal legislation in place. The turning point was made in the Vishaka case in which the Supreme Court had made a landmark decision in 1997. This verdict made Sexual harassment an offense to fundamental rights and set legally binding mechanisms of how harassment is prevented as well as corrected at work place. However, notwithstanding their importance, these guidelines did not have any statutory support. POSH Act, 2013, was passed into law as a consequence of the increasing demand for a dedicated law, as well as the increasing awareness and societal pressure that followed high-profile cases of workplace harassment.

It is a seminal work of legislation that was designed to guarantee that each working woman, irrespective of age, employment status, or sector, is able to exercise her entitlement to dignity and equality within the workplace. The POSH Act was specifically designed for achieving this goal. Additionally, it mandates that employers take preventative and corrective measures in response to allegations of sexual harassment and provides a juridical structure for addressing such complaints. It is relevant to a diverse range of workplaces, such as private businesses, government offices, non-governmental organizations (NGOs), educational institutions, and even household workers are employed.

The implementation pertaining to the POSH Act has been met with a number of practical challenges, despite the fact that it was enacted with altruistic intentions and comprehensive provisions. It is still the case that many organizations, particularly those operating in unorganized sectors and small businesses, are either unaware of or non-compliant. A

significant number of women are dissuaded from reporting occurrences resulting from the fear of retaliation, victim-blaming, and social stigma. In addition, the law remains gender-specific, i.e., it does not protect a man or people who can identify themselves with the LGBTQ, although the number of such reports is increasing. One can observe that workplace harassment is viewed as global issues. Sexual harassment within the work place is a persistent problem that affects women in most sectors globally. Recent developments indicate that significant challenges continue to exist, despite the fact that there has been an increase in awareness and legislative efforts.

2. HISTORICAL BACKGROUND OF THE POSH ACT

The fact that the 2013 POSH Act became a reality was a long-term fight to acknowledge the right of women to a healthy and respectful working environment. Before this legislation, India had no special statute to address sexual harassment in the work place. Thus, numerous grievances were often swept under the carpet, as personal problems or as issues that were confidential. This changed with the Court of the Supreme judgment in 1997, Vishaka. This historic decision was a direct response to this atrocious gang rape of Bhanwari Devi, a social worker in Rajasthan. She was raped because she was against child marriage. The Court identified that the absence of legal framework was a violation of women fundamental rights as defined in constitution ¹. In an effort to fill this gap, the Court came up with the Vishaka Guidelines. These principles were the first enforceable rules, which required the employers to put measures to prevent and respond to sexual harassment in the workplaces. With the rise of awareness there was the international agreement such as Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)² were created, and reports of workplace misconduct increased, the need for a comprehensive law became clear. Following years of discussion and persistent campaigning, Parliament passed the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. This landmark legislation established, for the first time, a legal framework in India designed to safeguard women's dignity, security, and equal treatment in the workplace. This legislation took the Vishaka principles and elevated them to the status of law, representing a significant step forward in the nation's efforts to create workplaces that are fair and equitable for all genders.

¹ Articles 14, 15, and 21 of the Constitution

² Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), adopted by the United Nations General Assembly on 18 December 1979

3. LITRATURE REVIEW

Ontario Human Rights Commission (OHRC), 2023, “Sexual Harassment in Employment”³: The Fact Sheet characterizes sexual harassment in the workplace as a type of sex-based discrimination according to the Ontario Human Rights Code. It underscores that harassment can diminish an individual’s dignity, impede their work performance, and adversely impact their prospects for advancement. The document delineates various types of harassment, including unsolicited physical contact, sexual remarks, gender-based stereotyping, and antagonistic work environments, as well as online misconduct.

Employment and Social Development Canada Government of Canada, 2017, “Harassment and sexual violence in the workplace”⁴: The findings of the Employment and Social Development Canada (ESDC) report include the conclusions of the national public consultation on harassment and sexual violence in Canadian workplaces. The consultations were held between February and March 2017 and gathered the feedback of workers, employers, advocacy groups, and other experts of different sectors. The findings indicated that harassment and sexual violence persist as widespread issues in Canada, impacting workers regardless of gender, age, or occupation. Women, Indigenous individuals, LGBTQ employees, and persons with disabilities were recognized as especially vulnerable. Numerous participants highlighted fear of retribution, distrust in reporting mechanisms, and inadequate workplace policies as significant obstacles to pursuing justice.

Eminent Indira Jaising (2014), “Sexual Harassment at Workplace.”⁵- The author highlights, among other things, the current ambiguity surrounding what constitutes or is considered sexual harassment. She also focuses on the responsibilities of employers and the options available to the unfortunate victims. Her book presents potential remedies or solutions available under numerous laws, including, but not limited to torts, labour legislations, penal statutes, the Constitution, and numerous service rules. This closes a huge gap in the theoretical scholarship that currently exists.

³ Ontario Human Rights Commission (OHRC), *Sexual Harassment in Employment (Fact Sheet)* (Toronto: OHRC, 2023)

⁴ Employment and Social Development Canada, *Harassment and Sexual Violence in the Workplace: Public Consultations – What We Heard* (Ottawa: Government of Canada, 2017),

⁵ Indira Jaising, *Sexual Harassment at Workplace* (New Delhi: LexisNexis, 2014)

Margaret A. Crouch (2000), “Thinking about Sexual Harassment: a guide for the perplexed.”⁶- In this book that is being discussed in detail, the author analyzed the historical data concerning the issue of sexual harassment in the workplace. It demonstrates how the differences in perceptions of sexual harassment are manifested in decisions of court and the regulations adopted by the Equal Employment Opportunity Commission in the 1970s and 1990s. This informative book provides everything one needs to contemplate the concept of sexual harassment of women at work. It starts by following the history of the concept of sexual harassment since its initial application into the public to the legal definition of it.

Vandana (2009), “Sexual Violence Against Women.”⁷- Author deals with the broader theme of ‘sexual violence against women’. Obviously, such violence can take myriad forms including rape. Harassment is quite rightly a subset of sexual violence for the author. She has argued that sexual violence remains a hidden but most pervasive form of human rights violations. Also, she argues that women’s ‘physical, mental and sexual integrity’ always remain under a cloud of threat or fear, across jurisdictions and across social spectrum. Interestingly, one of the two forms of such sexual violence that author deals with is Sexual Harassment, the other being rape itself. She points, rather poignantly, that the former impacts all women, irrespective of regions or statuses. She also dwells on judicial response and the developments in the aftermath of Vishaka’s case.

Shobha Saxena (1995), “crimes against women”⁸.- Author in her book dealt with the same provides a numbing and graphic representation of how women are subjected to Sexual Harassment, notwithstanding our lofty claims regarding their empowerment. This subjection takes place through instrument of rape, bride burning, eve teasing and Sexual Harassment.

Ritu Gupta’s (2014), “Sexual Harassment at Workplace.”⁹- The author has dealt solely and extensively, as is obvious from the title, with the new enactment. She analysis, inter-alia, the statutory definition, myriad causes, the extent and adverse impact of this menacing conundrum. Ritu Gupta has, interestingly, also presented a comparative analysis, drawing from U.K. and U.S. jurisprudence and has in fact also engaged in detail with judicial pronouncements of

⁶ Margaret A. Crouch, *Thinking about Sexual Harassment: A Guide for the Perplexed* (New York: Oxford University Press, 2000).

⁷ Vandana, *Sexual Violence Against Women* (New Delhi: Akansha Publishing House, 2009), p.

⁸ Shobha Saxena, *Crimes Against Women* (New Delhi: Deep & Deep Publications, 1995),

⁹ Ritu Gupta, *Sexual Harassment at Workplace* (New Delhi: LexisNexis Butterworths, 2014)

numerous Indian High Courts and our Supreme Court. She also suggests host of measures, several of which are, interestingly, not confined within the contours of law but extend to other measures also such as creation of awareness. However, considering the work remains doctrinal, several lacunae arising in real-time application of the codified law are not brought to light.

4. OBJECTIVES OF THE STUDY

This study aims to understand how the Protection of Women from Sexual Harassment of 2013 works to promote safety, dignity, and respect for women in the workplace. This analysis aims to trace the historical developments that led to the Act's creation, including the influence of the Vishaka Guidelines and international agreements. This study will also closely examine the main parts of the Act, including its definitions, the ways it provides solutions, and the responsibilities assigned to employers and institutions. Another important goal is to evaluate how well Internal and Local Committees work in real-world settings, along with assessing the overall level of understanding and adherence to rules across different sectors. The study aims to highlight areas needing improvement by identifying practical challenges, shortcomings in how things are done, and the difficulties faced by people who file complaints. Moreover, this analysis explores how court rulings shape our understanding of legal rules. The main goal of this study is to offer useful suggestions for improving how the POSH Act is put into practice, with the aim of creating safer and more inclusive workplaces for women.

5. RESEARCH METHODOLOGY

This study adopts a qualitative research methodology to gain a deeper understanding of the functioning and impact of the POSH Act, 2013. The research is primarily based on secondary sources, including books, scholarly articles, government reports, court judgments, and credible online publications that discuss workplace harassment and gender laws in India. Relevant legal documents such as the POSH Act, Vishaka Guidelines, and international conventions like CEDAW are also examined to provide a strong statutory and conceptual foundation. In addition to this, case law analysis is used to understand how courts have interpreted the Act and shaped its practical application. Where available, data from surveys and research studies by NGOs, government bodies, and academic institutions have been reviewed to identify patterns in awareness, implementation, and challenges. The methodology also includes a comparative review of workplace harassment frameworks in other countries to highlight best practices. This

combination of doctrinal (legal) research and analytical review enables the study to present a comprehensive, objective, and well-supported assessment of the POSH Act

6. GLOBAL DEVELOPMENTS AND NEWS

Rates of Persistent Harassment: A report, published in 2024 by McKinsey and LeanIn.org, revealed that 37 percent of women continue to experience harassment in the workplace. This percentage has remained unchanged over the course of the previous five years. Furthermore, only fifty percent of the women who were surveyed have faith that their employers will handle harassment claims in an efficient manner.

Problems in the Higher Education Sector: A comprehensive investigation into the College of Health and Medicine at the Australian National University revealed that there were widespread instances of harassment, sexism, and bullying involving students. A poisonous culture that lacked adequate mechanisms to deal with misconduct was brought to light in the report.

Corporate Accountability: Rio Tinto, a mining giant, was the target of a class-action lawsuit alleging that one of its mine sites in Australia was subject to sexual harassment on a systemic level. Reports of rape and bullying have increased, indicating that problems are still present in the workplace, despite previous efforts to improve the culture of the workplace.

Legislative Changes: In the United Kingdom, The Worker Protection (Amendment of Equality Act 2010) Act 2023 established a proactive obligation for employers to avert sexual harassment. This marked a significant shift towards preventive measures.

Concerns Regarding Underreporting: According to research, approximately seventy-five percent of sexual intimidation incidents that transpire in the workplace are not reported. A number of factors, such as fear of retaliation, lack of faith in reporting mechanisms, and cultural stigmas, are contributing factors to this phenomenon.⁵ In terms of the impact on marginalized groups, a study conducted by University College London discovered that women and LGBTQ workers are at a greater risk of experiencing abuse in the workplace. The incidence of sexual harassment among LGBTQ individuals was reported to be 7%, while the incidence among heterosexual workers was only 2%.

Organizational Culture: Scholars emphasize the role of organizational messaging and culture in addressing harassment. Clear policies, leadership commitment, and employee training are crucial in fostering a respectful work environment.

Although legislative frameworks such as the Prevention of Sexual Harassment Act, 2013 in India enacted with the intention of combating sexual harassment in the workplace, global trends

indicate that legal enforcement and cultural shifts are equally important. To guarantee that all employees have access to safe and respectful working environments, it is necessary to make consistent efforts in the implementation of policies, organizational commitment, and societal awareness.

7. LITERATURE REVIEW

The topic of workplace harassment, as well as the legislative response to it, particularly through the POSH Act of 2013, has been extensively discussed in academic discourses, legal discourses, and feminist discourses across the world. The purpose of This literature review aims to furnish a comprehensive summary of the most important scholarly contributions, policy analyses, and critical commentaries concerning the Act's functionality, scope, and limitations.

Gutek B.A(1985), "Sex and the Workplace: The Impact of Sexual Behaviour and Harassment on Women, Men, and Organizations¹⁰."- In this book, the author talked of the diverse consequences of sexual harassment in workplace and its impacts on the well-being and productivity of employees in organizations. He argues that sexual harassment is a serious issue in the work place that directly affects the goodwill which is present between the employer and the employees. In India, the issue of sexual harassment was first debated in the late 1980s and it was not really popularized until the late 1990s. This fact was testified by a report of the Forum against Oppression of Women of 1991. It remains evident that the issue of sexual harassment at the workplace was not given much emphasis by society at the time.

Dr. Prabhat C. Tripathy (1998), "Crime against Working Women.¹¹"- Author draws attention to the crimes of molestation and Eve-teasing. It also discusses the rise in obscenity in court cases and how it offends women's modesty. The fact that crimes against working-class women are on the rise and that it is critical to identify criminal tendencies and take preventative action to stop them from spreading are stressed.

Laura L.O. Toole (2007), "Gender Violence.¹²"-Author wants to draw attention at the extent and repercussions of sexual harassment in his book. He talked about how these situations impact the company, the relationship between the employer, employee and worker productivity. Therefore, it should be the employer's responsibility to keep their relationships harmonious.

¹⁰ B. A. Gutek, *Sex and the Workplace: The Impact of Sexual Behavior and Harassment on Women, Men, and Organizations* (San Francisco: Jossey-Bass, 1985).

¹¹ Dr. Prabhat C. Tripathy, *Crime Against Working Women* (New Delhi: APH Publishing Corporation, 1998)

¹² Laura L. Toole, "Gender Violence, 2nd Edition, August 2007

Rehana Sikri (1999), “Women and Sexual Exploitation: Harassment at Work.”¹³: Author speaks of the attitude of people to sexual contact, society and work place. It is alleged that sex ratio at work often results in overlapping of sex roles which often results into sexual harassment.

Swarn Lata Sharma (2000), “Gender Discrimination and Human Rights.”¹⁴-

The subject paper examines the causes of discrimination based on gender and gender bias. Since equality is the foundation of human rights, it emphasizes the importance of ensuring that all rights are enjoyed equally.

Margaret A. Crouch (2000), “Thinking about Sexual Harassment: a guide for the perplexed.”¹⁵-

In this work that was reviewed in detail, the author analyzed the historical data on sexual harassment in the workplace. It demonstrates that the divergent perceptions of sexual harassment are manifested in the decisions of courts in the 1970s and in the 1990s rules issued by the Equal Employment Opportunity Commission. This is a profound piece of work that contains all the details necessary to consider the concept of sexual harassment of women at work. It starts by tracking the evolution of the concept of sexual harassment as it was initially used in the public and its definition in the law.

Alok Bhasin (2007), “Law Relating to Sexual Harassment at Work.”¹⁶- He has thoughtfully examined the topic from the perspectives of pathology and psychology, delving deeply into the meaning of the term “sexual harassment of women at workplace.” He also carefully examines how to prevent and treat it, and he critically examines how the legal system handles this troubling occurrence. The book discusses the post-Vishaka advancements and the Vishaka guidelines in some detail in its most recent edition. The book offers a robust theoretical framework with a variety of theoretical viewpoints on the issue covered in the thesis.

Eminent Indira Jaising (2014), “Sexual Harassment at Workplace.”¹⁷- The author highlights, among other things, the current ambiguity surrounding what constitutes or is considered sexual harassment. She also focuses on the responsibilities of employers and the options available to the unfortunate victims. Her book presents potential remedies or solutions available under numerous laws, including, but not limited to torts, labour legislations, penal statutes, the

¹³ Rehana Sikri, “*Wome and Sexual Exloitation: Harassment at Work*,” Kanishka Publishers, New Delhi. 1999

¹⁴ Dr. Swarn Lata Sharma, *Gender Discrimination and Human Rights* (New Delhi: Radha Publications, 2000).

¹⁵ Margaret A. Crouch, *Thinking about Sexual Harassment: A Guide for the Perplexed* (New York: Oxford University Press, 2000).

¹⁶ Alok Bhasin, *Law Relating to Sexual Harassment at Work* (New Delhi: Eastern Book Company, 2007)

¹⁷ Indira Jaising, *Sexual Harassment at Workplace* (New Delhi: LexisNexis, 2014)

Constitution, and numerous service rules. This closes a huge gap in the theoretical scholarship that currently exists.

Arun Pal (2012), “Honour Killing Culture, Dilemma and Ritual.”¹⁸- It is the idea of honour right and wrong crimes of honour as violence against women how hegemonic powers or those with greater status in society set the meaning that fits their interests the role of community, honour-related violence, and the global tendencies of honour killing.:

Dr. Prabhat Chandra Tripathy (2021), “Crime Against Working Women.”¹⁹- The subject literature emphasizes the crimes of molestation and eve-teasing. It also addresses the rise in obscenity in the legal system and how it offends women's modesty. It is emphasized that there is a growing trend in crimes dedicated against working class women and that it is essential to recognize criminal tendencies and take preventative measures to stop them from spreading.

Dr. R. Revathi (2004), “Law Relating to Domestic Violence.”²⁰- Author describes the conditions that restrict both married and single women in India as well as the unbearable suffering and trials that Indian women face. She has brought attention to novel viewpoints on domestic violence around the globe. In addition to discussing legislative solutions to the issues of domestic violence against women, the author assessed theoretical viewpoints on the subject.

Parabrahma Sastri (2010), “Right to Life and Personal Liberty”²¹- The Author provides information on constitutional jurisprudence highlighting the value of the right to life and personal liberty above all other fundamental rights. Without it a human being cannot have a complete personality. In this regard, it appears that the greatest freedom and human dignity have been granted by the condensed Article 21 of the constitution.

Dr. Swam Lata Sharma (2000), “Gender Discrimination and Human Rights”²².- In this Author explores the origins and consequences of gender-based violence and bias that are two forms of gender-based discrimination. Given the fact that equality is the foundation of all human rights, it focuses on the importance of ensuring that all rights are enjoyed equally.

Pauline B Bart and Eileen Geil Moran (1994), “Violence Against Women”²³- Subject literature highlights pervasiveness or parameters of the workplace, sexual assault and formulates the

¹⁸ Arun Pal, “Honour Killing Culture, Dilemma and Ritual”, Edition (2012), Arise Publisher and Distributors, New Delhi, p. 112

¹⁹ Dr. Prabhat Chandra Tripathy (2021), “Crime Against Working Women” New Delhi: APH Publishing, 2000viii, 391 p. 23 cm

²⁰ Dr. R. Revathi, *Law Relating to Domestic Violence* (Hyderabad: Asia Law House, 2004), p

²¹ Parabrahma Sastri, *Right to Life and Personal Liberty*, (New Delhi: XYZ Publishers, 2010), p

²² Dr. Swarn Lata Sharma, *Gender Discrimination and Human Rights* (New Delhi: Anmol Publications, 2000)

²³ Pauline B. Bart and Eileen Geil Moran, *Violence Against Women* (Newbury Park, California: Sage Publications, 1994),

means by which women can curtail or eliminate such behaviour in their places of employment or education.

Dr. N.K. Chakrabarti and Scachi Chakrabarti (2006), “Gender Justice.”²⁴ Author has covered topics such as the growing need for gender parity in the legal system when it comes to matters affecting women violence against women and the law the causes and effects of domestic abuse and the dignity of women. Authors have also drawn attention to human rights, gender-based violence, and female empowerment from both domestic and global viewpoints.

Mark Austin Walters and Jessica Tumath (2014), “Gender Hostility, Rape, and the Hate Crime Paradigm.”²⁵ - Author investigate crimes that are driven or that which feature gender hostility. It ought to be in the jurisdiction of the current English and Wale laws on hate crimes. It discusses the idea and empirical parallels between gender-motivated violence and other archetypal hate crime based on the case of a rape in Delhi in 2012. It is alleged, in cases where the hostility between the sexes is apparent.

Dr. Sapna Sukrut Deo (2013) “Cyberstalking & Online Harassment-A new challenge for law enforcement.”²⁶- The paper examined the variety of cyberstalking-related subjects and the definition of cyberstalking and online provocation, the ways in which cyberstalking is encouraged by the internet, the similarities between cyberstalking and offline stalking, and the misconceptions that online stalkers harbour. The article looks at the laws that are in place in India, discusses problems with their application, and give suggestions for how to stop this kind of behaviour in the future in addition to remedies for internet users who come across it. This article also covers enforcement and legal remedies, legal obstacles and a self-help approach to reduce cyberstalking.

Ameema, Miftha, Marc Conrad and Marcia Gibson (2023), “The Social, Legal, Technical Perspective of Cyberstalking in India.”²⁷- The article examines social, legal and technical future of cyberstalking in India. The high growth rate and spread of cyberstalking in India has

²⁴ Dr. N. K. Chakrabarti and Scachi Chakrabarti, *Gender Justice* (Kolkata: R. Cambray & Co. Pvt. Ltd., 2006), p.

²⁵ Mark Austin Walters and Jessica Tumath, “Gender Hostility, Rape, and the Hate Crime Paradigm,” (*The Modern Law Review*), Vol. 77, No. 4 (2014), pp. 563–596.

²⁶ Dr. Sapna Sukrut Deo (2013) “Cyberstalking & Online Harassment-A new challenge for law enforcement,” *Bharati Law Review*, July – Sept., 2013

²⁷ Ameema Miftha, Marc Conrad & Marcia Gibson, “The Social, Legal, Technical Perspective of Cyberstalking in India,” in *15th International Conference on e-Society* (Piet Kommers & Pedro Isaías eds., 2017) 251–254.

been aided by the poor social perception of the crime cultural clash and ignorance, subjective features of the victim and the habits, freedom and distance of Internet technologies, and insufficiency of the cyber laws to stop and prosecute the offense. Poor social perception and lack of awareness of the crime, cultural clash and ignorance, the subjective nature and habits of the victim, the liberty and distance of the technology, inadequate or inadequate legislations in prevention and punishment of the vice have all contributed partially towards the rapid expansion and spread of cyberstalking in India. In the case of India there seems to be a research gap as far as legal, social, and technical aspects of cyberstalking are concerned.

Age, Bocij, and Paul, Praeger (2004), "Cyberstalking: Harassment in the Internet".²⁸ - Studies provide conclusive results. The book discusses the differences between physical stalking and cyberstalking providing valid explanations for why harassment carried out through technology is referred to as cyberstalking rather than stalking which relates to offline harassment. The book details instances of cyberstalking and offers some data regarding the prevalence of cyberstalking globally. The author also noted that different countries define cyberstalking differently based on their legal and regulatory frameworks. The study also discussed the characteristics of cyberstalks, the motivations behind their actions and the effects that cyberstalking has on victims' social and mental status. The book also explained corporate cyberstalking, which involves companies and organizations, and child pornography. The author has also researched the laws and regulations that govern cyberstalking in different nations, as well as the effectiveness of those legal frameworks in deterring cyberstalking.

8. OVERVIEW OF THE POSH ACT, 2013

POSH Act²⁹, 2013, was passed by the Indian Government implemented measures in 2013 to guarantee a secure and respectful workplace environment, following the Vishaka judgment in 1997. This judgment acknowledged that workplace sexual harassment constitutes a violation of fundamental rights under of the Constitution³⁰. The POSH Act expands sexual harassment legal framework to all workplaces, encompassing both governmental and private sectors,

²⁸ Age, Bocij, and Paul, Praeger, (2004), "Cyberstalking: Harassment in the Internet", Greenwood Publishing Group, 2004

²⁹ The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal)

³⁰ Articles 14, 15, 19(1)(g), and 21 Constitution Act

NGOs, educational institutions, sports facilities, hospitals, and unorganized sectors, including domestic workers.

Key Features of the Act

Definition of Sexual Harassment: The Act delineates a comprehensive definition of sexual harassment, encompassing unwelcome actions or behaviours (either explicitly or implicitly), such as the following examples:

- Confrontation and advances of the body. In the context of sexual favors, a demand or request
- Making comments that are sexually suggestive
- displaying pornographic material
- Any other sexually inappropriate behaviour, whether it be verbal, nonverbal, or physical, that is not desired

9. SCOPE OF COVERAGE

All women, regardless of their age or employment status, are protected by the Act. This includes women who are employed in temporary, contract, volunteer, and part-time positions. Additionally, it is applicable to clients, customers, or any woman who is present at a place of employment. Clearly define a policy that prohibits sexual harassment and make it known to everyone. Every office or branch that has more than ten employees should establish an Internal Complaints Committee, also known as an ICC. Offer a safe environment for employees to work in office. It is essential to organize ongoing training and awareness programs. If necessary, provide assistance to the complainant in submitting a grievance.

9.1 INTERNAL COMPLAINTS COMMITTEE (ICC)

Every organization that has ten or more workers is required to establish an Internal Complaints Committee (ICC), which must be chaired by a senior female worker and consist of the following members:

- a minimum of two employees who are either committed to women's issues or who have knowledge of the law.
- One member from the outside who is familiar with sexual harassment issues and come from a non-governmental organization or association. The ICC has the authority to receive complaints, investigate them, and make recommendations regarding disciplinary action.

9.2 REDRESSAL MECHANISM

- A complaint must be submitted within three months of the occurrence extendable under

special circumstances).

- The ICC is required to complete the inquiry within a period of 90 days.
- On completion, the report must be submitted to the employer is required to implement the recommendations within 60 days.
- Penalties include warnings, salary cuts, termination, and compensation for the aggrieved woman.

9.3 LOCAL COMPLAINTS COMMITTEE (LCC)

The Officer of District is in charge for establishing Local Complaints Committees (LCCs) in districts where workplaces have respondent is the employer. The purpose of these LCCs is to ensure that coverage is provided for workplaces that are smaller or more informal.

9.4 THE CONSEQUENCES OF FAILING TO COMPLY

If employers do not adhere to the provisions, they may be subject to a fine of up to ₹50,000. It is possible that repeat violations will result in increased penalties, the cancellation of business licenses, or even deregistration.

10. IMPLEMENTATION AND CHALLENGES OF THE POSH ACT, 2013

Since it was passed into law, the POSH Act of 2013 has been important in establishing the mechanisms that are in place to confront sexual harassment in the workplace. Notwithstanding this, the implementation of the law has been met with a number of challenges, both practical and systemic. Smaller businesses, unorganized sectors, and rural workplaces continue to have compliance that is either weak or non-existent, despite the fact that many large organizations and multinational companies have adopted official processes by creating Internal Complaints Committees (ICCs), conducting training sessions, and enforcing anti-harassment policies. There is still an important obstacle in the form of an absence of awareness about the Act between employees and employers. This is especially true for women workers in informal settings, who are the most susceptible to being exploited and harassed. In addition, many international criminal courts are poorly constituted, indicating that they do not have members who are either trained or impartial. This weakens the credibility and effectiveness of the redressal process. It is common for victims to be hesitant to report intimidation due to fear of retaliation, stigma, or experiencing job loss. Additionally, there is a lack of support in the form of counselling or legal aid. Additionally, the Act's gender-specific nature excludes men and transgender individuals, despite the growing awareness that harassment can affect individuals of all gender identities. This is despite the fact that the Act was created to protect women.

Another difficulty arises from the absence of consistent monitoring and enforcement mechanisms by the government. A significant number of Local Complaints Committees (LCCs) within district levels are either inactive or understaffed. The result is that, notwithstanding the existence of the POSH Act provides a robust legal framework, its success on the ground continues to be uneven and is largely dependent on the commitment of individual organizations. This highlights the urgent need for systemic reforms, wider sensitization, and stronger accountability mechanisms.

11. CRITICISMS AND LOOPHOLES OF THE POSH ACT, 2013

The Prevention of Sexual Harassment Act, 2013, a progressive legislation, has faced criticism for its exclusion of men, transgender, and non-binary individuals who may also be victims of sexual harassment. The lack of clarity on workplace definitions, particularly in the gig economy, digital workplaces, and freelance industries, and the inability of Internal Complaints Committees (ICCs) to address grievances due to potential conflicts of interest and pressure on complainants, further hinders its effectiveness. Additionally, the lack of a central regulatory authority and real-time database for tracking complaints and monitoring compliance further hinders its effectiveness. These criticisms underscore the need for legal reform, improved monitoring, inclusivity, and sensitization efforts to preserve workplace dignity and respect.

12. CONCLUSION

During India's journey toward ensuring gender justice and workplace equality, the passage of The POSH Act of 2013 represented a pivotal milestone that marked a significant milestone. The Act has empowered women across a wide range of employment sectors and raised much needed awareness on the issue of workplace dignity. It does this by providing a structured legal framework to avert, prohibit, and tackle with sexual harassment in the workplace. The analysis, on the other hand, reveals that the actual implementation of the Act continues to be difficult and fraught with difficulties. In addition to the exclusion of men and gender minorities, the Act reflects both strengths and structural limitations. These limitations include a lack of awareness, poor institutional compliance, and weak enforcement mechanisms. Additional factors that continue to discourage victims from coming forward include the lack of a centralized oversight body, the ineffectiveness of internal complaints committees in many different settings, and the fear of retaliation. Reforms that are more inclusive, regular monitoring, robust training mechanisms, and a culture that supports victims without judgment or prejudice are all urgently

needed in order to bridge the gap between the legislation and the reality that people actually experience. A shift in mindset, accountability at every level, and a collective commitment to cultivating workplaces that are safe, inclusive, and respectful for all employees are ultimately required in order to maintain respect in the workplace. Legal compliance alone is not enough to accomplish this goal.

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