

**THE IMPLEMENTATION OF THE SEXUAL HARASSMENT OF WOMEN AT
WORKPLACE (PREVENTION, PROHIBITION, AND REDRESSAL) ACT, 2013 IN
INDIA: A CRITICAL ANALYSIS,¹**

ABSTRACT

The prevalence of sexual harassment in the workplace remains a pressing issue in India. This research critically examines the legislative framework governing workplace harassment, tracing its evolution from pre-Vishaka era to the judicial interventions that shaped the POSH Act. While the Act was introduced as a pivotal legal mechanism aimed at ensuring a safe working environment for women, its real-world implementation presents several challenges.

Through an analytical lens, this study evaluates the effectiveness of the complaint redressal mechanisms under the POSH Act, including the role of Internal Complaints Committees (ICCs) and Local Complaints Committees (LCCs). It further identifies critical gaps in enforcement, such as lack of awareness, organizational complacency, and systemic barriers that prevent victims from seeking justice. The study also underscores the socio-cultural factors that contribute to the underreporting of cases, reflecting on the stigma attached to workplace harassment.

The POSH Act, despite being an extraordinary piece of beneficial juridification, is plagued by limitations on its compliance and enforcement mechanisms. This research highlights the necessity for strengthened institutional frameworks, enhanced legal awareness, and proactive governmental oversight to bridge the gap between the theory and practice. It concludes with recommendations for improving the efficacy of the Act, emphasizing the need for policy reforms, workplace sensitization, and a shift in organizational culture to foster a harassment-free professional environment.

¹ Shivani Bajpai, B.L.S LL.B., Government Law College, Mumbai, L.L.M, National Law Institute University, Bhopal. shivanibajpai60@gmail.com and Mehul Pant B.A. LL.B. (Hons.) OP JINDAL GLOBAL UNIVERSITY, SONIPAT L.L.M, National Law Institute University, Bhopal mehulpant5555@gmail.com.

“Women who accuse men, particularly powerful men, of harassment are often confronted with the reality of men’s sense that they are more important than women, as a group”²

INTRODUCTION

The sexual harassment of women at workplace resulted in violation of various rights guaranteed by the Constitution of India including Art. 14 Right to equality, Art. 15 Prohibition of Discrimination, Article 19(1)(g) Right to practice any profession or occupation, Article 21 Right to life and personal liberty³. As a result, the *Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act*, commonly known as the POSH Act, was introduced in 2013. The Act builds on the landmark Vishaka Guidelines, laid down by the Supreme Court of India in 1997 in the *Vishaka v. State of Rajasthan* case⁴, which provided a preliminary framework for addressing sexual harassment at the workplace. It seeks to provide a safe and secure working environment for women, free from sexual harassment. Despite being a beneficial piece of legislation, it has been unable to translate its benefits to the intended class. Concerns have arisen regarding its actual implementation and efficacy. While the POSH Act stands good as a genesis point towards ensuring gender equality in professional spaces, its non-implementation or partial implementation across several sectors has raised concerns about its efficacy in protecting women from workplace harassment.

This research paper aims to critically examine the evolution of the POSH Act, the role of judiciary, mechanism of the POSH Act and challenges surrounding the implementation of the POSH Act in India.

REVIEW OF LITERATURE

Journal Articles

² Anita Hill, ‘Speaking Truth to Power’.

³ ‘Report on Awareness Program on Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013’ (Centre for Training, Orientation & Capacity Building Rajiv Gandhi National Institute of Youth Development 2021).

⁴ *Vishaka & Ors. v. State of Rajasthan & Ors.*, (1997) 6 SCC 241.

1. Vashisth Priti, Prakash B., '*A Research Paper on Sexual Harassment of Women at Workplace in India*', International Journal of Enhanced Research in Educational Development.⁵

The authors in this article focuses on the definition of Sexual harassment by various other authors. The author studies the evolution of the POSH Act in brief and moves further by listing different international laws and policies for addressing sexual harassment in the workplace including but not limited to United Nations General Assembly Resolution 48/1044 on the Declaration on the Elimination of Violence Against Women, The Convention on the Elimination of all Forms of Discrimination against Women etc. The author further studies on effects of sexual harassment on mental health of women and the different provisions in Indian laws for protection of women against sexual harassment.

2. Rathore Ishwar, Mishra Medhansh, '*Study on Sexual Harassment of Women at Workplace in India*', International Journal of Legal Science and Innovation.⁶

The authors in this article focuses on pervasive issue of sexual harassment in Indian workplaces, highlighting its negative impact on women's participation in the workforce. It underscores the violation of fundamental rights, such as the right to equality (Articles 14, 15) and dignity (Article 21) under the Indian Constitution. The author reviews legal protections, including the *Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act of 2013*, which arose after the landmark Vishaka case, and discusses how these laws have evolved to safeguard women. Additionally, it emphasizes the importance of fostering safe and respectful work environments to prevent such harassment.

3. Kaurav Nageshwari, Maley Devidas, '*Sexual Harassment of Women at Workplace in India: A Critical Study*', International Journal for Multidisciplinary Research.⁷

⁵ Priti Vashisth and Dr. B. Prakash, "A Research Paper on Sexual Harassment of Women at Workplace in India," *International Journal of Enhanced Research in Educational Development* 10, p. no. (2022).

⁶ Ishwar Rathore and Medhansh Mishra, "Study on Sexual Harassment of Women at Workplace in India," *International Journal of Legal Science and Innovation* 2, p. no. (2020).

⁷ Nageshwari H. Kaurav and Dr. Devidas G. Maley, "Sexual Harassment of Women at Workplace in India: A Critical Study," *International Journal for Multidisciplinary Research* 5 (2023).

The authors in this article discuss the pervasive issue of sexual harassment in the Indian workplace, with a focus on its legal, social, and cultural dimensions. The study begins by highlighting the historical context of women's subordination and the persistent gender-based discrimination that contributes to harassment. The paper analyses the violation of women's constitutional rights to equality and dignity, drawing attention to both legal frameworks and the challenges in enforcing them. Despite laws, the study emphasizes that sexual harassment remains a significant issue, with many cases going unreported due to fear of retaliation or loss of reputation.

Thesis

1. Talukdar, Abu Taher, '*Sexual Harrasment of Women at Workplace: a critical study*', Assam University⁸

The authors in their thesis focus on multiple factors including types and causes of sexual harassment, the relationship between the victim and abuser at workplace, various international frameworks and conventions on sexual harassment at workplace, legal provisions in India for prevention of sexual harassment at workplace and legal frameworks developed by various countries like Algeria, Bangladesh, Canada etc. for curbing the evil of sexual harassment at workplace and the role of statutory bodies in prevention of sexual harassment. The author concludes by stating that in a male dominated society in order to uphold more women in the role of leadership, there needs to be awareness and effective implementation of legislation. The author also provides several suggestions to increase the effectiveness of the legislations in order to eradicate the offence of sexual harassment.

STATEMENT OF PROBLEM

The passing of POSH Act, 2013 in India notwithstanding, the law's implementation is still lacking. This results in the legal protections that the Act has envisioned and put in place being entirely ineffective. Cases of workplace harassment are thus still quite rampant in India, with a large proportion of women either remaining unaware of the legal redress available to them or not reporting such instances due to lack of faith in the institutional mechanisms.

⁸ Talukdar and Abu Taher, "Sexual Harassment of Women at Workplace: A Critical Study," (Assam University, 2022), available at <https://shodhganga.inflibnet.ac.in/handle/10603/443062> (last visited 19 march 2025).

HYPOTHESES

The POSH Act, 2013 is not effectively implemented even after more than a decade of passing of the act. There are various challenges that are present in the industry which makes the proper enactment and implementation of the act ineffective.

RESEARCH QUESTIONS

1. What was the history behind enactment and implementation of the POSH Act in India?
2. What redressal methods for harassed women are provided under the POSH Act?
3. What are the challenges faced in the practical implementation of the POSH Act?

RESEARCH OBJECTIVES

1. To study the evolution of the POSH Act in India.
2. To study complaint mechanism and redressal provided under the POSH Act.
3. To study the efficacy of the act in curbing sexual harassment at workplace and analysing challenges in implementation of the act.

RESEARCH GAP

While the POSH Act, 2013 may be read and studied on matters of legal framework and significance in dealing with sexual harassment issues at the workplace, a huge gap in knowledge about its implementation remains unexplored. Most research done on this subject matter is concerning the theoretical nature of the law itself and its provisions rather than any empirical data such as actual compliance rates, effectiveness of internal complaint committees, and challenges women face while reporting harassment.

RESEARCH METHODOLOGY

This research is purely doctrinal in nature. Primary sources include analysis of a landmark judgment, legislations while secondary sources include research papers, journal articles, website materials and reports, etc. which are used and form the major resources that the researcher has referred to complete this research. The Subodh Citation style has been used in this research.

EVOLUTION OF POSH ACT & THE ROLE OF JUDICIARY IN EVOLUTION

India recognized workplace harassment as a specific legal and social issue only in the 1990s. Before that, sexual harassment was dealt with under general laws like the IPC, which did not specifically provide for workplace harassment. Women with harassment at work had very few legal options and society often dissuaded such women from even approaching justice in the workplace itself.

The judiciary is expected to play a dynamic role in the society by promoting a society by judicial decisions which are just, fair and balances the interest of society and state. The judiciary played an important role in bringing transformation in the society in relation to the specific issue of sexual harassment of women at workplace by pronouncing incredible guidelines for prevention of sexual harassment at workplace in the case of *Vishaka v. State of Rajasthan*⁹.

PRE – VISHAKA SCENARIO

In, *Mrs. Rupan Deol Bajaj v. Kanvar Pal Singh Gill*¹⁰ wherein Mrs. Rupan/the victim had lodged a FIR against Mr. Gill/accused under Section 354 & 509 of the Indian Penal Code, 1860. When the lower courts rejected the FIR, the apex court again upholding the trust of the society in judiciary announced its judgment awarding an imprisonment of 3 months and a fine of 2.5 lakhs.

Even though, the judiciary was acting in the interest of women and making efforts to uphold the dignity of women facing harassment at workplace, the laws for sexual harassment were not definite and enough and a several women who did not have family support or enough resources hesitated from initiating any complaint against the abuser.

VISHAKA JUDGMENT & GUIDELINES

There had been a turning point in India's legal history with respect to workplace harassment after the brutal gang rape of Bhanwari Devi, a social worker of Rajasthan who was attacked for her efforts to stop child marriages. The incident exposed the vulnerability of women in the workplace and called for a protective framework.

⁹ Vishaka, supra, at [page no.1].

¹⁰ *Mrs Rupan Deol Bajaj v Kanvar Pal Singh Gill AIR 1996 SC 309.*

In its path-breaking judgment, the Supreme Court devised the Vishaka Guidelines¹¹, which became interim measures to deal with sexual harassment till legislation could be enacted. These guidelines are revolutionary in a few ways:

1. **Duty of the employer** or other persons at the workplace to prevent or deter the commission of sexual harassment at workplace
2. **Sexual Harassment defined:** The Vishaka Guidelines defined sexual harassment in the most accurate way possible, combining both physical [physical contact & advances] and non-physical forms [demand of sexual favours, sexually coloured remarks] of unwelcome behaviour [verbal or non- verbal].
3. **Preventive steps by employers** including directions to Private employer to act in accordance to the Standing Orders under the Industrial Employment (Standing orders) Act, 1946.
4. **Criminal Proceedings** – Employer to initiate appropriate complaint with the appropriate authority
5. **Disciplinary Action** – Appropriate disciplinary action by employer against the harasser.
6. **Complaint Mechanism** – For redressal of the complaint by the victim.
7. **Complaints Committee** – A special counsellor or other support member including ensuring confidentiality for complaint redressal.
8. **Workers Initiative** – Environment wherein the employees having the liberty to raise voice against such harassment at workplace.
9. **Awareness** – Awareness of rights of female employees against such harassment.
10. **Third Party Harassment** – Employer to take all reasonable steps to support to assist the abused in case the harassment is due to an act or omission of a third party or outsider.
11. Appropriate government to take suitable measures for prevention of sexual harassment including enactment of a legislation.
12. The guidelines provided hereunder to not prejudice any rights available under the Protection of the Human Rights Act, 1993¹²

¹¹ Vishaka, supra, at [page no.1].

¹² 'Vishaka Guidelines against Sexual Harassment in the Workplace by Supreme Court of India, available at Comptroller and Auditor General of India Website.

POST - VISHAKA SCENARIO

Post the Vishaka Judgment, in the case of *Apparel Export promotion council v. A.K. Chopra*¹³, the apex courts relied on the guidelines laid by them in Vishaka and stated that there every incident of sexual harassment violated the fundamental right to life and personal liberty of women (Art. 21) and gender equality guaranteed by the Constitution of India.

In the case of *Medha Kotwal Lele and others v. Union of India*¹⁴, the court mandated that both public and private sector organizations set up procedures for fully implementing the Supreme Court's directives in the Vishaka case. Moreover, the court passed an order to the Union and State territories to amend their respective Central Civil Services (Conduct) Rules, 1964 and Industrial Employment (Standing Orders) Rules.¹⁵¹⁶

Amendment in Indian Penal Code, 1860

Due to an increasing trend in offence of sexual harassment against women and after the outrageous rape and murder Nirbhaya Case of 2012, a criminal amendment was brought in the year 2013 wherein several acts of sexual harassment were made offence under the said code.

Section 354A – Sexual Harassment definition - Punishment – up to 3 years imprisonment and fine.

Section 354B – Forcing a woman to undress - Punishment – from 3 to 7 years and fine.

Section 354 C – Voyeurism – watching or capturing private acts of women without her consent - Punishment – on 1st conviction – 1 to 3 years imprisonment & in case of further conviction 3 to 7 years imprisonment

Section 354 D – Stalking a woman - Punishment – on 1st conviction – up to 3 years imprisonment & in case of further conviction up to 5 years imprisonment.

The Vishaka Guidelines were jurisprudence till the coming into force of the POSH Act in 2013. In this transitional phase, the guidelines have had a defining influence on organizational policies and set the legal precedent for workplace safety. Despite the Vishaka

¹³ *Apparel Export Promotion Council v. A.K. Chopra*, AIR 1999 SC 625.

¹⁴ *Medha Kotwal Lele and Others v. Union of India*, (2013) 1 SCC 297.

¹⁵ Talukdar and Abu Taher, *supra* (n 7).

¹⁶ *Industrial Employment (Standing Orders) Rules*, 1946, s. 3A-3D.

Guidelines, no binding law came into being, and so the application and enforcement of the rules varied; the government continued receiving pressure from civil society and feminist organizations to enact a proper law. In 2013, POSH Act came into existence that consolidated Vishaka Guidelines and expanded their scope.

COMPLAINT MECHANISM AND REDRESSAL IN POSH ACT, 2013

The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013, commonly known as the POSH Act, was formed to discuss the issue of sexual harassment in the workplace, creating a safe work place for women. The all-inclusive complaint and redressal mechanism for preventing, resolving, and penalizing sexual harassment cases form a significant part of the Act.

Internal Complaints Committee (ICC) and Local Complaints Committee (LCC)

The POSH Act mandates the creation of redressal bodies at two levels:

1. **Internal Complaints Committee (ICC)**¹⁷: Every employer with 10 or more employees is required to constitute an ICC at each office or branch. This committee is responsible for addressing complaints related to sexual harassment.
2. **Local Complaints Committee (LCC)**¹⁸: For establishments with fewer than 10 employees or where the ICC has not been constituted, the Act mandates the formation of an LCC at the district level. The LCC also addresses complaints from women who are self-employed, working in informal sectors, or where the employer is the accused.

Composition of the ICC and LCC

The Act ensures that the ICC and LCC are structured to promote impartiality, confidentiality, and fairness:

1. **Composition of the ICC**¹⁹:
 - Presiding Officer: A woman employee of senior rank from the workplace.
 - At least two members: Employees who are familiar with social issues, legal knowledge, or women's rights.

¹⁷ *Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act*, 2013, s. 4.

¹⁸ *Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act*, 2013, s. 6.

¹⁹ *Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act*, 2013, s. 4(2)(c).

- External member: A representative from an NGO or a person familiar with issues relating to sexual harassment. The presence of an external member ensures transparency and fairness in the inquiry process.
- 50% women representation: The committee must consist of at least 50% women to ensure sensitivity towards gender issues.

2. Composition of the LCC²⁰:

- Chairperson: A woman nominated by the district officer, who is either from a respected social organization or an individual committed to the cause of women.
- One member: From a woman's rights NGO.
- One member: Nominated from the block or taluka level.
- Ex officio members: From relevant government departments.

Complaint Filing Procedure

The POSH Act provides a clear and victim-centric mechanism for filing complaints:

1. Filing the Complaint²¹:

- The aggrieved woman (victim of sexual harassment) must file a written complaint with the ICC or LCC within three months of the incident. In cases of continuing harassment, the complaint must be filed within three months from the last incident.
- The ICC or LCC has the discretion to extend this period by an additional three months if the woman can show sufficient cause for the delay, such as mental trauma or fear of retaliation.

2. Assistance in Filing²²: If the woman is unable to file a complaint due to physical or mental incapacity, her legal heirs, relatives, friends, or any person who knows her condition may file the complaint on her behalf.

²⁰ *Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act*, 2013, s. 6(2).

²¹ *Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act*, 2013, s. 9(1).

²² *Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act*, 2013, s. 9(2).

3. **Conciliation Option²³**: Before initiating the inquiry, the complainant has the option to request conciliation (a settlement between parties) to resolve the matter. However, this must be a voluntary choice, and no monetary compensation can be part of the settlement. If conciliation is successful, no further inquiry is conducted, and the matter is settled as per the agreed terms.

Inquiry Process²⁴

1. Initiating the Inquiry:
 - If conciliation is not requested or fails, the ICC or LCC will proceed with the inquiry.
 - The inquiry must follow the principles of natural justice, ensuring both the complainant and the accused have the right to be heard.
 - The inquiry must be completed within 90 days from the date of receiving the complaint.
2. Interim Relief: During the inquiry, the complainant can request interim measures such as:
 - Transfer of the complainant or the respondent to another workplace.
 - Granting leave to the complainant (up to three months in addition to the entitled leave).
 - Restricting the respondent from reporting on or interacting with the complainant's work. These provisions ensure that the complainant feels safe during the pendency of the inquiry.

Redressal and Punishments²⁵

Upon completion of the inquiry, the ICC or LCC submits its findings to the employer or the District Officer (in the case of LCC) within 10 days. Based on the findings, appropriate actions are taken:

²³ *Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act*, 2013, s. 10(1).

²⁴ *Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act*, 2013, s. 11(1).

²⁵ *Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act*, 2013, s 13 s 14.

1. If the Allegation is Proven: The employer is required to take action against the perpetrator in accordance with the provisions of the service rules or workplace policies of the organization. The punitive measures include:
 - Written apology.
 - Warning or reprimand.
 - Deduction from salary to compensate the victim for medical expenses, loss of income, or psychological damage.
 - Suspension or termination of employment.
 - Any other form of corrective action as deemed appropriate by the committee.
2. If the Allegation is Not Proven:
 - If the ICC or LCC finds that the allegations are not substantiated, no action is taken against the respondent.
 - However, if the complaint is found to be malicious or false, the complainant may face disciplinary action. Nonetheless, the Act ensures that mere inability to prove a complaint does not imply it is false, thereby protecting women from punitive action in genuine cases where evidence is difficult to gather.

Appeal Process²⁶

Both the complainant and the respondent have the right to appeal the decision of the ICC or LCC within 90 days of the inquiry report. This ensures that any party who is dissatisfied with the outcome has access to further legal recourse.

Compensation to the Victim

If the ICC or LCC recommends compensation to the complainant, factors such as the mental trauma, loss of career opportunity, and medical expenses incurred by the victim are taken into account. The compensation may be deducted from the salary or wages of the respondent or awarded through other means if necessary.

The POSH Act's complaint mechanism and redressal process are designed to provide an accessible, fair, and effective means of addressing sexual harassment in the workplace.

²⁶ *Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act*, 2013, s. 18.

However, challenges remain in terms of awareness, effective implementation, and reducing underreporting resulting in reduced efficacy of the implementation of the purpose of the act.

CHAPTER 4: CHALLENGES IN PRACTICAL IMPLEMENTATION OF POSH ACT

The Prevention of Sexual Harassment (POSH) Act, 2013 marked a significant step towards gender equality and the protection of women's rights, its practical implementation has encountered various challenges. There are several legal, social and cultural challenges which hinder the practical implementation of the POSH Act.

1. Lack of Awareness and Understanding

One of the primary challenges in implementing the POSH Act is the lack of awareness among employees and employers. Many individuals are unaware of the provisions of the Act, their rights, and the procedures for reporting harassment. This ignorance arises from insufficient training and sensitization programs within organizations. Often, employees fear retaliation or do not trust the reporting mechanisms, leading to underreporting of incidents.

2. Inadequate Institutional Framework²⁷

While the POSH Act mandates the formation of Internal Complaints Committees (ICCs) in organizations, many companies struggle to establish effective committees. The challenges include:

- **Inadequate Training:** Members of the ICC often lack proper training regarding sexual harassment laws and the handling of complaints, which can lead to mishandling cases or biased judgments.
- **Insufficient Resources:** Many organizations do not allocate sufficient resources for the functioning of ICCs, impacting their ability to carry out investigations thoroughly and impartially.
- **Complacency in Implementation:** In some cases, organizations view the establishment of ICCs as a mere legal formality rather than a commitment to creating a safe workplace. This can lead to superficial compliance rather than genuine efforts to address harassment.²⁸

²⁷ Bharat Vasani, Varun Kannan, and Vanya Agarwal, "POSH Act - Implementational Challenges," (India Corporate Law, 15 December 2022), available at <https://corporate.cyrilamarchandblogs.com/2022/12/posh-act-implementation-challenges/> (last visited 5 October 2024).

²⁸ *A Decade of the POSH Act: What the Data Tells Us about How India Inc. Has Fared*, supra (n 8).

3. Resistance from Organizational Culture

The prevailing organizational culture can significantly impact the implementation of the POSH Act. Challenges include:

- **Patriarchal Mindsets:** In many workplaces, deeply entrenched patriarchal attitudes lead to the trivialization of sexual harassment complaints. Victims may be discouraged from reporting incidents, as they may face disbelief or stigmatization.
- **Fear of Repercussions:** Employees may hesitate to report harassment due to fear of retaliation from colleagues or supervisors, which can create a chilling effect that stifles reporting.

4. Limited Legal Support and Enforcement²⁹

While the POSH Act provides a framework for addressing sexual harassment, its effectiveness is hampered by limitations in legal support:

- **Judicial Delays:** Complaints may take a long time to resolve, leading to frustration and discouragement among victims. The slow pace of legal proceedings can deter women from coming forward.
- **Inconsistency in Enforcement:** There is often inconsistency in how different states and districts enforce the POSH Act. Some areas may lack dedicated personnel or resources to effectively handle complaints.

5. Intersectionality and Vulnerable Groups³⁰

The experiences of women from marginalized communities can complicate the implementation of the POSH Act. Challenges include:

- **Multiple Discrimination:** Women from lower socioeconomic backgrounds, Scheduled Castes, Scheduled Tribes, and other marginalized groups may face compounded discrimination that affects their ability to report harassment and seek justice.

²⁹ *The Survey Report on Prevention of Sexual Harassment at Workplace in India*, (Indian National Bar Association (INBA), 2019).

³⁰ Legal Team, "What to Know About Intersectionality and Workplace Harassment," (Yadegar, Minoofar & Soleymani, LLP, 3 August 2024), available at <https://www.ymslp.com/blog/2024/08/intersectionality-and-workplace-harassment/> (last visited 5 October 2024).

- **Language and Accessibility Barriers:** Many women may find it difficult to navigate the legal framework due to language barriers, lack of access to information, or illiteracy.

6. Societal Stigma and Victim-Blaming

Cultural attitudes towards women and sexual harassment often perpetuate stigma and victim-blaming. Challenges include:

- **Cultural Norms:** In many societies, victims of sexual harassment may be blamed for the incident, which discourages them from reporting and seeking justice.
- **Lack of Support Systems:** Many women lack a support system that can help them navigate the challenges of reporting harassment, further isolating them.

CONCLUSION

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act of 2013 is an important legislative landmark in India for not only enhancing the safety of women in workplaces but also for laying down a comprehensive mechanism for prevention, redressal of the sexual harassment. Through such critical analysis we have been able to find out the importance of the role of judiciary in bringing social change in the society, moreover we also have been able to discuss the evolution of the POSH ACT and the challenges that still remain in practical implementation of this legislation.

The positive impacts where the Act has been successful are in creating awareness and thus stimulating debate over issues of workplace safety. Relying on the survey by Centre for Economic Data & Analysis³¹, it cannot be denied that the cases of sexual harassment at workplace are increasing tremendously and most of which are going unreported due to various challenges discussed in the above chapter. Most of the organizations have formed their Internal Complaints Committees for namesake and there are issues related to unawareness, inadequate training, and resistance to cultural change. More fundamentally, there exist socio-cultural stigmas surrounding the discussion of sexual harassment that still discourage women from coming out to report the cases.

³¹ 'A Decade of the POSH Act: What the Data Tells Us about How India Inc. Has Fared' (n 8).

The employer has the responsibility to ensure that the environment is free of discrimination and harassment and must take responsibility to prevent sexual harassment of women at workplace. It is essential for organisations for the upliftment of women to not only streamline and strengthen their internal policies, plans and strategies on paper but in spirit as well.³²

The success of the act by achieving its purpose depends on the commitment of all, including government, the employer, and civil society. Effective implementation will depend on constant scrutiny, review, and updating of this existing framework to establish, sustain, and nurture a culture of accountability and respect.

³² *The Survey Report on Prevention of Sexual Harassment at Workplace in India*, supra (n 29).

SUGGESTIONS

Both government and private organizations should collaborate for the betterment of the implementation of the POSH Act. Some suggestions that may be implemented for the better efficacy of the act.

1. Increase the awareness and sensitization programs

- **Government initiatives:** The government needs to initiate mass awareness campaigns across a different language and medium, such as in cities, villages, and small towns. Hence, the employees and employers would get awareness about the POSH Act and its services.³³
- **Legislative Mandate Training:** Organizations should be required to do so through law, whereby they are training employees periodically about sexual harassment and workplace ethics.³⁴
- **Educational Incorporation:** Gender sensitization needs to start becoming a part of school and college curricula so that young minds can be prepared and instructed in the way of respecting the boundaries of the workplace before they venture into a working environment.

2. Institutional Mechanism

- **ICC Training:** The Government should make available specialized training to ICCs so that complaints can be handled professionally with sensitiveness.
- **Audits by Third Parties:** Organizations must have regular audits carried out by third parties that confirm whether the organisations are in compliance with POSH or otherwise, and penalize the same.³⁵
- **Government Support:** Proper financial and legal back-up, especially for small businesses, should be provided by the government to enable their functional ICCs.

3. Judicial Reforms and Oversight

- **Fast-Track Courts:** Fast-track courts specifically dedicated to the disposal of sexual harassment cases would render quicker justice to the complainant and encourage the victims to file complaints.

³³ Talukdar and Abu Taher, *supra* (n 7).

³⁴ Kaurav and Maley, *supra* (n 6).

³⁵ 'Exploratory Study to Access the Implementation of Laws on Promoting Gender Equality in the Corporate Sector in India' (Pacta, We empower Asia 2022).

- **Stricter Punishment:** The government should use stricter punishments against the organizations that fail to adhere to the POSH Act. This will technically regulate the system.

4. **Empowerment of Vulnerable Sections**³⁶

- **Specific Aids:** Such women belonging to underprivileged sections should be given focused and specialized aids, like facilities in local languages and helplines.

- **Role of other institutions like NGO's:** The government needs to team up with NGOs & media and execute grassroot level operations so that they are brought into the mainstream and the effective application is brought to the women also.

5. **Cultural Change and Leadership Initiatives**

- **Leadership Responsibility:** Organisational leaders need to enforce a zero-tolerance policy on harassment and should work towards creating a culture of respect.

- **Men as Allies:** Men need to be encouraged to become allies of the society to prevent harassment, and this can be encouraged by government-led awareness campaigns.

6. **Increased Surveillance and Accountability**

National Online Complaint Portal: The government can create the above complaint portal which would help victims to lodge easy and anonymous complaints.

Government Audit Mechanism: The government can have a task force that does the compliance checking on the organizations and publish reports on time so that transparency is maintained.³⁷

The act and its mechanism need much greater awareness on the part of the people and stronger mechanisms of enforcement, cultural change, and oversight by governments for it to be really effective. Working together, governments and private organizations can strive to create an environment of safer and more respectful workplaces and empower women so that they can work without fear.

³⁶ Talukdar and Abu Taher (n 7).

³⁷ 'Exploratory Study to Assess the Implementation of Laws on Promoting Gender Equality in the Corporate Sector in India' (n 36).

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