



## WOMEN'S SEXUAL HARASSMENT IN WORKPLACE: ADDRESSING CONTEMPORARY ISSUES

**AUTHOR** – SHREEDHI GUPTA, STUDENT OF JAMNALAL BAJAJ SCHOOL OF LEGAL STUDIES, BANASTHALI VIDYAPITH

**BEST CITATION** – SHREEDHI GUPTA, WOMEN'S SEXUAL HARASSMENT IN WORKPLACE: ADDRESSING CONTEMPORARY ISSUES, *ILE LEX SPECULUM (ILE LS)*, 1 (1) OF 2023, PG. 228-232, APIS – 3920 – 0036 | ISBN – 978-81-964391-3-2.

### **ABSTRACT**

This article examines the contemporary issues surrounding women's sexual harassment in the workplace. Sexual harassment is behaviour. It is the conduct of unwelcome gestures, request for sexual favours and other verbal or physical harassment of sexual nature. Sexual harassment at workplace is a universal problem, it happens everywhere whether it is a developed nation or a developing nation or an underdeveloped nation, atrocities against women is common. Women are facing the problem of sexual harassment in every sector. To deal with the problem of sexual harassment at workplace government passed the law named POSH ACT 2013.

The aim of this article is to highlight that what is internal complaint committee, the prevalence of sexual harassment in the workplace, its impact on women's mental and physical health, and the legal and ethical implications of such behaviour. Here we will also explore the measures that can be taken to prevent and address sexual harassment in the workplace.

**KEYWORD**- POSH Act 2013, Sexual harassment, workplace, women, contemporary issues

### **INTRODUCTION**

Sexual harassment is a pervasive and serious issue that affects women in all areas of life, including the workplace. Despite efforts to address this issue, it continues to be a significant problem in contemporary society. According to a survey conducted by the International Labour Organization, one in three women has experienced sexual harassment in the workplace. This alarming statistic highlights the need for greater attention to this issue, particularly in light of the #MeToo movement and other recent events that have brought sexual harassment to the forefront of public discourse.

Sexual harassment can take many forms, including unwanted touching, sexual comments or jokes, and leering or staring. It can have significant negative impacts on women's

mental and physical health, as well as their ability to work and succeed in their careers. Women who experience sexual harassment may suffer from anxiety, depression, and post-traumatic stress disorder, among other mental health issues. They may also experience physical symptoms such as headaches, stomach problems, and sleep disturbances. In addition, sexual harassment can lead to decreased job satisfaction, decreased productivity, and even job loss. These negative impacts can have long-lasting effects on women's lives and careers.

Despite the serious nature of sexual harassment, many women still feel reluctant to report it. This may be due to fear of retaliation, lack of support from colleagues and supervisors, or a belief that nothing will be done to address the issue. As a result, many cases of

sexual harassment go unreported and the perpetrators go unpunished.

### **INTERNAL COMPLAINT COMMITTEE (ICC)**

The Internal Complaint Committee is a group of people within an organization that is responsible for dealing with complaints of sexual harassment and other related issues. Section 4 of POSH ACT 2013 needs to be followed with respect to constituting the ICC committee, the committee is usually composed of at least three members, including one woman. The committee members are trained to handle complaints in a sensitive and confidential manner. When a complaint is received, the committee is required to follow a set of procedures to ensure that the complaint is handled in a fair and just manner. The procedures include conducting an investigation, providing the accused with an opportunity to respond, and making a decision based on the evidence gathered. The committee is also responsible for ensuring that the complainant is protected from retaliation and that appropriate action is taken against the accused if the complaint is found to be valid.

The complaint must be made within 3 months of the incidents; the time period may be extended further on account of certain circumstances.

The ICC must make an inquiry in accordance with the service rule and or in its absence the POSH ACT, 2013. A copy of complaint must be given to respondent within 7 working days. During investigation ICC must maintain the confidentiality of the matter and should ensure that all the concerned parties will be treated respectfully and matter will be dealt with seriousness.

### **PREVENTIVE MEASURES SHOULD TAKE TO PREVENT SEXUAL HARASSMENT IN THE WORKPLACE**

The company should organize workshops and awareness programmes in office and to provide necessary facilities to the ICC for dealing with

complaints and conducting inquiries and to treat sexual harassment as misconduct under the service rules and initiate action for such misconduct immediately.

Introduce the concept of SHE-Box- The Ministry of Women & Child Development had launched Sexual Harassment electronic Box (SHe-Box) to provide single window access to every woman, irrespective of her work status, whether working in the organized or unorganized, private or public sector, to facilitate the registration of complaint related to sexual harassment.

Any woman facing sexual harassment at the workplace can register their complaint through this portal.

Once a complaint is submitted to the 'SHe-Box', it will be directly sent to the concerned authority having jurisdiction to take action into the matter

### **CONTEMPORARY ISSUES**

1. There are several contemporary issues surrounding women's sexual harassment in the workplace that deserve attention. One of the most significant issues is the prevalence of sexual harassment in various industries and job types. While sexual harassment can occur in any workplace, it is more common in male-dominated industries such as technology, finance, and entertainment. Women in these industries are often subjected to a hostile work environment, where they are subjected to unwanted sexual advances, comments, and physical contact.
2. The impact of sexual harassment on women's careers. Women who experience sexual harassment may be less likely to be promoted or to receive pay raises, and may even be forced to leave their jobs. This can have a significant impact on their financial stability and future career prospects. Sexual harassment can also lead to a loss of confidence and self-esteem, which can affect women's ability to succeed in the workplace.

3. The lack of effective reporting and accountability mechanisms for sexual harassment. Many women who experience sexual harassment do not report it, either because they fear retaliation or because they do not believe that anything will be done to address the issue. Even when sexual harassment is reported, it can be difficult to prove and to hold the perpetrator accountable. This can create a culture of impunity, where sexual harassment is seen as acceptable or even normal.
4. The role of technology in sexual harassment. With the rise of social media and other digital platforms, sexual harassment can now occur online as well as in person. Women may be subjected to unwanted sexual advances, comments, and images through email, text messages, or social media. This can create a sense of constant surveillance and vulnerability, as women may feel that they can never fully escape from the harassment.

Overall, these contemporary issues highlight the need for greater attention to women's sexual harassment in the workplace. By addressing these issues, we can work towards creating safe and equitable working environments for all women.

#### **THE INDIAN GOVERNMENT'S ON-GOING EFFORTS**

In 2020, the Indian government amended the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 to include provisions for virtual hearings and to extend the time limit for filing complaints. The amendments were made in response to the COVID-19 pandemic and the need for virtual hearings to ensure access to justice for victims of sexual harassment.

One such case is that of **Vishakha and Others Vs. State of Rajasthan and Others**<sup>385</sup>, which was a landmark judgment by the Indian Supreme Court in 1997. The case was filed by a group of

social workers and women's rights activists in response to the gang rape of a social worker in Rajasthan. The Supreme Court recognized that sexual harassment in the workplace violated the fundamental rights of women under the Indian Constitution and established guidelines for preventing and redressing sexual harassment in the workplace.

Another case is that of **Bhanwari Devi vs. State of Rajasthan**<sup>386</sup>, which was a case of gang rape of a social worker who was trying to prevent child marriages in Rajasthan. The case led to widespread protests and calls for justice, and the Indian government enacted the Vishakha Guidelines in response to the case.

In 2013, the Indian government passed the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, which provides a legal framework for preventing and redressing sexual harassment in the workplace. The Act requires all employers to establish an internal complaints committee to address complaints of sexual harassment, and it provides for penalties for non-compliance.

In 2020, the Indian government amended the Act to include provisions for virtual hearings and to extend the time limit for filing complaints. The amendments were made in response to the COVID-19 pandemic and the need for virtual hearings to ensure access to justice for victims of sexual harassment.

These cases and the recent amendments to the law demonstrate the Indian government's on-going efforts to address sexual harassment in the workplace and to provide justice for victims.

However, there is still much work to be done to ensure that these laws and guidelines are effectively implemented and enforced, and to create a safe and inclusive workplace environment for all employees.

#### **LEGAL PREVIEW**

<sup>385</sup> (1997) 6 SCC 241

<sup>386</sup> (1985) 2 SCC 214



In India, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 seeks to prevent and redress sexual harassment of women at the workplace. The Act requires employers to set up an Internal Complaints Committee (ICC) to investigate complaints of sexual harassment. The ICC must be headed by a woman and must have at least one external member who is an expert on issues related to sexual harassment. The Act also requires employers to provide a safe working environment for women, to conduct awareness programs for employees, and to display the provisions of the Act prominently in the workplace.

The Act defines sexual harassment broadly to include any unwelcome physical contact, advances, or comments that are sexual in nature, as well as any conduct that creates an intimidating, hostile, or offensive work environment. The Act also provides for penalties for employers who fail to comply with its provisions, including fines and imprisonment.

While the Act is a step in the right direction, there are several challenges to its effective implementation. One challenge is the lack of awareness among employees about their rights under the Act. Many women may not be aware of the provisions of the Act or of the procedures for filing a complaint. Another challenge is the lack of adequate training for ICC members, who may not have the necessary expertise to handle complaints of sexual harassment.

There are other legal provisions that protect women from sexual harassment in the workplace. For example, the Indian Penal Code (IPC) criminalizes sexual harassment and assault, and provides for penalties for offenders. The IPC defines sexual harassment broadly to include any unwelcome physical contact, advances, or comments that are sexual in nature.

Overall, while the Sexual Harassment of Women at Workplace Act is an important legal measure to address the issue of sexual harassment in the

workplace, there is a need for greater awareness, training, and implementation to ensure that women are protected from sexual harassment at work.

### **AUTHOR CONTENTIONS**

Contentions regarding women's sexual harassment in the workplace are the lack of reporting and accountability. Many women may not feel comfortable reporting incidents of sexual harassment, due to fear of retaliation or a lack of confidence in the system. Additionally, some employers may not take complaints of sexual harassment seriously, or may not have effective mechanisms in place to address such complaints. This can create a culture of silence and impunity, where perpetrators of sexual harassment are able to continue their behaviour without consequences.

Another contention author wants to put forward is the issue of power dynamics in the workplace. Sexual harassment often involves a power imbalance, where the perpetrator holds a position of authority over the victim. This can make it difficult for victims to speak out or take action against their abusers, especially if they fear negative consequences for their career or livelihood.

Finally, there is a contention around the effectiveness of legal measures to address sexual harassment in the workplace. While there are laws and regulations in place to prevent and punish sexual harassment, there is a need for greater awareness, training, and implementation to ensure that these measures are effective in practice. Additionally, some critics argue that legal measures may not be sufficient to address the root causes of sexual harassment, such as gender inequality and cultural norms that perpetuate discrimination and violence against women.

### **CONCLUSION**

Sexual harassment against women in the workplace is a very serious issue that needs to be addressed. It's important that we create a

safe and respectful environment for everyone. Unfortunately, many women still face harassment and discrimination in the workplace. This can have a negative impact on their mental health, job performance, and overall well-being.

To improve this situation, we need to raise awareness about this issue and take steps to prevent it from happening. This includes implementing policies that protect employees from harassment, providing training for managers and employees, and creating a culture of respect and inclusivity. The Internal Complaint Committee is a group of people within an organization is compulsory and if there is no ICC in any organization then actions should be taken as it is for the betterment of the society and protection of women.

We also need to encourage women to come forward and report incidents of harassment. As we saw many women are afraid to speak out because they fear retaliation or they don't think their complaints will be taken seriously. We need to create a supportive environment where women feel comfortable reporting incidents of harassment.

It's important that we continue to have conversations about this issue and work together to create a safe and respectful workplace for everyone. We need to make sure that everyone is aware of the impact that sexual harassment can have on people in the workplace, and we need to take action to prevent it from happening.

#### REFERENCES

- <https://www.clearias.com/posh-act/>
- <https://www.newslaundry.com/2018/10/26/how-to-file-a-complaint-with-your-institutes-icc>
- [https://muds.co.in/internal-complaints-committee-members-training-certification/#:~:text=Internal%20Compl aints%20Committee\(ICC\)%20is,the%20is sues%20of%20sexual%20harassment.](https://muds.co.in/internal-complaints-committee-members-training-certification/#:~:text=Internal%20Compl aints%20Committee(ICC)%20is,the%20is sues%20of%20sexual%20harassment.)

- <https://www.insightsonindia.com/2023/05/13/issues-with-the-protection-of-women-from-sexual-harassment-posh-act/>