
SEXUAL HARASSMENT AT THE WORKPLACE IN INDIA: CONSTITUTIONAL EVOLUTION AND HUMAN RIGHTS PERSPECTIVE

Dr. Lalit Kumar Roy, Assistant Professor, Department of Law, University of Gour Banga,
Malda¹

Mr. Gobindo Gopal Barman, Assistant Professor, Kolkata Police Law Institute, University
of Calcutta, Kolkata²

ABSTRACT

One of the greatest obstacles to women taking part in professional life equally is sexual harassment at work. In India, although the Constitution guaranteed equality and dignity, for a long time, harassment was not legally recognized and was treated with disdain in a large part of society. This paper will explore the development of legal responses to sexual harassment concerning constitutional and human rights approaches and the judiciary. Indian women and their rights history provide women with a broader perspective of gender inequality in relation to the issue of sexual harassment in workplaces. It looks at the role played by the courts particularly in the Vishaka case, adopted a different course of action by considering sexual harassment as a constitutional right and the employers' taking some action even before the legislation. The international agreements on human rights, such as the Convention on the Elimination of All Forms of Discrimination against Women, used by the Supreme Court, marked the shift to the rights-based approach.

The article additionally examines the legal developments following the case of Vishaka, including the Sexual Harassment of Women at Workplace Act, 2013, and criminal law amendments in India. It claims that despite the fact that the law has become better, there is an issue of enforcement as well as institutional resistance which limits the actual equality. The paper concludes that the courts, improved administration and culture changes are required to ensure that workplace protection becomes a reality.

Keywords: Sexual Harassment, Gender Equality, Constitutional Law, Judicial Activism, Human Rights.

¹ Assistant Professor, Department of Law, University of Gour Banga, Malda

² Assistant Professor, Kolkata Police Law Institute, University of Calcutta, Kolkata

Introduction

The position of the Indian women has evolved. During ancient times, women enjoyed equal rights as men, though during medieval times, their status deteriorated. The equality of women was acknowledged in the constitution after independence. Nevertheless, females continue to endure a high level of discrimination on personal, professional and economic fronts despite these legal safeguards. One of the frequent manifestations of this inequality is sexual harassment in place of work. It was understated for years, brushing it off as an inconvenience with the law that was characterized using words such as eve-teasing.³ This understatement was not only hiding the actual suffering of women but also strengthening the patriarchal structures that suggested gender-based abuse as a norm in the community and workplace. With the number of women entering the workforce, there is an increasing need to address the issue of dignity, safety and equality in the workplace. Although the constitution guarantees women equal opportunity, compensation and good working conditions, gender prejudice and vulnerability are prevalent in reality. Sexual harassment at work is not only an issue for an individual, but it is a common type of discrimination that cannot be permitted to infringe on the right of women to work with dignity and safety.⁴ It restricts professional development, yields unfriendly environments and compels most women to remain in silence due to fear of retaliation, stigma, or unemployment.

Globally, women's oppression and the act of gender violence are currently regarded as crimes against human rights. Documents such as the Universal Declaration of Human Rights or the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) oblige nations to prevent, investigate, and eliminate violence against women, which is sexual harassment in the workplace.⁵ India undertook to abolish discrimination in every aspect of life when it ratified CEDAW. Nonetheless, these international commitments were not converted into legislative measures in India to combat sexual harassment at the workplace over a long period of years.

Early legal solutions in India were haphazard and ineffective before certain laws were made. The Indian Penal Code, particularly Sections 354 and 509 (BNS 74 and 79), was based on the

³ Naina Kapur, *Sexual Harassment at the Workplace in India* 45 (Oxford University Press 2009).

⁴ Radhika Coomaraswamy, 'Gender Justice and Sexual Harassment' (1999) 34 *Economic and Political Weekly* 2103.

⁵ Convention on the Elimination of All Forms of Discrimination Against Women (1979) art 11.

concept of outraging the modesty of a woman, which left law enforcement with much discretion and did not touch on the real issues of harassment at work.⁶ The laws did not acknowledge the unequal power relationship in the workplace or provide means of preventing and managing complaints internally, so the legal system is largely ineffective for working women.

There was a significant shift in the decision of the Vishakha case, where a government worker, Bhanwari Devi, was brutally raped after she attempted to halt child marriage. The Court was categorical in stating that sexual harassment in the workplace was against the basic rights of women in Articles 14, 15, 19 and 21 of the Constitution.⁷ The Court considered the sexual harassment not only as a crime, but also as a discrimination against gender and a severe violation of the right to live with dignity.

As no law existed yet, the Supreme Court applied constitutional principles and international commitments of India, under CEDAW, to formulate the Vishakha Guidelines. Such guidelines ensured that employers prevented and tackled sexual harassment. They were concerned with prevention, institutional accountability and establishment of fair complaints committees. This ruling helped bridge the gap between constitutional rights and international standards of human rights and preconditioned subsequent legislation.

The history of establishing law against sexual harassment in India as something that was overlooked to be addressed and then subsequently attained constitutional and legal status reveals the greater struggle of achieving real gender equality. Sexual harassment in the workplace is becoming a human rights matter and not an individual grievance and institutions must take a proactive role. This paper examines the problem using constitutional law, feminist legal theory and international human rights as the three elements that look at whether the existing laws and systems are actually working in the interests of working women or not.

Research Problem

The constitutional assurance of equality, dignity and non-discrimination in the Constitution of India has not entirely been converted to the actual protection of women against sexual harassment in the workplace. After the court intervened in historic cases, occurrences of

⁶ Bharatiya Nyaya Sanhita, 2023, § 74 and § 79, No. 45, Acts of Parliament, 2023(India).

⁷ Vishaka v. State of Rajasthan., AIR 1997 SC 3011.

harassment in the workplace are not well reported, addressed, and enforced.

The research issue is the disjuncture between what is guaranteed in the constitution and what is being actualized especially in the aspects of institutional responsibility, enforcement procedure, as well as the social inclinations. The continuance of patriarchal cultures, ignorance, intimidation, and poor adherence to the law pose a crucial question:

How much has the Indian constitutional and human rights-based legal framework achieved successful control and reduction of sexual harassment in the workplace and what are still the obstacles to its implementation?

Objectives of the Research

- To explore the constitutional system of gender equality and sexual harassment protection in India.
- To interpret the development of the lawful responses, especially how the judicial system has influenced the workplace harassment legislation by formulating some historic cases, such as Vishaka.
- To determine the effectiveness of the Sexual Harassment Act, 2013 and other criminal laws in dealing with harassment at workplaces.
- To determine the breach between law and implementation, attention should be given to the issue of institutional failures, ignorance and barriers that arise in society.
- To determine how the international human rights tools, particularly CEDAW, have impacted Indian legal changes.
- To recommend actions to be taken to enhance the enforcement mechanisms, institutional accountability and gender-sensitive working environments.

Research Methodology

In this research uses a doctrinal and analytical research approach to look at sexual harassment in the workplace in India. It examines clauses of the Constitution of India, applicable legislations, including Sexual Harassment of Women at Workplace (Prevention, Prohibition

and Redressal) Act, 2013, and judicial precedents.

The study is based on secondary literature, such as books, journal articles, case laws, and reports of other bodies like the National Commission of Women. It also has a human rights approach by referring to international instruments, including the Convention on the Elimination of All Forms of Discrimination Against Women.

Literature Review

The original contribution of Catharine A. MacKinnon is that sexual harassment is a type of sex discrimination, and not just a personal misconduct. According to her, power imbalance in the form of harassment at the workplace is a form of patriarchal and, therefore, it deprives women of employment opportunities. Her theory had a great impact on the global jurisprudence and the Indian judicial stream of thought in perceiving harassment as the infringement of equality and dignity.⁸

Nivedita Menon criticises the view that gender justice can be achieved only through legal reform. She stresses that law exists under prevailing social hierarchies, and hence, workplace harassment exists despite the official protection. Her work shows how the culture and gender relations in institutions need to be transformed.⁹

According to reports by the National Commission for Women, most organisations are not properly implementing the Sexual Harassment Act, 2013, especially in the formation of Internal Complaints Committees (ICCs). The news releases emphasise the unawareness, the failure to comply and the irregularities in the processes and this undermines the efficacy of legal procedures.¹⁰

Kalpana Kannabiran explores the use of the constitutional rights and more so Article 14 and Article 21, as interpreted by the feminist to address gender based violence. She believes that courts should not just depend on formal equality but take a substantive equality in order to truly address the issue of workplace harassment.¹¹

⁸ Catharine A MacKinnon, *Sexual Harassment of Working Women: A Case of Sex Discrimination* (Yale University Press 1979).

⁹ Nivedita Menon, *Seeing Like a Feminist* (Zubaan 2012).

¹⁰ National Commission for Women, *Report on Sexual Harassment of Women at Workplace* (NCW 2018).

¹¹ Kalpana Kannabiran, *Tools of Justice: Non-Discrimination and the Indian Constitution* (Routledge 2012).

The International Labour Organisation (ILO) considers sexual harassment as a form of mistreatment of human rights and decent work. Its structures are employer accountable, preventive measures, and safe reporting and this is according to the legal requirements of the international law of India.¹²

Historical Development of Women's Rights in India

The society, culture and politics of India have evolved and this has led to a change in the rights of women in India. Probably, in ancient times, women were respected but limited at the same time. The early documents, such as the Rig Veda, indicate that women were allowed to participate in society, obtain an education, and be somewhat independent. However, as the patriarchal concepts grew more aggressive, child marriage, education deprivation and property ownership of the woman diminished their stature.¹³

During the medieval times, the status of women deteriorated as social practices and feudalism were established. Patriarchy had become so strong that such practices as purdah, sati, and restrictions on widow remarriage reflected it. The majority of women remained at homes and they lacked a legal and economic identity of their own. Their rights were not seen as rights, but privileges bestowed by men.¹⁴

The debate on the rights of women in India was formed in the colonial era, particularly in the nineteenth century, when the social reformers started opposing the unjust practices. Such leaders as Raja Ram Mohan Roy, Ishwar Chandra Vidyasagar, Jyotiba Phule, and Pandita Ramabai advocated female education, remarriage of widows, and the cessation of practices that were harmful to women. Early efforts to have laws that recognized the welfare of women were things like the abolition of sati (1829) and the Widow Remarriage Act of 1856, both of which were largely protective and paternal.¹⁵

This development resulted in a significant shift when the Indian Constitution was developed and adopted. The Constitution was inspired by the democratic and global notions of human rights and recognized women as equal citizens whose rights could be enforced. Through its assurances of equality, non-discrimination, and liberty, it discarded a welfare approach and

¹² International Labour Organization, *Ending Violence and Harassment in the World of Work* (ILO 2019).

¹³ Romila Thapar, *Early India: From the Origins to AD 1300* 132 (Penguin 2002).

¹⁴ B B Misra, *The Indian Middle Classes: Their Growth in Modern Times* 214 (Oxford University Press 1961).

¹⁵ Geraldine Forbes, *Women in Modern India* 45 (Cambridge University Press 1996).

established a rights-based legal system.¹⁶ This was a different vision that viewed women as providers of basic rights, not as individuals who required state protection.

This development gave rise to a significant milestone: the development of the Indian Constitution, which was adopted. The Constitution was inspired by the democratic and global human rights concepts, which acknowledged that women were equal citizens and had enforceable rights. In its ability to promise equality, non-discrimination, and liberty, it abandoned a welfare approach and established a rights-based legal system.¹⁷ The new vision perceived women as providers of some basic rights and not as individuals who require the care of the state.

With the adoption of the Constitution, the new laws and decisions of courts in free India increased the rights of women in general to marriage, inheritance, employment, and individual liberty. Such transformations were less disrespectful to the independent women. Women also had their rights guaranteed by the courts because of the connection with dignity and freedom, which expanded constitutional security. The further advancement was reinforced when India ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which obliged the Indian laws to be treated as per the international standards of gender justice.¹⁸

On the whole, these developments demonstrate that women's rights in India have ceased to be concerned with social reform and moral protection to legal recognition and empowerment. The history is useful in explaining the current legal frameworks and recent changes that deal with gender-based violence and discrimination.

Constitutional and Legislative Framework for the Protection of Women in India

The constitutional philosophy of India is founded on justice, equality, human rights, and the dignity of all citizens, irrespective of gender. The framers acknowledged the weak position of women and provided protection measures and empowerment measures to gain actual equality.¹⁹ Such interventions will be aimed at shattering patriarchal institutions and enabling

¹⁶ Aparna Basu, *Women's Struggle: A History of the All India Women's Conference* 67 (Manohar 1996).

¹⁷ Granville Austin, *The Indian Constitution: Cornerstone of a Nation* 84 (Oxford University Press 1966).

¹⁸ Flavia Agnes, *Law and Gender Inequality* 23 (Oxford University Press 1999).

¹⁹ Granville Austin, *The Indian Constitution: Cornerstone of a Nation* 84 (Oxford University Press 1966).

women to enjoy equal positions in society, the economy, and politics.

The Preamble to the Constitution describes an ideal scenario of equality and access to opportunity for all people. It demonstrates social, economic and political justice, such as liberating women without discrimination and exploitation.²⁰ In Part III of the Constitution, this promise is fulfilled by incorporating some fundamental rights which safeguard against a state unfairly treating and discriminating against individuals due to gender.

Article 14 of the Constitution ensures equality in the eyes of the law and equal protection to all people. It prevents arbitrariness on the part of the state and makes people in comparable situations be treated equally.²¹ Article 14 is one of the protections that women demand in terms of bias and discrimination, both in public and in personal life. Article 14 has been applied by courts to guard against the inequitable treatment of women to defend their dignity and security.

Article 15 reinforces the integrity of equality by prohibiting discrimination on the grounds of sex. Meanwhile, Article 15(3) permits the State to issue special treatment of women as well as children.²² This demonstrates that it is not only enough to treat people equally in a society that has a strong-rooted inequality. Courts have affirmed that such special measures are effective in bringing about gender equality for women.

Article 16 ensures that there is equal opportunity in the employment of people in the public sector, which is particularly significant to working women. It ensures that women are not refused employment, promotions or even decent working conditions due to their gender.²³ According to the Supreme Court, the regulations restricting women in their marital decisions or career progression violate Articles 14 and 16, and damage women in their autonomy and dignity.

Article 21 ensures the right to life and individual liberty and the courts have made it to have the right to live with dignity. The article is a weapon of empowering women against violence, exploitation, and abuse.²⁴ The courts have determined that sexual harassment, domestic violence and gender based humiliation have a direct contravention of Article 21 since it harms

²⁰ Ibid.

²¹ E P Royappa v. State of Tamil Nadu., AIR 1974 SC 555.

²² The Constitution of India, art 15(3).

²³ C B Muthamma v. Union of India., AIR 1979 SC 1863.

²⁴ Maneka Gandhi v. Union of India., AIR 1978 SC 597.

the body, mind and independence of women.

The Directive Principles of the State Policy uphold the basic rights, providing the social and economic objectives of the Constitution. Articles 39(a), 39 (d) and 39(e) are concerned with equal employment opportunities, equal remuneration and safeguarding the health and strength of women workers.²⁵ Article 42 also informs the State to guarantee fair working conditions and maternity relief, revealing that it cares about the position of women in society and family. Seats are to be reserved for women in Panchayats and Municipalities in Articles 243D and 243T of the Constitution, and this has empowered women to be politically empowered. These measures promote the participation of women in decision-making and the local government. It is a duty of every citizen to renounce practices that undermine the dignity of women and Article 51A(e) emphasises the importance of the society as well as the state.

The Constitution was also enhanced by the laws regarding the protection of women in the area of violence and discrimination. The BNS addresses such crimes as the outrage of women's modesty, sexual assault, rape, criminal intimidation, and obscene acts.²⁶ These laws were not considered gender specific at the time, but have been broadened by courts to include new manifestations of sexual harassment with particular emphasis on sexual harassment in the workplace.

Gender injustice has been addressed by enacting special legislation such as the Dowry Prohibition Act, Protection of Women against Domestic Violence Act and Sexual Harassment of Women at Workplace Act, 2013. These are laws that are aimed at preventing, remedies, and rights as opposed to punishment. The use of bodies such as the National Commission of Women and the National Human Rights Commission assists by reviewing and processing grievances as well as making recommendations. Despite high constitutional and legal protection, women are still subjected to violence and sexual harassment, which demonstrates a disparity between the legislation and practice.²⁷ Effective implementation, gender sensitive interpretation, accountability and social change are yet to be implemented to truly provide equal opportunities and dignity to women.

²⁵ INDIA CONST. arts. 39(a), 39(d), and 39(e).

²⁶ Bharatiya Nyaya Sanhita, 2023, § 74 and § 79, No. 45, Acts of Parliament, 2023(India).

²⁷ Vishakha v.State of Rajasthan., AIR 1997 SC 3011.

Legislative Framework for the Protection of Women under the Bharatiya Criminal Law Regime

India has just recently made a move to advocate equality and dignity and gender justice by replacing its earlier colonial criminal legislation with locally created legislation. The Bharatiya Nyaya Sanhita, 2023, the Bharatiya Nagarik Suraksha Sanhita, 2023, and the Bharatiya Sakshya Adhiniyam, 2023 are an innovative move in how the country addresses a crime against women, e.g. sexual harassment and gender-based violence.²⁸ These new laws are supposed to revitalise the criminal justice system to be modernised with the aim of emphasising the rights of the victims and responding to the existing societal needs.

The newly introduced Bharatiya Nyaya Sanhita, 2023, substitutes the Indian Penal Code of 1860, and it still deals with the criminal offences that endanger the dignity, security, and autonomy of women. It still encompasses such crimes as sexual harassment, assault with intent to outrage the modesty, voyeurism, stalking and rape, with more severe punishment under the provisions of the BNS. The law does not just seek to penalise wrongdoers but also to appreciate the harm to women as an abuse of their constitutional rights. The application of these laws is still influenced by the previous court rulings that stated sexual harassment does not necessarily involve physical contact.

The interpretation of the BNS is still informed by the Supreme Court rulings, where sexual harassment is considered a breach of Articles 14 and 21. The Court clarified that any sexual harassment in the workplace contravenes the issue of gender equality and the right to live with dignity.²⁹ This is in line with the strategy of the BNS, which perceives sexual offences as a gross transgression against human dignity rather than being a problem at work or in the line of duty.

Procedural protection of women has been reinforced by the 2023 Bharatiya Nagarik Suraksha Sanhita to replace the 1973 Code of Criminal Procedure. The BNSS maintains and ameliorates standards regarding arrest, search and medical examination of females. As an illustration, it makes it mandatory that only female officers conduct searches on women and such searches

²⁸ Ministry of Law and Justice, Statement of Objects and Reasons, Bharatiya Nyaya Sanhita, 2023.

²⁹ *Apparel Export Promotion Council v. A.K., Chopra* (1999) 1 SCC 759.

should be conducted in a respectful manner without the female being unnecessarily intruded upon when being arrested. These should be applied particularly where there is sexual harassment and violence, where insensitive methods may prove to harm the situation. Justice to the victims is also facilitated by the BNSS by emphasising the importance of prompt investigations, holding the authorities accountable, and allowing the victims to remedy themselves. The BNSS incorporates some of the proposals which had been made earlier by the Justice Verma Committee in its emphasis on efficiency, transparency and safeguarding the rights of the victims.³⁰ These modifications are useful in ensuring that some protections provided to women in the BNS and other laws are realised.

The new law, the Bharatiya Sakshya Adhiniyam, 2023, replacing the Indian Evidence Act, 1872, addresses the challenges of establishing sexual crimes. The significant rule that the BSA maintains in such cases is that the testimony of a woman must be given due weight and credence. The new law still contains the rules concerning the presumption of lack of consent in some sexual crimes, which existed in the old Evidence Act, under Section 114-A.³¹ This demonstrates that courts know that requesting too much additional evidence may make it difficult to grant justice to women and also contribute to gender bias.

The new criminal laws collaborate with the special law, such as the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. This act continues to be the primary legislation in handling workplace harassment, and as a rule, it aids in the criminal provisions in the BNS. All these laws have avenues of preventive and remedial measures, such as civil and criminal redresses, to keep institutions accountable and assist people to pursue redress. Such organisations as the National Commission for Women and the National Human Rights Commission continue to be influential in ensuring observance of laws and court procedures. Their endeavours to implement rules of harassment in the workplace reveal the power of institutional responsibility in the broader criminal justice system. Although BNS, BNSS, and BSA are progressive, their success depends on the successful implementation of the policies, the proper training of the enforcement agencies, and the change in society. The reformation of the law is crucial; however, it should be supported by the responsible administration and a cultural shift to make constitutional promises become real to women.

³⁰ Justice J.S. Verma Committee, Report on Amendments to Criminal Law (2013).

³¹ Bhoginbhai Hirjibhai v. State of Gujarat., AIR 1983 SC 753.

Judicial Role in Addressing Sexual Harassment at the Workplace in India

Another very common yet unreported gender-based violence in the workplace is sexual harassment. It has a direct detrimental effect on the dignity, equality and the right of women to a safe workplace. The problem in India got a legal ground due to the intervention of the judiciary to a large degree. No distinct law existed for many years, and so Indian courts and in particular the Supreme Court, played a major role in establishing sexual harassment as a constitutional malpractice and infringement of fundamental human rights. Through the interpretation of the Constitution and international conventions, the judiciary transformed sexual harassment from a personal complaint into a legal matter that is in an institutional setting, and demands institutional responsibility.³²

The Constitution of India is very much favourable towards protecting the rights of women. Articles 14, 15 and 16 ensure equality and prohibit the existence of discrimination based on sex, whereas Article 21 safeguards the right to live with dignity. These rights have been construed by the courts to mean freedom from sexual harassment in the workplace.³³ Courts have acknowledged that sexual harassment causes a hostile and threatening workplace. This deters women from taking employment in government jobs and contravenes their right to work under Article 19(1)(g). Thus, workplace harassment is not only a question of morality or discipline but also a severe constitutional concern because it has an impact on gender equality and social justice.³⁴

Judicial activism has been instrumental in the development of legislation that gives preference to women in India. The courts have established that society has become patriarchal in a way that gender discrimination appears to be normal and women remain vulnerable to abuse both at the workplace and in personal environments. It is due to this that courts have chosen to be corrective by interpreting the laws to enhance real equality as opposed to theoretical equality. It opined that equality was a dynamic concept that opposed unfairness.³⁵ It became significant in subsequent claims of discrimination and harassment at the workplace, where courts could dismiss unfair practices despite the absence of definite acts against them.

The case of sexual harassment was indirectly dealt with before the influential ruling of Vishaka

³² Judicial Initiative to Protect Sexually Harassed Women and Women's Rights, Ch. 4.

³³ Maneka Gandhi v. Union of India., AIR 1978 SC 597.

³⁴ Vishaka v. State of Rajasthan., AIR 1997 SC 301.

³⁵ E.P. Royappa v. State of Tamil Nadu., (1974) 4 SCC 3.

case with the help of sections 354 and 509 of the Indian Penal Code. These laws, however, were not sufficient to address the particular problem of harassment in the workplace. The Supreme Court did say that a single act intending to offend the modesty of a woman is a grave crime, regardless of the accused.³⁶ The Court also demonstrated that it is the duty of every woman to be dignified and modest, which must be a legal right in all areas. All women, however old, are modest.³⁷ This was in favour of the fact that sexual crimes are crimes against human dignity. The decisions assisted in creating an improved awareness of sexual harassment, yet there was no transparent framework to curb the same.

One of the great reforms in the Indian legislation occurred with a landmark case that altered the way the law is used in addressing sexual harassment in the workplace. This case commenced following the brutal gang rape of a social worker called Bhanwari Devi, who had attempted to intervene in a child marriage. The sexual harassment was perceived by the Supreme Court as a breach of fundamental rights in Articles 14, 15, 16 and 21, as there was no law in India regarding the matter. The Court, via its constitutional authority, established the Vishaka Guidelines, which became binding under Article 141 pending the enactment of an appropriate law.³⁸

Vishaka Guidelines provided a clear and general definition of sexual harassment, such as physical, verbal and non-verbal acts of sexual character, for the first time. They demanded that employers avoid harassing their employees, establish a system for complaints, and discipline or prosecute them when necessary. The fact that the court has used international agreements such as CEDAW is a significant portion of the judgment. The Court observed that the international conventions may assist in the interpretation of constitutional rights in cases where the Indian law is silent on the matter.³⁹ This encouraged the dedication of India to human rights in the world and provided more protection to women under the constitution.

The courts tried to ensure that the guidelines were adhered to after Vishaka. The Supreme Court indicated that physical contact was not necessary to consider something sexual harassment. Attempting to molest or even creating an unpleasant working environment is sufficient to act harshly.⁴⁰ The Court emphasised that such behaviour should not be permitted as it would

³⁶ Rupan Deol Bajaj v. K.P.S. Gill., AIR 1996 SC 309.

³⁷ State of Punjab v. Major Singh., AIR 1967 SC 63.

³⁸ Vishaka v. State of Rajasthan., AIR 1997 SC 3011.

³⁹ Ibid.

⁴⁰ Apparel Export Promotion Council v. A.K. Chopra., AIR 1999 SC 625.

undermine constitutional principles. The Supreme Court stated that the State is liable to cover sexual violence committed by its employees at the workplace even when the victim is not an employee.⁴¹ This ruling made the institutions highly responsible.

The enforcement was still lax despite the obvious court guidelines. The Supreme Court was alarmed by the fact that there are numerous institutions which do not adhere to the Vishaka Guidelines. All states and organisations were ordered by the Court to establish complaint committees and take their conclusions similarly to official disciplinary measures.⁴² The Court criticised the institutions for not being caring and repeated again that failure to establish complaint committees violated constitutional provisions.⁴³ These rulings left it obvious that employers, as well as the state, should strive to avoid sexual harassment.

Indian courts have always maintained that sexual harassment cases were to be dealt with care, seriousness and even with fairness. They have made it clear that they do not sympathise with criminals, more so those in high positions. Such acts as transfers, suspensions, or punishing complainants have also been condemned by the courts as considered as forms of indirect harassment. Courts have offered the amenity of dignity, privacy, and fairness, hence enabling women to feel safe to report harassment and consequently achieving safer workplaces.

Conclusion

India has also enhanced its legal safeguards against sexual harassment at the workplace by going beyond the concept of formal equality to embrace actual justice. The kind of actions that were previously ignored as eve-teasing or minor, are being regarded as gross abuse of women's dignity, equality and human rights. This transformation was due to new legislation, as well as in courts, along with the constitutional values and international human rights. The Indian Constitution guarantees equality, non-discrimination, liberty and dignity. Nevertheless, these rights were not sufficient to break the well-established patriarchal culture that tolerated work-related harassment based on gender. In order to overcome this, the courts intervened. The Supreme Court termed sexual harassment discrimination, and it was clear to the employers and the State to take action. The international agreements, such as CEDAW, were also used in the courts to assist in aligning Indian law with international human rights standards.

⁴¹ *Chairman, Railway Board v. Chandrima Das.*, AIR 2000 SC 988.

⁴² *Medha Kotwal Lele v. Union of India.*, (2013) 1 SCC 297.

⁴³ *D.S. Grewal v. Vimmi Joshi.*, (2009) 2 SCC 210.

Further court rulings, following the principles laid down in the Vishaka guidelines, expanded the concept of sexual harassment beyond physical acts and emphasized institutional accountability. The law, like the Sexual Harassment of Women at Workplace Act, 2013, and recent modifications to the Bharatiya criminal law system, demonstrates that these court principles have been incorporated into the law. The combination of all these steps has resulted in a gap between the law and reality where harassment can be prevented, addressed, and punished. The laws are weakly enforced, not in full awareness, institutions are not complying well, and the fear of retaliation all contribute to inefficiency in the laws. Due to that, sexual harassment is not only a legal issue but a social concern that should be addressed constantly, even after the legal transformations.

Suggestions and Recommendations

1. Enhancing Implementation Mechanism - ICCs (Internal Complaint Committee) is to be audited and monitored regularly. Penalties should be imposed in case of the violation of the rules. The ICC findings should be taken seriously and communicated freely.
2. Capacity Building and Sensitisation - Gender sensitisation must be taught to everyone, including employers, employees, judges, police officers, as well as ICC members. Such training will contribute to the process of proper management of the complaints and the protection of the people against further destruction.
3. Judicial Oversight and Accountability- The public bodies and government bodies should be monitored by the high courts to make sure that all legal and judicial regulations are observed.
4. Protection Against Retaliation -Good defences are required to ensure that people who make complaints are not victimised, transferred against their will or indirectly harassed. Short-term assistance must be rendered as well.
5. Cooperation with Human Rights Institutions- ICCs are to work with the National and Human Rights Commissions to enforce closer scrutiny and to handle complaints that are more effectively handled.
6. Cultural and Legal reform- It ought to be equated with education that objects to patriarchy and cultivates ethics, dignity, and respect at the workplace. and respect at work.