

---

# ENSURING WORKPLACE SAFETY AND EQUALITY: LEGAL COMPLIANCE AND CULTURAL TRANSFORMATION UNDER THE POSH ACT, 2013 AND BNS 2023

---

Ditipriya Hazra, Sister Nivedita University

## ABSTRACT

Workplace sexual harassment is a form of gender discrimination that strikes at a woman's fundamental rights to equality and to live with dignity, protected under the Constitution of India. It not only makes the workplace unsafe and oppressive, but also holds women back from reaching their full potential in today's competitive world. Beyond harming their work performance, it can slow their social and economic progress, while causing deep physical and emotional harm.

The POSH Act<sup>1</sup>, 2013 provides institutional safeguards against workplace sexual harassment, while the Bharatiya Nyaya Sanhita, 2023<sup>2</sup> complements it by criminalising related forms of exploitation, together creating a more comprehensive framework for workplace safety and equality.

This paper examines how both these legislations together shape the legal framework for addressing workplace sexual misconduct. The discussion also considers implementation challenges, and gaps such as limited protection for men and LGBTQ+ employees, as well as concerns over possible misuse of criminal provisions.

The paper argues that while legal compliance is necessary, it is not by itself sufficient to change workplace culture. The Institutional attitude, awareness, and gender sensitisation are equally important to dismantle structural barriers that enable harassment. The combined effect of the preventive safeguards under the POSH Act and the punitive measures under the BNS 2023 not only reinforces workplace protections but also moves towards building workplaces that are safer, more inclusive, and respectful of dignity and equality.

---

<sup>1</sup> Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, No. 14 of 2013, INDIA CODE (2013).

<sup>2</sup> Bharatiya Nyaya Sanhita, No. 45 of 2023, INDIA CODE (2023)

**Keywords:** Workplace Sexual Harassment, POSH Act, 2013, Bharatiya Nyaya Sanhita, 2023, Gender Equality, Workplace Safety.

## **Introduction**

Workplace sexual harassment is not just a legal issue but the harsh reality that crosses borders of culture and economy, eroding women's dignity and equality.

An unsafe work environment can act as a barrier to workplace equality and hinder the professional advancement of women. The Vishakha Guidelines<sup>3</sup> served as a precursor to the legislation, which obligates employers to ensure that employees are aware of their rights and can work in a safe and secure environment. The Act aligns with India's constitutional provisions under Articles 14, 15, and 21, as well as international commitments such as the CEDAW<sup>4</sup>. By addressing sexual harassment, the POSH Act protects women's rights and promotes gender equity, which is essential for a fair and just society. Effective implementation is critical to achieving the Act's intended objectives<sup>5</sup>.

## **Drawbacks of the Current Legislation**

In India, presently more women are joining the workforce than ever before, yet many continue to face harassment that goes unreported out of fear of stigma, damage to reputation, or even loss of livelihood. Despite constitutional guarantees and protective legislations, these barriers keep women from fully exercising their rights<sup>6</sup>.

Since the enactment of the POSH Act, women in formal workplaces have increasingly begun to speak out against harassment. However, those working in the informal sector still face significant challenges in reporting abuse due to social stigma, fear of losing their jobs, and a lack of trust in the legal system. These barriers highlight that while progress has been made, protection remains uneven across different work environments.

---

<sup>3</sup> Vishakha & Ors. v. State of Rajasthan & Ors., (1997) 6 SCC 241 (India).

<sup>4</sup> Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, 1249 U.N.T.S. 13.

<sup>5</sup> Riya Dipak, Assessing the Effectiveness of the POSH Act in Addressing the Challenges Faced by Interstate Women Migrant Workers, SSRN Paper No. 5294677 (2024), <https://ssrn.com/abstract=5294677> (last visited Sept. 15, 2025).

<sup>6</sup> Navpreet Kaur, Sexual Harassment at Workplace: How POSH Act Prevent It?, E-Journal Times Magazine (Sept. 8, 2023), <https://journals-times.com/2023/09/08/sexual-harassment-at-workplace-how-posh-act-prevent-it/> (last visited Sept. 15, 2025).

Several gaps in the Act limit its overall effectiveness. The definition of sexual harassment is ambiguous, leaving room for varied interpretations and inconsistent implementation.

The tragic rape and murder of a trainee doctor<sup>7</sup> in Kolkata brought to light the serious shortcomings in ensuring workplace safety, showing how the protections under the POSH Act remain insufficient in vulnerable professional environments like healthcare.

The recent NUJS Kolkata case<sup>8</sup> highlights how the strict limitation period under the POSH Act can restrict access to justice. Despite the seriousness of the allegations, the complaint was dismissed as time-barred, showing that procedural rigidity may at times undermines the intent of addressing workplace harassment.

Recent surveys highlight that workplace harassment in India is not confined to women alone. Nearly 38% of respondents believe men are equally vulnerable, with this perception rising to 55% in cities like Hyderabad and Mumbai. Another study by Glassdoor found that more than half of LGBTQ+ employees had faced or witnessed discriminatory remarks at work. These findings expose a significant gap in the current legal framework, as the POSH Act remains limited in scope<sup>9</sup>.

Moreover, the Act primarily addresses traditional office settings, offering limited protection to workers in non-traditional, remote, or gig-economy roles. Instances of harassment by third parties, such as clients or vendors, are also insufficiently covered.

Additional challenges include weak whistle blower protections and lengthy redressal procedures, which make reporting harassment risky and justice slow. Studies, such as research among healthcare workers in Kolkata, show that victims often hesitate to report incidents involving superiors due to fear of retaliation or skepticism that any action will be taken. These

---

<sup>7</sup>Geetisha Dasgupta, Rape, murder of Kolkata doctor highlight failure of workplace safety provisions for women, Scroll.in (Aug. 17, 2024), <https://scroll.in/article/1072128/rape-murder-of-kolkata-doctor-highlight-failure-of-workplace-safety-provisions-for-women> (last visited Sept. 17, 2025).

<sup>8</sup>Sanya Talwar, SC: Sexual Harassment Complaint Must Be Filed Within Six Months; Time-Barred Complaints Liable to Be Rejected, LawBeat (Sept. 13, 2025), <https://lawbeat.in/supreme-court-judgments/sc-sexual-harassment-complaint-must-be-filed-within-six-months-time-barred-complaints-liable-to-be-rejected-1518417> (last visited Sept. 17, 2025).

<sup>9</sup>Vishal Bhasin, From Protection to Inclusion: Rethinking POSH Compliance in India for a Safer Workplace, NoMeansNo (Sept. 24, 2024), <https://www.nomeansno.in/gender-neutral-posh-compliance-in-india/?utm> (last visited Sept. 17, 2025).

issues underline the need for stronger enforcement, clearer definitions, and more inclusive protective measures to make workplaces safer for all women<sup>10</sup>.

The Apex Court<sup>11</sup>, drew attention to the “serious lapses” in implementing the POSH Act, 2013. The Court directed ministries, departments, and institutions to ensure strict and timely compliance with the Act, reinforcing the need for effective enforcement mechanisms.

### **Bridging the Gaps in the POSH Act through the Framework of BNS 2023**

The Bharatiya Nyaya Sanhita<sup>12</sup> marks a major reform of India’s criminal law, reshaping the legal framework for workplace sexual harassment. Replacing the colonial-era IPC, it introduces modernized provisions that address enduring issues, including the abuse inherent in quid pro quo arrangements<sup>13</sup>.

The POSH Act and Section 75 of the BNS<sup>14</sup> define sexual harassment in largely the same way. The key difference lies in the time allowed for filing complaints. Under the POSH Act, a victim must approach the Internal Complaints Committee (ICC) within three months of the incident or the last occurrence. By contrast, BNS 2023 provides a longer period, allowing complaints to be filed up to three years after the incident, as per Section 514 of the BNS<sup>15</sup>.

Recently, the upper house of Parliament circulated a bill proposing changes to the POSH Act. These amendments aim to extend the complaint period from three months to one year and remove the restriction limiting the ICC’s discretion to condone delays<sup>16</sup>.

Workplace safety and security must be built on a framework of legal and cultural protections that extend to every category of employee, including men, women, transgender persons, and members of the LGBTQ+ community. Although the POSH Act establishes a mechanism to

---

<sup>10</sup> Chaudhuri, P., Experiences of Sexual Harassment of Women Health Workers in Four Hospitals in Kolkata, India, 15 *Reprod. Health Matters* 221, 221–229 (2007), <https://www.jstor.org/stable/25475354> (last visited Sept. 15, 2025).

<sup>11</sup> Aureliano Fernandes v. State of Goa & Ors., Civil Appeal No. 2482 of 2014 (Sup. Ct. India May 12, 2023).

<sup>12</sup> The BNS 2023 [Bharatiya Nyaya Sanhita, No. 45 of 2023, INDIA CODE, <https://www.indiacode.nic.in/bitstream/123456789/20062/1/a2023-45.pdf> (last visited Sept. 17, 2025)].

<sup>13</sup> Ruchi Kumar, Quid Pro Quo Harassment Now a Crime Under BNS, LinkedIn (Nov. 28, 2024), <https://www.linkedin.com/pulse/quid-pro-quo-harassment-now-crime-under-bns-adv-ruchi-kumar-c8fgc> (last visited Sept. 17, 2025).

<sup>14</sup> Bharatiya Nyaya Sanhita, 2023, No. 15, § 75 (India).

<sup>15</sup> Bharatiya Nagarik Suraksha Sanhita, 2023, No. 46, § 514 (India).

<sup>16</sup> Madhvi Datta, Spotlight On Implementation And Enforcement Of POSH Law, LiveLaw (Mar. 8, 2024), <https://www.livelaw.in/law-firms/law-firm-articles-/posh-law-sexual-harassment-lgbtq-bharatiya-nyaya-sanhita-2023-kochhar-co-251616> (last visited Sept. 17, 2025).

address sexual harassment, its language confines protection only to women, leaving other vulnerable groups without statutory safeguard.

The BNS 2023, supplements this framework by introducing criminal liability for acts such as voyeurism<sup>17</sup>, stalking<sup>18</sup>, and non-consensual surveillance within professional settings. Yet, these provisions remain only partially gender-neutral, as they continue to identify women as the sole victims.

Section 69<sup>19</sup>, which criminalizes the demand for sexual favours in return for employment or promotion, reinforces the principle of equality in the workplace. It represents a significant shift by treating sexual relations obtained through deceptive promises as a Criminal offence. It criminalizes the coercive misuse of authority and exploitation of vulnerable individuals in workplaces and other settings, underscoring the gravity of such violations as assaults on personal dignity and autonomy.

One of the major criticism of the POSH Act and IPC has been the risk of misuse through false or fabricated complaints. To address this concern, the BNS 2023 introduces Section 250<sup>20</sup>, which penalizes the submission of false information, fabricated evidence, or malicious complaints. This provision not only helps deter frivolous claims but also ensures a fair balance, protecting the rights of the accused while upholding justice for genuine victims.

By addressing the power imbalance in quid pro quo situations, these provisions holds employers, managers, or supervisors accountable for coercing employees into illicit sexual relations, thereby providing a strong deterrent against such misconduct.

## Conclusion

Despite ongoing efforts, the fight against workplace sexual harassment under the Act remains uneven, with progress often slow and unsatisfactory. Implementation continues to face hurdles such as lack of awareness, hesitation among victims to report incidents, and, in cases where complaints are made, limited transparency and trust in the inquiry process. These shortcomings

---

<sup>17</sup> Bharatiya Nyaya Sanhita, No. 45 of 2023, § 76, INDIA CODE, <https://www.indiacode.nic.in/bitstream/123456789/20062/1/a2023-45.pdf> (last visited Sept. 17, 2025).

<sup>18</sup> Bharatiya Nyaya Sanhita, No. 45 of 2023, § 77, INDIA CODE, <https://www.indiacode.nic.in/bitstream/123456789/20062/1/a2023-45.pdf> (last visited Sept. 17, 2025).

<sup>19</sup> Bharatiya Nyaya Sanhita, 2023, No. 15, § 69 (India).

<sup>20</sup> Bharatiya Nyaya Sanhita, No. 45 of 2023, § 250, INDIA CODE, <https://www.indiacode.nic.in/bitstream/123456789/20062/1/a2023-45.pdf> (last visited Sept. 17, 2025).

are particularly concerning for vulnerable groups—such as persons with disabilities, who face a higher risk of harassment, and the large proportion of women employed in the informal sector, where protections are minimal.

Organizations must ensure that POSH complaints are investigated promptly, fairly, and transparently, upholding natural justice and protecting the dignity of all parties<sup>21</sup>.

Ensuring effective application of Section 69 can help address sexual exploitation in *quid pro quo* contexts. This requires coordinated action by law enforcement, the judiciary, and employers to uphold workplace dignity and safeguard justice for all individuals.

For POSH compliance to truly ensure safe workplaces, its protection must extend beyond gender and recognize the vulnerabilities of all employees.

While policies and training programs form the backbone of compliance, many organizations fail to consistently integrate or reinforce these measures, leaving gaps in accountability. Building a genuine “speak up” culture, backed by confidentiality safeguards and protection against retaliation, is essential. Stronger monitoring and effective enforcement of the mechanisms within the POSH Act can certainly address procedural flaws. Yet, the greater challenge lies in fostering a deeper cultural transformation—one that reshapes workplace attitudes and normalizes respect, equality, and dignity for all<sup>22</sup>.

---

<sup>21</sup> Aureliano Fernandes v. State of Goa & Ors., Drishti Judiciary (May 12, 2023), <https://www.drishtijudiciary.com/landmark-judgement/posh-2013-landmark-judgement/aureliano-fernandes-v-state-of-go-and-others-2023> (last visited Sept. 15, 2025).

<sup>22</sup> Madhvi Datta, Spotlight On Implementation And Enforcement Of POSH Law, Kochhar & Co., LiveLaw (Mar. 8, 2024), <https://www.livelaw.in/law-firms/law-firm-articles-/posh-law-sexual-harassment-lgbtq-bharatiya-nyaya-sanhita-2023-kochhar-co-251616> (last visited Sept. 17, 2025).