
OBJECTIFICATION OVER CALIBER: NARCISSISM AND SEXUAL HARASSMENT OF WOMEN AT WORK

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ABSTRACT

The question of sexual harassment in the workplace is not new in India or the entire world regardless of the availability of policies and laws regarding the harboring of the question. It is not just a legal matter, but a threat that is mostly encountered by the female gender, which happens when a woman is discriminated against or even demanded to have sexual favors at the workplace, particularly by an individual in power. These are practices that actually render a workplace more unfavorable and unfriendly to women. Such traditions are against the very principles of equality, dignity and safety of a woman.

The fight against sexual harassment in the work environment in India gained publicity in 1992 when a case of a Bhanwari Devi was brought to attention and it would later lead to the Supreme

Court passing up the Vishaka Guidelines in 1997. This was later given a formalized form in Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act of 2013 which is commonly referred to as the Post Act. The main objective of this act is to ensure the women workplace is safer by enacting the establishment of internal committees to receive their complaints and awareness programs, with less consideration of male or gender-diverse victims. It tries to examine the contemporary manifestations of gender neutral workplace harassment with a specific emphasis on why the phenomenon of the harassment of the harassed did not disappear despite the ineffective harassment policies. It evaluates the historic preconditions of workplace harassment, the various theoretical models that surround it, the consequences of the phenomenon of silence victims in the realms of the existing justice sources, as well as the limitations and obstacles that contribute towards the occurrence of the phenomenon of workplace harassment.

INTRODUCTION

Sexual harassment in the workplace has become a widespread issue in the entire world that has dire consequences in terms of physical, emotional, psychological and professional health of the workforce. The issue in India is rooted in centuries of patriarchal social structures and gender roles and hierarchical power relations which still define both the workplaces in the public and the workplaces in the personal sphere.¹ These socio-cultural elements form a situation whereby unacceptable behavior is normalized, trivialized or disregarded and especially when the person committing the behavior is in a position of power. Nevertheless, despite the increased awareness, legislative changes, and judicial intervention, sexual harassment in the workplace is still a common and persistent problem particularly to women in informal sectors, unorganized labour, household work, agriculture, and other male dominated jobs like manufacturing, law enforcement, and in managerial positions of corporations.²

Rape in the work place cannot be interpreted as a single or individual misconduct. Instead, it is a system problem, which is representative of structural disparities and power imbalance in the society. It also acts as a means of control and intimidation, strengthening the subordination of gender and limiting women to equal rights in the workforce. Harassment can take the shape not only of blatant behaviours such as unwanted touching, sexually explicit requests, but also in a less obvious form, such as sexually coloured comments, unfavourable work conditions, and professional exclusion, and quid pro quo deals. Such experiences weaken the confidence of a woman, her independence and capability of carrying out her job responsibilities well, thus leaving many women to quit their jobs or reduce their career goals. Conventionally, workplace sexual harassment is a severe form of breach of basic rights which are enshrined in the Indian Constitution. Article 21 postulates the right to life and personal liberty, which is accompanied by the right to work with dignity and safety. In cases where women are harassed, intimidated or coerced at the workplace, their dignity is ruined and their right to earn a living is highly limited. Moreover, this behavior directly violates Article 14 that ensures equality before the law and Article 15 that forbids the discrimination by sex. Sexual harassment, thus is not only a grievance issue to an individual, but also a constitutional injustice that needs to be addressed

¹ Nivedita Menon, *Elusive 'Woman': Feminism and Women's Reservation Bill*, 50 *ECON. & POL. WKLY.* 51 (2015).

² Devaki Jain, *Women, Work and Power: The Political Economy of Gender Inequality*, 23 *INDIAN J. GENDER STUD.* 1 (2016).

both legally and institutionally.

The legalization of sexual harassment as an abuse of the fundamental rights by the judiciary was a major milestone in the Indian legal history. The case of *Vishaka v. the intervention of the Supreme Court. State of Rajasthan (1997)*³ helped in recognizing the fact that there was no statutory framework and that there were binding guidelines that would be used to ensure that women were not sexually harassed in the workplace. These guidelines were the leading redressal mechanism until a comprehensive legislation was passed in 2013. Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, also called the POSH Act, was a breakthrough in the Indian jurisprudence of labour and gender justice. It gave a legal meaning to sexual harassment and obliged employers, and provided institutional solutions including Internal Complaints Committees (ICCs) to help in prevention and redress.

Nonetheless, the enforcement of the POSH Act has been challenged by a lot of issues although it has a progressive background. The key issue is that neither employers nor employees know much about provisions of the Act, which is why the complaint procedure and rights of wronged women are not well-known among them. The failure of many organizations, especially in the unorganized and private sector, to form ICCs as required by law made the redressal mechanism effective. In places where ICCs are found, these problems as lack of training, biasness, conflict of interest and lack of independence tend to undermine the fairness and credibility of the inquiry process.⁴

Fear of retaliation of the complainants is another severe challenge to an effective implementation. The victims of sexual harassment who inform about it often face such negative outcomes as workplace enmity, demotion, transfer, termination, or a dent on their career. The stigma surrounding the act of reporting harassment is another factor that demoralizes the victims and causes high rates of underreporting. This is what is commonly referred to as the harassment of the harassed and it gives birth to a culture of silence and enables the harassors to go unpunished.

Moreover, the gendered characteristic of the POSH Act has created a serious controversy about the inclusiveness and the scope of the act. Although the Act was intended to cover the historical

³ *Vishaka v. State of Rajasthan*, (1997) 6 SCC 241.

⁴ N. S. Nappinai, *Gender Neutrality under the POSH Act—A Missed Opportunity?*, 10 NUJS L. REV. 45 (2017).

and structural disadvantage of women, it does not offer much to no protection to male and LGBTQ+ people, who too can be victims of sexual harassment in the workplace.

With the changing aspects of the workplace dynamics and the growing awareness of the diversity in gender, the fact that the non-female victims have not been included brings up grave questions of equality, fairness, and provision of justice. Lack of gender-neutral legal framework offers a serious gap in protection and does not reflect the realities of the contemporary workplaces.⁵

Against these odds, this paper aims at making an in-depth investigation of sexual harassment in the workplace in India. It follows the historical development of legal reaction to sexual harassment and the theoretical approaches to the issue, analyzes the functionality of the current statutory provisions as well as the structural, cultural, and procedural obstacles to justice. Through a critical analysis of these problems, the paper seeks to outline the pressing relevance of reforms that can guarantee the inclusivity, effectiveness, and victim-driven attitudes to prevent and act on sexual harassment in the work place.

History of sexual harassment laws in India

The development of legislations in the context of sexual harassment at work place in India is associated with a slow acknowledgment of the rights of women, workplace respect, and constitutional provisions of equality. Over an extended time, the Indian law did not recognize sexual harassment as a specific type of discrimination or violence in the professional environments. It was clear that the lack of a specific legal framework compelled victims to use poor and dotted legal provisions leading to the necessity to introduce legal and judicial measures.⁶

Pre-Vishaka Era

Before the historic ruling of the case *Vishaka v. India State of Rajasthan* (1997) lacked particular laws that dealt with sexual harassment in the working place. The law system to a large extent viewed sexual misconduct acts as a single criminal act and did not appreciate the inherent susceptibility of women in the workplace or the aspect of power imbalance that

⁵ Ministry of Women & Child Dev., Handbook on Sexual Harassment of Women at Workplace (2015).

⁶ WHEN SEXUAL HARASSMENT LAW GOES EAST 5–7 (J. Barak ed., 2018)

enabled such actions. The women who faced workplace harassment were left to find a solution to the problem under the broad provisions of the Indian Penal Code, 1860 (IPC) that were neither formulated nor tailored to deal with harassment in the workplace.⁷

The most frequently applied were Section 354 of the IPC that punished assault or criminal use of force meant to outrage the modesty of a woman and the second was Section 509 which dealt with words, gestures or acts meant to offend the modesty of a woman. Although these parts were offering certain degree of criminal culpability they had major setbacks. The very notion of "modesty" was in the first place ambiguous, subjective, and patriarchal, based on a sense of female virtues instead of female autonomy and dignity. Second, the provisions were made on individual acts and not on the fact that sexual harassment is a course of behavior that creates a hostile or intimidating workplace.⁸

In addition, criminal law redress frequently failed the victims because of stigma of reporting acts of sexual violence, protracted court proceedings and fear of retaliation. These provisions did not place any positive obligation on employers to prevent harassment or to provide anything that would be a safe working environment. Neither did they have internal grievance redressal which could attend to complaints in a sensitive timely way. This left women without viable redress and the extent of harassment in the workplace was widely underreported and justified.

The pre-Vishaka period was therefore a legal black hole where sexual harassment at the workplace was not much of a visible systemic problem. The lack of acknowledgment of the hierarchies of power, gender-related discrimination and institutional responsibility highlighted the inefficiency of current laws and preconditioned the intervention of the courts.

The Bhanwari Devi Case

The turning point in the change of attitude towards workplace sexual harassment in India was the tragic and groundbreaking case of Bhanwari Devi. Bhanwari Devi was a social worker who was working through the Women Development Programme of the Government of Rajasthan.⁹ During her line of duty back in 1992, she was trying to stop the marriage of a girl who was one year old, as per the law of the country which was to stop child marriage. Her interventions were

⁷ The History Behind Sexual Harassment at the Workplace Law, NYAAYA (Mar. 10, 2022).

⁸ LAWS RELATED TO SEXUAL HARASSMENT AT WORKPLACE IN INDIA, IJCR (2020).

⁹ Dalit woman's rape in '92 led to India's first sexual harassment law – but justice still eludes her, SCROLL.IN (Oct. 15, 2018)

harshly criticized by the locals of the domineering caste in the village, who considered her interventions a threat to social norms.

In a vengeful move, in September 1992, Bhanwari Devi was violently gang-raped by five men. The case showed the overlap of the themes of gender, caste, and power and illustrated the high vulnerability of women that oppose the systems of patriarchy and feudalism. The inability of the criminal justice system to administer justice to the suspects in this case was extremely disturbing. The trial court found the accused not guilty on the basis of retrogressive and misogynistic logic that cast doubt on the credibility of the victim and downplayed the violence that was directed at her.¹⁰

There was a wave of indignation following the acquittal, which was a rallying of women activists and organizations as well as legal experts in the nation. When it was understood that the incident was not only a criminal offense, but also a breach of a woman right to work with dignity and safety, a number of non-governmental organizations took the case to the Supreme Court of India under Public Interest Litigation (PIL). The petitioners presented that the lack of the legal provisions against sexual harassment in the workplace contravened the basic rights enshrined in the Constitution, especially the Articles 14, 15, 19 and 21.

The Bhanwari Devi case therefore, became a call to reform in the legal system and rather than talking about personal criminal responsibility, the subject moved to the level of systemic responsibility and work safety.

Vishaka v. State of Rajasthan (1997)

In *Vishaka v. The State of Rajasthan*, the Supreme Court of India gave a landmark decision in state of Rajasthan that completely changed the legal framework of sexual harassment in work places. The Court was categorical that sexual harassment at the workplace was infringing the fundamental rights of a woman, such as, right to equality, right against discrimination, and right to life and personal liberty with dignity.¹¹

In recognition of the statutory gap in the field, the Supreme Court used its legislative powers in Article 32 and Article 141 of the constitution to issue binding recommendations which is

¹⁰ Bhanwari Devi was raped for trying to stop child marriage, TRUE STORY AWARD, <https://truestoryaward.org/story/361> (last visited Dec. 26, 2025)

¹¹ *Vishaka v. State of Rajasthan*, (1997) 6 S.C.C. 241 (India).

more popularly referred to as the Vishaka Guidelines. These guidelines had as a first time a comprehensive definition of sexual harassment, which included physical, verbal and non-verbal acts of sexual nature. Notably, the Court noted that sexual harassment was not restricted to physical behaviors but also included behaviors that caused intimidation, hostile and offensive working conditions.

The Vishaka Guidelines held a clear responsibility on the employers to eliminate sexual harassment that incorporates the responsibility to ensure a safe working environment, create awareness, and redressal mechanisms to complaints. In order to make sure that the complaint is unbiased the Court ordered the establishment of complaints committees that would be led by women and include members of a third party. These committees had the mandate to receive and investigate complaints giving an easily available and less threatening alternative to criminal action.

The major point of the Vishaka judgment was that it depended on the international law. The Supreme Court directly referred to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) of which India is a signatory and decided that in the absence of incongruent laws international conventions could be interpreted into domestic law.¹² This was an evolutionary and intentional interpretation of the constitutional provisions, which strengthened the gender equality and human rights advocacy in India.

The Vishaka Guidelines are still in place after more than sixteen years since it was enacted but then Sexual harassment of Women in Workplace (Prevention, Prohibition and Redressal) Act, 2013 was enacted to replace the former law. Their lasting applicability highlights the critical role of the judiciary in promoting women rights and dealing with structural injustices when there is no legislation.¹³

Sexual harassment of women at workplace act of 2013

The passage of the Sexual harassment of women at work place (Prevention, Prohibition and Redressal) act, 2013 commonly abbreviated as POSH act was a major breakthrough in protecting the rights of women in India. The Act was enacted in order to provide the Vishaka

¹² Convention on the Elimination of All Forms of Discrimination Against Women arts. 11, 24, Dec. 18, 1979, 1249 U.N.T.S. 13.

¹³ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, No. 14 of 2013, INDIA CODE.

Guidelines developed by Supreme Court in 1997 with the statutory meaning and to fill a long-standing gap in the legal framework of sexual harassment in the workplace. The Act was aimed at changing workplaces into safer and more fair environments of women by codifying the responsibilities of employers and introducing the mechanisms of redressal to the institutions.

The main goal of the POSH Act is three-fold prevention of sexual harassment, banning of such behavior and redressal of the complaints that occur because of this kind of behavior. The Act is not a preventive and remedial action, as opposed to the criminal law, which was used to enact the earlier legal remedies, thereby necessitating that the employer has affirmative duties. It appreciates the fact that sexual harassment is not a singular wrongdoing on individual level but a work-related problem that should be held at an institutional level. The Act extends to both the public and the private sector organizations as well as to a wide variety of workplaces encompassing offices, factories, education institutions, hospitals and even sporting institutions and even dwelling places or houses where domestic workers are involved. Notably, the Act will be applicable to the unorganized sector as it recognizes women who are not in formal employment structure as usually the most vulnerable to harassment.

The outstanding aspect of the POSH Act is its broad interpretation of the working environment. The definition is not limited to the physical office so that any place that the employee visits during the employment period is considered a workplace, even transportation by the employer. This wide definition mirrors the fact that the professional encounters are becoming more and more unstaged in the non-office surroundings and harassment might happen in any other environment related to work. This approach of being inclusive should initiate the purpose of the Act which is to have all-encompassing protection on women employees in different types of employment.

The Act is very comprehensive and very inclusive in defining what sexual harassment is as it includes quid pro quo harassment and hostile work environment harassment. It involves touching, proposing, seeking, or offering sexual favours, displaying pornography, and any other type of unwanted physical, verbal, or non-verbal behaviour of a sexual character. This definition is important since it recognizes that sexual harassment is not in the form of physical acts only but also it is conducted through verbal and non-verbal language and actions that weaken the dignity of a woman. The fabrication on the unwelcome conduct puts the spotlight on the perception and experience of the aggrieved woman and not the motive of the harasser,

making the law not to be an exception to the international standards on sexual harassment.¹⁴

The implementation of the POSH Act is centred around how Internal Complaints Committees (ICCs) can be set up at working places that have ten or more workers. The ICC is the main institution involved in the reception, investigation, and compensation of sexual harassment. The Act dictates a precise composition that the ICC is supposed to have so as to be just and rather objective. It should be chaired by a senior female workers, and there should be at least two workers who are dedicated to women causes or have legal or social work background knowledge and an external member of a non-governmental organization or an association, that is knowledgeable to issues involving sexual harassment. This is meant to include an outside member who is supposed to minimize institutional bias and increase the integrity of the inquiry procedure.

ICC has the power to investigate with similarity similar to disciplinary investigation and must conform to natural justice principles. The Act provides deadlines in which complaints, inquiry, and report filing within the Act should be done and the goal is to have redressal on time. It also includes interim reliefs, which include transfer of aggrieved woman or respondent or giving leave to the complainant till the inquiry is going on. After the inquiry is complete, the ICC can either advise disciplinary punishment or financial compensation to the offended woman based on the outcomes.

The POSH Act has faced a lot of criticism despite the progressive structure even when it comes to its application and scope. Among the most striking weaknesses of the Act is that it is gender specific. The legislation acknowledges only women as victims of sexual harassment, and excludes men, as well as people who identify as members of the LGBTQ + community, within its area of protection. Although the Act had been implemented to correct the historical and structural inequalities in favor of women, this exclusion creates questions regarding equality and inclusiveness in contemporary workplaces where harassment may be undergone by both genders.¹⁵

The other significant difficulty is the implementation of the Act. Despite the requirement of the constitution of ICCs and reporting of compliance, several organizations do not comply with this requirement set by the law. In some instances, ICCs are not run in a proper manner and are

¹⁴ Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, 1249 U.N.T.S. 13

¹⁵ POSH Act - Implementational Challenges, CYRIL AMARCHAND MANGALDAS (Dec. 14, 2022)

not properly constituted and have no trained members and are not represented by external members. The lack of frequent audits and tough punishments in the case of non-adherence are also a weakness of the Act.¹⁶

Moreover, ignorance of employees on their rights, as well as the complaint mechanism, remains a major impediment to harassment reporting.

Another criticism that has been leveled against the Act is that it gives too little protection against retaliation. Women who complain usually experience either indirect or blatant victimization, such as hostility at the workplace or stagnation in their professional careers or even termination. Although the Act forbids malicious complaint and false evidence, it fails to deal with power disparity between the complainant and the employer which may discourage women to forward with the complaints. In some instances, there is also a lack of confidentiality and procedural delays, which adds to the trauma of complainants.

In a nutshell, the POSH Act is a significant move of acknowledging and dealing with sexual harassment in the work environment as a society that has violated the fundamental rights of women. However, it is mostly to be successful when implemented successfully, aware of and agreeing to mitigate its limitations. To make the Act effective indeed, resisting the implementation of the law requires enhancing enforcement mechanisms, making ICCs independent, and training them, as well as rethinking the gender-specific nature of the law and ensuring its adequate effectiveness.

Theoretical Models of sexual harassment in the workplace

The theoretical frameworks are essential in sensitizing the sexual harassment that is experienced in workplaces beyond the legal meaning of the term, in that they place the issue into more social, economical, and institutional reality. Sexual harassment is not only a chain of individual cases that happened because of misbehavior of particular individuals, but it is a complicated process basing on the relation of power, gender roles, and organizational forms. Theoretical approaches including feminism legal theory, power imbalance theory, and organizational culture theory offer important insights into the reasons, continuation and effects of sexual harassment in the work place. Such frameworks aid the comprehension of why even with the legal protections, minorities (harassed) still find it difficult to complain and why there

¹⁶ The Efficacy of the POSH Act in India: Analyzing Challenges and Reforms, MSW MGMT. J. (July 14, 2025)

are numerous obstacles that stand in the path of victims to do so.¹⁷

The workplace sexual harassment has been analysed through one of the most powerful prisms of feminist legal theory. According to feminist scholars, sexual harassment is a form of patriarchal power structures that are instilled in the social and legal institutions. By this view, harassment is a control mechanism that strengthens male dominance and does not allow women to be fully and equally involved in the public and professional spaces. Workplaces, which were traditionally structured based on male standards and hierarchies, frequently marginalise women by showing them to sexualized scrutiny, objectification, and intimidation. The feminist theory questions the idea of sexual desire as a motivation to sexual harassment; according to it, such behavior is a display of power to uphold gendered hierarchies.

According to feminist legal perspective, sexual harassment is a type of sex discrimination. It establishes unbalanced conditions of work as it exposes women to extra psychological and emotional pressure, which restricts their professional growth and economic self-sufficiency.¹⁸ This view has greatly affected the judicial reasoning and legislative trends especially in the identification of hostile working environments as infringement of equality and dignity. In the Indian case, the rationale of the Supreme Court in the case of *Vishaka v. State of Rajasthan* demonstrates the feminist views in law making by associating sexual harassment with the fundamental rights as stipulated by Articles 14, 15 and 21 of the Constitution. Another idea expressed in the feminist theory is the need to focus a woman experience in the process of lawmaking as most of the feminist arguments are disregarded or their grievances are ignored because of the established gender prejudices against women.

The other significant theory that can be applied in the interpretation of sexual harassment in the workplace is the power imbalance theory.¹⁹ This theory is strong on the fact that often, harassment is committed by people who have some authority over the victims and this may be in the form of a boss, supervisor, or a senate colleague. Unequal power relations that arise due to the hierarchical nature of most workplaces can be used to seek sexual favors, silence complaints, or take action against those who oppose or report harassment. The theory of power imbalance emphasizes the fact that sexual harassment is less a two-way engagement and more

¹⁷ Approach to Theoretical Perspectives of “Sexual Harassment”, PMC (May 18, 2023).

¹⁸ Theoretical Perspectives to Sexual Harassment of Women at Workplace, IJHSSI (2017)

¹⁹ Sexual Harassment, Workplace Authority, and the Paradox of Power, supra note 9.

of coercion and control, which is enabled by the status, power, and job security differences.

The power imbalance framework is especially applicable to the explanation of the reluctance of the victims to report the harassment. Employees may hesitate to rise to the occasion as they are afraid of losing their jobs, of negative performance review and denial of promotions. The coercive environment caused by the dominance the harasser has over professional opportunities is meaningful in a great number of cases. This theory equally explains the phenomenon of quid pro quo harassment where employment benefits are either explicitly or implicitly offered on sexual compliances.²⁰ The Indian workplace setting where unemployment and economic insecurity are the key issues to consider, the power dynamics are only usually worsened, and the employees, particularly the women in the junior or contractual status, become even more exposed to exploitative forces.

The power imbalance theory also gives us an insight into the institutional failures to deal with the harassment. In cases where the perpetrators are in the top positions, the organizations might be more concerned about their image or leadership than being fair about complaints. The Internal Complaints Committees might not be independent or be pressured to clear or downgrade the accusations leveled at influential persons. Consequently, the culture of dominance in hierarchy is strengthened, and the culture of impunity is established. This theory therefore emphasizes on the importance of having high procedural safeguards, mechanisms of independent inquiries and having protection against retaliation as a way of counteracting power asymmetries in the workplace.

The organizational culture theory offers a more institutional view on sexual harassment at the work place by looking at how organizations norms, values and practices influence the behavior of the employees. This theory suggests that sexual harassment is bound to be more prevalent and sustained in workplaces that condone or even condone sexist attitudes, discriminating practices, and informal power relationships. An unhealthy workplace culture can minimize unacceptable behavior in the name of a harmless joke, de-motivate reporting by holding the victim responsible, or implicitly encourage and appreciate aggressive and dominating behavior. Harassment in these settings becomes normal and not an outlier, but instead an aspect of daily interactions and business activities.

²⁰ A Legal Analysis of Vishaka Guidelines to Posh Act and Beyond, SJAHSS (Oct. 27, 2024).

The organizational culture theory points out that rather than formal policies being taken to prevent harassment, they need to be reinforced by a culture of transparency, accountability, and respect. Loss of control over harassment can be persistent even in organizations that have anti-harassment policies and complaint systems, unless the leadership of such organizations can act as a positive example of desired behavior, and the complaints are handled in a perfunctory manner. The difference between the policies provided on the paper and the practices in reality is often associated with a more profound problem of cultural objectiveness, like gender equality resistance or the absence of the interest to ethical governance. Another aspect of this theory that is found to be of interest is the involvement of peer behavior and group dynamics in the perpetuation of harassment since keeping silent or the other way around, where the colleagues complicity may embolden the perpetrators.²¹

Organizational culture in Indian context is frequently connected to the rest of the wider Indian culture such as patriarchy, caste hierarchies and unofficial power relationships. These elements may contribute to the aggravation of the workplace harassment by strengthening stereotypes and inequalities. The organizational culture theory therefore emphasizes on the need to take precautionary steps in the form of gender sensitization training, accountability in leadership, and inclusion in the workplace. It also highlights the importance of organizations shifting away to compliance-based strategies and taking a more active role in creating an environment where dignity and equality are part of its values.

Feminist legal theory, power imbalance theory, and organizational culture theory taken together give an in-depth insight into sexual harassment in the workplace as the multifaceted challenge of structural inequalities and institutional practices. These frameworks help realize that the necessary prevention and redressal do not need only the legal action but also cultural change and distribution of power in the workplaces. With the incorporation of such theoretical knowledge into law and policy systems, one will be able to mitigate the underlying factors that have fueled harassment and transform workplaces into the modern day environments that genuinely incorporate the principles of equality, dignity and justice.

Two Dominant Categories: Quid Pro Quo and Hostile Work Environment

The conceptualizations of workplace sexual harassment in most legal systems represent two

²¹ Approach to Theoretical Perspectives of “Sexual Harassment”, supra note 1.

overlapping yet analytically different types of sexual harassment in the workplace, known as quid pro quo harassment and hostile work environment harassment. Combined, these classifications embrace both explicit coercion and ambient, culture-based harm, taken to represent the various modes of operation of sexual power at the workplace.

Quid Pro Quo Harassment

Quid pro quo harassment is a situation in which acceptance of sexual behavior is expressly or unspokenly a pre-requisite to receiving, maintaining, or enhancing employment related benefits. These benefits can be promotions, increase in wages, favourable reviews, desirable duties, training, job security and immunity against unfavourable action.²²

The characteristic of quid pro quo harassment lies in the abuse of the power and conditionality. The harasser uses his/her authority to get sexual submission or to retaliate against denial. That coercion does not have to be bold; it may be as simple as pulling the opportunities away, when it comes to negative appraisals, or marginalizing the person after rejection (when this distance of power is noticeable). Legally, quid pro quo harassment is in many ways easier to prove since it entails concrete employment effects. Nevertheless, it is highly underreported because of fear of retaliation, stagnant career, ruined reputation, and blacklisting, especially in informal, precarious or male dominated industries. The rationality of silence by victims in an attempt to keep making a living is an example of how the concept of consent when it comes to these situations is structurally affected.²³

Hostile Work Environment Harassment

Hostile work environment harassment is unwanted sexualized activity that is extreme enough or permeates the workplace to cause a change in the terms of work and an intimidating, hostile or offensive work environment, despite the lack of threats related to employment. This group acknowledges that harm is usually cumulative, recurring, in the form of remarks, jests, gestures, visual representations, electronic messages or exclusionary behaviors. Any event can be enough when these are serious offenses (sexual assault or overt threats), however, most instances have a tendency that slowly dies away dignity and psychological security.

²² Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, No. 14 of 2013, § 3 [POSH Act]

²³ Understanding the Basics of the POSH Act, CANDOUR LEGAL (n.d.).

Harassment in a hostile environment is entangled with culture of work place and normalization.

Such practices can also be used as instruments of gendered exclusion and control which are usually considered a joke, locker-room talk, or initiation rituals. Women, LGBTQ+ people, junior employees and people who do not fit into the prevailing gender norms are likely to be impacted by such environments unequally. The legislation is becoming aware of the fact that making employees subject to such conditions virtually trains employment to toleration of humiliation and thus erodes substantive equality. This realization makes resilience an individual issue and institutional responsibility an organizational one.²⁴

The quid pro quo and hostile environment harassment are both formed through overlapping power dynamics, which are hierarchy, economic dependence, gender expectations, caste, sexuality, and institutional silence. They do not apply mutually exclusively; one actual situation can imply not only the presence of coercive demands but a larger hostile environment.²⁵

Neutrality and Contemporary Workplace Harassment

The question of whether the laws that control sexual harassment in the workplace can be formulated to be gender neutral has become one of the focal points of legal debate in the modern legal community. Although the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 was enacted in a noble motive of redressing the issue of systemic and historic discrimination against women, its gender specific framework has created massive loopholes in protection. The Act acknowledges solely women as aggrieved persons and offers remedies only to them in practice and thus does not refer to men and those who belong to LGBTQ+ community. This marginalization has been a source of grave concerns on equality, inclusiveness and access to justice in the face of changing demographics at the workplace and growing awareness on gender diversity.²⁶

The modern age of the workplace has ceased to be homogenous and strictly organized by the traditional gender dichotomy patterns. The increased engagement of men and gender-differentiated people in service industry, creative industries, corporate worlds, and online

²⁴ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, No. 14 of 2013, § 2(n), India Code (2013).

²⁵ Catharine A. MacKinnon, *Sexual Harassment of Working Women* 40–44 (1979).

²⁶ Kritika Sethi, *Critiquing the POSH Act, 2013: Is It Time for a Gender-Neutral Framework?*, 5 INT'L J. ENVTL. & SOC'Y SCI. 1, 1 (2025)

platform has turned the professional spaces into multi-layered social ecosystem. Sexual harassment in these settings is not limited to the activities that are committed against women only. There is also the possibility of men being harassed as well especially in the hierarchical workplaces where power could have been used to abuse the subordinates by senior employees. In the same way, transgender, non-binary, and queer (TOQ) people tend to be more vulnerable, being socially discriminated against, insensible to the institutions, and unrecognized. The POSH Act however with its limited applicability to women does not realize these realities and leaves a significant portion of the working population with no formal redress system.²⁷

Lack of anti-gender harassment legislation in the workplace leaves a gap in the law, which compels non-women victims to pursue alternative means of action such as general service laws, employment contracts or provisions on criminal law, none of which is aimed at dealing with harassment in the work place. Remedies of criminal laws in the Indian Penal Code, despite changes, including the introduction of Section 354A, are generally gendered and concentrate on female victims. The resultant effect is that a culture of silence and underreporting may be strengthened, with men and those in the LGBTQ + who face harassment frequently having no constructive legal mechanism to pursue, again. Such selective identification of victims is a weakness in the constitutional right of equality before the law under Article 14 and begs the question whether or not it is justified that protective legislation can be applied selectively to a cohort of persons due to historical disadvantage.

Besides concerns on gender neutrality, there has been a radical change in the nature and the forms of harassment at the workplace within the recent years. Historical interpretations of sexual harassment were based mostly on physical gestures or an outright sexual advance in the workplace. Nevertheless, due to the emergence of digital communication, work-based at a distance and the use of social media in professional life, harassment has acquired more insidious, indirect, and technological manifestations. Sexually explicit messages, emails sent inappropriately, offensive memes, or constant monitoring have become an issue that is highly widespread in the online environment. This behavior can be performed during non-standard working hours and physical areas, but it is still closely related to the workplace and business relations.²⁸

²⁷ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, No. 14 of 2013 §§ 2(a), 9 (India)

²⁸ India's Workplace Sexual Harassment Laws Need an Update, IDR (Aug. 17, 2025),

The other new wave of harassment is sexual undertones of workplace bullying. These encompass excessive remarks about looks, gender expression, or individual life, humiliating jokes, refuse treatment, or verbal abuse, which has implicit sexual or gender implications. Although this behavior does not always easily qualify in conventional concepts of sexual harassment, its aggregate result is a workplace that is hostile and intimidating. In the case of LGBTQ + employees, such harassment is very likely to be manifested in the form of misgendering, derogatory comments on sexual orientation, attempts to make people conform to heteronormative standards or inflammatory questions about personal identity. Such experiences are not only very alienating but also psychologically harmful, but often remain unacknowledged by the law.

Sexual orientation and gender identity-based harassment shows the weakness of a legal framework that is grounded in binary and heteronormative constructs. *Navtej Singh Johar v. Union of India* was a great move in the right direction as far as LGBTQ+ rights are concerned but workplace protections have not changed in the same rate. Without the direct statutory protection, LGBTQ + employees tend to be discriminated against or harassed condescendingly, as insignificant. This is also worsened by the fact that employers and internal committees are not sensitised and complaints are not treated seriously or they are mishandled because of lack of understanding or prejudice.

The POSH Act is also gender-specific which puts Internal Complaints Committees in a tight situation. Because the Act fails to confer upon ICCs the authority to receive complaints by nonfemale workers, most organizations tend to have no mechanism internally to handle claims of harassment as raised by their male or gender-different workers. This does not only deny victims redress but also it compromises the larger goal of promoting safe and respectful work environments. Other organizations have tried to fill this gap by implementing internal genderneutral policies, although these are not legally supported and differ in effectiveness.²⁹

Opponents of gender-neutral harassment legislation state that since women are a historically marginalized demographic, they need special protection and that neutralization can blur the importance of the safety of women. Though this point is legitimate, it does not mean that other victims should be excluded fully. It needs a subtle solution, one that will still acknowledge the

²⁹ *Expanding the POSH Policy to Include Men, LGBTQ+, and Transgender Individuals*, ARISTO LEGAL (Sept. 6, 2024),

structural disadvantages of women but at the same time offers legal protection to any person who achieved sexual harassment. Examples of comparative law systems, such as the United Kingdom system and the Canadian system, show that gender-neutral laws on harassment can still be in place and at the same time as strong laws to protect women without having to negate the purposes of feminism.

To sum up, gender neutrality of the Indian legislation against workplace harassment is a serious flaw of a otherwise liberal law. The changes that happen to the workplaces, where the forms of harassment get more complicated, demand the law to be amended accordingly. It is also important to understand the present manifestations of harassment and offer protection to all victims regardless of their gender or sexual orientation to promote the constitutional values of equality, dignity, and justice. Without this kind of reform, the law on workplace harassment will end up being exclusionary, ineffective and unrelated to the realities of a big portion of the working population.

The Myth of No Male Victims: The way Law and Culture Support Each Other

Masculinity Norms and Workplace Culture

Sexism against men in the workplace is often invisible because it is covered up by the firmly upheld practices of masculinity. The cultural norms depict men as tough, sexually aggressive, and emotionally resistant, and do not provide much social space to see men vulnerable. Consequently, behavior that would definitely be termed harassment when targeted at women is in most cases flown off when men are targeted. The normalization of such conduct is-

1. Practices of so-called ragging, initiation or hazing, especially in male dominated or hierarchical work environments;
2. Jokes about the masculinity, sexual performance or body autonomy;
3. Homophobic mockery and sexual humiliating, which are frequently employed as means to patrol gender conformity.

Such practices are not only interpersonal misconducts, but they act as social control mechanisms. Hierarchical power structures are strengthened through men being disciplined because they fail to match dominant masculine ideals. Sexualized harassment serves as a method of dominance assertion, competence challenge, or even perceived weakness punishment particularly in the competitive work world.³⁰

³⁰ Rashbha Dochania & Akanksha Dochania, *Burdened by Masculinity: Exploring Men's Discrimination in India Through the Lens of Hegemonic Masculinity*, 10 J. Health & All. Sci. 2, 3 (2025)

Men who do venture to report such experiences, are often met with disbelief, ridicule or minimization. Querries like "Why did you not do something to stop it? or "Men can manage this" replicate the victim-blaming discourses women encounter, but under a different stereotype: the belief that men are never sexually ready, are physically superior, and can never be subdued. This assumption nullifies the chances of coercion, humiliation, or psychological injury, and transforms the experiences of male victimization into a masculine failure.³¹

Organizational psychology empirical literature shows that men much less likely to term unwanted sexual behaviour as a type of harassment even when such behaviour satisfies objective legal standards. The possibility of being stigmatized socially, retaliated against by their colleagues, or seen as weak is enough to deter reporting. Through this, the culture in the work place actively silences male victimhood and makes unsafe practices go unquestioned.

Legal Exclusion Deepens Silence

The legal frameworks also help in influencing social concepts of harm and legitimacy. Whenever the main statute of workplace harassment is directly denoted, framed, and designed as a law that focuses on women, a subliminal but strong signal that men are not under the protection of the law is transmitted. This figurative shunning performs in concert with the cultural norms to further dishearten reporting by men.

The fact that it has no official legal status has a number of structural implications. To begin with, male victims tend to be confused about the solutions, complaint procedures, and institutional assistance. Internal complaints committees, training programs, and compliance structures are generally structured to become of women as the only intended beneficiaries, and male complainants feel procedurally out of place and substantively unwelcome.

Second, institutional denial is supported by legal exclusion. Complaints by men can be addressed by employers as interpersonal, disciplinary problems, or as something to do with misconduct; this way, the employer does not have to provide the stringent procedural protections and standards of responsibility required by the harassment law. This de facto treatment undermines deterrence and allows habitual offenders to continue being ingrained into

³¹ *Rights of Men Against Sexual Harassment at Workplace in India: A Call for Gender-Neutral Laws*, 4(1) INT'L J. L. RES. & ADV. 1, 5 (2025)

the workplace hierarchies of power.

Third, the women-only framing has the unintended effect of supporting the cultural myth that sexual harassment is a women-only problem and that men can only be perpetrators, but never victims. This dichotomous idea of evil weakens the universality of dignity, bodily integrity and equality in the workplace. It also ignores intersectional realities, including harassment of young, subordinate, queer, and disabled men and disadvantaged social groups.

In a number of jurisdictions, comparative legal approaches are following gender neutral approaches to harassment because it is understood that it is power imbalances that predispose people to become sexual harassment victims, and not gender. These models underline behavior, consent and authority abuse hence separating victimization with gender identity. In comparison, gender only laws will tend to mistake protection with identity, as opposed to harm. Law and culture are in effect in a cycle of reinforcers. Masculinity standards dissuade men against reporting and discourage their belief that it will be unhelpful or unseemly to do so, which is exacerbated by legal exclusion. This is a cycle of systemic underreporting, misrepresentation of data regarding workplace harassment, and the loss of the full picture of the issue. Violating this silence not only involves cultural change but also legalizing that sexual harassment is an infringement of dignity in the workplace irrespective of the gender of the victim.

Effects of Sexual Harassment at the Workplace

The consequences of sexual harassment at the workplace are far reaching and they go way beyond the misconduct itself. Its effects are various and include victims in terms of their psychological, professional, economic, and social aspects. Although the legal dialogue mostly centers around defining what is meant by harassment and the prescribing action, its effects are vital in comprehending the reason why sexual harassment is a significant violation of human dignity and fundamental rights. The impacts on a victim population indicate the need to have systems of prevention and redress in place and reiterate the insufficiency of the strategies that relocate and live harassment as a mere employee to employee issue and not as a systematic injustice.³²

The psychological effects of sexual harassment in the workplace are one of the worst and most

³² *Vishaka v. State of Rajasthan*, (1997) 6 S.C.C. 241 (India).

imminent effects. The victims of harassment often have a severe emotional breakdown characterized by anxiety, depression, fear, anger and helplessness. The work environment, known as a place where one should feel safe and able to develop professionally, turns into the cause of unceasing stress and insecurity. When their complaints are ignored, trivialized or mistrusted, victims usually lose their self-esteem and self-worth. This mental torture can linger long after the harassment is over and more so when the harasser is not punished or still the victim is under the auspices of the harasser.³³

In worse scenarios, the victims can be manifested to show symptoms related to post-traumatic stress disorder, including intrusive thoughts constantly, sleeping troubles, emotional numbness, and inability to focus. The latter symptoms have a direct impact on the performance of a person in their professional work, which leads to a vicious circle, as the deterioration of the performance at work negatively influences the confidence and professional status. The psychological impact of harassment is commonly worsened by the procedure of reporting and seeking redress that might entail recurrent re-telling of the traumatic events, being questioned in a hostile manner and fear of retaliation. Consequently, most victims are ready to survive emotionally rather than through justice since they decide to remain silent instead of reporting.

The workplace sexual harassment has an equally long-lasting and severe economic and professional effect. Harassment also interferes with the career path as it reduces the chances of professional growth and progression. To shield themselves against any further harassment, victims might shun some assignments, projects or interactions and this results in perception of unengagement or commitment. In the hierarchical work environments, failure to comply with sexual demands can lead to failure to be promoted, poor performance reviews, or being ostracized of significant professional networks. These consequences strengthen the employment and income inequalities of the gender, especially among women in precarious or junior jobs.³⁴

Another widespread impact is absenteeism because the victims can take a lot of leave to overcome the stress or evade the harasser. This may eventually cause lack of productivity and job dissatisfaction, which even isolate the victim even more in the organization. In most situations, the victims are often forced to quit their jobs altogether, either because of intolerable

³³ Medha Kotwal Lele v. Union of India, (2013) 1 S.C.C. 297 (India).

³⁴ Catharine A. MacKinnon, *Sexual Harassment of Working Women: A Case of Sex Discrimination* 32–47 (1979).

work conditions or because of either the open or indirect retaliation. Forced resignation does not only lead to an instantaneous loss of finances but also financial instability in the long-term, particularly in the situation when alternative sources of employment are not high. These career failures prevent women engaging full in the workforce and the overall gender equality and economic empowerment, which is the net effect of such professional setbacks.

In addition to personal outcomes, sexual harassment at work does have an effective social effect that defines how people are going to approach victims and also affect their reporting. It is often accompanied by social stigma of the victims both at the workplace and even outside the workplace. They can be victim-blamed instead of being supported, and questioned on their conduct, character, or credibility. Stereotypes about complainants generally send the message that they are sensitive, opportunistic, or that they are the ones who instigated the harassment, and supports patriarchal norms that justify male misconduct and police the behavior of women. These stories lead to an unfriendly social setting, which prevents the victims to speak up.

Another major social effect of harassment is isolation. The fear of being gossiped, judged, or victimised again may cause the victim to isolate other colleagues, friends, and professional circles. In other instances, co-workers will avoid associating themselves with the complainant to escape confrontation with the management or being surrounded by the commotion. This social deidentification adds to the mental agony of the victims and strengthens the feeling of inability. This is a disturbing signal of the deficiency of solidarity and institutional backing, which supports the idea that organizational harmony is held higher than fighting injustice.

Workplace sexual harassment also has a social influence on organizational culture and the views of other members of the society on justice. The acceptance of harassment or the lack of proper treatment of complaints contributes to a culture of silence and encourages more people to commit misconduct. Potential victims are taught that reporting any harassment would result in negative effects instead of security, and the lack of responsibility will only embolden those who commit the harassment. Such a loss of confidence in institutions and legal procedures in workplace strengthens the lack of faith in the rule of law and consolidates institutional inequality.

Summing up, workplace sexual harassment has a far-reaching and highly devastating effect on the victims, their mental health, economic stability, career ambitions, and social lives. These impacts demonstrate that sexual harassment is neither a petty nor a personal issue but a grave

breach of dignity, equality and the right of an individual to work in a conducive environment. Addressing its effects cannot be done within the limits of legal compliance but rather a holistic stance where the primary consideration is the victim welfare, creation of positive working environments, and finding solutions to address social norms that underlie harassment in the workplace.

The Phenomenon of Harassers Being Harassed

One of the most disheartening and also neglected aspects of sexual harassment in the workplace is the form of retaliation that is meted out by the offenders against complainants once they have reported the wrongdoing by the culprits and this is often referred to as the harassment of the harassed. Victims who are open hardly get protection and supportive actions instead they often become the victims of subsequent victimization, formal and informal. This secondary harassment is a strong silencing technique, which not only hinders the complainant but also the other victims who might have had an experience of such nature to report the case. Consequently, retaliation has been the main form of perpetuating a culture of impunity at work places.³⁵

Revenge on the complainants can be in numerous forms, including direct threats, to indirect sabotage at work. The victims can be intimidated, verbally warned or pressured into dropping their complaints, mostly in the name of preserving the organizational reputation. In the hierarchal workplaces, bosses can abuse their powers to assign complainants to poor positions or workplaces, give them poor working conditions, or even dismiss them. Career stagnation, refusal to promote, performance reviews, and inclusion in professional opportunities are other typical retaliatory measures even where termination is not used. These measures send a very strong message, which is that there are severe professional consequences of harassment reporting.³⁶

Defamation and character assassination is another type of retaliation that is extensive. Complainants receive the label of dishonest, malicious, or morally questionable and the scrutiny of their personal lives and conduct is intrusive. This strategy diverts the attention to the so-called misconduct and puts the accuser on trial that strengthens the stereotypes of

³⁵ Comm. on the Elimination of Discrimination against Women, General Recommendation No. 35 on Gender-Based Violence Against Women, U.N. Doc. CEDAW/C/GC/35 (July 14, 2017).

³⁶ Apparel Export Promotion Council v. A.K. Chopra, (1999) 1 S.C.C. 759, 770–71 (India).

patriarchy that challenge the credibility and intentions of women. Rumor-mongering, gossiping, and informal labeling at work place further estranges the victims, hurting their reputation and psychological state. In most instances, other colleagues would not associate themselves with the complainant so that they are not linked to controversy, further isolating the victim.³⁷

One of the major causes of underreporting of sexual harassment at the workplace is the fear of retaliation. Although laws against victimization like the POSH Act are officially banned, they are never enforced, and the complainants have no effective means of redress against indirect or subtle retaliation. The Internal Complaints Committees might not be identifying or responding to retaliatory behavior and especially where influential people are concerned. This institutional failure and strengthens the mistrust in the grievance redressal mechanisms and encourages silence.

This act of harassing the harassed thereby frustrates the role of the harassment laws at work place. Legal shields fail to protect the victims when they are penalized because they want justice. The solution to this problem should involve tough anti-retaliation laws, severe responsibilities on employers and a change in working culture that puts more emphasis on dignity and fairness rather than on institutional self-preservation. In the absence of facing the retaliating factor, the struggle against sexual harassment in the workplace will not be complete and fruitful.

Obstacles to Justice and Redressing the Situation

Sexual harassment problem barriers to justice differ in the ways they affect women, men, and LGBTQ+ persons, even though they affect them differently. The biggest deterring factor to reporting is fear of retaliation. Women tend to get transferred, demoted or even subject to hostility at work following their complaints and likewise, men and LGBTQ+ victims are afraid of ridicule, disbelief, reputation, or masculinity or identity challenges. Such dangers deter these victims of both genders to pursue redress.³⁸

Divulging secrets of the processes of complaints further mutes the victims. Violation of

³⁷ Catharine A. MacKinnon, *Sexual Harassment of Working Women: A Case of Sex Discrimination* 105–10 (1979).

³⁸ Chad Lackey & Emma Shuck, *The Gender Divide in Reporting Harassment and Discrimination in the Workplace and Its Outcome*, DOAR (May 2, 2019)

confidentiality is a common cause of gossip, character slandering, and social ostracism. In the case of women, it can be morally scrutinized, and in the case of the male and LGBTQ+ complainants, it can be disempowering the belief in institutional processes, stigmatizing, and embarrassing them to reveal their sexual orientation or gender identity.

Prejudice and conflict of interest in Internal Complaints Committees (ICCs) are also a hindrance to justice. The senior management can be safeguarded by committees or can be internalized by gender stereotypes, which results in women being dismissed or their complaints being downplayed. The male and LGBTQ+ victims are even more excluded because ICCs do not have the statutory power to listen to their complaints, making them become trivial or completely dismissed. The other barrier is procedural complexity. The procedures of formal inquiry, rigid schedules, and documentation may be traumatizing and intimidating. Females in informal or insecure jobs do not have the support to help them through these processes whereas males and LGBTQ+ individuals are at a loss because the legal solutions are not explicit.³⁹

Lastly, cultural acceptance of harassment and lack of solution to victims who are male and LGBTQ+ makes the silence stronger. Unacceptable behavior is usually treated as something innocent and the victims who are not female have no right to complain about harassment. These obstacles, in combination, result in a framework that does not encourage reporting and harms successful redressal, which underscores the importance of covering all victims in the workplace harassment legislation.

COMPARATIVE PERSPECTIVE

Comparative study of sexual harassment legislation at the workplace shows that in a number of jurisdictions more inclusive and gender inclusive laws have been adopted in regard to the current legal system in India that provides interesting insights on how the law can strike a balance between victim protection, equality and effective implementation. United States, the United Kingdom and Canada are among the countries that have come up with legal mechanisms used to address sexual harassment at the workplace as a type of discrimination that may be experienced by people of both sexes and have established mechanisms of accountability, prevention as well as access to justice. The analysis of these strategies points out the advantages and the weaknesses of the existing system in India, based on the POSH Act, and the necessity

³⁹ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, No. 14 of 2013, §§ 4, 11, India Code (2013).

to reform it in the social context of international best practices.

In America, Title VII of the Civil Rights Act of 1964 is deemed as the most effective method in addressing sexual harassment in the workplace, since the act outlaws any discrimination in employment based on sex. The U.S. Supreme Court has been vital in influencing the legal interpretation of sexual harassment where it clarified that quid pro quo harassment in addition to the hostile work environment harassment are both forms of actionable sex discrimination.⁴⁰ Notably, the U.S. law is gender-neutral, and any person can launch a complaint against the offenders that commit any gender. This inclusiveness recognizes the fact that not only gender but power is the basis of harassment. The U.S. has relatively good enforcement mechanisms where the Equal Employment Opportunity Commission (EEOC) has the mandate to examine complaints, mediate, and even initiate lawsuits against employers.⁴¹ The presence of civil remedies, such as both compensatory and punitive damages, is also an important deterrent of non-compliance and promote an active approach by the employers in the prevention of harassment.

The United Kingdom also follows a rather inclusive path using the Equality Act 2010, which is a combination of anti-discrimination legislation and that which expressly forbids any form of harassment on the basis of a protectable characteristic, such as sex, sexual orientation, and gender reassignment. In the UK, harassment is a very loose term that is defined to encompass unwanted behaviour that contravenes the dignity of a person or causes a sense of intimidation, hostility, degradation, humiliation, and offensiveness among others.⁴² This definition redirects the emphasis of the perpetrator to the victim, which reflects the current human rights principles. The Equality Act is gender-neutral and it acknowledges discrimination that is intersected, which allows people to address harassment that is aggravated by various identity aspects.⁴³ In the UK, the employers may be vicariously liable in cases of harassment by employees unless they prove they took reasonable preventive measures. The provision is encouraging employers to make investments in training, awareness and proper grievance mechanisms.

Another educative case is in Canada, which has human rights laws and labour laws that are victim-focused and comprehensive in terms of dealing with workplace harassment. The federal

⁴⁰ *Meritor Sav. Bank, FSB v. Vinson*, 477 U.S. 57, 64–67 (1986)

⁴¹ Civil Rights Act of 1964 tit. VII, 42 U.S.C. §§ 2000e–2000e-17.

⁴² Equality Act 2010, c. 15, § 26 (U.K.).

⁴³ *Majrowski v. Guy's & St Thomas' NHS Tr.*, [2006] UKHL 34, [2007] 1 A.C. 224 (U.K.).

and provincial human rights codes both forbid harassment on the basis of sex, gender identity, gender expression, and sexual orientation, which is a demonstration of great inclusivity.⁴⁴ The Canadian legislation explicitly acknowledges the rights of transgender and non-binary people providing protection that transcends binary conceptualizations of gender. There are various avenues of redress as human rights commissions, labour tribunals, or internal workplace mechanisms can be used to handle workplace harassment complaints. The focus on restorative justice, mediation, and trauma-informed procedures in part of the Canadian jurisdictions also contribute to the more active involvement of the victims within the system and their trust in it.⁴⁵

The legal structure of the POSH Act in India seems to be restrictive in nature and flexibility in comparison with these jurisdictions. Although the Act has been a milestone in acknowledging the issue of sexual harassment as a problem in the workplace and holding employers responsible, its gender-based character limits the access to justice among the victims who are males and the LGBTQ+.⁴⁶ India also does not conceptualize sexual harassment in the workplace on a more generalized understanding in the U.S., UK, and Canada, which is a wider discrimination issue that cuts across all employees. Lack of effective external enforcement agencies, which are similar to the EEOC or human rights commission also undermines compliance, since the monitoring process is highly dependent on in-house mechanisms, which might not be independent.

The other difference which is worth noting is in remedies and deterrence. In most of the western jurisdictions, employers who do not stop or respond to harassment are required to pay hefty financial and reputational damages. On the contrary, penalties against non compliance in the POSH Act are relatively low and are not imposed much limiting their deterrence effect. Moreover, comparative jurisdiction is more concerned with employer training, workplace culture, and preventive policies as a legal requirement and not as a best practice.

The comparative side proves that the gender neutral laws of harassment do not weaken the defenses of women, on the contrary, they enhance the overall system with the presence of diversity among the victims and multifaceted nature of the contemporary work environment.

⁴⁴ Canadian Human Rights Act, R.S.C. 1985, c. H-6, §§ 2, 3; see also Ontario Human Rights Code, R.S.O. 1990, c. H.19, §§ 1, 7.

⁴⁵ Janzen v. Platy Enters. Ltd., [1989] 1 S.C.R. 1252 (Can.).

⁴⁶ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, No. 14 of 2013, § 2(a), India Code (2013).

These models help one see how in place of an ongoing emphasis on the resolution of historical gender inequalities, it is possible to have inclusive laws, powerful enforcement systems, and a high level of employer accountability. In the case of India, the incorporation of some of the aspects of these jurisdictions where gender-neutral definitions, external monitoring, harsher punishment, and consideration of gender diversity are adopted, would contribute greatly to improving the efficiency and effectiveness of sexual harassment legislation in the work place.

To sum up, international practices of the workplace sexual harassment would be a good teacher to the changing legal environment in India. A comparative analysis highlights that to establish safe and dignified work places, it is critical to have inclusivity, robust enforcement and a rights-based perception of the nature of harassment. Based on these international examples, India can be able to transition towards a more holistic and equal system that is consistent with constitutional principles and modern day realities in the workplace.

CONCLUSION

Sexual harassment at work is one of the most long-standing and tricky problems that face gender equality, dignity and justice in India. In spite of the great development of legal and judicial processes, the realities of a variety of workers and especially females prove that the issue goes way beyond the presence of laws and regulations. Sexual harassment is not just an act of misconduct but structural and an institutional issue that is steeped in patriarchal norms and power structures and cultures that remain entrenched to marginalize the vulnerable groups. To deal with such an issue thus it is a multi-dimensional and multi-level response that extends beyond formal compliance and whether these social and institutional processes underlie and support the continuation of the harassment.

The changing of the norms of law enforcement in India as Vishaka Guidelines were changed into the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, is a major step towards the acceptance of sexual harassment as a basic right violation. The association of workplace harassment with constitutional rights to equality, non-discrimination and right to life with dignity has enabled Indian jurisprudence to appreciate that safe working conditions are necessary to ensure meaningful participation in both the political and economic life. The POSH Act has been instrumental in entrenching preventive and remedial processes especially in creating Internal Complaints Committees and putting tasks on employers. Nevertheless, this structure has been compromised by weak execution, ignorance,

administrative deficiencies and weak enforcement. The fact that the victims of misconduct are retaliated, stigmatized and even faced with professional repercussions when they report the incident is one of the most urgent issues discussed in this paper. This victimization in the second degree does not only add to the trauma of complainants but also de-motivates others to come forward and build a culture of silence and impunity. The continuation of retaliation is more indicative of underlying institutional malpractices, such as power disparities, accountability, and ineffective protection against victimization. In the absence of a remedy to these systemic issues, legal redress will merely be cosmetic instead of being transformative.

The other important shortcoming of the existing legal system is that it has a gender approach. Although the POSH Act was created to cope with the historical and structural disadvantage of women, the fact that men and LGBTQ+ victims were not taken into account, is a major cause of concern in terms of inclusiveness and equality. The law should change with the times as more places of work become increasingly diverse with an emerging nature of harassment. The comparative analysis of the jurisdictions (the United States, the United Kingdom, and Canada) proves that gender-neutral laws of harassment can be effective to offer a complex level of protection without compromising the commitment to the safety of women. These models explain that the understanding of harassment as a type of discriminations that can happen to any employee makes the system of workplace justice more robust, but not weaker.

The theoretical lenses that were reviewed in this paper also contribute to the fact that sexual harassment can be explained by the power relations, organizational cultures, and systemic inequality. The feminist legal theory stresses on the role that harassment plays as a means of patriarchal control, and the theory of power imbalance and organizational culture underlines that the hierarchy and the norms of the institution predispose abuse and prevent victims and whistleblowers. These theories highlight the importance of both individual wrongdoing interventions, and structural situations that facilitate harassment. Reform in the law, hence, should be followed by change in culture in organizations, such as leadership responsibility, gender sensitization and no misconduct.

Going ahead, there is a dire need to ensure that India assumes a more inclusive, victim-focused, and enforcement-based method of tackling sexual harassment in the workplace. Enhancing the independence and work of Internal Complaints Committees, severe punishment in case of nonobservance, effective security of retaliation, and increasing awareness and training are

valuable measures that can help achieve significant changes. Also, a reassessment of the gendered essence of the legislation and the possibility of a gender-neutral system would bring the law on workplace harassment closer to equal and dignity-based constitutional principles.

To sum up, combating sexual harassment in the workplace is not only a legal but also a social justice, human dignity fight. Much as it is necessary, laws and policies are not enough on their own. The only way forward is to have enduring efforts by the state, employers and the society to confront, empower and enable victims and create safe, inclusive, and respectful work environments. It is only under this holistic approach that the dream of equality and dignity embodied in the Constitution can be fulfilled in the lives of working people in India as they experience it in their daily lives.