
ENSURING SAFE AND RESPECTFUL WORKPLACES: UNDERSTANDING THE POSH ACT, 2013

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ABSTRACT

Workplace sexual harassment continues to impede women's equal participation and dignity in professional environments, fostering fear, inequality, and hostile work conditions. To tackle this serious issue, India enacted the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, commonly known as the POSH Act, establishing a dedicated legal framework for prevention and grievance redressal. Building on the principles established in the landmark Vishaka Guidelines, the Act defines the nature and scope of sexual harassment, broadens the concept of the workplace, and introduces institutional mechanisms such as Internal Committees to ensure accountability. It also details employer responsibilities, protections for complainants, and penalties for non-compliance. However, despite its comprehensive structure, practical challenges like lack of awareness, procedural delays, and social reluctance to report incidents hinder effective implementation. The Act also works alongside criminal provisions under the Bharatiya Nyaya Sanhita, 2023, reinforcing the legal consequences of workplace misconduct. Overall, while the POSH Act marks a significant legal step forward, its true effectiveness relies on consistent enforcement and organisational commitment to fostering respectful and inclusive workplaces.

Background and Need for Legislation

Before 2013, India lacked a specific statutory mechanism to address workplace sexual harassment. Victims were compelled to rely on general criminal laws, which were often insufficient to handle workplace-specific challenges. The absence of structured complaint procedures contributed to underreporting and weak accountability.

A significant milestone occurred with the Supreme Court's decision in *Vishaka v. State of Rajasthan (1997)*. The Court recognised sexual harassment as a violation of fundamental rights under Articles 14, 15, and 21 of the Constitution. In the absence of legislation, it introduced the Vishaka Guidelines, mandating employers to establish preventive measures and complaint mechanisms. These guidelines later formed the foundation for the POSH Act.

Vishaka Guidelines: The Legal Precursor

The Vishaka Guidelines were the first formal attempt to define and regulate sexual harassment at the workplace. They included unwelcome physical contact, sexual advances, sexually coloured remarks, display of pornography, and other inappropriate conduct. Employers were entrusted with the responsibility of ensuring a safe work environment through awareness programs and disciplinary procedures. Although progressive, inconsistent implementation highlighted the need for statutory enforcement, leading to the enactment of the POSH Act.

Overview of the POSH Act, 2013

The POSH Act came into force on 9 December 2013 with the objective of preventing, prohibiting, and redressing sexual harassment of women at workplaces. Its scope extends across both organized and unorganized sectors, covering public and private establishments irrespective of size.

The Act adopts an expansive interpretation of the term “workplace,” encompassing offices, educational institutions, healthcare facilities, client sites, transportation provided by employers, work-related events, and virtual workspaces. This inclusive approach reflects the evolving nature of professional environments.

Objectives and Key Features

The Act aims to provide a secure and dignified working atmosphere for women while

promoting respectful conduct. It establishes a structured mechanism for addressing grievances promptly and fairly.

Key features include:

- Clear definition of sexual harassment
- Mandatory formation of Internal Committees (IC) in organizations with ten or more employees
- Time-bound inquiry procedures
- Protection against victimization and retaliation
- Confidentiality throughout proceedings

Protection Under the Act

The Act safeguards all women, regardless of employment status or age. This includes permanent staff, contract workers, interns, trainees, consultants, domestic workers, and visitors. By extending coverage beyond formal employment relationships, the law acknowledges the varied professional interactions where harassment may occur.

Meaning and Forms of Sexual Harassment

Sexual harassment under the Act includes any unwelcome behaviour of a sexual nature—physical, verbal, or non-verbal. This may involve inappropriate touching, demands for sexual favours, sexually suggestive remarks, sharing explicit content, or actions that create an intimidating or offensive work environment.

The Act also recognizes harassment linked to employment benefits or threats, such as promises of promotion or adverse consequences affecting professional standing.

Complaint Mechanism and Internal Committee

Organizations with ten or more employees must establish an Internal Committee comprising:

- A senior woman employee as the Presiding Officer
- Two employee members are committed to women's welfare
- One external expert from an NGO or legal background
- At least fifty percent women members

The IC is responsible for receiving complaints, conducting inquiries, maintaining confidentiality, and recommending corrective measures.

A written complaint should be submitted within three months of the incident, with provisions for extension under justified circumstances. The inquiry must be completed within ninety days, and findings forwarded to the employer for action.

Where no IC exists or where the complaint involves the employer, the Local Committee at the district level handles the matter.

Online Complaint Systems

To enhance accessibility, the Government introduced the SHe-Box (Sexual Harassment electronic Box) portal in 2017. It enables women to lodge complaints digitally, which are then forwarded to the appropriate IC or Local Committee. The platform ensures confidentiality and prompt redressal. Helplines such as 181 and 1091 further support victims through guidance and referrals.

Penalties and Consequences

For individuals found guilty of harassment, consequences may include:

- Written apology
- Warning or reprimand
- Salary deduction
- Termination as per service rules

Employers who fail to comply with statutory requirements may face fines up to ₹50,000 and potential cancellation of business licenses for repeated violations.

In addition to civil remedies under the POSH Act, acts of sexual harassment may also attract criminal liability under the Bharatiya Nyaya Sanhita, 2023, particularly under Sections **75** (sexual harassment), **78** (stalking), **77** (voyeurism), and **76** (assault or criminal force to disrobe a woman). Thus, offenders may face both disciplinary action and criminal prosecution.

Employer Responsibilities

Employers are mandated to:

- Constitute the Internal Committee
- Formulate and disseminate POSH policies
- Conduct regular awareness programs
- Display information regarding complaint procedures
- Submit annual compliance reports
- Ensure confidentiality and non-retaliation

Rights and Duties of Employees

Employees are entitled to a safe workplace, fair inquiry processes, and privacy. At the same time, they must maintain respectful behavior, report incidents responsibly, and cooperate during investigations.

Importance of POSH Compliance

Effective implementation promotes legal adherence, employee confidence, organizational reputation, and gender equality. A harassment-free environment enhances morale, productivity, and overall workplace harmony.

Conclusion

The POSH Act, 2013 represents a transformative step in safeguarding women's rights in professional spaces. Building upon the Vishaka Guidelines, it translates constitutional principles into enforceable legal obligations. However, its success relies on awareness, proactive employer participation, and collective responsibility. By fostering respect, accountability, and inclusivity, the Act contributes significantly to healthier and more equitable workplaces.

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