
SEXUAL HARASSMENT AT THE WORKPLACE IN INDIA AND THE WORLD

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ABSTRACT

Sexual harassment in the workplace is a crucial issue that affects people's safety equality and dignity across organizations around the world. Despite decades of gender equality and Labour rights, there are millions of workers particularly women who are being exposed to inappropriate conduct, imbalance of power, and harassment in workplaces. The implication of this is not merely personal and psychological but institutional as it affects the workplace atmosphere productivity and reputation. This research will dive deep into international strategies for combating workplace sexual harassment by assessing legal regimes, institutional systems, and cultural challenges in several countries. By especially emphasizing the methods in which distinct developed and emerging economies have crafted preventive systems, legislations, guaranteed redress channels, and advanced gender-responsive work cultures. The study also invokes the use of examples from nations like India, the United States, the United Kingdom, and some European and Asian nations. By assessing global best practices and areas of persistent gaps. This research emphasizes the necessity for a more standardized, inclusive, and anticipatory global response to guarantee the safeguard for employees at workplaces.

INTRODUCTION

Sexual harassment is any unwanted sexual behaviour towards an individual that makes one feel upset, scared, offended, or humiliated, encompassing verbal, non-verbal and physical actions of a sexual nature. The International Labour Organization (ILO) defines workplace sexual harassment as unwelcome sexual advances, requests for sexual favours, and other verbal or physical conduct of a sexual nature that affects an individual's employment or creates a hostile work environment. Despite global recognition of the scale and impact of the problem and a widespread commitment to tackle it, sexual harassment at work is a persistent and pervasive problem that disproportionally affects women in all jobs, occupations and sectors of the economy in all countries across the world. Taking into account the varying definitions, estimates suggest that globally as many as 75 per cent of women over 18 – at least two billion women have experienced sexual harassment. Sexual harassment in the workplace ordinarily means a pattern of conduct but may also result from a solitary incident. It can manifest itself in numerous forms which may include both quid pro quo and hostile environment.

Quid Pro Quo - It means 'this for that.' It is one of the major ways of harassing a person in the workplace. Understanding it with an example - An Employer promises an employee to get them promoted or do the favour and asks them to have a sexual relationship even without their will or harass them, again and again, doing whatever they want to get sexual exchange from them by showing the power they hold in the workplace, which makes a harassed person keep quiet about what they are doing to them.

Hostile Work Environment - As the name suggests creating an aggressive work environment at the workplace means discrimination against a person or humiliating them which makes them feel uncomfortable and unsafe. In this, an Employer or a Co-worker intentionally tries to cut the victim from others or make them feel low on others, or discriminate against them on gender and other factors.

ANALYSIS

There have been advances in the legislation of several nations to protect female employees from sexual harassment. However, the question that arises is how are different nations across the globe tackling this situation. And what can companies do in order to prevent sexual harassment.

INDIA

India is a liberal democracy. Article 21 of the Indian Constitution stipulates that all citizens have the fundamental right to live with dignity. However, there is no statute that particularly addresses sexual harassment. Since the last decade the offence faced at the workplace has been acknowledged and measures have been taken to curb this issue and to foster a safer environment. To mitigate this many relevant legislations, incorporation of the (Sexual Harassment of Women at Workplace (Protection, Prevention, Redressal) Act, 2013)¹ often referred to as the POSH Act; got enacted by the parliament with an intent to prevent gender-based harassment in the workplace and to promote a safe work in an environment for the women. The Act came into force after the 16-year awaited Vishaka judgement which led to the formation of Vishaka guidelines.² This act stresses on building prevention measures, offer better redressal mechanisms and mandates the formation of an 'internal complaints committee'. This act was created with the intent to cope with workplace harassment but in recent years many pertinent questions have been raised regarding its efficiency.

ICC Committee: Just prior to the enactment of POSH, the Supreme Court had taken judicial notice of the fact that most States and Union Territories had not taken steps towards the implementation of the Vishaka guidelines in government institutions and there was no proper mechanism to address sexual harassment complaints in private institutions either. Regional surveys corroborate this. In a survey of government institutions in West Bengal conducted in 2002-2003, it was found that the majority of departments were yet to form a complaints committee and those who had, had not followed the Vishaka guidelines. It was further found that such committees were usually constituted only after intervention by an external organisation. In another study conducted by the NGO Sanhita in 2006 amongst 25 workplaces ('Sanhita Study'), it was found that none of the respondent organisations had a separate sexual harassment policy in place, though they had formed ICCs. Rather, a majority felt that mere changes to their 'code of conduct' would suffice in lieu of such a policy.

Background of the Act:

The roots of the act lays in the landmark judgement Of Vishaka and ors Vs State of Rajasthan

¹ The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, No. 14, Acts of Parliament, 2013 (India)

² POSH Act: A Critical Analysis, Legal Specs, LinkedIn, <https://www.linkedin.com/pulse/posh-act-critical-analysis-legal-specs-ovyfc/>

and ors, 1997.³ Through this judgement Supreme Court introduced Vishaka guidelines these guidelines were implemented in the wake of a gruesome gang rape of Bhanwari Devi in the year 1990s. Bhanwari Devi was a social activist from Rajasthan often advocating against social evils like child marriage, female feticide, dowry, poor hygiene etc. She was captured by a group of men when she was trying to prevent a child marriage. After a year from the commencement of the offence the accused were taken into custody and many trials were held, at last the accused were penalised for nine months of imprisonment and were found guilty for a lesser offence than rape.⁴ Her story depicts the shortcomings and lack of proper legislation or sufficient legal recourse provided to a female employee against workplace harassment concluding with a public uproar against the judgement. Hence looking at the outrage of the public a PIL was filed by Vishaka NGO requesting for guidelines supporting and fostering safer work environment for women. After 16 years the guidelines came into picture in the year 2013.⁵

Key Provisions of the POSH Act:

Section 2 of the Act discusses the various important discussions pertaining to the Act. Section 2(a) delves into the meaning of the term aggrieved woman specific only to the POSH Act. It states the aggrieved women as a person who is

1. In a workplace setting, any woman, regardless of age or employment status, who claims to have experienced sexual harassment by the accused.
2. In the context of a residence or household, any woman of any age who is employed within that dwelling.

Further section 2 also discusses the applicability of various terms such as sexual harassment, workplace, employer, employee. The unorganized sector has been included separately in the definitions which mainly refers to enterprises owned by various individuals and various other conditions.

Section 3 deals with the Prevention of sexual harassment in a greater detail. That no woman

³ Vishaka V. State of Rajasthan, (1997) 6 S.C.C. 241 (India).

⁴ Amit Rathore, Examining the Limitations of the POSH Act in Addressing Workplace Harassment, Int'l J. Future-Generation Res., <https://www.ijfmr.com/papers/2024/2/17096.pdf>

⁵ Legal Analysis and Implementation, Maheshwari & Co., <https://www.maheshwariandco.com/blog/legal-analysis-implementation/>

shall be subjected to sexual harassment in any workplace. And the following situations, among others, may constitute sexual harassment if they occur in connection with any act or behavior of harassment:

1. A direct or indirect promise of favorable treatment in her job.
2. A direct or indirect threat of negative consequences in her employment.
3. A direct or indirect threat regarding her current or future job security.
4. Actions that disrupt her work or create a hostile, intimidating, or offensive work environment.
5. Humiliating behaviour that could impact her health or safety.

Section 4 of the Act talks about the composition of the Internal Complaints Committee that should be constituted in the workplace.

Section 9 deals with the complaint of sexual harassment. An offended woman may submit a written complaint of sexual harassment at the workplace to the Internal Committee, if there is one, or the Local Committee, if not, within three months from the incident. In instances of multiple incidents, the complaint should be submitted within three months from the last occurrence. If the woman cannot file the complaint in writing, the Presiding Officer, any member of the Internal Committee, the Chairperson, or a member of the Local Committee shall offer help if necessary. The committee can also grant an extension for submission by up to three months if sufficient reasons, supported by documents in writing, hindered early submission. If the woman is physically or mentally incapable of filing a complaint, has died, or cannot do so otherwise, her heir or a competent representative can submit it on her behalf.

Section 10 is Conciliation: Before an inquiry begins, the complainant may opt for conciliation (settlement) if she agrees. Monetary settlement is not allowed as a resolution. If conciliation succeeds, the ICC/LCC closes the case; otherwise, an inquiry is proceeded.

Section 11 is Inquiry Process: The ICC/LCC must conduct an impartial inquiry following workplace service rules. If the accused is not an employee, the committee may recommend legal action. If the act is criminal in nature, the committee must inform law enforcement.

Section 13 talks about Inquiry Report & Recommendations. The ICC/LCC must complete the inquiry within 90 days. A detailed report with findings and recommendations must be submitted to the employer or district officer. The employer must take appropriate action within 60 days of receiving the report.

Section 14 – False or Malicious Complaints: If a complaint is proven to be false with malicious intent, the complainant may face disciplinary action. However, lack of proof does not imply a false allegation. Ensures protection from misuse of the Act while maintaining fairness.

Section 15 – Determination of Compensation: If sexual harassment is proven, the accused may be required to compensate the complainant. It is determined based on the victims:

1. mental trauma and suffering.
2. Medical expenses incurred
3. Loss of career opportunities due to the incident.

Section 19 – Duties of the Employer:

- a) Ensure a safe and harassment-free work environment.
- b) Display POSH policies at the workplace.
- c) Conduct awareness programs and workshops on sexual harassment prevention.
- d) Provide assistance to the complainant if she wants to file a police complaint.
- e) Ensure strict compliance with ICC recommendations.

Section 26 – Penalties for Non-Compliance: Failure to comply with the Act (e.g., not forming an ICC) can result in:

A fine up to ₹50,000 and License cancellation for repeated violations.

Challenges faced by the POSH Act:

The Act was implemented to create a safer and dignified environment at workplaces for women

but its applicability in the educational institution may create confusion in the mind of public regarding its purpose and scope.⁶ For example in some cases, the complainant finds it quite difficult to identify the appropriate authority to whom the complaint must be made to as the legislations states that “the complaint must be submitted to the committed as a whole instead of directly submitting it to the chairperson or other designated individual.” The Act is flawed in its mechanism as there is no established committee to ensure the compliance or to impose penalties for the violation of procedures. Additionally, in complaint committee of a district (local areas) many times the designated officers are absent or not even appointed which seems as a backfire for the success of the said act. The penalty of Rs. 50,000 may seem insufficient to compel the organization for complying to the act.⁷ Many researches have pointed out that small offices or informal sectors does not have an ICC or in any case constituted this committee. The Act lacks provisions for developing resources to train employees, employers, and ICC members on its implementation. Further, it also does not account for accidental physical contact between a male and female employee or unintended comments made under the assumptions that no female employees are present.

International Perspective

Apart from India there are several nations who have established laws addressing workplace sexual harassment. Organisations like the International Labour Organisation and UN Women have depicted nearly 140 countries that have adopted legislation pertaining to this issue. UNHCR has introduced its own policy and this Policy Framework on Harassment, Sexual Harassment and Abuse of Authority is the result of an inter-agency process of “the United Nations Development Group (UNDG) Sub-Group on Harassment, formed in 2002, to review and update the existing sexual harassment and harassment policies of its member organizations. The UNDG has supported the commitment that all international organizations must have “zero tolerance” for harassment in the workplace, and will not tolerate conduct that can be construed as harassment, sexual harassment or abuse of authority. Such behaviour or conduct is contrary to the spirit of the United Nations Charter, its Staff Rules and Regulations (Articles 1.2 a and 1.2 b and staff rule 101.2 (d)) and to the Standards of Conduct for the International Civil Service. Staff or non-staff personnel responsible for such behaviour or conduct may be subject

⁶ R. Bhatia, An Analysis of the Ambiguities in Sexual Harassment Laws in India: The Case of the POSH Act, 12 Indian L. Rev. 567 (2020).

⁷ V. Mishra, Analysing Judicial Interpretations of the POSH Act Through a Case Study Approach, 32 Indian LQ. 501 (2019).

to appropriate administrative or disciplinary measures. The policy framework is intended to serve as a basis for UNDG member agencies to update their existing policies.”⁸ Many international frameworks have a dedicated system to oversight bodies like ICC in order to scrutinize the compliance whereas, POSH Act relies more on internal process.⁹

UNITES STATES OF AMERICA

The USA defines ‘sexual harassment’ as an unwelcomed sexual conduct, remarks and gestures against anyone. In USA the Civil Rights Act, 1964 deals with the provisions of sexual harassment and the suits filed against this act. The Civil Rights Act came into force on November 1991 and was implemented by the Equal Employment Opportunity Commission (EEOC), 1965. The Act protects all kinds of discrimination against the people on the basis of colour, sex, caste, creed or religion. Before 1991 the only remedy that was granted to the victims was that of the “injunctive relief”.¹⁰

JENSON v. EVELETH TACONITE CO. was one of the very first case which was reported against sexual harassment in USA, there were several cases settled and this case was established as the precedent. “When the cases increased, the federal courts explained that the workplace discrimination will never equate to sexual offence or harassment, and thus the EEOC in 1980 developed the "Guidelines on Discrimination due to Sex" and any offence of discrimination was addressed by the guidelines provided by EEOC. Under the Act employers who engage or allow sexual harassment at the workplace may be punished in a variety of ways including reprimand, demotions, reduction of pay, suspensions and terminations, victims may also recover compensation for damages and reinstatement. Class action suit is also available to victims and the case of Jenson was filed in the year 1988 and it was prolonged up to 1977.”

UNITED KINGDOM

In the UK, sexual harassment in the workplace is explicitly prohibited under the Equality Act 2010, which defines it as "unwanted conduct of a sexual nature" that violates a person's dignity

⁸ U.N. High Comm'r for Refugees, *Policy on Harassment, Sexual Harassment, and Abuse of Authority*, U.N. WomenWatch,

[https://www.un.org/womenwatch/osagi/UN_system_policies/\(UNHCR\)policy_on_harassment.pdf](https://www.un.org/womenwatch/osagi/UN_system_policies/(UNHCR)policy_on_harassment.pdf)

⁹ Md. Imran Wahab, *The POSH Act: A Critical Analysis of Its Limitations and Impact*, Int'l J. Future-Generation Res., <https://www.ijfmr.com/papers/2024/6/32697.pdf>

¹⁰ Salma Fassaludeen, *Comparative Analysis: Sexual Harassment Laws in India vs. Other Countries*, LJRF Voice (Apr. 2025), <https://ljrfvoice.com/comparative-analysis-sexual-harassment-laws-in-india-vs-other-countries/>.

or creates a hostile environment. There was no legal obligation on employers to take active steps to prevent harassment unless a complaint was made. This reactive approach limited proactive culture change. “A new duty came into force on 26 October 2024 requiring UK employers to take reasonable steps to prevent sexual harassment of employees in the course of their employment under the Worker Protection (Amendment of Equality Act 2010) Act 2023.”¹¹ Though legally banned and now also under active employer obligations, sexual harassment is still a widespread problem in UK workplaces. It takes many forms, including unwelcome sexual remarks, gazing, sexual remarks, unwanted touching (which in some cases can constitute sexual assault), prying questions about sex life, and exhibition of offensive content. In spite of the law, underreporting is common, and a 2020 Government Equalities Office survey identified 15% of workplace sexual harassment cases being reported formally, largely because of concerns about not being believed, adverse effects on their careers, or lack of confidence in internal procedures or processes. This underscores the continued difficulty of developing a culture in which victims feel safe and able to come forward, even with the recent legislative reforms aimed at empowering and protecting workers.

AUSTRALIA

Australia has the definition of 'sexual harassment' as unwelcome sexual conduct which causes a person to feel intimidated, humiliated or offended where such feelings are reasonable. The sexual harassment consists of: unwanted kissing, leering, making sexually explicit telephone calls, inquiries about one's private life or appearance that are intrusive, other types of inappropriate physical contact which are unwanted, sexual advances, staring, unwanted hugs, sending sexually explicit emails and text messages etc.

Sexual harassment at the workplace is forbidden in Australia by the Sex Discrimination Act 1984 and the Fair Work Act 2009, with a positive obligation placed on employers to ensure it does not occur. “The Fair Work Act of 2009 was recently enacted to make great strides towards preventing and responding to sexual harassments which have been prevalent in the nation for a long time. The aim of the new law is to augment and not eliminate the current laws prohibiting sexual harassment contained in the Sex Discrimination act, according to section 28A of the Sex Discrimination Act, sexual harassment takes place when a person makes an unwelcome

¹¹ New Duty to Prevent Sexual Harassment for UK Employers Now in Effect, Morgan Lewis (Oct. 2024), <https://www.morganlewis.com/pubs/2024/10/new-duty-to-prevent-sexual-harassment-for-uk-employers-now-in-effect>

approach, or an unwelcome sexual favours request, to the person being harassed or if a person indulges in other unwelcome sexual conduct toward the person being harassed, the Fair Work Act of 2009 prohibits sexual harassment related to work and also encompasses workplace sexual harassment.” The changes in the law will also enable the victims to go to the Australian Government's Fair Work Ombudsman and unions and claim compensation, monetary penalties and other orders against the harassers and businesses that do not take reasonable steps to prevent the harassments of the workers.

UNITED ARAB EMIRATES

Sexual harassment at the workplace in UAE means unwelcome and inappropriate behavior of a sexual kind which makes the work environment hostile and intimidating. UAE is a nation that gives high regard to its women citizens and thus it has stringent laws and regulations to deal with this problem.

The UAE Penal Code has both verbal and physical workplace harassments under “Article 413 of the Code and punishment for those offences in Articles 324 and 325. The Federal Law No. (3) of 2016” deals with cybercrimes such as online harassments that also take place in workplaces. The country's laws give the employees the right to file complaints of harassments and complaints can be lodged with the human resource department or directly at the Ministry of Human Resources and Emiratisation and for the witnesses they are encouraged to file complaints of harassments. The employers have the obligation to provide an anti-harassment workplace environment for its employees. As per the UAE laws the harassers are subject to harsh punishment in the form of fines and imprisonment. Imprisonment is mentioned under “Article 324 of the UAE Penal Code as a punishment up to AED 10,000. Article 325 of the UAE Penal Code.” For females subject to awkward situations by male coworkers there are definite measures to confront this problem such as the communication – communicate with the individual attempting to harass regarding the awkwardness she undergo and inform him regarding the gravity of the offence and that it is regarded as a criminal offence within the nation, Employer Complaint – she can complaint to her employer regarding the matter and to take suitable action against the harasser, Internal Investigation – the employer will conduct an investigation upon the complaint, Criminal Complaint – a female subject to harassment or awkward situations at the workplace is entitled to lodge a criminal complaint to the police under “Articles 411, 412(1) and 413” of the UAE Penal Code.

Further many nations like Canada and Sweden have adopted a wider approach regarding this issue. Canada's Occupational Health and Safety Act mandates training and audits to tackle workplace bullying and gender discrimination. Sweden emphasizes on preventive measures that require organizations to report harassment externally, this ensures transparency and accountability. Its framework also provides victim rehabilitation and counselling, creating a safer, more supportive environment for reporting incidents without fear of retaliation. Countries like South Africa¹²,

ROLE OF ORGANIZATIONS

Peers in an organization who observe and witness sexual harassment also suffer from it, generating a climate of fear and intimidation leading to reduced productivity and higher absenteeism. Evidence of such further indicates that without violence and harassment in the workplace, the productivity of survivors and perpetrators, as well as bystanders, increases. Since sexual harassment mainly targets women, it can heighten other gender inequalities in the workplace that hinder women or cause them to exit the labour market. It can lead to decreased job satisfaction, decreased organizational commitment and decreased productivity. It is one of the biggest obstacles to career progression with women who deny sexual involvement tending to discover that possibilities of in-work development, promotion and guidance are deterred. Research found 80 per cent of women who suffered sexual harassment moved jobs within two years of the harassment occurring, compared with slightly more than half of other working women. The research also reported high levels of financial strain resulting from job loss – at times without a new job to return to – and that sexual harassment can have lasting effects on earnings and career achievement.

This is at a very expensive price for companies and their bottom lines, such as reduced profitability, damage to workplace dynamics and employees' motivation, and reputational harm. "A recent study suggests just how damaging sexual harassment is to the value of a company: between 2011 and 2017, shareholder value loss averaged between \$0.9 to \$2.2 billion per annum for harassment-risk companies primarily due to steep falls in operating

¹² POSH Laws in Different Jurisdictions, The Outcast Collective, <https://theoutcastcollective.com/posh-laws-in-different-jurisdictions/>.

profitability and rises in labour costs.”¹³ Another study revealed that US firms with the highest rates of sexual harassment performed worse on the US stock market by nearly 20 per cent the following year. Return on assets and return on equity reduced by 4.2 per cent and 10.9 per cent respectively during the next two years, and labour expenses rose by an average of seven per cent. Productivity as well as overall performance are adversely impacted by sexual harassment. More absences, decreased motivation and commitment, and disruption to the team all result in lost productivity, but the effect of being exposed to sexual harassment of others can lead to 'bystander stress' and conflict between team members, degrading team performance. “A recent Australian study had estimated that workplace sexual harassment cost the economy AUS\$2.62 billion in lost productivity during 2018. A US study demonstrated that sexual harassment results in average damage of US\$22,500 per employee in lost productivity and turnover.”¹⁴ The private sector experiences larger total productivity losses than the public sector, as a reflection of the proportionately larger portion of the labour force in the private sector. Occupational stress to team members who have observed harassment also results in poorer financial performance, with one study determining that the “US federal government lost \$193.8 million between 1992 and 1994 from reduced team-wide productivity due to sexual harassment. With sexual harassment being so detrimental to the value of a company, all leaders, although especially the CEO, must ensure that measures to prevent it, including punishment of perpetrators, are implemented consistently, and must develop a company-wide approach to prevent and respond where it does occur. While this would lower compensation costs to survivors, let it be mentioned that these are far less than the costs related to profitability impact.”¹⁵

WHAT CAN COMPANIES DO?

Confronting sexual harassment requires businesses to establish and implement fully comprehensive policies, procedures and training that cover all gender-based violence and harassment. These need to foster respect as well as equality and to be based on corporate cultures that similarly value diversity, inclusion and gender equality. Occupational health and safety management procedures shall take into account all the risks of violence and harassment,

¹³ Shiu-Yik Au, Ming Dong & Andreeanne Tremblay, How Much Does Workplace Sexual Harassment Hurt Firm Value? (June 5, 2020), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3437444

¹⁴ Shiu-Yik Au, The Real Cost of Workplace Sexual Harassment to Businesses, The Conversation (2019), <https://theconversation.com/the-real-cost-of-workplace-sexual-harassment-to-businesses-122107>

¹⁵ Ibid

such as the identification of hazards or risk-factors, and the guarantee of proper information and training in coordination with trade unions and workers' representatives.

Decreasing the prevalence and costs of sexual harassment cannot be viewed as isolated or distinct from overall corporate culture. Proper addressing of harassment in the workplace begins with a culture of respect and dignity; where work can be regarded as a site of trust, care and protection; where violence and harassment of all kinds are unequivocally rejected; and where gender equality is the norm. Those firms who have developed truly inclusive and gender equal cultures based on the Women's Empowerment Principles (WEPs) are likely to conclude that active measures to prevent and respond to sexual harassment are a natural extension. Establishing the proper culture needs to start with and include the topmost level of management, including the board of directors.

Senior peers need to take a lead in establishing a robust tone at the top and leadership in addressing violence and sexual harassment, empowering employees to speak up and treating everybody equally. Businesses also need to identify and address any part of their corporate culture which facilitates and enables sexual harassment and gender stereotypes that are damaging, ensuring that ending them becomes an integral part of the business function.

Training:

Training and information from employers, such as on prevention and protection strategies, must be provided in accessible formats as necessary. Firms should strive to make stopping sexual harassment everyone's business, with all workers having a role to play in creating positive, respectful and gender-sensitive workplaces based on a culture of confidentiality and trust. Training, counselling and sensitization for managers and supervisors, as well as workers and their representatives, needs to be implemented so that they will learn about the dangers of violence and harassment and how to address it. Making everyone feel safe and providing them with a role in reporting sexual harassment means that the onus of speaking out is distributed, not depending on victims to act. The most effective campaigns, according to emerging evidence, are managerial training on identifying early indicators of harassment and acting quickly, and bystander intervention programmes that educate bystanders to act if someone is acting inappropriately.

Policy Making:

Workplace policies to address sexual harassment should:

1. Clearly define sexual harassment and assure that it will not be tolerated. They must also assure that it is a violation of human rights as well as gender-based discrimination, irrespective of sex, and can intersect with other bases of inequality, including race, ethnicity, age, disability, nationality, religion, sexual orientation and other social vulnerabilities like poverty.
2. Define sexual harassment as unwanted sexual behaviour at work, with unwelcomeness and not consent being the norm.
3. Be drafted in consultation with representatives of workers and after considering the perspectives of employees, managers and different categories of workers, including women.
4. Promote, train and assist bystander interventions so that witnesses to an act of sexual harassment can intervene to protect or escort the target from the location, speak out to the harasser or assist in de-escalating a situation. Bystanders may also assist victims, may report perpetrators through a third-party complaint system or, if needed, document what they see to assist victims upon their readiness to report.
5. Make information on complaints and investigation procedures widely available to all, including disabled people. These should detail how employees can complain both formally and informally. Informal procedures, for example ombudsperson systems, are necessary because not all victims wish to make a formal complaint. All complaints need to be investigated and/or resolved promptly and properly whether made formally or informally.
6. Have strong monitoring and assessment measures and tools in place to gauge the effectiveness and efficiency of the policy and any action connected therewith to handle sexual harassment.
7. Distributed and accessible to every employee. The employer's role and that of employees must be established clearly in the policy. Managers, supervisors and implementing workers

must be trained to realize their roles and responsibilities in order to provide a harassment-free workplace.

Avoid retaliation and reprisals against reporters and how to review and evaluate their effectiveness.

INITIATIVES BY GOVERNMENT ORGANIZATIONS:

The duty of implementation of the Act at State and District levels is of the concerned Government i.e. the State Governments in the case of all workplaces, which are setup, owned, controlled or financed completely or largely with the funds advanced directly or indirectly by the State and any other workplace within its jurisdiction. They are charged with overseeing the enforcement of the Act and keeping the statistics on the cases filed and settled. State/ UT/ district-wise statistics on number of cases of sexual harassment filed and settled are not kept centrally. Nevertheless, the National Crime Records Bureau (NCRB) collects information about sexual harassment in work/ office areas (Section 354A of IPC) from 2017 onwards in its report titled 'Crime in India'.¹⁶

“Sexual Harassment electronic Box (SHe-Box) is an effort of Government of India (GoI) to provide a single window access to every woman, irrespective of her work status, whether working in organised or unorganised, private or public sector, to facilitate the registration of complaint related to sexual harassment. Any woman facing sexual harassment at workplace can register their complaint through this portal. Once a complaint is submitted to the ‘SHe-Box’, it will be directly sent to the concerned authority having jurisdiction to take action into the matter.”¹⁷

Miscellaneous:

Q. Can a Transgender file a complaint under Act?

Answer: Only a transwoman can file a complaint under the Sexual Harassment Act.¹⁸

¹⁶ Ministry of Women & Child Dev., Press Release, Govt. of India (Jan. 2022), <https://www.pib.gov.in/Pressreleaseshare.aspx?PRID=1797683>

¹⁷ SHe-Box, Ministry of Women & Child Development, <https://shebox.wcd.gov.in/#:~:text=IF%20YOU%20ARE%20FACING%20SEXUAL,take%20action%20into%20the%20matter>

¹⁸ Frequently Asked Questions, Office of District Magistrate, Delhi, <https://dmnewdelhi.delhi.gov.in/faq-2/>

While it can be said that POSH laws are not gender neutral and that it provides protection to only women with nearly no clarity as to its application on transgenders, however when read with Transgender Persons Rights Act and the NALSA judgment, a view that can be taken is that the POSH Act would also provide protection to transgender women. The institutions and organizations themselves should address the need to draft a gender neutral and inclusive POSH policy for their employees.

“The Transgender Persons (Protection of Rights) Act, 2019, is an important piece of legislation in India to affirm and protect the rights of transgender persons.” The Act recognizes the right of transgender people to self-identify their gender and guarantees equal access to healthcare services, education, and employment opportunities without discrimination. It prohibits unfair treatment in employment and recruitment on the grounds of a person's transgender status.

Notably, Section 18(d) of the Act criminalizes sexual harassment of transgender persons. Guilty parties may be imprisoned for at least six months, which can be extended to two years, with a fine. This clause marks the legal effort to ensure the creation of safe, welcoming, and respectful working environments for transgender individuals that are harassment- and discrimination-free.

CONCLUSION

In conclusion, although workplace sexual harassment is still a major problem in many jurisdictions, legal frameworks are changing to address it more sensitively, responsibly, and inclusively. A significant step toward guaranteeing safer working conditions for women was taken in India with the passage of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act). It required internal complaint committees in workplaces and created a formal complaint mechanism. However, transgender people and gender minorities are left in a legal limbo because the law's gender-specific language restricts its protection to women.

Additionally, the Transgender Persons (Protection of Rights) Act, 2019 recognized gender self-identification and made sexual harassment of transgender people illegal under Section 18(d). While this provision offers some recourse, there is still a lack of a comprehensive, integrated mechanism akin to the POSH Act for transgender individuals and gender minorities.

On the other hand, a number of nations have enacted more gender-neutral or gender-inclusive legislation, including the United States, the United Kingdom, and portions of Europe. For instance, the 2024 amendment to the Equality Act in the UK reinforced employer responsibilities by requiring businesses to proactively prevent harassment. Additionally, to strengthen accountability at the institutional level, international organizations like the UNHCR have implemented explicit zero-tolerance policies that address harassment in all of its manifestations.

There is a discernible global trend toward frameworks that are inclusive, preventive, and accountability-driven, encompassing all genders. Adopting uniform workplace codes, promoting inclusive awareness, and amending the POSH Act to specifically include protections for transgender and gender non-conforming people would all help India's legal system keep up with this trend.

Ultimately, the effectiveness of any law hinges not only on its provisions but also on its enforcement, societal acceptance, and the commitment of institutions. A truly inclusive workplace is one where every individual regardless of gender identity feels safe, respected, and empowered to thrive.