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# SEXUAL HARASSMENT AT WORKPLACE: LAW, POLICY, AND PRACTICE

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## INTRODUCTION

Sexual harassment at the workplace constitutes one of the most challenging social and legal issues of modern times. It is defined as unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature that negatively affects an employee's work environment or employment conditions.<sup>1</sup> The repercussions of such conduct are not limited to the individual but extend to organizations in the form of reduced productivity, reputational damage, and increased turnover. Despite legislative interventions and institutional mechanisms, sexual harassment continues to be underreported due to fear of retaliation, social stigma, and lack of awareness about remedies.<sup>2</sup> Understanding the nature of harassment, legal obligations, and organizational practices is critical to fostering safe and equitable workplaces.

## I. Conceptual Framework of Sexual Harassment

### A. Definition and Scope

Sexual harassment is primarily recognized as a form of gender-based discrimination that undermines the dignity and equality of the affected individual. According to the United Nations Committee on the Elimination of Discrimination Against Women (CEDAW), sexual harassment includes "any unwelcome conduct of a sexual nature, whether physical, verbal or non-verbal, that creates a hostile, intimidating, or offensive work environment."<sup>3</sup> Globally, it is broadly categorized into two forms: **quid pro quo harassment**, where employment benefits are conditioned on submission to sexual advances, and **hostile work environment harassment**, which occurs when unwelcome conduct creates a toxic workplace atmosphere.<sup>4</sup>

### B. Forms of Sexual Harassment

Sexual harassment manifests in multiple forms, each impacting employees differently.

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<sup>1</sup> Vishaka v. State of Rajasthan, (1997) 6 SCC 241.

<sup>2</sup> Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

<sup>3</sup> Committee on the Elimination of Discrimination Against Women (CEDAW), General Recommendation No. 19, UN, 1992.

<sup>4</sup> International Labour Organization (ILO), "Violence and Harassment in the World of Work," ILO, 2019.

**Physical harassment** includes unwanted touching, assault, or sexual gestures. **Verbal harassment** may involve suggestive comments, jokes, or sexual propositions. **Non-verbal harassment** includes displaying pornographic material or leering. In the digital age, **cyber harassment**—such as sending sexually explicit messages or images via email or messaging platforms—has become a significant concern.<sup>5</sup> These forms collectively create a hostile work environment, impeding professional performance and causing severe psychological trauma.

### C. Impacts

The consequences of workplace sexual harassment are multifaceted. Victims often experience anxiety, depression, loss of self-esteem, and career stagnation. Organizations, in turn, face higher absenteeism, decreased productivity, and reputational damage.<sup>6</sup> Studies have shown that unaddressed harassment contributes to systemic gender inequality, particularly in male-dominated workplaces, perpetuating discriminatory practices and limiting women's professional advancement.<sup>7</sup>

## II. Legal Framework

### A. International Legal Standards

International instruments play a crucial role in framing domestic legislation on workplace harassment. The **CEDAW (1979)** obliges state parties to eliminate discrimination against women in employment and education, recognizing sexual harassment as a form of gender-based discrimination.<sup>8</sup> The **International Labour Organization (ILO)** emphasizes employer responsibility in ensuring workplaces free from violence and harassment, with guidelines promoting complaint mechanisms, preventive measures, and legal remedies.<sup>9</sup>

### B. Indian Legal Provisions

India's primary legislative instrument for addressing workplace sexual harassment is the **Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 (POSH Act)**.<sup>10</sup> The Act provides a comprehensive framework for preventing harassment, defining offenses, and instituting internal complaint mechanisms.

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<sup>5</sup> Ibid.

<sup>6</sup> Mary Koss, *Understanding the Impact of Workplace Harassment on Women*, 2014.

<sup>7</sup> Arunima Singh, *Gender Equality and Workplace Harassment*, Indian Journal of Labour Studies, 2018.

<sup>8</sup> CEDAW, 1979.

<sup>9</sup> ILO, 2019

<sup>10</sup> POSH Act, 2013.

## 1. Definition and Scope

The POSH Act defines sexual harassment to include unwelcome sexual advances, requests for sexual favors, and conduct that creates a hostile or intimidating environment.<sup>11</sup> It applies to all workplaces, including government, private sector, educational institutions, and non-governmental organizations.

## 2. Internal Complaints Committee (ICC)

Organizations with ten or more employees are mandated to establish an **Internal Complaints Committee (ICC)** to address complaints. The ICC is responsible for conducting impartial inquiries, recommending disciplinary action, and ensuring confidentiality.<sup>12</sup>

## 3. Employer Responsibilities

Employers must provide a safe working environment, display policies against harassment, and organize awareness programs. Failure to comply attracts penalties, including fines and legal action.<sup>13</sup>

## 4. Judicial Precedents

The landmark case **Vishaka v. State of Rajasthan (1997)** laid down guidelines for preventing sexual harassment in the absence of specific legislation, emphasizing employer accountability and procedural safeguards.<sup>14</sup> Subsequently, **Medha Kotwal Lele v. Union of India (2012)** reinforced institutional responsibilities, particularly in educational organizations, highlighting the need for proactive compliance with anti-harassment measures.<sup>15</sup>

## C. Comparative International Frameworks

Other jurisdictions have implemented robust legal frameworks to combat workplace harassment. In the **United States**, Title VII of the **Civil Rights Act, 1964** prohibits sex-based discrimination, including sexual harassment, in employment.<sup>16</sup> The **United Kingdom's Equality Act, 2010** forbids harassment related to sex, providing victims with civil remedies and compensation.<sup>17</sup> In **Australia**, the **Sex Discrimination Act, 1984** outlines employer duties and penalties for workplace harassment, with emphasis on preventive policies and complaint

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<sup>11</sup> Section 2(n), POSH Act, 2013.

<sup>12</sup> Section 4, POSH Act, 2013.

<sup>13</sup> Sections 21-22, POSH Act, 2013.

<sup>14</sup> Vishaka v. State of Rajasthan, (1997) 6 SCC 241.

<sup>15</sup> Medha Kotwal Lele v. Union of India, WP (C) 344/2012.

<sup>16</sup> Title VII, Civil Rights Act, 1964, USA

<sup>17</sup> Equality Act, 2010, UK

mechanisms.<sup>18</sup> These comparative frameworks provide models for policy formulation and enforcement globally.

### III. Workplace Policies and Practices

#### A. Policy Framework

Workplace policies operationalize legal provisions and foster a culture of zero tolerance toward harassment. Effective policies should: define sexual harassment clearly; outline complaint procedures; ensure confidentiality; provide grievance redressal mechanisms; and guarantee protection against retaliation.<sup>19</sup> Policies must be visible, accessible, and communicated to all employees, including new hires, contractors, and trainees.

#### B. Preventive Measures

Preventive strategies are integral to reducing incidents of harassment. Organizations should conduct regular **training and awareness programs**, emphasizing respectful conduct, rights, and complaint mechanisms.<sup>20</sup> **Monitoring mechanisms** such as anonymous reporting portals and periodic audits strengthen accountability. **Leadership commitment** is essential in cultivating a respectful workplace culture, while promoting **gender sensitivity** and inclusive practices mitigates systemic discrimination.<sup>21</sup>

#### C. Complaint Redressal Mechanism

A robust complaint mechanism ensures that victims can safely report harassment. The ICC must conduct inquiries impartially, adhere to timelines prescribed under the POSH Act, and recommend disciplinary action. Victims may also seek legal recourse through courts if internal mechanisms fail.<sup>22</sup> Confidentiality, counseling, and support services are crucial in maintaining trust and encouraging reporting.<sup>23</sup>

### IV. Challenges in Implementation

Despite legal and organizational frameworks, several challenges hinder effective implementation:

- **Underreporting:** Fear of retaliation, victim-blaming, and social stigma lead to

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<sup>18</sup> Sex Discrimination Act, 1984, Australia

<sup>19</sup> POSH Act Guidelines, Ministry Of Women And Child Development, India

<sup>20</sup> ILO, 20

<sup>21</sup> ArunimaSingh, 2018

<sup>22</sup> POSH ACT, 2013

<sup>23</sup> Ibid

underreporting of harassment incidents.<sup>24</sup>

- **Cultural and Patriarchal Norms:** In many workplaces, entrenched gender norms discourage women from speaking out.<sup>25</sup>
- **Weak Enforcement:** Delays in investigation, lack of trained personnel, and insufficient monitoring compromise the effectiveness of complaint mechanisms.<sup>26</sup>
- **Awareness Gaps:** Many employees are unaware of their rights and organizational procedures, limiting the effectiveness of legal protections.<sup>27</sup>

## V. Best Practices and Recommendations

- **Awareness and Training:** Conducting workshops, seminars, and e-learning modules for employees and management to understand legal obligations and workplace etiquette.<sup>28</sup>
- **Strengthening Internal Mechanisms:** ICCs must function independently, maintain confidentiality, and adhere to statutory timelines to build employee trust.<sup>29</sup>
- **Promoting Gender-Sensitive Culture:** Organizations must actively foster inclusivity, respect, and equality at all levels, including leadership representation of women.<sup>30</sup>
- **Technology Integration:** Online grievance portals, anonymous reporting tools, and employee surveys can enhance accessibility and transparency.<sup>31</sup>
- **Periodic Review and Audits:** Policies should be regularly updated to comply with legal amendments, organizational audits should track implementation, and employee feedback must be incorporated.<sup>32</sup>

## CONCLUSION

Sexual harassment in the workplace remains a critical challenge with serious implications for individuals, organizations, and society. Legal frameworks such as the POSH Act, combined with proactive workplace policies and a culture of respect and inclusivity, are essential to prevent, address, and remediate harassment. Effective enforcement, leadership commitment,

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<sup>24</sup> Mary Koss, 2014

<sup>25</sup> Arunima Singh, 2018

<sup>26</sup> POSH Act Report, Ministry of Women and Child Development, India, 2020

<sup>27</sup> Ibid

<sup>28</sup> POSH Act Guidelines, Ministry of Women and Child Development, India

<sup>29</sup> Ibid

<sup>30</sup> Arunima Singh, 2018

<sup>31</sup> ILO, 2019

<sup>32</sup> POSH Act Report, Ministry of Women and Child Development, India, 2020

and employee awareness are pivotal to creating workplaces that are safe, equitable, and conducive to professional growth. Continuous evaluation of policies and mechanisms ensures not only compliance but the cultivation of a culture that rejects harassment in all forms.