



Workplace Dignity and Gender Safety: A Critical Study of Sexual Harassment Laws and Policies

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Abstract: In contemporary professional spaces, the assurance of workplace dignity and gender safety has emerged as a cornerstone of equitable labor environments. Despite the existence of legal frameworks such as the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, implementation gaps and structural biases continue to challenge the protection of individuals—particularly women and marginalized genders—from sexual harassment. This paper critically examines the evolution, efficacy, and limitations of current sexual harassment laws in India, with a comparative analysis of global standards including the ILO Convention No. 190 on violence and harassment. It evaluates key judicial pronouncements such as the *Vishaka v. State of Rajasthan* (1997) and *Aureliano Fernandes v. State of Goa* (2023), which have reinforced the constitutional right to a safe and dignified workplace under Article 21 of the Indian Constitution. Furthermore, the study explores institutional compliance, Internal Committee efficacy, and the need for gender-neutral legislative reform. By highlighting policy lacunae, societal attitudes, and enforcement challenges, this research underscores the urgent necessity of creating workplace cultures rooted in mutual respect, legal accountability, and inclusive safety mechanisms. The paper concludes with policy recommendations for strengthening the existing framework through mandatory training, digital protections, and an expanded legal definition that accommodates all gender identities.

Keywords: Workplace dignity, gender safety, POSH Act 2013, sexual harassment, Vishaka Guidelines, gender-neutral laws, internal committees, judicial interpretation

Introduction: The concept of workplace dignity and gender safety holds paramount importance in shaping an inclusive, respectful, and secure working environment. However, in societies where patriarchal norms are deeply entrenched, such as India, these principles often remain unfulfilled promises. While women are constitutionally accorded equal rights and are referred to as the 'better half' of society, their actual experiences within professional spaces frequently contradict this ideal.

High-profile cases such as the Tarun Tejpal¹ incident - where the editor of *Tehelka*, a magazine known for exposing corruption and social evils, was accused of sexually assaulting a young colleague - have brought the issue of workplace sexual harassment into sharp public focus. Such events expose the stark reality that even supposedly progressive and elite sectors are not insulated from gender-based exploitation. Similarly, allegations against a former

¹ A high-profile sexual assault case in India which sparked national debates on sexual harassment in workplaces, media ethics, and the criminal justice system.

Supreme Court judge reflect the persistent atmosphere of fear and silence that discourages victims from seeking legal recourse, even within the highest echelons of the judiciary.

Despite India's post-independence legislative progress in advancing women's rights - illustrated by statutes such as the Hindu Marriage Act of 1955 - the legal framework specifically addressing workplace sexual harassment remained absent for decades. It was not until the landmark *Vishaka v. State of Rajasthan* judgment in 1997 that judicially mandated guidelines filled this void. Yet, for years thereafter, the legislature failed to enact comprehensive statutory protections, revealing a concerning dissonance between constitutional ideals and practical enforcement.

The eventual passage of *The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013* marked a critical, though belated, legislative response to this pressing issue. The Act provides a broad definition of sexual harassment - encompassing verbal, non-verbal, visual, psychological, and physical forms - and mandates the establishment of Internal Complaints Committees (ICCs) in workplaces. Despite these measures, widespread lack of awareness, underreporting due to fear of retaliation, and organizational indifference continue to undermine the effectiveness of these legal safeguards.

Additionally, preventive and eliminative programs spearheaded by various departments - such as the Labour Department in Malaysia - highlight the importance of internal mechanisms and proactive employer responsibility in creating harassment-free environments. These initiatives stress awareness-building, the development of complaint procedures, and the promotion of zero-tolerance policies.

This paper critically examines the existing legal provisions, their implementation, and the systemic challenges that impede the realization of workplace dignity and gender safety. Through an analysis of statutory instruments, judicial pronouncements, and organizational practices, the study aims to highlight gaps in policy and suggest reforms necessary to ensure true gender justice at the workplace.

Vishaka Judgment: A Judicial Initiative Against Workplace Sexual Harassment: In 1997, the Supreme Court of India laid down the landmark Vishaka Guidelines, marking the judiciary's proactive role in addressing the pervasive issue of sexual harassment of women at the workplace. These guidelines emerged from the seminal case of *Vishaka and Others v. State of Rajasthan* (1997 SC 384), where the Court recognized the absence of legislative provisions explicitly dealing with workplace sexual harassment and filled this vacuum by framing mandatory guidelines applicable to both public and private sector employers.

The Vishaka Guidelines were hailed by women's rights groups as revolutionary, as they provided a clear and comprehensive definition of sexual harassment and outlined preventive and remedial measures that organizations were obliged to adopt. The Supreme Court recognized that freedom from sexual harassment is integral to a woman's fundamental right to a safe and dignified work environment, emphasizing that this is not merely a "women's issue" but also a broader labour and human rights concern impacting all employees regardless of gender. Furthermore, the judgment underscored the connection between workplace safety and freedom of expression, particularly in the context of media organizations, where the rising number of women journalists faced unique vulnerabilities. As Ammu Joseph² aptly noted, "the safety and security of journalists are essential prerequisites for press freedom," and sexual harassment poses a direct threat to this ideal (Joseph, 2013).

Prior to this judicial intervention, there was little clarity for employers on their responsibilities to prevent and address sexual harassment at the workplace. The Vishaka Guidelines put an end to this era of uncertainty, placing explicit duties on employers and making them accountable for maintaining harassment-free work environments. These guidelines remained the operative legal framework until the enactment of the *Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013*, which codified and expanded upon the Vishaka

² A renowned Indian journalist, author, and media analyst, best known for her work on gender and media, women's rights, and media ethics. She has played a pivotal role in bringing feminist perspective to India Journalism and remains a leading voice in advocating for gender sensitive media practices.

principles. The Act, which came into effect after being notified in December 2013, enumerates ten distinct duties of employers, reflecting the judiciary's earlier directives.

Despite this judicial and legislative progress, compliance with the Vishaka Guidelines and the 2013 Act remains uneven. Numerous workplaces failed to establish Internal Complaints Committees (ICCs) or adequately sensitize their workforce even many years after the judgment. Notably, large-scale public outrage following incidents like the 2012 Delhi gang rape catalyzed broader implementation efforts, suggesting that legal reforms often receive proper enforcement only in the wake of societal crises. This reactive pattern raises critical concerns about whether the judiciary and legislature act preemptively or merely respond to public pressure.

Key Directives of the Vishaka Judgment: The Vishaka Judgment imposed a series of responsibilities and preventive measures on employers, which include:

1. *Employer's Duty:* All employers, heads of institutions, and responsible authorities are required to actively prevent sexual harassment. They must implement procedures for resolution, settlement, or prosecution of acts constituting harassment.

2. *Definition of Sexual Harassment:* The judgment broadly defines sexual harassment to include:

- Physical contact and advances,
- Demand or request for sexual favours,
- Sexually colored remarks,
- Showing pornography,
- Any other unwelcome physical, verbal, or non-verbal conduct of a sexual nature.
- Such conduct is deemed discriminatory and a violation of women's rights if it creates a hostile work environment or affects employment decisions like recruitment or promotion.

3. *Preventive Steps:* Employers are directed to:

- Publicly prohibit sexual harassment,
- Integrate prohibitions into service rules and standing orders,
- Ensure safe and non-hostile working conditions.

4. *Criminal Proceedings:* In instances where harassment amounts to a criminal offence under the India Penal Code (Bhartiya Nyaya Sanhita, 2023) employers must initiate appropriate legal action and protect the complainant and witnesses from retaliation.

5. *Disciplinary Action:* Where harassment constitutes misconduct under employment rules, suitable disciplinary measures are mandated.

6. *Complaint Mechanism and Committees:* Every employer must establish an adequate complaint mechanism, including a Complaints Committee headed by a woman, comprising at least 50% women members, and involving a third-party representative such as an NGO. Confidentiality and a time-bound process are essential features.

7. *Worker's Initiative:* Employees must be permitted to raise harassment issues in official meetings to encourage an open, transparent dialogue.

8. *Awareness Programs:* Employers are obliged to raise awareness through regular notifications and training sessions on employee rights regarding harassment.

9. *Third-Party Harassment:* In cases where harassment occurs due to outsiders, employers must take all necessary measures to support the victim and prevent recurrence.

10. *Government Role:* Both Central and State Governments were urged to ensure these guidelines were observed by private employers, supplementing them with suitable legislation - which later culminated in the 2013 Act.

The Vishaka Judgment represents a watershed moment in India's legal history regarding workplace safety and gender justice. However, the gap between legal principles and practical enforcement remains a pressing concern. Judicial initiatives such as Vishaka provide an essential foundation, but their transformative potential can only be realized

through diligent compliance, organizational commitment, and a shift in societal attitudes toward gender equality in professional spaces.

SEXUAL HARASSMENT ACT: HOW IT COMES INTO LIMELIGHT?

It took the Centre over 16 years to translate the Supreme Court's landmark judgment in the Vishaka case into legislation, with the parliament finally passing the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 in February this year. The government, incidentally, was forced to get the legislation passed due to public clamour and pressure from activists following the December 16, 2012 gang rape of a girl in a moving bus in Delhi. Over eight months later, the law remains on paper only, as the Ministry of Women and Child Development³ (WCD) has failed to get it notified although it received the President's assent on April 23. But, within hours of a young woman journalist working in Tehelka accusing its founder and editor-in-chief Tarun Tejpal of assaulting her earlier this month, the ministry woke up and tried to speed up the matter.

The law to check sexual harassment at work place, which prescribes strict punishment such as termination of service for the guilty and similar penalties in case of a frivolous complaint, has come into effect from Monday.

The Women and Child Development (WCD) Ministry had come under attack for delay in implementing the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 which was brought in after the outrage over the December 16 gang rape case, despite the fact that it had received Presidential assent on April 22, 2013.

The Act makes it mandatory for all offices with 10 or more employees to have an internal complaints committee to address grievances in a stipulated time or face penalty. Sexual harassment cases at workplace, including against domestic help, will have to be disposed of by in-house complaint committees within 90 days failing which a penalty will be imposed and repeated non-compliance of the provisions of the law can even lead to cancellation of licence or registration of the organisation. Sexual harassment at work place may lead to termination of service of the accused, withholding of promotions and increments, and payment of reasonable compensation to the complainant. According to the rules, if allegations against the accused turn out to be false and after inquiry, are found to be made with a malicious intent, the complainant may face similar penal provisions as listed for the accused. Sexual harassment, according to the law, includes unwelcome acts or behaviour like physical contact and advances, a demand or request for sexual favours or making sexually coloured remarks or showing pornography.

A Look at the Law:

As per the act, sexual harassment includes any one or more of unwelcome acts or behaviour like physical contact and advances, a demand or request for sexual favours or making sexually coloured remarks or showing pornography. *Section 3* defines sexual harassment containing clauses such as 'implied or explicit threat about her present or future employment status' and 'interferes with her work or creating an intimidating or offensive or hostile work environment for her. Non-compliance with the provisions of the act shall be punishable with a fine of up to Rs 50,000. It has also provisions for safeguard against false or malicious charges⁴.

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013: The Act will ensure that women are protected against sexual harassment at all the work places, be it in public or private. This will contribute to realisation of their right to gender equality, life and liberty and equality in working conditions everywhere. The sense of security at the workplace will improve women's participation in work, resulting in their economic empowerment and inclusive growth. The Act uses a definition of sexual harassment which was laid down by the Supreme Court of India in *Vishaka v. State of Rajasthan*⁵. Article 19 (1) g of the Indian Constitution affirms the right of all citizens to be employed in any profession of their choosing or to practice their own trade or business. *Vishaka v. State of Rajasthan* established that actions' resulting in a violation of one's rights to 'Gender Equality' and Life and Liberty is in fact a violation of the victim's fundamental right under Article 19 (1) g⁶. The case ruling

³ Chibber, Manish., "Sexual Harassment Act: 08 Months On, Government yet to act on law", New Delhi, Indian Express, 26 Nov., 2013 retrieved from www.indianexpress.com visited on 13 Feb., 2014

⁴ www.indianexpress.com visited on 13 Feb., 2014

⁵ 1997 SC 384

⁶ Fundamental right to Freedom of Profession, Occupation, Trade or Business.

establishes that sexual harassment violates a woman's rights in the workplace and is thus not just a matter of personal injury.

Main Features of the Act: The Act defines sexual harassment at the work place and creates a mechanism for redressal of complaints. It also provides safeguards against false or malicious charges.

- ❖ The definition of “aggrieved woman”, who will get protection under the Act is extremely wide to cover all women, irrespective of her age or employment status, whether in the organised or unorganised sectors, public or private and covers clients, customers and domestic workers as well.
- ❖ While the “workplace” in the *Vishaka Guidelines* is confined to the traditional office set-up where there is a clear employer-employee relationship, the Act goes much further to include organisations, department, office, branch unit etc. in the public and private sector, organized and unorganized, hospitals, nursing homes, educational institutions, sports institutes, stadiums, sports complex and any place visited by the employee during the course of employment including the transportation.
- ❖ The Committee is required to complete the inquiry within a time period of 90 days. On completion of the inquiry, the report will be sent to the employer or the District Officer, as the case may be, they are mandated to act on the report within 60 days.
- ❖ Every employer is required to constitute an Internal Complaints Committee at each office or branch with 10 or more employees. The District Officer is required to constitute a Local Complaints Committee at each district, and if required at the block level.
- ❖ The Complaints Committees have the powers of civil courts for gathering evidence.
- ❖ The Complaints Committees are required to provide for conciliation before initiating an inquiry, if requested by the complainant.
- ❖ Penalties have been prescribed for employers. Non-compliance with the provisions of the Act shall be punishable with a fine of up to ₹ 50,000. Repeated violations may lead to higher penalties and cancellation of license or registration to conduct business.

CASES OF SEXUAL HARASSMENT WHICH SHOOK THE NATION

- *Justice Ashok Kumar Ganguly:*

Justice Ashok Kumar Ganguly, accused of sexual harassment by a law intern, resigns from the West Bengal Human Rights Commission and alleges a conspiracy to tarnish his image.

Several cases of sexual harassment involving judges and interns in the Supreme Court highlight the need for regulations that can address gender insensitivity and inequality in the country's highest court. More than a decade after the historic Vishaka judgment laid down a framework for addressing sexual harassment at the workplace, the Supreme Court of India on November 26 finally constituted a panel to look at the issues of harassment in its own precincts. The recent allegation of sexual harassment against a former Supreme Court judge by a law intern has stirred up a hornet's nest. The case has thrown the spotlight on the hierarchical, and often exploitative, relationship between judges, senior advocates and young women lawyers, which leads to harassment of women both within and outside the precincts of the Supreme Court. On November 29, the Supreme Court-appointed panel that was probing the alleged sexual harassment of a law intern by a retired judge submitted its report to the Chief Justice of India. The report has named former Supreme Court judge A.K. Ganguly as the accused in the case.

The resignation of the former Supreme Court judge Ashok Kumar Ganguly from the post of Chairman of the West Bengal Human Rights Commission (WBHRC), following allegations of sexual harassment, has put to rest a controversy that has been raging since November 2013.

Ganguly, best known for his judgment in the high-profile 2G spectrum scam case, retired from the Supreme Court on February 3, 2012⁷. He was accused by a law intern of sexually harassing her in a hotel room in New Delhi on

⁷ www.frontline.com : “Judge in the Dock” by S.S. Chattopadhyay (07 Feb., 2014) visited on 13 Feb., 2014

December 24, 2012. The accusation, made in a blog she wrote on November 6, 2013, caused a furore in social, political and legal circles, throwing up issues relating to law, politics and morality.

The present case of the law intern has brought to the fore the larger problem of gender insensitivity and the lack of regulations to punish the guilty in the highest quarters of the judiciary. The formation of the committee, though a step in the right direction, is only a small one to prevent exploitation by people in positions of power. However, there have to be concrete measures to promote a just, gender-sensitive working environment for women lawyers, interns and law clerks and prevent obstacles to women entering the legal fraternity⁸.

- *The Tarun Tejpal case shows sexual harassment is a problem India has to face up to⁹:*

There has been plenty of anguished debate in India lately about rapes by strangers. Now, the country is riveted by a case that has revealed the sordid reality of workplace harassment, not by slum dwellers, but by a suave darling of the New Delhi elite.

Tarun Tejpal, editor of the investigative journalism magazine Tehelka, has been accused of attempting to rape a young female colleague. Tehelka specializes in sting operations, exposing corrupt politicians and writing against sexual violence. While the magazine has lost some of its sheen in recent years, a generation of journalists thought of Tejpal as a crusader for the underdog. No more. In a graphic email leaked to the media, the victim accused Tejpal of assaulting her in a hotel lift during a festival in Goa.

The whole case might have been swept under the carpet if Tejpal had not written a series of emails, to try to justify his behaviour. Initially, he admitted a "bad lapse of judgment" and "recused" himself from the editorship of Tehelka for six months. Meanwhile, managing editor Shoma Chaudhury downplayed the alleged rape in an email to staff, calling it an "untoward incident" to be dealt with internally. Then a further email of "unconditional apology" from Tejpal to the victim emerged, in which he spoke of attempting a "sexual liaison" despite her "clear reluctance". Faced with a barrage of criticism, Chaudhury also quit, along with six other Tehelka staffers. In the latest development, Tejpal was this week summoned to Goa for questioning by police and is on bail until Saturday morning.

There has been much introspection about how a man like Tejpal could have assaulted a young woman. There has been even more angst about how a respected female journalist, and feminist, could argue that sexual assault was simply an internal matter.

This kind of behaviour happens not just at Tehelka; most Indian workplaces are completely ill-equipped to deal with working women. Often a culture of omerta prevails, and powerful men escape punishment. Recently, a Supreme Court judge has been accused of sexual assault by a young female intern, who allegedly remains too intimidated to file a case. And IT honcho Phaneesh Murthy has been involved in three sexual harassment claims, yet continues to find employers. On the other hand, victims often find it difficult to be hired once they speak up, and are viewed as troublemakers.

In 1997, in the landmark Vishaka case, India's Supreme Court ruled that freedom from sexual harassment was a fundamental right, and stipulated that every workplace should have a committee to deal with such complaints. Yet, when the Tejpal furore broke out, it became clear that very few people even know what Vishaka is. Chaudhury admitted that Tehelka did not have a committee to deal with sexual harassment, but this is hardly unusual. No one does.

India already has one of the lowest ratios of working women in the world. It would be disastrous if companies, unclear about sexual harassment, take the easy way out by simply rejecting women in favour of men. We need a better law that defines harassment properly and makes every workplace obligated to deal with it. We need to speak out and call it assault, as the Tehelka journalist has done. And, most importantly, we need more women in the workplace, so they don't feel the need to be part of an old boys' club to get ahead.

Recent developments on the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act) in India including recent court rulings, government actions, and proposed legislative changes:

⁸ www.frontline.com : "Above Law" by Sagnik Dutta (27 Dec., 2013) visited on 13 Feb., 2014

⁹ www.theguardian.com : "The Tarun Tejpal Case Shows Sexual Harassment is a problem which India Has to Face" by Kavitha Rao (29 Nov., 2013) visited on 13 Feb., 2014

1. Penalties & Compliance Drive: Supreme Court:

- On 11th February, 2025, the Supreme Court fined five states (*Manipur, Jharkhand, Madhya Pradesh, Himachal Pradesh, Telangana*) and the UT of Puducherry Rs. 5000 each for failing to implement earlier directives to form Internal Complaints Committees (ICCs) as mandated under POSH Act.¹⁰
- The Court ordered a nationwide survey, to be completed by March 31, 2025, mandating state governments to identify workplaces lacking ICCs. It also key compliance deadlines:
 - **December 31, 2024:** Appoint District Officers under Section 5.
 - **January 31, 2025:** Establish Local Committees in government departments and PSUs¹¹.

2. Bombay High court: POSH does not apply to Bar Councils¹²

- In **July 2025**, the Bombay High Court ruled that the POSH Act does not extend the complaints made by advocates to bar councils, since there is no employer-employee relationship between advocates and these councils.

3. Delhi High Court: Digital Harassment Counted as Workplace Misconduct¹³

- On July 29, 2025, the Delhi High Court upheld Delhi University's decision to compulsorily retire a professor after multiple sexual harassment complaints received via WhatsApp and Facebook Messenger. The court emphasized that virtual communication between professor and students fall within the POSH Act's definition of "workplace".

4. Corporate Governance Overhaul: Mandatory Posh Disclosures¹⁴

- With effect from July 14, 2025, the Ministry of Corporate Affairs has rolled out the Companies (Accounts) Second Amendment Rules, 2025. These require companies to include specific Posh compliance data in their annual board of reports, such as:
 - I. Number of complaints received, disposed of and pending beyond 90 days.
 - II. Female, male, and transgender employee counts
 - III. A statement of compliance with the Maternity Benefit Act, 1961.
- Non-compliance may incur fines up to Rs. 30,000 and could result in business license cancellation¹⁵.

5. Enhanced Compliance Enforcement:

- Ministry of Women and Child Development¹⁶ (MWCD) and National Commission for Women¹⁷ (NCW) have increased scrutiny of companies regarding:
 - Constitution of Internal Committees (ICs)
 - Filing of Annual Reports under the Act
 - Display of policy and awareness programs

¹⁰ Rosy Siqueira, "Bar Council not an employer, no need for POSH panel: HC", TNN, 08 July, 2025, 01:32 IST retrieved from timesofindia.indiatimes.com visited on 29th July, 2025 at 9:56 AM.

¹¹ Ajay Sharma, "Supreme Court Fines Five States & One UT for POSH Act Non-Compliance: A Wake-Up Call", 17 February, 2025 retrieved from LinkedIn visited on 29th July, 2025 at 10:08 AM.

¹² Rosy Siqueira, "HC: Bar Councils don't employ advocates, so no POSH panel", 08 July, 2025, 04:46 IST retrieved from timesofindia.indiatimes.com visited on 29th July, 2025 at 11:04AM.

¹³ timesofindia.indiatimes.com visited on 29th July, 2025 at 11:11 AM.

¹⁴ Divyansh Bhardwaj and Maulin Salvi, "Yes, Governance Matters", available at nishithdesai.com/fileadmin/user_upload/Html/Hotline/Yes_Governance_Matters_Jul1825-M.html?utm visited on 29th July, 2025 at 11:20 AM.

¹⁵ Gerald Manoharan, Sonakshi Das and Ananya Sharma, "Workplace harassment rules tightened", 2 July, 2025 available at <https://knowledge.diapiper.com/diapiperknowledge/globalemploymentlatestdevelopments/2025/workplace-harassment-rules-tightened?utm> visited on 29th July, 2025 at 11:40 AM.

¹⁶ Ministry of Women and Child Development (2023): POSH Compliance Advisory Circular.

¹⁷ Annual Report for workplace safety.

Example: In 2023, the NCW issued notices to several corporates and universities for failing to comply with POSH mandates.

6. Important Judicial Pronouncements:

*Aureliano Fernandes v. State of Goa & Ors., (2023)*¹⁸

- Supreme Court reiterated that non-compliance with POSH Act provisions is a serious violation of women's fundamental rights under Article 21.
- Directed the Union and State Governments to ensure:
 - All institutions form properly constituted ICs.
 - Training and awareness programs are regularly conducted.
- Stressed that ICs must be independent, gender-sensitive, and competent.

Punjab and Sind Bank v. Durgesh Kuwar (2022)

- The Delhi High Court emphasized the importance of timely inquiry.
- Delayed complaints or biased IC findings can be grounds for quashing inquiry reports.

7. Mandatory Disclosure in Corporate Filings:

- SEBI¹⁹ (Securities and Exchange Board of India) mandates all listed companies to disclose:
 - Whether an Internal Committee has been constituted as per POSH Act.
 - Number of complaints received and resolved.
- Disclosure now forms part of Annual Corporate Governance Reports.

8. Virtual IC Proceedings and Remote Hearings:

- Post-COVID, many companies now allow online hearings for complaints.
- Courts have accepted this provided:
 - Due process is followed
 - Confidentiality is maintained
 - Parties are not prejudiced

9. Increased Focus on Gender-Neutrality: While the 2013 Act is currently gender-specific (protects only women):

- There are calls from activists and experts for amendments to make the Act gender-neutral, especially in workplaces with LGBTQ+ employees or men who face harassment.
- The Law Commission of India (in 2023) began examining the possibility of expanding the Act's scope.

10. Sector-Specific Guidelines:

- Educational Institutions:
 - University Grants Commission²⁰ (UGC) guidelines mandate compliance with POSH Act.
 - Mandatory inclusion of anti-sexual harassment policies in college prospectuses and websites.

¹⁸ Civil Appeal No. 2482/2014

¹⁹ Security and Exchange Board of India 2023: Corporate Governance Guidelines.

²⁰ UGC 2022: Prevention of Sexual Harassment at Higher Educational Institutions Regulations.

- Start-ups and SMEs: Government initiatives provide online toolkits and training modules for POSH compliance.

CONCLUSION: After two long years in Parliament, and 15 years after the Supreme Court's Vishaka guidelines, the Bill is finally passed. What does this new legislation mean for working women in the country?

In April, India's president gave assent to the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act: the country's first piece of legislation dedicated to sexual harassment at work, which was passed by the Rajya Sabha, the upper house of India's parliament, in February. Following such a lengthy legislative process – enacted 16 years after the Supreme Court first recognised workplace sexual harassment as a human rights violation – the final transition from bill to act was relatively speedy, spurred on, according to some, by the widespread social unrest caused by the now infamous New Delhi gang rape case of December 2012²¹.

Before enactment the bill was subject to criticism. A comprehensive study by Chief Justice JS Verma published in January took exception to several of its sections: the report declared the stipulation that conciliation between complainant and respondent must be attempted before an inquiry takes place to be “yet another way in which the dignity of women is undermined”; while the imposition of penalties for filing false complaints were called “completely abusive” and “intended to nullify the objective of the law”.

While the enactment of legislation in this area is a positive step forward, much more is needed than the simple act of passing legislation. This Act was pushed through fairly swiftly in the wake of the heinous crime committed in New Delhi in December. The question that is being debated is whether the legislation has really been thought through in its entirety or whether it has been much more of a knee-jerk reaction. As with many other issues relating to the workplace, employers have to take this legislation seriously and meet their obligations. With sanctions for non-compliance being relatively low monetary penalties, the question remains of how seriously most employers will take their obligations.

The number of allegations of sexual harassment at the workplace has increased over the past couple of years. While traditionally, female employees in India were conservative in their approach and preferred to ignore rather than to use the formal complaint mechanism set up by the employer, it appears that they are now more aware of their legal rights, especially the employer's obligation to provide them with a harassment-free working environment. In addition to the review of their policies and practices relating to prohibition of sexual harassment in the workplace, we are being approached by clients for advice on the new law, the processes to be followed, the employer's obligations during the investigation period, the nature of disciplinary action to be taken, assistance in conciliation, etc.

We have seen an increase in the number of complaints being made public and employers having to take up issues in the workplace. Often the perpetrators are the managers in charge of operations and hence victims feel unable or unwilling to expose the problem. Not only has the legislation been weak in this regard but social stigma attached to this issue often prevents women from disclosing harassment.

The new Act that places an onus on employers to have a proper committee and complaints mechanism in place will no doubt provide much needed support and courage to victims to come forth. Although this obligation has existed since 1997, employers did not take the dictate very seriously, often not realizing that the guidelines in the *Vishaka* judgment had the force of law. The new Act obviously leaves no doubt in terms of what is legally required of employers. The general mood in India as well – of women's rights and redressing inequality etc – is no doubt going to have an impact on the statistics with more cases coming to light.

Sexual harassment is both a very destructive and a very common problem in organizational life. Complicating matters, victims are often afraid to report it, and for good reason. A boss who is willing to engage in sexual

²¹www.indianlawyer250.com visited on 13 February 2014

harassment will be willing to lie about it. Moreover, bosses' power within the organization often enables them to win, unless there is considerable collaboration of the complaints against them.

At the same time, the threat of sexual harassment claims can either deter or terrify those who might want to pursue a workplace romance using appropriate discretion and tact. It is impossible to know with certainty whether the person you are interested in might experience any show of interest as harassment, or in the midst of disappointment at the end of a relationship, might feel that he or she had been unfairly used and harassed. The best advice is to go very slowly, to err heavily on the side of caution, and never engage in an extended pursuit of someone who is not demonstrating clear interest. When a relationship goes slowly you will be better able to assess in time whether the person you are interested in has significant emotional issues that could lead to a post relationship vendetta.

Sexual harassment reported to HREOC is significantly gendered; the complaints that HREOC receives indicate that sexual harassment by men of women is occurring throughout Australian workplaces. This harassment typically involves significant power differentials, with harassment committed by individuals who are older and hold more senior positions within an organisation. The harassment begins relatively soon after employment commences, involves multiple forms of harassing behaviour, and typically occurs on multiple occasions. The harassment often starts as verbal harassment and then proceeds to physical harassment²².

Sexual harassment is a form of gender-based discrimination. Sexual harassment may consist of sexual requests from a superior, tied to the quality of the employee's job or benefits, or it can be the inappropriate behavior of one or more co-workers. It is forbidden by federal civil rights law and by numerous state anti-discrimination²³ laws. These laws give you specific rights and remedies if you experience sexual harassment in the workplace.

Sexual harassment is not just illegal; it is harmful. The most common injuries suffered by victims of sexual harassment are emotional. Victims of sexual harassment often feel powerless, developing low self-esteem. In some cases, they believe that they are to blame for the harassment or for letting it go on as long as it did.

In the end, I would like to say that sexual harassment is not a joke. It is a kind of discrimination against women. But women need not to tolerate sexual harassment as law gives you the tools and power to fight against your harasser. A woman has the right to be treated with the respect and dignity.



²² www.humanrights.gov.au visited on 13 Feb., 2014

²³ www.amglaw.com visited on 13 Feb., 2014