



The Indian Journal for Research in Law and Management

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WOMEN AT WORK: LEGAL PROTECTION AGAINST HARASSMENT AND DISCRIMINATION

~Sneha Verma

ABSTRACT

Workplace safety, equality, and dignity are becoming crucial elements of labour rights and human rights due to the growing number of women in the workforce. Women's equitable participation in the workforce is nevertheless hampered by workplace harassment and gender discrimination, despite constitutional rights and progressive laws. The legislative structure in India that protects women from harassment and discrimination at work is critically examined in this study paper. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, labour laws, the Bharatiya Nyaya Sanhita, 2023, and pertinent international agreements, like as CEDAW and ILO Conventions, are also examined. Significant implementation issues like underreporting, victimization, institutional bias, and insufficient protection for gig and informal workers are also assessed by the study.

A comparison of the legal systems in the US, UK, Australia, and Canada reveals global best practices and points out areas where India needs to improve. The report recommends that gender-sensitive workplace rules, enhanced corporate responsibility, greater institutional accountability, and successful implementation are essential for creating safe, inclusive, and equal workplaces. Strengthening these mechanisms would promote substantive gender equality while also preserving the constitutional values of justice, dignity, and non-discrimination.

INTRODUCTION

A workplace is more than just a location to make a living; it's a place where equality, respect, and career goals come together. However, the workplace has frequently created a contradiction for women, exposing them to systematic injustice, harassment, and discrimination while simultaneously providing prospects for economic emancipation. Despite notable advancements in leadership, work, and education, many women still face invisible obstacles that jeopardize their safety, independence, and professional growth. These



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difficulties represent infringement of fundamental human rights and constitutional guarantees, not just organizational issues. As a result, safeguarding women against harassment and discrimination at work has become a crucial aspect of labour law, constitutional law, and human rights jurisprudence.

Any unwanted behaviour that creates an intimidating, unpleasant, humiliating, or offensive work environment is considered workplace harassment. Vocal, nonverbal, physical, psychological, or technologically mediated conduct are all possible. Sexual harassment, as a specific form of workplace harassment, includes unwelcome physical contact, sexually coloured remarks, demands or requests for sexual favours, the display of sexually explicit material, or any other unwelcome act of a sexual nature that interferes with a woman's employment or compromises her dignity. Contrarily, workplace discrimination refers to unfair or uneven treatment based on gender or other protected characteristics, which can lead to differences in hiring, compensation, advancement, training, transfers, performance reviews, or termination. These actions hinder women's fair participation in the workforce and worsen systemic injustices.

Both national and international reports demonstrate the scope of the issue. Women are disproportionately impacted by workplace violence and harassment, and many incidences go unreported out of fear of reprisals, social humiliation, or losing their jobs, according to the International Labor Organization (ILO). The National Crime Records Bureau's data shows that crimes against women are still common in India, and the National Family Health Survey's results show pervasive patterns of violence and gender inequity that often carry over into the workplace. The construction of safe and inclusive workplaces is an essential legal and legislative challenge as women's participation in the workforce has increased concurrently throughout industries like information technology, healthcare, finance, education, manufacturing, public administration, and the gig economy.

Acknowledging these issues, India has increased legal protections through judicial interpretation, constitutional guarantees, and the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. However, recurrent issues like as under-reporting, inadequate implementation, lack of awareness, and the vulnerability of women in the informal sector continue to undermine the effectiveness of these safeguards. In light of this, the legal framework governing harassment and discrimination against women in the workplace is critically examined, its effectiveness is evaluated,



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significant judicial developments and international standards are examined, and reforms to support safer, more inclusive, and gender-equitable workplaces are proposed.

UNDERSTANDING WORKPLACE HARASSMENT AND GENDER DISCRIMINATION

The right to work in a secure, dignified, and discrimination-free workplace is an inherent component of the right to equality and human dignity. However, workplace harassment and gender discrimination continue to hinder women's equal participation in the workforce because they maintain systemic inequities and unequal power dynamics. These actions not only violate basic human rights but also erode public confidence in organizational effectiveness, worker productivity, and workplace governance. Thus, a grasp of the conceptual framework of gender discrimination and workplace harassment is necessary to evaluate the efficacy of institutional remedies and legal protections.

Harassment is defined as any undesired conduct, message, or activity meant to offend, intimidate, or create a hostile work environment for an individual. Such conduct can be physical, verbal, written, visual, psychological, or digital, and it can be exhibited by employers, supervisors, coworkers, clients, or anybody associated with the job. Harassment becomes legally actionable when it violates an employee's dignity, adversely affects working conditions, or prevents the completion of professional tasks.

Sexual harassment is a serious breach of the rights to equality, dignity, and personal freedom and is one of the most prevalent forms of misbehaviour at work. It encompasses any sexual behaviour that makes the workplace threatening, hostile, or offensive, such as unwanted physical contact, sexually suggestive gestures, requests or demands for sexual favours, or the presentation of pornographic material. Women are especially vulnerable in hierarchical organizational structures because such behaviour frequently reflects power imbalances and gender stereotypes.

Gender discrimination is the denial of equal job chances or advantages due to differentiated or uneven treatment based only on a person's gender. It can be indirect, where seemingly neutral rules disproportionately penalize women, or direct, where women are publicly treated less favourably than male employees in comparable circumstances. In order to maintain systemic inequity in the workplace, gender discrimination typically appears in hiring, compensation, promotions, performance reviews, leadership roles, training opportunities, and employment perks.



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When persistent or widespread unwanted behaviour fosters a climate of fear, shame, intimidation, or discomfort that significantly impairs an employee's capacity to carry out professional duties, it is considered a hostile work environment. A hostile work environment, in contrast to isolated instances, is created by persistent offensive behaviour patterns that compromise psychological health and occupational dignity.

On the other hand, *quid pro quo* harassment a Latin phrase that means "this for that" occurs when career opportunities or employment benefits, like promotions, pay increases, confirmations, favourable transfers, or continued employment, are contingent on accepting sexual advances or Favours. This type of harassment is commonly acknowledged as one of the most serious transgressions of workplace ethics and legal standards since it constitutes a clear abuse of power.

Discrimination and harassment at work can take many different forms. Verbal harassment includes sexist comments, insulting jokes, or abusive language, whereas physical harassment includes unwelcome touching or intimidation. Bullying, humiliation, and threats that negatively impact mental health are all considered forms of psychological harassment. Cyberstalking, improper emails, rude texts, and misbehaviour during virtual meetings are examples of online harassment. In a similar vein, women are denied equal chances and fair treatment in the workplace due to economic discrimination, pregnancy discrimination, unequal promotion, and salary discrimination.

In the corporate sector, where allegations of harassment, unequal compensation, biased promotions, and retribution against complainants persist, these problems are becoming more and more apparent. These cases demonstrate that systemic organizational failings, rather than isolated acts, are frequently the root cause of workplace inequity. Therefore, ensuring a safe and inclusive workplace requires effective legal enforcement, robust grievance redressal mechanisms, and a strong culture of equality, accountability, and respect.

CONSTITUTIONAL PROTECTION AGAINST WORKPLACE HARASSMENT AND GENDER DISCRIMINATION

The Constitution of India provides a comprehensive framework for protecting women against workplace harassment and discrimination by providing equality, dignity, and equal chances in employment. Despite



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the fact that workplace harassment is not specifically mentioned in the Constitution, the State and employers are required by the Constitution to provide a safe, inclusive, and discrimination-free workplace when the Directive Principles of State Policy and Fundamental Rights are read together.

Equal protection under the law and equality before the law are guaranteed by Article 14. It forbids arbitrary governmental action and mandates that women be treated equally in matters relating to employment, salary, advancement, and workplace conditions. Workplace harassment and discriminatory behaviours breach Article 14 by denying women substantive equality and imposing hurdles to equal participation in professional life.

While Article 15(3) gives the State the ability to implement specific measures for women and children, Article 15(1) outlaws discrimination on the basis of sex. Protective laws such as the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, which recognizes that affirmative action may be required to achieve substantive equality in order to end the structural and historical disadvantages that women have experienced, are based on this clause.

Equal opportunity in subjects pertaining to public employment is guaranteed by Article 16. It outlaws sex-based discrimination in hiring, advancement, transfers, and other service-related circumstances. The constitutional promise of equal opportunity is breached by workplace discrimination that inhibits women's access to leadership roles, equal salary, or professional progress.

Under Article 19(1)(g), the freedom to practice any profession or engage in any occupation goes beyond simply being able to find work and encompasses the right to work in a setting free from harassment, intimidation, or fear. The meaningful exercise of this constitutional freedom is effectively restricted in a workplace where women experience abuse or discrimination.

The Supreme Court has read Article 21, which protects the right to life and personal liberty, broadly to include the rights to physical integrity, dignity, privacy, mental health, and a secure workplace. By jeopardizing a person's bodily safety, mental well-being, and professional independence, workplace harassment directly violates these rights. As a result, the constitutional protection of a life with dignity now includes the right to a safe workplace.



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These guarantees are further reinforced by the Directive Principles of State Policy. While Article 39(d) requires equal compensation for equal work for men and women, Article 39(a) instructs the State to provide a sufficient means of subsistence for all residents. Recognizing the necessity to safeguard women's health and welfare in the workplace, Article 42 mandates that the State provide maternity relief and fair and humane working conditions. A culture of respect and gender equality in society and the workplace is also fostered by Article 51A(e), which sets a fundamental obligation on all citizens to abstain from actions that diminish the dignity of women.

The notion of constitutional morality, which dictates that governance and judicial institutions follow constitutional principles over discriminatory cultural norms or patriarchal practices, serves as the foundation for the constitutional vision of workplace equality. Constitutional morality requires that equality, dignity, and non-discrimination in the workplace be turned from theoretical constitutional guarantees into legally enforceable rights. Judicial opinion holds that women cannot be made to choose between their personal dignity and their jobs. In order to ensure that every woman may join in the workforce with safety, respect, and equal opportunity, constitutional protection against workplace harassment goes beyond formal equality and attempts to achieve substantive equality.

INTERNATIONAL LEGAL FRAMEWORK

The protection of women against workplace harassment and discrimination has evolved into an important concern of international human rights and labour law. Various international conventions, declarations, and policy frameworks recognise that equality, dignity, and freedom from violence are important to decent employment and sustainable development. Even though these instruments have different legal statuses, they have had a big impact on Indian domestic legislation and court interpretation, especially when it comes to bolstering employment protections for women.

Often referred to as the international bill of rights for women, the 1979 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) requires State Parties to end discrimination against women in the political, social, economic, and employment domains. States are expressly required by Article 11 to guarantee equal employment opportunities, equal compensation, safe working conditions, and protection against discrimination on the basis of maternity or marriage. The CEDAW Committee



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acknowledged gender-based violence, including workplace sexual harassment, as a type of discrimination that hinders women's enjoyment of fundamental rights and freedoms through General Recommendations No. 19 and No. 35.

The principle of equality in employment is established by the International Labour Organization (ILO) Convention No. 111 on Discrimination (Employment and Occupation), 1958, which forbids discrimination on the basis of sex, race, religion, political opinion, national extraction, or social background. It mandates that member states create national policies that advance equality of opportunity and do away with discriminatory hiring, promotion, vocational training, and working conditions practices. The Convention's broad ban on employment discrimination offers a crucial legal basis for workplace equality even though it does not expressly address sexual harassment.

The first comprehensive international agreement that specifically addresses workplace violence and harassment is ILO Convention No. 190 concerning Violence and Harassment in the World of Work, 2019. It respects every person's right to a world of work free from violence and harassment, including gender-based violence. According to the Convention, States must implement victim protection, adequate complaint procedures, employer obligations, preventive measures, and suitable punishments. It reflects the evolving nature of contemporary workplaces by providing security to all workers, including those in the informal sector, domestic labour, internships, and non-standard types of employment.

All people are born free and equal in dignity and rights, according to the 1948 Universal Declaration of Human Rights (UDHR), which establishes the normative basis for workplace equality. Articles 1, 2, 7, and 23 recognise equality before the law, freedom from discrimination, equal protection, and the right to equitable and favourable conditions of labour. The evolution of national labour legislation and constitutional jurisprudence is still guided by these ideas.

Comparably, the International Covenant on Economic, Social, and Cultural Rights (ICESCR), 1966 recognizes the right to work under fair, favourable, safe, and healthy working conditions, while the International Covenant on Civil and Political Rights (ICCPR), 1966 guarantees equality before the law and protection against discrimination. Together, these commitments obligate States to implement



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legislative and administrative measures that provide equitable employment opportunities and safeguard workers from discrimination and abuse.

By highlighting workplace violence and discrimination as significant barriers to gender equality, the Beijing Declaration and Platform for Action, 1995, further solidified the international commitment to women's empowerment. It called on governments to promote women's equitable participation in the economy, enhance institutional structures, and adopt appropriate legislative protections. Similarly, Sustainable Development Goal 5 (SDG 5) aims to empower all women and girls and attain gender equality by eradicating harmful behaviours, violence, and discrimination and encouraging women to fully and effectively participate in leadership and decision-making. India has taken on important international responsibilities to prevent workplace discrimination and advance gender equality as a member of the United Nations and the International Labour Organization (ILO). India must enact efficient legislative, administrative, and judicial measures to protect women's rights in the workplace as a ratifying member of ILO Convention No. 111 and a State Party to CEDAW, ICCPR, and ICESCR. In *Vishaka v. State of Rajasthan* (1997), the Supreme Court explicitly relied on international human rights principles and CEDAW to cover the legal gap on workplace sexual harassment, despite the fact that India has not yet joined ILO Convention No. 190. In the end, this historic ruling cleared the path for the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

Nevertheless, it is still difficult to carry out these international commitments effectively. Workplace safety is nevertheless threatened by enduring problems like underreporting, insufficient enforcement, ignorance, and little protection for women working in the gig and informal sectors. Therefore, India must strengthen institutional procedures, increase enforcement, and consider ratifying ILO Convention No. 190 to further match its domestic legal framework with emerging international norms on workplace equality and protection.

INDIAN STATUTORY FRAMEWORK

Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013- In response to the Supreme Court's ruling in *Vishaka v. State of Rajasthan* (1997), the POSH Act, 2013 was passed in order to offer a thorough framework for stopping and dealing with sexual harassment at work.



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Unwanted physical contact, requests for sexual favors, sexually suggestive comments, the display of pornographic material, and other unwanted sexual behavior are all considered forms of sexual harassment. The Act requires businesses to create an Internal Committee (IC), provide a safe working environment, carry out awareness campaigns, and uphold confidentiality in both public and private workplaces. Local Committees (LCs), a deadline for complaints and inquiries, appeals, and sanctions for non-compliance are all included. Despite its progressive nature, underreporting and implementation deficiencies continue to be serious issues.

Labour Codes- Together, the Occupational Safety, Health and Working Conditions Code, 2020, Code on Wages, 2019, Code on Social Security, 2020, and Industrial Relations Code, 2020 strengthen workplace protection for women by promoting fair labour practices, social security, equal compensation, and safe working conditions.

Equitable Compensation- The Equal Remuneration Act, 1976, which is now part of the Code on Wages, 2019, maintains the idea of equal compensation for equal labour and forbids discrimination based on gender in hiring and wages.

The 1961 Maternity Benefit Act- By offering paid maternity leave, maternity benefits, and protection from termination during pregnancy, the Maternity Benefit Act of 1961 protects women from discrimination linked to pregnancy.

Bharatiya Nyaya Sanhita, 2023- The Bharatiya Nyaya Sanhita, 2023 supplements workplace laws by criminalising acts such as sexual harassment, assault, outraging the modesty of a woman, stalking, criminal intimidation, and voyeurism, thereby providing additional legal protection against workplace misconduct.

CHALLENGES IN THE IMPLEMENTATION OF LAWS PROTECTING WOMEN AT THE WORKPLACE

Even with a thorough legal framework, such as the POSH Act, 2013, it is still very difficult to effectively enforce workplace protection legislation in India. One of the biggest challenges is still under-reporting, as many women choose not to file complaints out of fear of reprisals, job loss, career stagnation, social stigma, and confidentiality issues. These anxieties frequently deter victims from pursuing legal action.



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The legal system's efficacy is further undermined by the pervasiveness of victim blame and corporate pressure. In order to preserve the organization's reputation, complainants are frequently asked about their behaviour or coerced into retracting their accusations. Furthermore, the grievance redressal procedure is undermined by criticism of Internal Committees' (ICs) lack of independence, insufficient training, conflicts of interest, and procedural irregularities.

The lack of knowledge among employers and employees about their rights and responsibilities under the POSH Act is another significant issue. Due to the lack of official complaint procedures, lax regulatory control, and low legal awareness, women working in the gig economy, contractual employment, domestic work, and the informal sector continue to be especially susceptible.

The increasing emphasis on the false complaint narrative also discourages actual victims from reporting harassment, despite the legislation providing safeguards against malicious reports. In addition, protracted legal proceedings and postponed investigations can lead to emotional hardship and the denial of prompt justice. Strict adherence to legal requirements, impartial and well-trained internal committees, frequent information and sensitization campaigns, protection from victimization, and increased institutional support for workers in the gig and informal sectors are all necessary to address these issues. To guarantee that every woman can exercise her right to work in an environment based on equality, dignity, safety, and justice, effective implementation rather than only legislative enactment is necessary.

COMPARATIVE ANALYSIS

A comparative analysis of workplace harassment laws reveals that while India has made significant progress through the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, several jurisdictions have adopted more robust mechanisms to ensure prevention, accountability, and effective redressal. Examining the legal frameworks of the United Kingdom, the United States, Australia, and Canada provide important ideas for enhancing India's approach to workplace safety and gender equality.

The Equality Act of 2010 in the UK prohibits harassment and discrimination based on protected characteristics, including sex. Unless they can demonstrate that they took all reasonable steps to prevent such behaviour, employers may be held vicariously liable for actions taken by their employees. Victims



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may seek justice before Employment Tribunals, which hold the jurisdiction to award compensation for cash damages as well as injury to sentiments. Employers are encouraged to implement efficient preventive measures and uphold thorough anti-harassment policies by this proactive approach.

The Equal Employment Opportunity Commission (EEOC) is responsible for enforcing Title VII of the Civil Rights Act of 1964, which governs workplace harassment in the United States. Employers risk significant compensatory and punitive damages if they do not prevent or appropriately handle workplace harassment. Strong anti-retaliation and whistleblower protections are also provided by the legal system, allowing workers to disclose wrongdoing without worrying about negative employment outcomes. It is commonly acknowledged that regular compliance training and transparent reporting protocols are crucial elements of workplace governance.

The Sex Discrimination Act 1984 and the Respect Work reforms in Australia have changed the legal emphasis from responding to complaints in a reactive manner to preventing them. Employers are under a positive responsibility to eliminate workplace sexual harassment by establishing risk assessment tools, mandated training programmes, effective complaint procedures, and workplace policies encouraging gender equality. This preventive strategy places greater responsibility on companies to create safe working environments.

Similarly, Canada establishes a comprehensive framework through federal and provincial human rights legislation. Employers are legally required to design workplace harassment policies, offer mandatory training, establish independent inquiry mechanisms, and ensure protection against retribution. Human rights courts improve victims' access to justice by offering easily available remedies, such as compensation for financial loss, psychological pain, and discriminatory treatment.

In contrast to these countries, India has a robust legal system thanks to the POSH Act, 2013. However, issues including uneven Internal Committee operations, insufficient protection for whistleblowers, poor pay, no required training, and lax enforcement continue to undermine its efficacy. India primarily uses internal complaint procedures rather than specialized employment tribunals, in contrast to many affluent nations.



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Stronger employer accountability, required gender-sensitization training, independent grievance redressal procedures, improved protection for whistleblowers, and efficient victim compensation are all highlighted by the comparison analysis. By implementing these best practices, workplaces would be safer, more inclusive, and gender-equitable.

RECOMMENDATIONS

India needs to take a more proactive and responsible stance in order to improve the efficacy of worker protection regulations. To ensure fair and impartial investigations, Internal Committees (ICs) should be enhanced through mandated training, increased independence, and regular evaluation. To evaluate compliance with legal requirements and enhance accountability, organizations should also go through yearly POSH compliance audits.

Public trust in the grievance redressal process would rise with the creation of independent investigative committees for complicated or well-known cases. To encourage victims to report occurrences without fear of disclosure, a secure digital complaint portal and anonymous reporting mechanism should be implemented. Strong legal protection against retaliation is equally crucial, guaranteeing that witnesses and complainants won't face harassment, demotion, termination, or other negative outcomes.

The law should specify tougher sanctions for employers who fail to constitute Internal Committees or breach the provisions of the POSH Act. Regular gender-sensitisation and awareness training should be made necessary for all employees, supervisors, committee members to establish a culture of respect and equality.

Additionally, as they frequently lack enough legal protection, gig workers, domestic workers, contract workers, and employees in the unorganized sector require special attention. Workplace safety legislation should be implemented on time, inspections should be strengthened, and compliance should be better monitored by labour departments. Finally, every organization should establish gender-sensitive workplace rules that encourage equal opportunity, diversity, non-discrimination, zero tolerance for harassment. These steps would dramatically boost workplace safety, enhance institutional responsibility, and foster an inclusive and dignified working environment for women.



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CONCLUSION

Ensuring women's equality, dignity, and meaningful participation in the workforce requires a workplace that is safe, inclusive, and free of discrimination. Even while India has created a strong legal and constitutional framework, especially with the POSH Act of 2013, the success of these safeguards ultimately rests on how well they are put into practice. Access to justice is nonetheless hampered by enduring issues such as insufficient institutional processes, lax enforcement, and underreporting.

Achieving workplace equality necessitates striking a delicate balance between preserving workers' dignity and making sure businesses are treated fairly. Transparent investigations, accountability, and due process are vital to maintaining this balance while developing trust inside organisations.

Workplace regulations must change to meet new difficulties as India's workforce continues to change due to the expansion of the gig and informal economies. Strengthening enforcement, creating gender sensitive workplace cultures, enhancing employer accountability, and extending protection to all types of workers will be vital. In addition to being required by law, a workplace built on equality, respect, and dignity is essential for inclusive growth, social justice, and sustainable economic development.

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