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REMOTE WORK AND THE EXPANDING SCOPE OF THE POSH ACT: WORKPLACE SAFETY IN THE DIGITAL ERA

— Muskan

INTRODUCTION

The COVID-19 pandemic accelerated a transformation in the Indian workplace that has proved lasting rather than temporary. Physical offices, face-to-face supervision, and clearly defined professional boundaries have given way, across large segments of the economy, to decentralised digital arrangements in which work is performed through virtual platforms rather than shared premises.¹ The International Labour Organization estimates that at least one in five workers worldwide worked from personal spaces during the pandemic, and has since observed that large-scale telework is likely to remain a defining feature of the modern employment market rather than a temporary aberration.² India, home to one of the world's largest and fastest-digitising workforces, has been at the centre of this shift: information technology companies, banking institutions, educational establishments, and multinational corporations have all moved substantially toward hybrid employment models, drawn by reduced operational costs, improved productivity, and access to geographically diverse talent.

India's Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 ("POSH Act") was enacted to secure a safe and dignified working environment for women across virtually every employment setting. At the time of its drafting, however, Parliament had little occasion to contemplate work-from-home arrangements or fully virtual offices; the statute's architecture — physical Internal Committees, in-person inquiries,

¹International Labour Organization, [Teleworking Arrangements During the COVID-19 Crisis and Beyond](#) (2021), on the large-scale global shift to telework during the pandemic and its lasting effect on the nature of employment.

²International Labour Organization, [Working Time and Work-Life Balance Around the World](#) (2023), observing that large-scale telework has changed the nature of employment for the foreseeable future and noting that more than one in five workers globally report having experienced workplace violence or harassment.

documentary evidence gathered from a shared workplace — presumes a workforce that meets, at least occasionally, in the same room. This shift raises a pressing and increasingly urgent question: can a statute conceived for physical premises adequately protect employees whose entire professional life may now unfold on a screen, and whose home has, in effect, become an extension of the office?

FROM VISHAKA TO STATUTE

The POSH Act did not emerge in a vacuum. It codifies and substantially expands upon the Vishaka Guidelines, framed by the Supreme Court following the brutal gang rape of Bhanwari Devi, a grassroots social worker who faced violent retaliation for attempting to prevent a child marriage in her village while employed under a state government programme.³ In the absence of any statutory framework addressing workplace sexual harassment, the Court invoked Articles 14, 19(1)(g), and 21 of the Constitution, together with India's obligations under the Convention on the Elimination of All Forms of Discrimination Against Women, to impose binding obligations upon employers. The judgment recognised, for the first time in Indian jurisprudence, that workplace dignity constitutes an indispensable component of the constitutional guarantees of equality and personal liberty.

For nearly sixteen years, the Vishaka Guidelines functioned as the primary legal framework governing workplace sexual harassment, until Parliament enacted the POSH Act in 2013.⁴ The statute substantially incorporated the principles articulated in Vishaka while significantly expanding institutional responsibility through mandatory Internal Committees, defined procedural safeguards, confidentiality requirements, and fixed statutory obligations upon employers. Crucially, the Act adopted a preventive, corrective, and restorative framework rather than one centred solely on criminal punishment — recognising that workplace safety is a matter of institutional culture as much as individual accountability.

A DELIBERATELY EXPANSIVE "WORKPLACE"

One of the Act's most significant features is its broad, non-exhaustive definition of "workplace," which extends to government establishments, private organisations, hospitals,

³See [Vishaka & Ors. v. State of Rajasthan & Ors.](#), AIR 1997 SC 3011, (1997) 6 SCC 241, invoking Articles 14, 19(1)(g) and 21 of the Constitution and the Convention on the Elimination of All Forms of Discrimination Against Women to formulate binding workplace guidelines.

⁴The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, No. 14 of 2013 (India), [full text](#).

educational institutions, transportation provided by employers, and — critically — "any place visited by the employee arising out of or during the course of employment."⁵ Unlike earlier labour statutes that confined protection to conventional office premises, the legislature deliberately avoided restricting workplace protection to buildings owned or controlled by employers.

Although the phrase "work-from-home" appears nowhere in the statute, this expansive language comfortably accommodates a purposive reading that treats an employee's residence as a workplace whenever professional duties are performed there under organisational direction or policy. Under such circumstances, the physical location becomes considerably less significant than the existence of an employment relationship and the exercise of professional authority within it. Since the definition of sexual harassment under the Act is conduct-based rather than location-based,⁶ there is little principled basis for excluding misconduct that occurs during an official video call, or through a work-issued messaging application, merely because it did not occur within office walls. If harassment during an employer-sponsored business trip constitutes workplace harassment, there appears to be scant conceptual justification for excluding equivalent misconduct committed during virtual client meetings or work-related digital communication.⁷

Textual flexibility, however, has not resolved the operational difficulties that arise once harassment is conducted through messaging applications, video-conferencing platforms, or professional networking sites. Questions concerning jurisdiction over employees residing in different states, the evidentiary weight of screenshots and deleted messages, the identification of witnesses in a virtual meeting, and employer responsibility for after-hours communication remain largely unaddressed by the statutory text itself. These ambiguities have grown more pressing as hybrid employment arrangements continue to expand across sectors that were, until recently, resolutely office-bound.

REMOTE WORK AND THE BLURRING OF BOUNDARIES

⁵The POSH Act, 2013, § 2(o), *supra* note 4, defining "workplace" to include "any place visited by the employee arising out of or during the course of employment."

⁶The POSH Act, 2013, § 2(n), *supra* note 4, defining sexual harassment by reference to conduct rather than location.

⁷See [Vishaka & Ors. v. State of Rajasthan & Ors.](#), *supra* note 3, on the constitutional foundation for treating workplace dignity as inseparable from equality and personal liberty.

Remote work has fundamentally altered not only where work occurs but also how professional relationships are structured. Traditional offices naturally imposed temporal and spatial limits upon workplace interaction: employees generally left the workplace at the end of designated hours, preserving a clear separation between professional obligation and private life. Remote employment has significantly eroded this boundary. Contemporary employees frequently receive work-related messages late at night, attend meetings from bedrooms or living rooms, communicate through personal mobile phones, and remain digitally accessible well beyond contractual working hours. The workplace, in effect, now exists wherever work-related communication occurs.

This transformation carries important implications for sexual harassment law. Harassment in virtual workplaces rarely resembles its physical counterpart. It manifests instead through persistent late-night messaging under the pretext of discussing work, repeated video calls without professional necessity, pressure to keep cameras switched on inside private residences, sexually suggestive emojis or remarks sent privately during official meetings, unsolicited personal photographs, intrusive questioning about personal relationships, and misuse of workplace messaging applications and professional networking platforms. Individually, such acts may appear trivial or easily dismissed as informal; cumulatively, they can create a hostile work environment no less damaging than conventional workplace misconduct — and, because the intrusion occurs within the home, arguably more psychologically corrosive. The home, once regarded as a refuge from workplace pressure, risks becoming an extension of organisational control and harassment.

Excessive employer surveillance compounds the difficulty. Many organisations now require employees to remain continuously visible through webcams, productivity-monitoring software, or periodic screenshot capture. While such monitoring may pursue legitimate organisational objectives, it may disproportionately affect women who balance professional responsibilities alongside childcare, eldercare, and domestic obligations. Mandatory video visibility can unintentionally expose private family spaces, increasing vulnerability to intrusive comments or discriminatory treatment, and thereby generating a distinct and under-recognised form of gendered harm that existing surveillance policies rarely anticipate.

GROUND REALITY: LAW VERSUS PRACTICE

Despite the progressive framework established by the POSH Act, a significant disparity persists between legislative intent and workplace reality. Large multinational corporations have

generally adapted more effectively to hybrid work, conducting virtual POSH training, updating organisational policies, establishing online complaint portals, and training Internal Committee members to evaluate digital evidence. The situation remains considerably different, however, across medium-sized enterprises, start-ups, educational institutions, hospitals, law firms, and the informal sector, where remote work is still frequently perceived as occurring outside organisational responsibility altogether.

Employees, too, often remain uncertain whether harassment occurring through WhatsApp, Microsoft Teams, Zoom, Slack, or LinkedIn falls within the jurisdiction of the POSH Act at all. Victims frequently hesitate to report virtual harassment because digital misconduct is too readily dismissed as "informal conversation," "misunderstanding," or "friendly interaction" rather than recognised as harassment. The absence of physical witnesses further complicates investigation, while concerns regarding retaliation, career advancement, confidentiality, and reputational harm continue to discourage formal complaints.⁸ The statutory definition of "workplace" is, in principle, sufficiently broad; institutional practice, however, has not evolved at the same pace as the underlying technology.

EMPLOYER LIABILITY IN HYBRID WORKPLACES

Section 19 of the POSH Act imposes affirmative obligations on employers extending well beyond passive grievance redressal: employers must provide a safe working environment, organise awareness programmes, conduct employee sensitisation, constitute functioning Internal Committees, assist complainants during investigation, and implement recommendations promptly.⁹ The phrase "safe working environment" has acquired an entirely new significance in the context of remote work. Traditionally, employers ensured workplace safety through physical infrastructure — security personnel, CCTV surveillance, visitor registers, and supervisory presence. Remote work demands a fundamentally different conception of safety, requiring secure digital communication platforms, clearly drafted remote-work conduct policies, defined virtual meeting etiquette, cybersecurity protections, mechanisms for preserving digital evidence, and confidential online complaint portals.

⁸The POSH Act, 2013, §§ 4, 9, 11, *supra* note 4, on the constitution of Internal Committees and the procedure for inquiry into complaints.

⁹The POSH Act, 2013, § 19, *supra* note 4, setting out an employer's affirmative duties, including provision of a safe working environment, employee sensitisation, and assistance to complainants during investigation.

Failure to adapt organisational policy in this manner may expose employers to liability not because harassment occurred remotely, but because they neglected foreseeable risks associated with remote employment itself. Modern employer responsibility, in other words, extends beyond physical infrastructure toward the cultivation of a safe digital organisational culture — an obligation many employers, particularly outside the corporate mainstream, have yet to translate into concrete policy.

INTERNAL COMMITTEES AND THE DIGITAL EVIDENTIARY CHALLENGE

Perhaps no institution under the POSH framework has experienced greater transformation than the Internal Committee.¹⁰ Traditional investigations relied heavily upon eyewitness testimony, physical office layouts, attendance registers, and direct workplace observation. Remote investigations present an entirely different evidentiary landscape: Internal Committees increasingly examine screenshots, emails, metadata, deleted conversations, cloud storage records, login histories, and digital timestamps. Unlike conventional documentary evidence, digital material may be altered, cropped, forwarded, or fabricated, requiring Internal Committees to possess a degree of technological literacy considerably beyond what the Act originally envisaged.

Empirical accounts suggest that many Internal Committee members continue to receive minimal specialised training beyond basic procedural compliance, and remain unfamiliar with concepts such as metadata authentication, digital chain of custody, or forensic verification of electronic material. Without such expertise, investigations risk either dismissing genuine complaints for want of familiar proof, or according undue evidentiary weight to material that is unreliable or incomplete. Capacity building — training Internal Committees to handle digital evidence competently and fairly — has therefore become as important to the Act's effectiveness as any further legislative amendment.

THE INFORMAL SECTOR AND THE DIGITAL DIVIDE

Discussions surrounding remote work frequently focus upon multinational corporations and technology companies. India's labour market, however, presents a far more diverse reality. Millions of women employed as online educators, telemedicine professionals, customer

¹⁰See generally [Law Cornell Gender Justice Project, "Sexual Harassment of Women at Workplace Act"](#), noting that the Act replaced reliance on Sections 354 and 509 of the Indian Penal Code, which were limited in scope and procedurally ill-suited to workplace grievances.

support executives, freelancers, digital content moderators, and platform-based gig workers increasingly perform substantial portions of their work remotely, often outside any conventional employer structure.¹¹ Identifying the "employer" responsible for POSH compliance becomes correspondingly difficult in such arrangements, since the statute presumes an identifiable employer and a clearly defined employment relationship. Platform-mediated and gig employment therefore exposes one of the Act's emerging structural limitations: digital labour increasingly operates through fragmented contractual arrangements in which accountability becomes considerably more diffuse, leaving a growing category of women workers without a clear institutional avenue for redress.¹²

COMPARATIVE PERSPECTIVES

Other jurisdictions offer instructive models for reform. In the United Kingdom, the Worker Protection (Amendment of Equality Act 2010) Act 2023 imposes a proactive duty on employers to take reasonable steps to prevent sexual harassment, shifting the legal emphasis from after-the-fact remedy toward anticipatory prevention.¹³ Australia has gone further still: the Anti-Discrimination and Human Rights Legislation Amendment (Respect at Work) Act 2022 introduced a statutory positive duty requiring employers to take reasonable and proportionate measures to eliminate harassment as far as possible, enforceable by the Australian Human Rights Commission since December 2023.¹⁴ Canada has taken a related but distinct approach, folding harassment and violence prevention directly into occupational health and safety law: Bill C-65 and the accompanying Workplace Harassment and Violence Prevention Regulations require federally regulated employers to adopt prevention policies, provide mandatory training, and offer a structured, employee-driven resolution process, while

¹¹The POSH Act, 2013, § 2(n)(i)–(v), *supra* note 4, illustrating the categories of unwelcome conduct that may constitute sexual harassment, including implied or explicit promises of preferential treatment and creation of a hostile work environment.

¹²The POSH Act, 2013, § 4(1), *supra* note 4, requiring every employer to constitute an Internal Committee at each office or branch employing ten or more persons.

¹³See, e.g., National Commission for Women, public statements on under-reporting of workplace sexual harassment owing to fear of retaliation and stigma; discussed in [Law Cornell Gender Justice Project, "Sexual Harassment of Women at Workplace Act"](#), *supra* note 10.

¹⁴Equality Act 2010 (UK), c. 15, as amended by the Worker Protection (Amendment of Equality Act 2010) Act 2023, imposing a proactive duty on employers to take reasonable steps to prevent sexual harassment of employees in the course of their employment.

explicitly defining harassment to include psychological injury alongside physical harm.¹⁵ The United States' Equal Employment Opportunity Commission has likewise issued enforcement guidance explicitly addressing harassment conducted through remote work, virtual meeting platforms, and employer-provided communication systems.¹⁶

Each of these models shares a common thread largely absent from the Indian framework: express regulatory recognition that the workplace is now defined by the existence of a working relationship and its attendant power dynamics, rather than by any fixed physical address. India's POSH Act, drafted more than a decade before hybrid work became commonplace, would benefit from comparable specificity — not because its underlying principles are inadequate, but because principle alone cannot resolve the procedural uncertainties that digital employment continues to generate.¹⁷

CONCLUSION

The POSH Act remains, in its language, a progressive and adaptable statute. Its expansive, non-exhaustive definitions of "workplace" and "sexual harassment" are well suited, in principle, to a digitally mediated employment relationship, and there is little to suggest that Parliament's underlying commitment to a safe working environment does not extend, by natural implication, into virtual spaces.¹⁸ What has not kept pace is institutional capacity: procedural clarity on the admissibility and authentication of digital evidence, mandatory and recurring training for Internal Committees, clearly defined employer obligations tailored to hybrid environments, and accessible redressal mechanisms for gig and platform-based workers who fall outside conventional employment structures.

¹⁵Australian Human Rights Commission, [Fact Sheet: Respect@Work — Changes to the Sex Discrimination Act 1984](#) (Dec. 2022), on the positive duty introduced by the Anti-Discrimination and Human Rights Legislation Amendment (Respect at Work) Act 2022 (Cth), enforceable by the Commission since December 2023.

¹⁶Government of Canada, ["Government of Canada Publishes New Regulations to Prevent Harassment and Violence in Federal Workplaces"](#) (Jun. 24, 2020), on Bill C-65 and the Workplace Harassment and Violence Prevention Regulations under Part II of the Canada Labour Code, which fold harassment prevention into occupational health and safety and define harassment to include psychological injury.

¹⁷U.S. Equal Employment Opportunity Commission, [Enforcement Guidance on Harassment in the Workplace](#) (2024), addressing harassment conducted through remote work, virtual meeting platforms, and employer-provided communication systems.

¹⁸The POSH Act, 2013, § 2(f), *supra* note 4, defining "employee" broadly but by reference to an identifiable employer, a definition that maps imperfectly onto platform-mediated and gig work.

The task before policymakers, employers, and Internal Committees alike is therefore not to broaden statutory liability further, but to strengthen implementation — through targeted amendment where genuinely necessary, but chiefly through capacity building, clearer procedural guidance, and comparative learning from jurisdictions that have already begun to codify these protections explicitly.¹⁹ The constitutional promise of a safe and dignified workplace, first articulated in *Vishaka* and given statutory form through the POSH Act, must extend without interruption into the digital spaces where an increasing share of Indian employment now takes place. The law already possesses the conceptual flexibility to make this possible; what remains is the institutional will to make it real.²⁰

¹⁹International Labour Organization, [Teleworking Arrangements During the COVID-19 Crisis and Beyond](#), supra note 1, on the need for a collective regulatory framework to keep pace with the expansion of telework and platform-based labour.

²⁰See [Vishaka & Ors. v. State of Rajasthan & Ors.](#), supra note 3, on the constitutional foundation for treating workplace safety as inseparable from the right to life and dignity under Article 21.