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RIGHTS OF MEN AGAINST SEXUAL HARASSMENT AT WORKPLACE IN INDIA: A CALL FOR GENDER- NEUTRAL LAWS

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ABSTRACT

Workplace sexual harassment laws in India primarily focus on protecting women, as reflected in the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act). However, the absence of gender-neutral provisions raises concerns regarding the rights of men who may face harassment at the workplace. This research paper critically examines the legal gap in addressing male victims of workplace sexual harassment in India. It explores judicial interpretations, case studies, and international best practices to highlight the need for inclusive legislation. Additionally, the study discusses the sociocultural barriers that discourage men from reporting harassment, including stigma and fear of ridicule. By analyzing global legal frameworks and proposing policy reforms, this paper advocates for gender-neutral workplace harassment laws to ensure equal protection for all employees, irrespective of gender.

Keywords – POSH Act, Men's Rights, Gender Equality, Gender Neutral, Sexual Harassment, workplace.

INTRODUCTION

Sexual harassment in the workplace is a serious problem that affects people of both genders and is a problem that has to be addressed. On the other hand, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act) in India is a prime example of how the legislative measures that address harassment in the workplace primarily concentrate on safeguarding women. However, this legislation does not provide equivalent rights to males, leaving them vulnerable and without appropriate redressal methods. While this legislation has been crucial in protecting women, it does not offer similar protections to men.

This study paper takes a critical look at the legal gap that exists with regard to male victims of workplace harassment, as well as the cultural stigmas that are connected with reporting such cases, court interpretations, and worldwide best practices. Over the course of its findings, the research finally recommends for a legislative framework that is gender-neutral and guarantees equal protection for all employees, regardless of their gender.

Legal Gap in the POSH Act, 2013

The POSH Act 2013 was enacted to prevent and redress sexual harassment against women at the workplace. The Act defines sexual harassment and mandates the establishment of Internal Complaints Committees (ICCs) within organizations to address complaints. However, its gender-specific language excludes men and individuals of other gender identities from its protection. Consequently, male victims must seek recourse under other laws, which may not be tailored to address workplace harassment effectively.

Alternative Legal Recourse for Men

The Bharatiya Nyaya Sanhita (BNS), 2023, which replaces the Indian Penal Code (IPC), introduces new provisions that male victims of workplace sexual harassment can utilize. Section 69 (formerly IPC Section 354A) criminalizes unsolicited sexual approaches, demands for sexual favors, and sexually tinged remarks; its phrasing remains female-centric, thereby creating uncertainty on its applicability to male victims. Relevant in circumstances when a male employee suffers physical sexual assault at work, Section 75—previously IPC Section 377—protects males as well as others against non-consensual sexual actions. Previously IPC Section 509, Section 82 addresses words, gestures, or acts meant to offend modesty, which might be taken to encompass male victims of verbal and nonverbal harassment. Section 105 also covers criminal intimidation, insult, and annoyance, hence relevant in situations of psychological harassment at the job.

Beyond the BNS, 2023 the Indian Constitution offers basic liberties that male victims of workplace harassment could exercise. Article 14 (Right to Equality) guarantees legal challengeability of any discriminating treatment or neglect to shield male employees from harassment. Should company regulations exclude males from sexual harassment protections, Article 15 (Prohibition of Discrimination) can be used. Moreover, Article 21 (Right to Life and Dignity) preserves a person's right to mental health and dignity. Hence, workplace

harassment violates the constitution.

Some IPC clauses still find reference in incidents of workplace harassment even after the switch to the BNS in 2023. Section 503 guards against criminal intimidation, therefore shielding male workers from compulsion in the workplace. Section 506 guarantees judicial action for harassment-induced fear or anxiety by punishing threats compromising an individual's safety and dignity. Furthermore, sections 499 and 500 on slander give men a defense against unfounded charges meant to tarnish their professional standing. Although these clauses provide some legal remedies, India still lacks a specific gender-neutral workplace harassment law, which calls for legal changes to give equal protection to all employees—regardless of gender.

Judicial Interpretations and Case Studies

While judicial precedents concerning male victims of workplace sexual harassment are scarce in India, some cases have highlighted the urgent need for legal reform.

Vijay Nair Case 2017

Former Only Much Louder (OML) entertainment and event management firm CEO Vijay Nair was accused of sexual assault in 2017. These claims surfaced during the larger #MeToo movement in India, which revealed workplace harassment in many other fields, including the entertainment business. Nair co-founded OML, which grew well-known for planning big events such as the NH7 Weekender music festival. Under his direction, OML was instrumental in forming India's independent comedy and music sectors. He resigned as CEO in 2017, though, and more claims of sexual misbehaviour against him and other top OML executives surfaced the next year.

The charges directed against Nair included instances of improper behaviour and power abuse. Several former staff members and acquaintances reported a workplace where such behaviour was unnoticed or not given enough attention. The claims belonged to a bigger exposé stressing the frequency of sexual harassment in the workplace, especially in the entertainment business. OML confirmed prior events but underlined that Nair had already departed the business six months before the exposé was released. The business also said that throughout his term as CEO, no official accusations were levelled against him. Notwithstanding this, the disclosures

resulted in notable criticism; some musicians withdrew from OML-sponsored gigs, including the NH7 Weekender, in protest.

The case clarifies numerous important problems. First of all, it draws attention to the possible abuse of authority in powerful companies, therefore allowing misbehaviour to go unpacked. Second, it emphasizes the need for organizational responsibility and businesses to have strong systems to handle harassment accusations to guarantee a safe and open workplace. Finally, it shows the effect of public movements such as #MeToo, which elevated victim voices and exposed institutional problems.

All things considered, the accusations against Vijay Nair signalled a sea change in the Indian entertainment business and spurred more general conversations on employee welfare, corporate ethics, and the need for clear, legally enforced rules against harassment. The lawsuit was a wake-up call, pushing businesses to create a more inclusive and safer workplace early.

Workplace Complaints

While some organizations have attempted to handle such complaints internally, the absence of a statutory framework leaves men vulnerable to workplace bias and dismissal of their grievances.

India Inc. is gradually recognizing that women are not the only victims of workplace harassment. While legal provisions in India currently do not mandate recourse for male victims, some progressive companies have taken the initiative to adopt gender-neutral policies. For instance, Wipro Technologies has implemented a gender-neutral Prevention of Sexual Harassment Committee (PSHC), which ensures that all complaints, regardless of the complainant's gender, are investigated fairly and without bias. Similarly, Infosys in Bangalore has established a gender-neutral Internal Complaints Committee, reinforcing the idea that workplace harassment policies should extend beyond just female employees.

While these measures mark a step in the right direction, they remain limited to select organizations, leaving countless male employees across various industries without formal protection. Addressing workplace harassment effectively requires a more inclusive legal framework that recognizes and safeguards all individuals, irrespective of gender. A crucial step toward this goal is the enactment of a legislation that makes workplace sexual harassment laws

truly gender-neutral. Until such reforms are introduced, more companies must acknowledge the pressing need to create an environment where men can also report harassment without fear of stigma, dismissal, or bias. Only by fostering a more inclusive and legally supportive structure can workplaces ensure safety and dignity for all employees.

The lack of reported cases does not indicate the absence of harassment but rather reflects societal stigma and lack of legal support, discouraging male victims from coming forward.

Sociocultural Barriers and Stigma

The fact that males who are subjected to sexual harassment frequently face major social hurdles and stigma makes it difficult for them to report their experiences during sexual harassment. Due to the fact that many men are concerned about being ridiculed or disregarded when they come out, one of the most significant challenges is the fear of mockery. Additionally, males are discouraged from speaking up because of strongly entrenched notions of masculinity, which portray men as being dominating and unaffected by harassment. There is a general lack of reporting since many people are uninformed of their legal rights or the available channels for action, which further exacerbates the problem. This lack of understanding leads to widespread underreporting. The existence of these obstacles brought to light the urgent requirement for gender-neutral awareness campaigns and legal reforms in order to establish an atmosphere that is more welcoming and supportive of all individuals who have been harassed.

Global Best Practices: Lessons for India

Several countries have adopted gender-neutral laws to protect all employees from workplace sexual harassment.

UK

The United Kingdom has made significant strides in ensuring workplace protections against harassment for individuals of all genders through the Equality Act 2010. Explicitly forbade harassment based on sex, gender, sexual orientation, and other protected traits, this all-encompassing legislation aggregates and enhances anti-discrimination regulations. The Equality Act 2010 guarantees that men, women, and non-binary people have equal rights and protections in the workplace, therefore unlike some nations where legislative measures mostly concentrate on shielding women from workplace harassment. Harassment under this legislation

is defined as unwelcome behavior connected to a relevant protected attribute that compromises someone's dignity or generates an intimidating, hostile, degrading, humiliating, or offensive environment. This wide definition guarantees that every kind of improper verbal, physical, and nonverbal behavior is included. Legal action may follow from employers' legal need to behave reasonably to stop harassment in the workplace.

The Equality Act 2010 also gives workers the right to object and pursue legal action should they be harassed. The Employment Tribunal system of the United Kingdom offers a disciplined approach for managing such situations, supporting business responsibility. The Equality Act 2010 guarantees that all people, regardless of gender, are shielded from harassment by assuming a gender-neutral position, establishing a progressive benchmark for occupational safety and equality.

USA

In the United States, Title VII of the Civil Rights Act of 1964 serves as the cornerstone of workplace protections against sexual harassment, ensuring that both men and women are covered under its provisions. Clearly extending its rights to all employees, regardless of gender, this federal legislation forbids employment discrimination based on sex, color, national origin, religion, and gender. U.S. courts and the Equal Employment Opportunity Commission (EEOC) have strengthened throughout time that sexual harassment is a type of sex-based discrimination, therefore illegal in the workplace.

Under Title VII, sexual harassment is mostly classified as hostile work environment harassment—where unwelcome behavior creates an intimidating, offensive, or abusive workplace—or quid pro quo harassment, whereby job benefits or employment conditions are contingent on submitting to sexual advances. The legislation recognizes that anyone—regardless of gender—can be a victim or offender of harassment hence it affects men and women. Employers are legally obliged to adopt preventative actions like anti-harassment rules, frequent training, and guarantee of a strong grievance handling mechanism. Should an employee report sexual harassment, they can do so with the EEOC, which looks at allegations and might act about enforcement if needed. Victims may launch lawsuits to hold companies responsible if legal remedies are sought. Title VII of the Civil Rights Act of 1964 creates a robust legal framework that protects occupational safety and equality by offering gender-neutral protection, therefore guaranteeing that every employee—regardless of gender—has the

right to work in an atmosphere free from harassment and discrimination.

CANADA

The Canadian Human Rights Act (CHRA) is a basic legislative framework in Canada that guarantees protections for people of both sexes and helps to prevent workers from workplace harassment. Approved in 1977, the CHRA covers government buildings, banking, telecommunications, and transportation industries—all federally controlled businesses. Reiterating a gender-neutral approach to workplace safety, it forbids discrimination and harassment depending on protected traits like sex, gender identity, sexual orientation, race, and handicap.

Under the CHRA, businesses are legally required to keep a harassment-free workplace and workplace harassment is seen as a kind of discrimination. This covers proactive steps such as developing explicit anti-harassment rules, running frequent training courses, and offering means of confidential reporting. Harassment victims can report their incidents to the Canadian Human Rights Commission (CHRC), which looks into claims and could forward matters to the Canadian Human Rights Tribunal for determination. Besides the CHRA, provincial and territorial legislation, including Ontario's Occupational Health and Safety Act (OHSA) and British Columbia's Human Rights Code, enhance the defences against workplace harassment all over Canada. These rules guarantee that, regardless of gender, staff members can pursue action against inappropriate behavior, promoting a more inclusive and fairer workplace.

Recommendations for Policy Reform

Several important legislative changes need to be carried out to provide equal employment protection for every gender.

- 1) The Prevention of Sexual Harassment (POSH) Act has to be gender-neutral changed. Though a revamped framework should acknowledge that males and non-binary people can also face workplace harassment, the legislation now mostly addresses safeguarding of women. This amendment would let every employee—of any gender—file grievances and pursue legal action.
- 2) Awareness efforts aiming at teaching companies and staff about male workplace harassment should be started. Many males seldom disclose harassment because of stigma, ignorance, or fear of humiliation. Nationwide awareness campaigns can assist

in removing these obstacles and promote honest conversations about occupational safety for every person.

- 3) Internal Complaints Committees (ICCs) must be strengthened to address issues raised by all sexes fairly. Organizations must teach ICC members to handle situations without favoritism and have a safe reporting system for every staff member.
- 4) Furthermore, policy advocacy and case law should support court acceptance of men's experienced workplace sexual harassment. Legal agencies and courts should accept and record instances of male harassment, therefore establishing precedents supporting the necessity of legislative changes.
- 5) Establishing a National Helpline specifically for male victims of workplace harassment would ultimately offer much-needed legal aid, support, and direction. Men would be able to report events and seek expert guidance using this hotline as a private forum, guaranteeing they get the assistance they want free from the worry of rejection.

These steps will help workplace harassment rules develop into a really inclusive framework that safeguards every employee and promotes a safer and fairer workplace.

Conclusion

The laws in India that pertain to harassment in the workplace do not have any gender-neutral protections, which leaves men exposed and without the ability to seek appropriate legal remedies. When it comes to addressing the issue of sexual harassment in the workplace that males confront, this research underlines the vital need for legal reforms, judicial recognition, and social awareness. India can establish a more secure and equitable working environment for all its employees by gaining knowledge from international legal frameworks and implementing inclusive policies.

When it comes to recognizing the rights of males against sexual harassment in the workplace and ensuring that justice is available to all individuals, regardless of gender, this research serves as a call to action for lawmakers, policymakers, and society as a whole.