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WORKPLACE SEXUAL HARASSMENT AS A VIOLATION OF INTERNATIONAL HUMAN RIGHTS LAW: A STUDY OF CEDAW AND THE POSH ACT

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Brief Biography

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ABSTRACT:

Workplace sexual harassment is a serious violation of women's human rights, dignity, equality, and freedom guaranteed under both international and domestic legal frameworks. This paper examines workplace sexual harassment from the perspective of international human rights law with special reference to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act). The study analyses the development of legal protection against workplace sexual harassment through international instruments such as the Universal Declaration of Human Rights, ILO Conventions, and CEDAW, which recognise women's right to safe and dignified working conditions. The paper further discusses the constitutional safeguards available to women in India and traces the evolution of the POSH Act through the landmark Vishaka judgment. It critically examines the role of Internal Committees and Local Committees under the Act and highlights challenges in implementation, particularly in the unorganised sector. The study concludes that despite the existence of legal safeguards, ineffective enforcement, lack of awareness, and social stigma continue to hinder access to justice for women workers. Stronger implementation and institutional accountability are

therefore essential to ensure gender equality and workplace safety.

KEYWORDS:

Workplace Sexual Harassment, CEDAW, POSH Act, Human Rights, Gender Equality

Introduction:

Workplace sexual harassment has emerged as one of the most significant challenges affecting women's dignity, equality, and right to safe employment across the world. It is not merely a personal or workplace issue but a serious violation of human rights that undermines the principles of gender justice and equality guaranteed under both domestic and international legal frameworks. Women working in organised as well as unorganised sectors frequently face physical, verbal, non-verbal, and psychological forms of harassment that adversely affect their professional growth, mental well-being, and economic independence. The situation becomes more severe in informal sectors where women often lack awareness, institutional support, and effective grievance redressal mechanisms.

International human rights instruments such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Universal Declaration of Human Rights (UDHR), and International Labour Organization (ILO) conventions recognise workplace sexual harassment as a form of discrimination and violence against women. India, being a signatory to CEDAW, has a responsibility to ensure safe and dignified working conditions for women. In furtherance of these obligations, the Supreme Court in the Vishaka judgment laid down guidelines for prevention of workplace harassment, which later resulted in the enactment of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

Despite the existence of legal protections, implementation challenges continue to persist, particularly in unorganised sectors where women remain vulnerable due to social stigma, lack of awareness, fear of retaliation, and weak institutional enforcement. Therefore, this paper seeks to analyse workplace sexual harassment as a violation of international human rights law with special reference to CEDAW and the POSH Act, while examining the extent to which the Indian legal framework fulfils international obligations relating to protection of women at workplaces.

Meaning and Nature of workplace sexual harassment:

Workplace sexual harassment refers to any unwelcome act, behaviour, or conduct of a sexual nature that violates the dignity, safety, and equality of women at the workplace. It may occur through physical, verbal, or non-verbal actions that create an intimidating, hostile, humiliating, or offensive working environment. Sexual harassment includes unwanted physical contact, sexually coloured remarks, demands or requests for sexual favours, showing pornography, inappropriate gestures, stalking, offensive jokes, threats, intimidation, and abuse of authority. Such acts adversely affect the mental well-being, professional growth, and right of women to work in a safe and secure environment.¹

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 provides protection to all women, irrespective of age, employment status, or nature of work. The Act covers women employed directly or indirectly, including regular employees, temporary workers, trainees, apprentices, domestic workers, and women engaged through contractors in both organised and unorganised sectors. The concept of workplace under the Act is broad and includes offices, institutions, hospitals, sports facilities, transportation provided by employers, and even dwelling places where domestic workers are employed.²

Sexual harassment at workplace generally exists in two major forms, namely quid pro quo harassment and hostile work environment harassment. **Quid pro quo sexual harassment** occurs when a person in a position of authority demands sexual favours in exchange for employment benefits or threatens adverse consequences upon refusal. Such benefits may include promotion, salary increment, favourable assignments, confirmation of employment, or job security.

For instance, a superior officer may threaten to damage a woman employee's career or reputation if she refuses his sexual advances. Similarly, a domestic worker may be threatened with dismissal or false accusations if she objects to unwanted physical contact. This form of harassment clearly reflects misuse of power and authority and creates a coercive and exploitative work environment for women.

¹ Dr. Reena Chaudhary, "Sexual Harassment threat to working women", Deep & Deep Publication. Pvt. Ltd., Delhi, PP 4

² Section 2(O) of the POSH Act, 2013, Bare act with short notes, Universal lexis nexis, New Delhi., P.5

In another instance of quid pro quo harassment, a senior faculty member may insist that a research scholar maintain a “personal relationship” with him in return for approval of academic projects, recommendations, or conference opportunities. When the scholar refuses, she may face unnecessary delays, harsh criticism, or exclusion from important academic activities. Such conduct amounts to misuse of professional authority for sexual gain.

Hostile work environment harassment arises when repeated unwelcome conduct of a sexual nature creates an intimidating, humiliating, or offensive atmosphere at the workplace. Such behaviour may include inappropriate touching, sexually coloured remarks, spreading rumours, stalking, vulgar jokes, repeated unwelcome advances, or displaying offensive material.

For example, a woman employee may become the subject of rumours and mockery because of inappropriate behaviour by her superior, or a construction worker may face catcalling, staring, and verbal abuse from co-workers, creating fear and discomfort at the workplace. These acts adversely affect the dignity, mental well-being, and professional efficiency of women and violate their right to work in a safe and secure environment.³

A hostile work environment may also arise when a woman employee is repeatedly excluded from team discussions, mocked with sexist comments, or subjected to anonymous messages containing inappropriate content. Continuous ridicule, offensive humour, or deliberate attempts to embarrass her in front of colleagues may create emotional distress and an unsafe work atmosphere, thereby affecting her confidence and professional performance.

Indian Legal Framework on Workplace Sexual Harassment

The Constitution of India guarantees several rights aimed at protecting women’s dignity, equality, and safety at workplaces. **Article 14** ensures equality before law and equal protection of laws, while **Article 15(3)** empowers the State to make special provisions for women and children. **Article 16** guarantees equality of opportunity in matters relating to public employment.

Further, **Article 23** prohibits trafficking in human beings and forced labour, thereby protecting women from exploitation. The Directive Principles of State Policy under **Articles 39(a) and 39(d)** direct the State to secure social, economic, and political justice and ensure equal pay for

³ <https://financialservices.gov.in/beta/sites/default/files/2024-08/HANDBOOK-POSH.pdf> (Last visited on 26.05.2026)

equal work for both men and women. **Article 42** mandates the State to provide just and humane working conditions along with maternity relief, and **Article 47** imposes a duty upon the State to improve public health and living standards. These constitutional provisions collectively establish the legal foundation for protection of women against discrimination, exploitation, and workplace sexual harassment in India⁴

Special Legislation Development:

The development of special legislation relating to workplace sexual harassment in India began with the landmark **Vishaka v. State of Rajasthan case**,⁵ which arose from the gang rape of Bhanwari Devi, a social worker in Rajasthan who attempted to prevent child marriage in her community. In response to the absence of legal protection against workplace sexual harassment, **Vishaka and other women's organisations** approached the Supreme Court seeking justice and preventive measures. Recognising the legislative vacuum, the Supreme Court framed the **Vishaka Guidelines** by relying upon international conventions, particularly the **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)**.⁶ The Court held that workplace sexual harassment violates the fundamental rights guaranteed under Articles 14, 15, 19, and 21 of the Constitution and established legally binding guidelines for prevention and redressal of such harassment until appropriate legislation was enacted. Following Vishaka, several reforms were introduced in service rules, institutional policies, and workplace regulations to strengthen protection against sexual harassment. Further developments took place through the decision in **Medha Kotwal Lele v. Union of India**,⁷ where the Supreme Court recognised complaints committees as effective inquiry authorities for disciplinary proceedings and directed strict implementation of the Vishaka Guidelines. These judicial developments ultimately led to the enactment of the **Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013**, which institutionalised mechanisms for prevention, prohibition, and redressal of workplace sexual harassment in India.⁸

⁴ Constitution of India, Bare Act with short notes, Universal Lexis Nexis, New Delhi

⁵ Vishaka V. State of Rajasthan (1997) 6 SCC 241.

⁶ The management of Hires watch Straps (P)ltd V. The presiding Officer, Labour Court, Salem, W.P.No.37091 of 2003 dated on 07-06-2011, High court of Madras

⁷ Unreported interim order dated 26.04.2004 in Medha Kotwal V. Union of India; Supreme court of India, Writ Petition. (criminal)Nos: 173-177 of 1999

Key Definition of POSH:

The POSH Act broadly defines an “employee” under **Section 2(f)**⁹ to include any person employed on a regular, temporary, ad hoc, contractual, daily wage, trainee, apprentice, or voluntary basis, whether directly or through an agent or contractor. The Act extends protection to women working in both organised and unorganised sectors and recognises workplace sexual harassment as a violation of dignity and equality. The definitions of “**sexual harassment**” under **Section 2(n)** and “**workplace**” under **Section 2(o)** provide a wide scope to ensure protection across various employment settings.

Internal Complaint Committee:

Section 4 of the POSH Act mandates every establishment employing ten or more employees to constitute an **Internal Committee (IC)** for the redressal of workplace sexual harassment complaints. The Committee must be headed by a senior woman employee as the Presiding Officer and 2 members having legal knowledge, social work experience, or commitment towards women’s rights, along with one external member from an NGO or association familiar with issues of sexual harassment. At least half of the members must be women. The importance of constituting the IC was emphasised in **Global Health Private Limited v. Local Complaints Committee (2017)**,¹⁰ where failure to constitute the Committee attracted penalties under the POSH Act.

Hence, the Madras High Court have awarded Rs.1.68 cr in damages to employee for Non Constitution of compliant committee by the employer, as per Vishaka guidelines (at the time of the complaint, the Sexual Harassment of women at workplace at 2013 had not been enacted)¹¹

Local Committee

To address complaints arising in establishments with fewer than ten employees and in the unorganised sector, **Section 5 of the POSH Act**¹² provides for the constitution of **Local Committees (LCs)** at the district level. These Committees are especially significant for

⁹ Section 2(f) of the POSH Act, 2013, Bare act with short notes, Universal lexis nexis, New Delhi., P.4

¹⁰ Global Health Private Limited & Mr. Arvinder Bagga v. Local Complaints Committee – W.P.No.22317 of 2017, Madhya Pradesh High Court.

¹¹ Ms.G vs ISG Novasoft technologies ltd Madras Highcourt (Crl.R.C.No.370 of 2014 order dated 02.09.2014 Original Petition No. 463 of 2012)

¹² Section 5 of the POSH Act, 2013, Bare act with short notes, Universal lexis nexis, New Delhi., P.7

domestic workers and women employed in informal sectors where Internal Committees may not exist. The Local Committee consists of a Chairperson committed to women's welfare, 2 members from local administration, social organisations, and persons familiar with issues relating to sexual harassment, including members possessing legal knowledge. The establishment of Local Committees ensures access to grievance redressal mechanisms for women working outside formal institutional structures.

The Internal Committee and Local Committee have the same authority as a civil court under the Code of Civil Procedure, 1908, to look into complaints of sexual harassment at work. This includes the following:

- Summoning anyone to appear and questioning them under oath;
- Produce documents
- Other matters are specified

Duties of Employer:

Under the POSH Act, employers are legally obligated to provide a safe working environment free from sexual harassment and to establish an Internal Committee (IC) for redressal of complaints. Failure to constitute the Committee may attract penalties, including fines and cancellation of business licenses in repeated cases. Employers are further required to implement the recommendations of the Internal Committee, conduct awareness and orientation programmes, provide necessary assistance during inquiries, support women in filing complaints under criminal law, and ensure submission of annual reports relating to workplace sexual harassment cases. These responsibilities aim to ensure prevention, prohibition, and effective redressal of workplace sexual harassment.

Duties of State and its functionaries:

The POSH Act also imposes several duties upon the **State and its functionaries** for effective implementation of the law. State Governments are required to appoint District Officers to supervise the implementation of the Act and establish Local Committees (LCs) at the district level for addressing complaints arising in the unorganised sector and establishments without Internal Committees. The Government is further responsible for conducting awareness programmes, maintaining records of complaints, training Committee members, monitoring compliance, and involving NGOs and social organisations in spreading awareness regarding workplace sexual harassment and women's rights.

International Human Rights Perspective

At the international level, significant attention has been given to protecting women workers and ensuring gender equality at workplaces. Since its establishment in 1945, the United Nations has recognised gender equality as a fundamental human right¹³ and has actively worked towards improving the status of women in society. Similarly, the International Labour Organization (ILO) has consistently emphasised the protection of women workers by recognising the unique challenges they face due to social attitudes and workplace discrimination.¹⁴ Consequently, the United Nations and the ILO have adopted various conventions, recommendations, and resolutions to safeguard women from workplace discrimination, exploitation, and sexual harassment.

Universal Declaration of Human Rights, 1948 (UDHR)

The Universal Declaration of Human Rights, 1948 laid the foundation for protection of human rights and equality across the world. Article 2 of the Declaration guarantees equality and prohibits discrimination on grounds such as race, colour, sex, religion, language, political opinion, social origin, birth, or other status. The Declaration recognises that **women are entitled to equal rights, dignity, and freedom in all spheres of life, including employment and working conditions.**

United Nations Conference on Environment and Development, Rio de Janeiro, 1992

The Rio Declaration on Environment and Development recognised the important role **played by women in environmental protection and sustainable development.** It emphasised that the active participation of women is essential for achieving environmental management and sustainable social progress.

Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is regarded as an **international bill of rights for women.** Adopted by the United Nations General Assembly in 1979 and enforced in 1981, the Convention provides a comprehensive framework for eliminating discrimination against women and promoting gender equality.

¹³ A. P. Varma, etc., "Women Labour in India, a Comprehensive manual," 1st edition, 1996, Pub. V. V. Giri National Law Institute, p.97

¹⁴ Usha Sharma, "Female Labour in India," 1st edition 2006, Pub. Mittal Publication, New Delhi. pp.9-10

CEDAW defines discrimination against women and obligates State parties to take appropriate legislative, social, and administrative measures to ensure equal rights and **opportunities for women in political, social, economic, educational, health, and employment sectors**. The Convention guarantees women equal participation in public life, **equal access to employment opportunities, and protection of their fundamental human rights and freedoms**. It further requires States to adopt effective legal measures and policies to prevent discrimination and ensure safe and dignified conditions for women, including protection against workplace harassment and exploitation.¹⁵

World Conference on Human Rights, Vienna, 1993

The Vienna Declaration and Programme of Action recognised that the rights of women **and girls are an integral and indivisible part of universal human rights**. It strongly condemned all forms of violence and discrimination against women and called upon States to eliminate both direct and indirect discrimination affecting women globally.

World Summit for Social Development, Denmark, 1995

The World Summit for Social Development focused on reducing poverty, promoting productive employment, and strengthening social integration, particularly for vulnerable and marginalised groups. The Summit highlighted the importance of **equal opportunities and social justice for women workers**.

Fourth World Conference on Women, Beijing, 1995

The Beijing Conference sought to empower **women through equal participation in decision-making processes and social development**. The Beijing Platform for Action provided a framework for achieving gender equality and improving women's participation in political, economic, and social spheres.

ILO Declaration on Equality of Opportunity and Treatment of Women Workers, 1975

This Declaration recognised that discrimination against women in employment and occupation is unacceptable. It emphasised equal **opportunity and equal treatment for women workers and called for elimination of all forms of sex-based discrimination in workplaces**.

¹⁵ Meenakshi Gupta, "Women Rights under labour law", Regal Publication, New Delhi, P. 113

ILO Resolution on Equal Opportunity and Equal Treatment for Men and Women in Employment

This Resolution focused on ensuring equal access to employment, training, fair remuneration, improved working conditions, and participation in decision-making processes for both men and women. It also encouraged recognition of **women's contributions in the workforce and promotion of gender equality in employment policies.**

ILO Resolution concerning ILO Action for Women Workers, 1991

The 1991 Resolution emphasised cooperation between governments, employers, workers' organisations, and trade unions to ensure gender equality in employment. It called for removal of barriers affecting women workers, increased participation of women in labour institutions, improvement of conditions in the unorganised sector, and better employment opportunities for women.

International Labour Organisation (ILO)

The International Labour Organization (ILO) has adopted several conventions and recommendations for the protection and promotion of women workers' rights. These instruments mainly focus on eliminating discrimination, ensuring equality in employment, protecting maternity rights, regulating working conditions, and guaranteeing fair wages and social security.

Non-Discrimination and Equality

The Equal Remuneration Convention, 1951 (No.100) promotes equal pay for men and women for work of equal value. The Discrimination (Employment and Occupation) Convention, 1958 (No.111)¹⁶ prohibits discrimination in employment and promotes equal access to opportunities, fair wages, and job security. Convention No.156 on Workers with Family Responsibilities, 1981 aims to ensure equality between workers with family responsibilities and other workers and states that family responsibilities should not become a ground for termination of employment.¹⁷

¹⁶ G.Q. Mir, "Women workers and law", 1st edition 2002,p.144

¹⁷ A. P. Varma, etc., "Women Labour in India, a Comprehensive manual,"1st edition ,1996, Pub. V. V.Giri National law Institute, p.104

General Conditions of Employment

The Night Work Recommendation, 1990 (No.178) provides protection for night workers through safer working conditions and health measures. The Part-Time Work Convention, 1994 ensures equal treatment and benefits for part-time workers similar to full-time workers. The Home Work Convention, 1996 (No.177) requires States to formulate policies ensuring equal treatment and protection for home-based workers.¹⁸

Maternity Protection

The Maternity Protection Convention No.103, 1952 guarantees maternity leave, medical care, and financial benefits for women workers. The revised Maternity Protection Convention No.183, 2000 further strengthens maternity rights by ensuring health protection for pregnant and nursing mothers and promoting equality of women in employment.

Wages and Social Security

The Minimum Wages Fixing Convention, 1970 (No.131) seeks to protect workers from unfairly low wages by establishing minimum wage systems. The Protection of Wages Convention, 1949 (No.95) ensures timely and fair payment of wages and safeguards workers from wage exploitation. Additionally, the Social Security (Minimum Standards) Convention, 1952 (No.102) provides minimum standards relating to medical care, maternity benefits, unemployment benefits, employment injury compensation, and other social security protections for workers.

The International Covenant on Economic, Social and Cultural Rights (ICESCR)

guarantees equal rights for men and women in the enjoyment of economic, social, and cultural rights. It recognises the right to just and favourable conditions of work, including fair wages, equal remuneration for work of equal value, safe and healthy working conditions, and equal opportunities for promotion without discrimination. The Covenant obligates State parties to ensure equality and dignity in employment and working conditions for all individuals, especially women workers.¹⁹

¹⁸ Meenakshi Gupta, "Women Rights under labour law", Regal Publication, New Delhi, P. 117

¹⁹ THE INTERNATIONAL COVENANT ON ECONOMIC AND SOCIAL CULTURAL RIGHTS (ICESCR) Article 3-7

The Declaration on the Elimination of Violence Against Women recognises violence against women as a violation of fundamental human rights and freedoms. It defines violence against women as any act of gender-based violence causing physical, sexual, or psychological harm, including threats, coercion, and deprivation of liberty. The Declaration specifically includes sexual harassment and intimidation at the workplace as forms of violence against women and places a duty upon States to take effective measures to eliminate such practices and ensure protection and safety for women.²⁰

Challenges in Enforcement:

One of the major challenges in the enforcement of the **POSH Act is the ineffective functioning of Local Committees in the unorganised sector**. Although Section 6 of the Act mandates the constitution of Local Committees for establishments employing fewer than ten workers, their implementation remains weak due to lack of awareness, inadequate infrastructure, and poor accessibility for women workers. The **absence of proper monitoring mechanisms** further reduces the effectiveness of these Committees in addressing workplace sexual harassment complaints.

Another significant challenge is the **inadequate protection provided to marginalised women workers in the unorganised sector**. Many domestic workers, daily wage labourers, and informal employees lack employment records or documentary proof of employment, making it difficult to establish complaints. The limitation period for filing complaints under Section 9 also creates barriers for vulnerable women who may delay reporting harassment due to fear, social stigma, or economic dependence. Further, remedies such as transfer, leave, or interim relief are often impractical in the informal sector where workers lack job security and employment benefits. As a result, many women are compelled to leave their jobs instead of seeking legal redressal.²¹

Suggestions

- **Strengthening Implementation of the POSH Act:**

The effective implementation of the POSH Act requires strict monitoring by State authorities to ensure that every workplace constitutes Internal Committees and that

²⁰ General Assembly Resolution No.48/104,1993

²¹ <https://www.nujs.edu/wp-content/uploads/2024/01/vol-8-iss-4-6.pdf> (last visted on 26 May 2026)

Local Committees function efficiently in the unorganised sector. Regular audits and compliance checks must be conducted to prevent non-compliance by employers.

- **Awareness and Sensitisation Programmes:**

Many women workers remain unaware of their legal rights and complaint mechanisms under the POSH Act. Therefore, awareness programmes, gender sensitisation workshops, and legal literacy campaigns should be conducted regularly at workplaces, educational institutions, and community levels.

- **Protection for Women in the Unorganised Sector:**

Special attention must be given to domestic workers, daily wage labourers, and women employed in informal sectors who face greater vulnerability. Simplified complaint procedures, flexible timelines for filing complaints, and accessible grievance mechanisms should be introduced to ensure justice for marginalised women workers.

- **Strengthening International Commitments:**

India should continue aligning its domestic laws with international human rights standards under CEDAW, ILO Conventions, and other international instruments to ensure gender equality, dignity, and safe working conditions for women.

- **Ensuring Employer Accountability:**

Employers must be made more accountable for maintaining safe workplaces. Strict penalties should be imposed for failure to constitute Internal Committees, non-compliance with POSH provisions, and victimisation of complainants.

Conclusion

Workplace sexual harassment is not merely a violation of employment rights but also a serious violation of human rights and women's dignity. International instruments such as CEDAW, ILO Conventions, the UDHR, and other human rights frameworks have recognised the importance of ensuring equality, safety, and non-discrimination for women at workplaces. In India, the POSH Act, 2013 emerged as a significant legal mechanism following the Vishaka Guidelines to address workplace sexual harassment and provide preventive and redressal measures. Although the POSH Act has strengthened the legal framework for protection of

women, several challenges continue to exist, particularly in the unorganised sector where awareness, accessibility, and enforcement remain inadequate. The ineffective functioning of Local Committees, fear of retaliation, social stigma, and economic dependency often prevent women from reporting harassment. Therefore, stronger implementation mechanisms, increased awareness, and greater institutional accountability are essential to ensure safe and dignified workplaces for women. A combined effort by the State, employers, civil society, and international institutions is necessary to eliminate workplace sexual harassment and uphold women's fundamental human rights.

