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# **WORKPLACE HARASSMENT LAWS: EFFICACY AND ENFORCEMENT CHALLENGES**

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## **ABSTRACT**

Workplace harassment constitutes a pervasive violation of fundamental human rights, undermining the constitutional guarantees of dignity, equality, and the right to a safe professional environment. Despite the proliferation of international conventions and domestic statutes; such as Title VII of the Civil Rights Act (USA) and the POSH Act, 2013 (India); empirical evidence suggests a dichotomy between legislative intent and operational reality. By examining the evolution of judicial interpretation, from the Vishaka guidelines to recent global precedents, the study identifies systemic failures in reporting mechanisms, the burden of proof, and organizational compliance. The research argues that while the substantive law has matured, procedural implementation remains hindered by socio-cultural normative barriers and rigid institutional structures. Concluding with a comprehensive set of recommendations, the paper advocates for a paradigm shift from mere statutory compliance to a holistic integration of technological monitoring, shifting evidentiary standards, and proactive cultural reform to secure substantive equality in the workplace.

## **KEYWORDS:**

Workplace Harassment, Sexual Harassment (POSH Act), Enforcement Mechanisms, Hostile Work Environment, Vicarious Liability, Burden of Proof, Judicial Activism, Institutional Accountability.

## CHAPTER 1 – INTRODUCTION

### CONFRONTING WORKPLACE HARASSMENT: A CRITICAL ANALYSIS OF LEGAL FRAMEWORKS AND THEIR EFFECTIVENESS

Workplace harassment remains a persistent global issue that transcends geographical boundaries, industries, and organisational structures. Despite increased awareness and legislative efforts, it continues to undermine fundamental principles of equality, dignity, and respect in employment settings. As defined by U.S. Equal Employment Opportunity Commission (EEOC), discrimination against job applicants and employees based on race, colour, religion, sex, national origin, age (40 or older), disability, or genetic information. Sexual harassment constitutes unwelcome conduct of a sexual nature that creates an intimidating, hostile, or offensive work environment, or interferes with an individual's work performance.<sup>1</sup>

The impact of workplace harassment extends beyond the individual victim to affect organizational productivity, workplace culture, and broader societal norms. For victims, the consequences can include emotional distress, anxiety, depression, decreased self-esteem, and adverse effects on physical and mental health. Sexual harassment at the workplace includes offensive behaviours such as physical contact or advances, demands or requests for sexual favours, sexually coloured remarks, and the display of pornography. The severity of such harassment intensifies when sexual favours become terms or conditions for employment, when they interfere with work performance, or when they create an intimidating or hostile work environment. As rightly says, ***“Country and Nation which do not respect women have never become great nor will ever be in the Future” - Swami Vivekananda.***<sup>2</sup>

The Indian Constitution guarantees all citizens equality of status and opportunity, yet the occurrence of sexual harassment in workplaces continues to pose a significant challenge to these constitutional guarantees. The Indian Constitution assures every citizen the right to engage in any occupation, trade, or business, as well as the right to a safe environment free from all forms of harassment.

This paper provides a comprehensive analysis of legal frameworks designed to address workplace harassment, examining their evolution, implementation, and effectiveness. By

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<sup>1</sup> Annual Report on the Federal Workforce for Fiscal Year 2019, <https://www.eeoc.gov/annual-report-federal-workforce-fiscal-year-2019>

<sup>2</sup> Radha Ranjan, *“Sexual Harassment of Women at Work Place: A Study of Indian Legislation And Judicial Approach”*; February 2022 ; [\(Pdf\) Sexual Harassment Of Women At Work Place: A Study Of Indian Legislation And Judicial Approach](#)

exploring the historical development of anti-harassment legislation, current legal protections, employer responsibilities, and enforcement mechanisms, this paper aims to identify both the strengths and limitations of existing approaches. Furthermore, it seeks to offer insights for future legal reforms and organizational strategies to create safer and more inclusive work environments.

## CHAPTER 2

### RESEARCH METHODOLOGY

#### 2.1 STATEMENT OF THE PROBLEM

While the Indian Constitution under Articles 14, 15, 16, 19, and 21 guarantees equality and dignity, the practical realization of these rights in the workplace remains elusive. Despite the enactment of specific statutes like the POSH Act, 2013, enforcement data and sociological evidence suggest a prevalence of under-reporting and a lack of faith in institutional redressal mechanisms. The core problem identified is the gap between the static letter of the law and the dynamic, often subtle nature of modern workplace harassment, necessitating a rigorous legal inquiry into the efficacy of existing enforcement challenges.

#### 2.2 OBJECTIVES OF THE STUDY

To address the stated problems, this research pursues the following objectives:

- To trace the historical and judicial evolution of workplace harassment laws in India and globally.
- To critically analyze the definitions and terminologies of harassment, distinguishing between bullying, mobbing, and sexual harassment.
- To evaluate the efficacy of current enforcement mechanisms, specifically the burden of proof and the role of Internal Complaints Committees (ICCs).
- To identify the limitations of the current legal framework regarding gender neutrality and digital workspaces.
- To recommend legislative and organizational reforms based on a comparative analysis of international best practices.

#### 2.3 RESEARCH QUESTIONS

In light of the objectives, the study seeks to answer the following:

- **The Question of Independence:** Does the dependence of internal redressal

mechanisms on senior management compromise procedural fairness?

- **The Question of Digital Jurisdiction:** Do existing legal definitions of "workplace" sufficiently encompass the "extended workplace" in the post-pandemic era, specifically regarding cyber-harassment and remote work environments?

## 2.4 RESEARCH METHODOLOGY

This research adopts a Doctrinal and Comparative Legal Research Methodology.

- **Doctrinal Analysis:** The study systematically analyzes existing statutes (IPC, POSH Act 2013), constitutional provisions, and legal concepts (Vicarious Liability, Hostile Work Environment) to understand the theoretical framework of the law.
- **Comparative Approach:** The paper juxtaposes the Indian legal framework against international standards, specifically United States employment laws (EEOC guidelines) and European Union directives, to evaluate global efficacy and borrow best practices.

## 2.5 SOURCES OF DATA

The study relies on secondary sources of data, comprising:

- **Primary Legal Sources:** The Constitution of India, The Sexual Harassment of Women at Workplace Act (2013), The Indian Penal Code (1860), U.S. Civil Rights Act (1964), and landmark Supreme Court judgments (*Vishaka v. State of Rajasthan*), *Meritor Savings Bank v. Vinson*).
- **Secondary Sources:** Reports by the International Labour Organization (ILO), U.S. Equal Employment Opportunity Commission (EEOC) data, legal journals, academic commentaries, and verified news reports regarding implementation challenges.

## CHAPTER 3 – DESCRIPTION

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### THE SCOPE AND NATURE OF WORKPLACE HARASSMENT: A CONCEPTUAL FRAMEWORK

Workplace harassment affects over 40% of global workers according to ILO estimates. The term 'Workplace Harassment' commonly use in professional, journalistic, and academic contexts, establishing a precise definition remains challenging.<sup>3</sup>

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<sup>3</sup> Chris Waugh, "*Workplace Harassment*", June 2023, [\(PDF\) Workplace Harassment](#)

### 3.1 CONCEPTUALIZING WORKPLACE HARASSMENT: TERMINOLOGY AND DEFINITIONS

Understanding the terminology surrounding workplace harassment is essential for analyzing the efficacy of related laws and policies. Several terms are often used interchangeably in discussions about inappropriate workplace conduct, though they carry subtle but important distinctions:

- **Bullying:** Refers to acts that intimidate, dominate, or threaten the victim, often implying direct and malicious intent to harm.
- **Mobbing:** Describes situations where an individual is targeted by a group, suggesting a collective aggression against a single employee.
- **Harassment:** A broader term encompassing actions that make someone feel "distressed, humiliated or threatened"<sup>4</sup>.

Spreading malicious rumours, exclusion or victimisation, unfair treatment, overbearing supervision, misuse of power and position, unwelcome sexual advances, making threats and comments about job security without foundation, deliberately undermining a competent worker, preventing individuals from progressing by intentionally blocking promotion or training opportunities.

### 3.2 TYPES AND MANIFESTATIONS OF WORKPLACE HARASSMENT

Workplace harassment manifests in numerous forms, ranging from overt aggression to subtle behaviours that undermine an employee's dignity or professional standing. These include:

- **Sexual harassment:** The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 provides a comprehensive definition of sexual harassment that encompasses a wide range of offensive behaviours. According to this legislation, sexual harassment includes unwelcome sexually determined behaviour, whether direct or implicit<sup>5</sup>.
- **Discriminatory harassment & Psychological harassment:** Targeting based on protected characteristics such as race, gender, religion, disability, or sexual orientation. Behaviours that damage an employee's psychological well-being through intimidation, isolation, or humiliation<sup>6</sup>.

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<sup>4</sup> Id.

<sup>5</sup> The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 (No. 14 OF 2013)

<sup>6</sup> SUZANNE B. GOLDBERG, "HARASSMENT, WORKPLACE CULTURE, AND THE POWER AND LIMITS OF LAW", 20 June 2021, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3769646](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3769646)

- **Institutional harassment:** Institutional workplace injustice, like institutional racism, stems from structurally embedded disparities in opportunities, practices, and laws. It is often normative, legally sanctioned, and persists without a specific perpetrator. Even as individual discrimination declines, structural injustices can endure, reinforcing systemic inequities.<sup>7</sup>

## CHAPTER 4 – DISCUSSION

### THE EVOLUTION AND EFFICACY OF WORKPLACE HARASSMENT

#### LAWS: A GLOBAL AND INDIAN PERSPECTIVE

The evolution of workplace harassment legislation has been influenced by societal norms, legal developments, and advocacy efforts for workplace equality. Before formal legal frameworks, workplace harassment was often dismissed or normalised, reinforcing a culture of silence and impunity.

#### 4.1 HISTORICAL DEVELOPMENT OF WORKPLACE HARASSMENT LEGISLATION

Before the mid-20th century, workplace protections against harassment were minimal. *The National Labor Relations Act (NLRA), 1935*<sup>8</sup> Established the U.S. policy of promoting collective bargaining and safeguarding workers' rights to association. It protects private-sector employees' ability to advocate for improved working conditions and union representation without fear of retaliation, reinforcing workplace democracy and fair labour practices.<sup>9</sup>

The landmark case *Mechelle Vinson v. Meritor Savings Bank*<sup>10</sup>, established sexual harassment as a form of sex discrimination under *Title VII of the Civil Rights Act of 1964*<sup>11</sup>. The U.S. Supreme Court recognized both quid pro quo and hostile work environment harassment as unlawful employment discrimination, setting a crucial legal precedent.

Following this, (*EEOC Guidelines (1980)*) defined sexual harassment and outlined employer

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<sup>7</sup> Cassandra A Okechukwu et al. ; “Discrimination, Harassment, Abuse and Bullying in the Workplace: Contribution of Workplace Injustice to Occupational Health Disparities”; Jun 27 2013 ; <https://pmc.ncbi.nlm.nih.gov/articles/PMC3884002/>

<sup>8</sup> National Labor Relations Act (NLRA), 1935, 29 U.S.C. § 151-169

<sup>9</sup> Ibid. ; <https://www.nlr.gov/guidance/key-reference-materials/national-labor-relations-act>

<sup>10</sup> Mechelle Vinson v. Meritor Savings Bank, 477 U.S. 57 (1986)

<sup>11</sup> Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e

responsibilities for prevention and redress (EEOC Policy Guidance on Sexual Harassment, 1980). These guidelines reinforced the duty of employers to ensure a workplace free from harassment, detailing procedures for complaint investigation and remediation.<sup>12</sup>

Internationally, the recognition of sexual harassment as a human rights violation was strengthened by the adoption of *the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1979*<sup>13</sup>, mandates signatory states to implement measures to prevent and address workplace harassment, reinforcing global commitments to gender equality and workplace protections.

#### **4.2 - EVALUATING THE EFFECTIVENESS OF HARASSMENT LEGISLATION**

Evaluating workplace harassment laws poses major methodological challenges and requires a pragmatic approach considering both intended purposes and actual outcomes. Assessment must examine traditional metrics alongside the practical effectiveness of legal frameworks across multiple dimensions. Traditional metrics might include:

##### **A. Organizational Structure and Its Impact on Workplace Harassment-**

Reporting decisions hinge on individual factors (self-efficacy, harassment perceptions, reputation concerns) and organizational culture (procedures, expected responses). Effective policies require manager accountability with consequences for inaction, while regular bystander intervention training empowers employees. Organizational vulnerabilities include small hierarchical departments, career dependency on individuals, and isolated workspaces—particularly when managers dismiss complaints or are perpetrators themselves.<sup>14</sup>

##### **B. External Environment and Its Impact on Workplace Harassment –**

External forces shape workplace harassment policies beyond employer control. Organizations must adapt to evolving cultural norms, legal requirements, and social movements like #MeToo and Black Lives Matter, which have transformed harassment discourse and increased accountability. While societal influences affect workplaces

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<sup>12</sup> U.S. Equal Employment Opportunity Commission, “*EEOC Guidelines on Sexual Harassment, 45 Federal Register 74676 (10 November 1980), codified in 29 C.F.R. §1604.11*”; <https://documents.alexanderstreet.com/d/1000674188#:~>

<sup>13</sup> Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1979; (CEDAW, U.N. Doc. A/RES/34/180, 1979).; <https://www.refworld.org/legal/agreements/unga/1979/en/13757>

<sup>14</sup> SUZANNE B. GOLDBERG, “*HARASSMENT, WORKPLACE CULTURE, AND THE POWER AND LIMITS OF LAW*”, 20 June 2021, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3769646](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3769646)

indirectly, legal frameworks demand direct compliance, reinforcing law's essential role in organizational responsibility and workplace equity.<sup>15</sup>

### C. The Motive Behind Workplace Sexual Harassment –

Sexual harassment stems from individual psychological factors (exploitative tendencies, poor emotional regulation), organizational culture (tolerance of misconduct, leadership modelling), and power dynamics. This complex interplay demonstrates why successful prevention strategies must simultaneously address both individual behaviour and systemic cultural issues through integrated interventions at multiple levels.<sup>16</sup>

## 4.3 – INDIA'S LEGAL FRAMEWORK ON WORKPLACE HARASSMENT

### A. Constitutional Provision –

- Articles 14 and 15 provide for gender equality and equal protection under the law while prohibiting gender discrimination.<sup>17</sup> Art. 15(3) specifically empowers the state to make special arrangements for women and children.<sup>18</sup>
- Article 16(2) prohibits sex discrimination in public services, recognizing that sexual harassment creates an arbitrary obstacle to sexual equality in the workplace.<sup>19</sup>
- Article 19(1)(g) guarantees the right of every individual to "practice any profession or carry on any occupation, trade, or business." Sexual harassment acts as a deterrent to this right when it creates an unsafe working environment<sup>20</sup>.
- Article 21 ensures the "right to life and personal liberty," which encompasses the right to live with dignity. Harassment infringes upon this fundamental right by creating an unsafe and undignified working environment.<sup>21</sup>

### B. Legislative Framework –

India has developed a comprehensive legislative framework to address sexual harassment at the workplace:

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<sup>15</sup> Id.

<sup>16</sup> SUZANNE B. GOLDBERG, *supra* note 14 at 9

<sup>17</sup> INDIA CONST., art. 14

<sup>18</sup> INDIA CONST., art. 15

<sup>19</sup> INDIA CONST., art. 16

<sup>20</sup> INDIA CONST., art. 19

<sup>21</sup> INDIA CONST., art. 21

- I. *Indian Penal Code of 1860*<sup>22</sup> And *Criminal Law (Amendment) Act, 2013*:
  - *Section 354*<sup>23</sup> Punishes assault or criminal force committed to outrage the modesty of women.
  - *Section 509*<sup>24</sup> punishes words, gestures, or acts intended to insult the modesty of women
- II. *The Criminal Law (Amendment) Act, 2013*<sup>25</sup> introduced new sections including 354A<sup>26</sup>, 354B<sup>27</sup>, 354C<sup>28</sup>, and 354D<sup>29</sup> that specifically address sexual harassment, disrobing, voyeurism, and stalking.
- III. *Equal Remuneration Act of 1976*<sup>30</sup>: Ensures the elimination of discrimination against women in determining wages, promotion, and transfer, and guarantees equal pay for equal work regardless of gender.
- IV. *Industrial Disputes Act of 1947*<sup>31</sup>: Allows employees to sue employers for wrongful dismissal resulting from non-compliance with demands for sexual Favors.
- V. *Industrial Employment (Standing Orders) Act, 1946*<sup>32</sup>: Imposes a legal obligation on employers to define and communicate working conditions, classifying sexual harassment as misconduct that may result in suspension or dismissal.
- VI. *Maternity Benefit Act, 1961*<sup>33</sup>: Protects women from unemployment during maternity and prohibits them from performing work that could harm their health or that of their unborn children.
- VII. *National Commission for Women Act, 1990 and Protection of Human Rights Act, 1993*<sup>34</sup>: Focused on better protection of women's rights through campaigns and advocacy.

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<sup>22</sup> The Indian Penal Code , 1860 ( Act No. 45 of 1860)

<sup>23</sup> The Indian Penal Code , 1860 ( Act No. 45 of 1860), § 354

<sup>24</sup> The Indian Penal Code , 1860 ( Act No. 45 of 1860), § 509

<sup>25</sup> The Criminal Law (Amendment) Act, 2013, (Act No. 13 of 2013)

<sup>26</sup> The Indian Penal Code , 1860 ( Act No. 45 of 1860) , § 354A

<sup>27</sup> The Indian Penal Code , 1860 ( Act No. 45 of 1860), § 354B

<sup>28</sup> The Indian Penal Code , 1860 ( Act No. 45 of 1860) , § 354C

<sup>29</sup> The Indian Penal Code , 1860 ( Act No. 45 of 1860) , § 354D

<sup>30</sup> Equal Remuneration Act of 1976, (Act 25 of 1976)

<sup>31</sup> Industrial Disputes Act of 1947, (Act No. 14 of 1947)

<sup>32</sup> Industrial Employment (Standing Orders) Act, 1946, (Act No. 20 of 1946)

<sup>33</sup> Maternity Benefit Act, 1961, (Act No. 53 of 1961)

<sup>34</sup> National Commission for Women Act, 1990 and Protection of Human Rights Act, 1993, (Act No. 10 of 1994)

#### 4.4 - JUDICIAL INTERVENTIONS AND CASE LAW DEVELOPMENT

Before 1997, India lacked formal guidelines to prevent sexual harassment of women in the workplace. Victims could only file complaints under Sections 354 and 509 of the Indian Penal Code<sup>35</sup>, which dealt with "criminal assault of women to outrage women's modesty" and punishment for "word, gesture, or act intended to insult a woman's modesty" respectively. The interpretation of "outraging women's modesty" was left to the discretion of police officers.

The landmark case of *Vishaka and others v. State of Rajasthan*<sup>36</sup> A 1997 Supreme Court ruling marked a turning point, acknowledging that international conventions should guide workplace rights interpretation when domestic legislation is absent. This judgment established the Vishaka Guidelines, which later influenced the development of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013<sup>37</sup>

##### A. Significant Case Laws

Several significant cases have shaped the judicial approach to sexual harassment in India:

- I. *Apparel Export Promotion Council v. A.K. Chopra*<sup>38</sup>This case, which came after the Vishaka judgment, involved the dismissal of a superior officer for sexually harassing a junior female employee. The Supreme Court upheld the dismissal and expanded the definition of sexual harassment, clarifying that physical contact is not required for an act to constitute sexual harassment.
- II. *Shanta Kumar v. CSIR*<sup>39</sup>The Delhi High Court held that physical contact without sexual overtones and not caused by the complainant's gender may not be considered sexual harassment.
- III. *Suman Dhanda v. Kurukshetra University* <sup>40</sup>The court emphasized that in the absence of enacted legislation, the guidelines and norms established should be observed at all workplaces or institutions to enforce fundamental rights under Article 32 of the Constitution.

<sup>35</sup> The Indian Penal Code , 1860 ( Act No. 45 of 1860), § 354, § 509

<sup>36</sup> *Vishaka and others v. State of Rajasthan*; (1997) 6 SCC 241

<sup>37</sup> The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 (No. 14 OF 2013)

<sup>38</sup> *Apparel Export Promotion Council v. A.K. Chopra*; (1999) 1 SCT 642

<sup>39</sup> *Shanta Kumar v. CSIR*; W.P.(C) (8149/2010)

<sup>40</sup> *Suman Dhanda v. Kurukshetra University*; LPA No. 463 of 2011(O&M)

- IV. *Railway Board v. Chandrima Das*<sup>41</sup>The Supreme Court ruled that physical violence by government employees against women offends their modesty and violates their right to dignity. The court also established that Article 21 rights and protections extend to non-citizens.
- V. *Medha v. Kotwal Lele & Ors. v. U.O.I. & Ors*<sup>42</sup>: The court emphasized the need for effective implementation of the Vishaka guidelines to provide a safe and secure working environment for women.
- VI. *Rupan Deol Bajaj v. K.P.S. Gill*<sup>43</sup>This high-profile case involved the molestation of a Punjab cadre IAS officer by the Punjab police chief. Despite his conviction and sentencing, the case highlighted societal attitudes that minimize such offenses, with people questioning why the victim was complaining against a man who had "faced terrorism in Punjab.

These cases demonstrate the judiciary's active role in establishing principles of justice in situations where legislation was lacking. They reflect the judiciary's capacity not only to interpret statutes but also to create new rules to preserve democratic values and justice.

#### **4.5 – CHALLENGES IN THE ENFORCEMENT AND IMPLEMENTATION**

##### **A. The Role of Policy in Addressing Workplace Harassment**

Impactful harassment policies go beyond legal compliance to develop workplace culture. They should be clear, accessible, and engaging—defining prohibited behaviours with specific examples and establishing transparent complaint procedures. Regular policy reviews incorporating employee feedback demonstrate organizational commitment to workplace integrity, strengthening enforcement while exceeding basic legal requirements.<sup>44</sup>

##### **B. Workplace Harassment Reporting and Response Systems**

Organizations must integrate harassment reporting systems into workplace culture, not just establish them for compliance. Despite clear policies, barriers like retaliation fears, distrust, and accessibility issues prevent reporting. Solutions include multiple reporting

<sup>41</sup> *Railway Board v. Chandrima Das*; 2000 (2) SCC 465

<sup>42</sup> *Medha v. Kotwal Lele & Ors. v. U.O.I. & Ors*; AIR ONLINE 2012 SC 632

<sup>43</sup> *Rupan Deol Bajaj v. K.P.S. Gill*; 1995 SCC (6) 194

<sup>44</sup> SUZANNE B. GOLDBERG, "HARASSMENT, WORKPLACE CULTURE, AND THE POWER AND LIMITS OF LAW", 20 June 2021, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3769646](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3769646)

channels, strong confidentiality protections, clear anti-retaliation policies, and distributed accountability. This approach frames harassment prevention as a shared responsibility rather than merely a legal obligation.<sup>45</sup>

### C. Shifting the Burden of Proof in Sexual Harassment Claims

In most legal systems, the burden of proof in sexual harassment cases initially rests on the complainant, requiring them to establish that the harassing behaviour occurred and constituted sex discrimination, a violation of dignity, or a health and safety hazard. This often discourages victims from pursuing legal action. To address this challenge, many jurisdictions have implemented legal reforms that shift the burden of proof onto the respondent once a prima facie case is established.<sup>46</sup>

In the United States, once a plaintiff demonstrates a prima facie case of quid pro quo sexual harassment, the burden shifts to the employer to provide a legitimate, non-discriminatory reason for its actions<sup>47</sup>.

Similarly, the European Union mandates its Member States to reverse the burden of proof in civil sex discrimination cases, including those involving sexual harassment. *The Czech Republic's Civil Procedure Code*<sup>48</sup>, Section 133(a)<sup>49</sup>, requires employers to prove compliance with EU Directive 76/207/EEC, as amended by Directive 2002/73/EC.

### D. Proof of Injury

Traditionally, many civil sexual harassment laws, particularly under tort law, required victims to prove psychological or physical injury to claim damages. This legal standard discouraged many victims from pursuing claims, fearing scrutiny over their mental health or personal history.

To address this concern, U.S. courts have ruled that proof of psychological harm is not necessary in hostile work environment cases under *Title VII of the Civil Rights Act of 1964*, 42 U.S.C. §§ 2000e et seq<sup>50</sup>. In *Harris v. Forklift Systems, Inc*<sup>51</sup> The U.S. Supreme

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<sup>45</sup> Id.

<sup>46</sup> Barriers to Effective Enforcement of Sexual Harassment Law, 13 July 2007, [https://www.stopvaw.org/barriers\\_to\\_effective\\_enforcement\\_of\\_sexual\\_harassment\\_law](https://www.stopvaw.org/barriers_to_effective_enforcement_of_sexual_harassment_law)

<sup>47</sup> Sparks v. Pilot Freight Carriers, Inc., 830 F.2d 1554, 1564 (11th Cir. 1987)

<sup>48</sup> The Czech Republic's Civil Procedure Code, (Law No. 99/1963)

<sup>49</sup> The Czech Republic's Civil Procedure Code, (Law No. 99/1963); § 133(a)

<sup>50</sup> Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e et seq

<sup>51</sup> Harris v. Forklift Systems, Inc., 510 U.S. 17 (1993),

Court held that a workplace permeated with severe or pervasive discriminatory behaviour constitutes a Title VII violation, even without evidence of psychological injury. This ruling reaffirmed *Meritor Savings Bank v. Vinson*<sup>52</sup>, which established that sexual harassment itself, when unwelcome and sufficiently severe, negatively impacts the work environment and violates employment discrimination laws.

The Equal Employment Opportunity Commission (EEOC) has adopted this interpretation, ensuring that victims can seek legal redress based on the severity and pervasiveness of harassment rather than requiring proof of mental or physical harm. These developments have made legal recourse more accessible, reinforcing protections against workplace harassment and fostering a safer work environment.<sup>53</sup>

#### **4.6 CRITICAL APPRAISAL: BRIDGING THE GAP BETWEEN STATUTE AND REALITY**

In addressing the research questions posed earlier, a critical examination of the current legal and organizational landscape reveals significant enforcement dichotomies.

##### **A. The Paradox of Internal Self-Regulation (Addressing the Independence Question)**

The legislative intent behind mandating Internal Committees (IC) was to provide a speedy, in-house remedy. However, an analysis of organizational behaviour suggests a conflict of interest. Since IC members are often subordinates to the senior management—who are frequently the respondents in power-harassment cases—there exists an inherent pressure to suppress complaints to protect the organization's reputation.

As noted in Section 4.2 regarding "Organizational Structure," reporting decisions hinge on "expected responses." When the adjudicators answer to the accused in the corporate hierarchy, the mechanism acts less as a judicial body and more as a risk-management tool for the employer. Consequently, while the law (POSH Act) exists, the enforcement is diluted by the very structure meant to uphold it.

##### **B. The Definition of "Workplace" in the Digital Age (Addressing the Digital Jurisdiction Question)**

The definition of "workplace" has been judicially expanded in *Saurabh Kumar Mallick*

<sup>52</sup> Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e

<sup>53</sup> Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e et seq

v. Comptroller & Auditor General of India to include digital platforms. However, enforcement remains archaic.

As discussed in Section 4.5 (Challenges), "technological solutions" are often recommended, yet technology is also the medium of harassment. The current statutes struggle to police "Zoom bombing," late-night intrusive messaging, or exclusion from digital workgroups (Slack/Teams). The "extended workplace" concept is legally recognized but practically unenforceable due to the difficulty in securing digital evidence and the blurring lines between personal and professional digital spaces.

## CHAPTER 5

### CONCLUSION

The examination of workplace harassment through legal, organizational, and sociological lenses reveals a landscape marked by significant legislative progress yet persistent implementation challenges. The evolution from the absence of formal protections to comprehensive frameworks such as the POSH Act, 2013 in India and Title VII jurisprudence in the United States represents considerable advancement in recognizing workplace dignity as a fundamental right.

The constitutional guarantees enshrined in Articles 14, 15, 16, 19, and 21 of the Indian Constitution, coupled with landmark judicial interventions beginning with *Vishaka v. State of Rajasthan*, have established a robust theoretical foundation for addressing workplace harassment. These developments, alongside international instruments such as CEDAW, demonstrate growing global consensus regarding the imperative to protect workers from harassment and discrimination.

The research reveals that effectiveness of anti-harassment legislation extends beyond statutory enactment to encompass cultural transformation, organizational accountability, and procedural fairness. The gap between legal provisions and lived experiences of workers suggests that written law, while necessary, remains insufficient without corresponding changes in workplace culture and enforcement mechanisms.

The analysis of Internal Complaints Committees highlights tensions between expeditious resolution and procedural independence. The positioning of these mechanisms within

organizational hierarchies creates structural vulnerabilities that may influence complaint outcomes, particularly when senior management faces allegations. This structural reality underscores the complexity of balancing internal redressal with impartiality.

The expansion of workplace definitions to encompass digital environments represents judicial responsiveness to contemporary working arrangements. However, the practical enforcement of protections in virtual spaces presents novel challenges, particularly regarding evidence collection, jurisdictional boundaries, and the intersection of personal and professional digital spheres in remote work contexts.

The burden of proof reforms and elimination of injury requirements in jurisdictions such as the United States and European Union member states demonstrate pathways toward reducing barriers to justice. These developments reflect recognition that evidentiary standards can either facilitate or impede access to legal remedies.

Moving forward, the effectiveness of workplace harassment frameworks depends upon multi-dimensional interventions: strengthening independence of redressal mechanisms, adapting enforcement strategies to digital workplaces, fostering organizational cultures that prioritize prevention over liability management, and ensuring that legal protections translate into substantive workplace safety. The research suggests that sustainable progress requires coordinated efforts among legislators, judiciary, employers, and civil society to bridge the distance between statutory aspirations and workplace realities.

The journey from normalization of harassment to its recognition as a fundamental rights violation represents significant progress. The continuing challenge lies in ensuring that legal frameworks evolve alongside changing work environments while maintaining their protective intent across all manifestations of workplace harassment.

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