

Gender Justice And Workplace Equality: A Critical Analysis Of Anti- Sexual Harassment Laws and Their Enforcement

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ABSTRACT

Within the framework of anti-sexual harassment legislation in India, this study analyses gender equality and justice in the workplace. According to the findings, sexual harassment has made workplaces less secure and less equitable, especially for women. The article covers the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, the Vishaka guidelines implemented in India, and Convention No. 190 of the International Labour Organization, which prohibits all actions against women. While these legal instruments are encouraging, the difficulty in enforcing them leads to underreporting, social stigma, institutional failings, and a lack of information. Systemic reforms are needed to create gender-sensitive, inclusive, and responsible work environments; nevertheless, constitutional protection has also been empowered through statutory actions. The research recommends that in order to bring laws into line with people's actual experiences, there should be a greater emphasis on redressal procedures, ongoing sensitisation training, and open data.

Keywords: Gender Justice, Workplace Equality, Sexual Harassment, Legal Framework, Judicial Intervention, Implementation Challenges.

1. INTRODUCTION

Societies have begun to appreciate gender justice, and this initiative has now become relevant in every society considering that equal opportunities must be reflected in the place of work. The need to have an effective gender justice destroys not just formal equality but also, systemic barriers and power differences. Women are more the target of sexual harassment that demeans dignity, safety, and, productivity, and is a significant problem of workplace equality. It conserves the subordination of gender and silence and impunity. Legislations have been enacted to limit and deal with sexual harassment at work place competent concurrent to both the global and national levels.

In 2013, India enacted the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act. This was a important advance in establishing protections for victims of workplace harassment. There is a progressive law but its execution in the different sectors is varied. Due to fear of reprisal, ignorance and bad grievance procedures many instances are not reported. The paper is a critical analysis of the evolution, effectiveness and barriers to the promotion of equality at the workplace through anti-sexual harassment legislation. The paper analyses legislation intentions, enforcement systems and the society attitudes to determine the loopholes and prescribe policies of gender justice in the workplace.

ADVANCING GENDER JUSTICE AND ENSURING EQUALITY IN THE WORKPLACE

Gender Justice deals with systematic unfairness and facilitates all-inclusive laws, policies, and attitudes so that there can be fair opportunity to all. Non-discrimination at work can be facilitated through equal treatment, legal frameworks, and the organisational cultures that accommodate differences and justice.

1.1. Gender Justice

Gender justice comes under social justice by ensuring that both genders are to be treated with fair equal approach but with a lot of respect. It is not only a fight against discrimination but a fight against historical and systematic disadvantages of women, transgender and non-binary people. Gender justice demands that the patriarchal systems, legislations and cultural practices be eradicated that encourage inequality, marginalization and violence. It encompasses fair access to education, healthcare, political participation, and economic participation, as well as acknowledges the existence of caste, class, race and ability based oppression that can contribute to the intensification of gender-based inequality. Gender equity can be promoted with the help of anti-sexual harassment laws and policies that consider the gender aspect. Gender justice should also be advanced through attitude changes, creation of awareness, establishing inclusive institutions that are both diverse and empowering to all persons irrespective of their gender presentations and identities.

1.2. Workplace Equality

Workers should not be discriminated against because of their gender, age, race, religion, sexual orientation, handicap, or any other protected characteristic; rather, they should have equal opportunity to do their jobs well and be treated with respect. Benefit systems like maternity

and paternity leave, flexi time, and grievance resolution are based on the principles of non-discrimination and inclusion, as are fair recruiting, transparent promotion criteria, equal pay for equal effort, and other similar features. The aim of the Equal Remuneration Act, the Maternity Benefit Act, and the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 is to achieve equality in workplaces of in India. Achieving workplace equality requires more than just following the rules; it also necessitates changing the culture of the company so that everyone may benefit from diversity, eliminate prejudice, and create a positive work environment. Inclusive leadership, gender sensitisation workshops, and decision-making representation for historically under-represented groups are all necessary for achieving true workplace equality.

2. LEGAL FRAMEWORKS ADDRESSING WORKPLACE HARASSMENT: GLOBAL AND INDIAN PERSPECTIVES

ILO Convention No. 190 and CEDAW establish international requirements on how to fight against gender-based discrimination and harassment, urging governments to use gender-responsive laws and policies. Supreme Court of India Vishaka judgement that stipulated Internal Complaints Committees and responsibility of employers to develop safe and inclusive workplaces in India was formalised through the Sexual Harassment of Women at Workplace Act, 2013. There is however still a gap in implementation particularly in the informal sectors.

2.1. International Framework

International legal instruments assist in enhancing gender fairness and equity at workplace in the discharge of duties that will require national members to obviate and address gender discrimination and harassment. The Violence and Harassment Convention, 2019 (No. 190), is the first international labour treaty expressly to acknowledge a global entitlement of workers to work without violence and harassment or gender-based violence. Countries that ratify must come up with accommodative, holistic, and gender sensitive laws, policies and awareness creation schemes that address misconduct at workplace and redress solutions to the victims.

One other seminal document is the 1979 United Nations General Assembly's Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). CEDAW which is an international bill of right of women requires the state parties to eliminate gender discrimination on all fronts including employment. According to the Convention, which is the body overseeing enforcement, sexual harassment constitutes gender-based violence. The

measures to fight it should be taken through legal action, support and accountability mechanisms by the member states. Such frameworks offer a good foundation on which national governments can materialize uniformity in their national laws with international human rights.

2.2. Indian Legal Framework

India has made substantial progress in addressing and combating sexual harassment at work through judicial decisions and the law. In 1997, when there was no legislation prohibiting sexual harassment at the workplace, the Supreme Court established the Vishaka Guidelines, which set workplace norms widely recognized as sexual harassment and placed a positive obligation on workplaces to protect women. It was a first for gender justice in this country, with the Court linking the right to a safe workplace with the right to life and dignity found in Article 21 of the Constitution.

The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 was based on the Vishaka Guidelines. Employers now have legal duties as a result of this all-encompassing statute, which added conditions to the principles. It mandates in firms employing 10 persons and above that the Internal Complaints Committees should look into the complaint related to sexual harassment. The Act caters to complaints, inquiries and retaliation protection. The awareness programs as well as gender-sensitive work place are also part of the requirements according to the employers. It should be implemented with support and monitoring with reform as well in the informal sectors and small businesses in spite of having a progressive objective.

3. ENFORCEMENT ISSUES AND CHALLENGES

There are laws in existence to prevent, prohibit, and remedy sexual harassment of women at work, but India has not been able to put them into practice. Powerful tools hindering work place safety and gender justice are institutional, social and cultural barriers. These barriers impair the law and leave the victims at risk and justice inaccessible.

- **Lack of Awareness and Sensitization:** Lack of awareness on the 2013 Act both to employees and employers to the employer obstructs the 2013 Act. Many workers, most of them in the unorganised sector, are unaware of Internal Complaints Committees and their rights. Because of ignorance or failure to train, smaller or informal employers tend to make violations to legally required Act provisions. There is scarcity of

sensitisation programmes whereby there is respect and inclusivity of work places. Blindness also makes sexual harassment cases slow in giving reports, acting negligently on complaints or doing nothing at all.

- **Institutional Failures:** The efficacy of ICCs is important to the implementation of the Act, yet the latter is plagued with numerous issues. ICCs are at times not independent, gender diverse, and legal savvy, to handle complaints in impartial manner. Untrained and even prejudiced or patriarchal members mostly lack the ability to evoke the trust of complainants to the process. In small organisations or in an informal workplace, ICCs are either absent or present on paper denying victim's formal redress. Scores do not see any form of non-compliance since there is no external check system.
- **Fear of Retaliation and Social Stigma:** Victims of sexual harassment in the workplace have the fear of punishment which could be loss of job, demotion, unfriendliness at work place or professional blacklisting and thus do not report it. The issue is aggravated by the Indian society of victim blaming and social shame. Individual judgement and ethical evaluation discourage most women to complain. Survivors can get worn out by the judicial process which can be re-traumatizing. This unhealthy setting discourages survivors of sexual misconduct to pursue justice and encourage keeping secrets.
- **Underreporting and Data Gaps:** There is very minimal valid information on sexual harassment at work places in India. Most cases are unreported because of fear, lack of trust or lack of effective mode of reporting. When there are cases of data collection and distribution cannot be standardised in regards to organisation and sector. The law compels the government and companies to report on the operations of ICC yearly though they hardly do. Such opacity stalls policy-makers, campaigners and researchers in assessing legislation models and offering evidence-based solutions.

4. JUDICIAL INTERVENTIONS AND TRENDS

The Indian judiciary has played a crucial and proactive role in shaping the discourse on gender justice and strengthening the legal framework for addressing sexual harassment at the workplace. Through landmark judgments and continued judicial oversight, the courts have not only interpreted constitutional provisions expansively but have also mandated institutional reforms to ensure safe and equitable working environments for women. These interventions

have served to bridge legislative gaps, ensure accountability, and reinforce the constitutional guarantees of equality, dignity, and non-discrimination.

- **Vishaka v. State of Rajasthan (1997):** In the context of gender equality, it was a landmark ruling in Indian law. Given the lack of specific legislation dealing with sexual harassment at work, the Supreme Court articulated the Vishaka Guidelines under Articles 14 (equality before the law), 15 (prohibition of discrimination based on sex), and 21 (protection of life and personal liberty) of the Indian Constitution. The Court held that sexual harassment at the workplace breaches women's fundamental rights and international obligations enshrined in treaties including CEDAW. This framework laid the groundwork for subsequent statutes that mandated redress mechanisms in all workplaces and placed the onus of maintaining a safe workplace on employers.
- **Medha Kotwal Lele v. Union of India (2013):** This significant case reinforced the significance of the Vishaka Guidelines and the Supreme Court showed extreme concern with the ineffective application of the same. The Court has taken a swipe at both the public and the private organizations that have not been in adherence to the requirement of establishment of effective complaint redressal committees. It also asked all states and union territories to report on their compliance in terms of implementing the guidelines. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act is the legislation that was passed later that year in response to the judgement that signalled a new emphasis on institutional responsibility.
- **Sanjay Srivastava v. State of NCT of Delhi (2015):** The case dealt with procedural fairness of both complainants and respondents in the inquiry proceedings by the Internal Complaints Committees (ICCs). The Court emphasised that the principles of natural justice should be followed and the inquiry process should be kept confidential. It made it clear that the ICC was required to operate in an impartial manner and that the dignity and reputation of the survivor and the accused was to be safeguarded. The decision emphasized the dedication of the judiciary to not only bring justice to the victims but also to procedural integrity and balance.

5. CONCLUSION

Despite comprehensive legislative rules such as the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, the fight for gender equality and

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justice in the workplace is far from over. Although the judicial action as in the Vishaka and Medha Kotwal Lele cases have been transformative in the way policy is made and constitutional safeguards are strengthened, there remain severe challenges to implementation, particularly in informal and unregulated environments. This failure to create awareness, the institutional weaknesses, underreporting and the stigma that is deeply rooted in the society still compromise the effectiveness of these laws. In order to effectively realize equality at the workplace, there is a need to enhance enforcement mechanism, boost accountability and inculcate a culture of gender sensitivity and inclusiveness. The vision of safe, respectful, and equitable workplaces of all genders can be achieved only with the help of coordinated legal, institutional, and societal reforms.

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