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**A Study of Gender Equality and Protection from Sexual Harassment at Workplace****Dr. Seema Pradhan**Professor (Economics) A E G  
Noida (New Delhi-NCR)**ABSTRACT**

A study of Gender equality and protection from sexual harassment at workplace Author: Dr. Seema Pradhan Date: -30/09/2025 Abstract- The struggle for gender equality in our country has deep historical roots, shaped by cultural traditions, patriarchal institutions, and systemic legal inequities. While women have long contributed equally to the preservation and advancement of societies, their social and legal status has often been diminished, leading to enduring patterns of exclusion and vulnerability in both public and private spheres. Against this backdrop, the present paper examines gender equality and protection from sexual harassment in India, with a particular emphasis on workplace contexts. The analysis situates constitutional guarantees under Articles 14, 15, 16, and 21 within the broader framework of statutory protections, including the Equal Remuneration Act, 1976, the Code on Wages, 2019, and, most prominently, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act). Institutional mechanisms such as the She-Box portal and the historic Vishakha Guidelines are assessed alongside their practical implementation challenges. Recent empirical research highlights persistent under-reporting of harassment cases, weak compliance with internal complaints committees, and the intersectional vulnerabilities of women in informal and gig economies, underscoring the gap between legislative intent and workplace realities in practice.

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**Keywords**

Commercial surrogacy, surrogate mother, constitution, legal right, reproductive autonomy etc.

The paper further situates India's legal framework in global comparative contexts, where stronger enforcement and gender-sensitive workplace cultures correlate with reduced disparities. The urgency of this inquiry is reinforced by the Supreme Court of India's directive (12 August 2025) mandating district-level surveys on POSH implementation, reflecting judicial recognition of systemic lapses. The paper finally advances policy recommendations for intersectional protections, data-driven and victim-centered strategies, and stricter compliance regimes to transform the "better half" into an equal half.

### **Introduction- "The Persistent Chasm between Legal Promise and Lived Reality"**

It is a stark paradox of modern times that even as women's participation in the workforce grows, gender disparity and workplace harassment remain stubbornly high. Decades ago, it was often assumed that a higher presence of women would inherently create safer surroundings and strengthen the collective will to demand equality. Today, this logic has not borne out; despite women constituting 30-35% of the central government workforce and 40-45% in education and health, neither equal opportunities nor physical and emotional safety have been secured.

This paper posits a central thesis: that while India's legal architecture for gender justice is comprehensive in its text, its foundations are critically undermined by deep-seated patriarchal norms, systemic implementation failures, and a fundamental disconnect between the law in books and the law in action. Achieving substantive equality, therefore, requires a critical move beyond legal formalism to dismantle these structural, cultural, and institutional impediments.

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framework of statutory protections, including the Equal Remuneration Act, 1976, the Code on Wages, 2019, and, most prominently, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal ) Act, 2013 (POSH Act). This inquiry assesses institutional mechanisms alongside their practical implementation challenges, underscoring the profound gap between legislative intent and workplace realities. The analysis is reinforced by a recent Supreme Court directive (12 August 2025) mandating district-level surveys on POSH implementation—a clear judicial recognition of systemic lapses.

### **The Historical Arc of Gender Inequality in India**

The contemporary struggle for gender equality cannot be understood apart from its deep and complex historical roots—a journey of regression and reform that has shaped India's modern legal framework. While scriptural evidence from ancient India suggests a society where gender roles were, in some respects, more balanced, this period should not be idealized. Over time, eroding rights and increasingly rigid social norms laid the groundwork for a significant decline in women's status, which further got deterioration, with the entrenchment of patriarchal institutions confining women to domestic roles and practices like purdah severely limiting their freedom. The 19th and 20th centuries saw crucial social reform movements, yet this era established a "protectionist" narrative, positioning women as vulnerable subjects needing safeguarding rather than as autonomous individuals with inherent rights. This protectionist legacy created a path dependency that continues to influence Indian law, subtly framing affirmative action as a "special provision" instead of a direct measure to achieve substantive equality.

### **The Constitutional Mandate for Equality and Dignity**

The Constitution of India is a transformative vision, enshrining a robust framework for gender equality that the judiciary has actively shaped into an enforceable doctrine of workplace dignity. At its heart lies the trinity of Articles 14, 15, and 16, which collectively form a powerful bulwark against discrimination.

Article 14 guarantees equality before the law, Article 15 prohibits discrimination on the basis of sex, and Article 16 ensures equal opportunity in public employment. Crucially, Article 15(3) empowers the state to make special provisions for women, and Article 21 (Right to Life and Personal Liberty) broadens to encompass the right to live with human dignity. In the seminal case of *Vishaka and Others v. State of Rajasthan* (1997), the Court confronted a legislative vacuum on sexual harassment. In a remarkable act of judicial architecture, it synthesised Articles 14, 15, and 21 to declare that sexual harassment at the workplace is a violation of these fundamental rights.

The constitutional framework for gender justice is further fortified by the Directive Principles of State Policy and Fundamental Duties. Article 39(a) directs the state to secure the right to an adequate means of livelihood for men and women equally, and Article 39(d) mandates "equal pay for equal work for both men and women." Article 42 calls for securing just and humane conditions of work and for maternity relief. Over time, the judiciary has given these principles significant weight, using them as interpretive tools to uphold the rights of women.

The Cases (1) *C.B. Muthamma v. Union of India*, (2) *Air India v. Nergesh Mirza*, (3) *Anuj Garg v. Hotel Association of India* (2007), (4) *Secretary, Ministry of Defence v. Babita Puniya* (2020)

summarises some of the key judicial pronouncements that have defined and expanded women's rights at work, illustrating the judiciary's consistent push against gender stereotypes and arbitrary rules in employment.

To address the gender wage gap, the enactment of Equal Remuneration Act, 1976 (ERA) was a foundational step, guaranteeing equal pay for "same work or work of a similar nature". In 2019, the Code on Wages subsumed the ERA, introducing a gender-neutral framework prohibiting discrimination "on the ground of gender". While this shift is philosophically progressive, its neutrality within a profoundly gender-unequal society risks obscuring the structural nature of the problem.

### **The Bulwark Against Sexual Harassment**

The POSH Act, 2013 The Genesis of *Vishaka and Others v. State of Rajasthan* (1997) is Supreme Court's landmark judgment and became base of India's legal framework against sexual harassment. It is a powerful testament to the dynamic interplay between judicial activism and legislative action. For over a decade, the judicially mandated *Vishaka* Guidelines served as the de facto law until Parliament enacted the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act), codifying these principles into a more robust legal structure.

The Act's strength lies in its expansive and inclusive definitions. The term "aggrieved woman" covers any woman, regardless of employment status, while the definition of "workplace" extends far beyond traditional offices to any location visited during employment. The Act provides a detailed definition of sexual harassment, recognizing both quid pro quo harassment and the creation of a hostile work

environment.

It mandates a dual redressal mechanism: an Internal Committee (IC) for workplaces with ten or more employees and a Local Committee (LC) at the district level for smaller establishments and the informal sector. The statute imposes clear duties on employers to provide a safe environment and ensure awareness, with penalties for non-compliance.

The Act prescribes a detailed and time-bound inquiry process. A complaint must be filed within three months of the incident (extendable by the IC). The IC is required to complete its inquiry within 90 days. During the inquiry, the IC is vested with the powers of a civil court. Upon completion, the IC submits a report with its findings and recommendations to the employer, who must act on them within 60 days. The Act also includes penalties for non-compliance by the employer, including fines of up to 50,000 for the first offense and the potential cancellation of business licenses for repeated violations.

### **Implementation in Practice**

A Critical Assessment Despite its robust design, the POSH Act's transformative potential is fundamentally blunted by severe implementation gaps and a pervasive culture of non-compliance. Official statistics of 400-450 reported cases annually are a fiction, representing merely the tip of a colossal iceberg of under-reporting driven by a legitimate fear of retaliation, social stigma, and deep systemic distrust. A survey in Hyderabad starkly illustrates this: 46% of women who experienced harassment refrained from reporting it due to fears of negative career impacts, while 42% hesitated because of concerns about victim-shaming. This

culture of silence is sustained by a fundamental lack of faith in the redressal system itself.

The Internal Committee (IC), the Act's primary adjudicatory body, has often become the system's weakest link, suffering from an inherent conflict of interest that predisposes it to protect institutional reputation over delivering impartial justice. The Internal Committee (IC) seems a failing Gatekeeper in many cases, led to a form of "compliance theatre," where procedural rituals mask a failure to foster genuine safety.

The POSH Act's most profound failure lies in its inability to protect the very women who need its protection the most: the vast majority of India's female workforce employed in the informal or unorganised sector. The Unprotected Women of the Informal Economy are Intersectional Blind Spots, which includes domestic workers, agricultural labourers, and construction workers, who are disproportionately vulnerable to exploitation and harassment due to the precarious nature of their work and extreme power imbalances.

The Local Committee (LC) mechanism, designed to provide redressal for this sector, is critically flawed and largely defunct. There is a shocking lack of awareness about the existence and function of LCs among both the women they are meant to serve and the district officials responsible for constituting them. Their formation has been alarmingly scarce, with one report indicating that LCs have been established in only 29% of India's districts. This legislative blind spot effectively renders the Act irrelevant for the largest segment of the female workforce, perpetuating a cycle of vulnerability and impunity.

## Digital Redressal and Judicial Impetus for Accountability

In response to these glaring implementation failures, two significant developments have emerged. The She-Box portal is a government initiative to provide a single online window for filing complaints. While it aims to enhance accessibility and accountability, its effectiveness remains hampered by a crippling lack of awareness and a digital divide that excludes the very women who need it most.

More consequentially, the Supreme Court of India has adopted a more interventionist stance. In a directive issued on August 12, 2025, the Court acknowledged the "serious lapses in the enforcement of the Act" and ordered a nationwide, district-wise survey to verify POSH compliance in every workplace. Crucially, the Court warned that it may direct authorities not to renew the business licenses of non-compliant establishments. This threat of severe economic consequences elevates compliance from a matter of HR policy to an issue of existential importance for businesses, potentially compelling the meaningful implementation that has been absent for over a decade.

### India in a Global Context

Benchmarking Against International Standards  
India's legislative efforts exist within a global movement to secure women's rights at work.

ILO Convention C190 (2019) sets the gold standard, recognising the right to a world of work free from violence and harassment with a scope broader than India's POSH Act. ILO Convention C190 (Violence and Harassment Convention, 2019) is the first international treaty to recognise the right of everyone to a world of work free from violence and

harassment, including gender-based violence and harassment. Its scope is extensive and pro-employee than India's POSH Act in several respects, explicitly covering job applicants, volunteers, and interns, and applying to harassment occurring during work-related travel, communications, and commutes.

Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW): Ratified by India in 1993, CEDAW provides a comprehensive framework for advancing women's rights. It was the Indian Supreme Court's reliance on CEDAW in the Vishaka case that laid the foundation for the POSH Act, demonstrating the powerful role international law can play in shaping domestic jurisprudence.

The "Progress on the Sustainable Development Goals: The Gender Snapshot 2023" report by UN Women paints a sobering picture of the global state of gender equality, providing a stark context for India's own struggles. The report reveals that at the current pace of progress, the world is far off track from achieving Sustainable Development Goal 5 (Gender Equality) by 2030.

These global realities demonstrate that India's challenges are part of a worldwide pattern. Its policy recommendations emphasise a holistic approach that includes promoting paternity leave, ensuring affordable childcare, and mandating pay transparency—levers for change that go far beyond simple anti-discrimination laws.

### Conclusion and Policy Recommendations for an Equitable Future

This paper has traversed the complex landscape of gender equality and workplace protection in India, from its historical origins to its contemporary legal

and social challenges. The analysis confirms the central thesis: India possesses a comprehensive and constitutionally-grounded legal framework for gender justice, yet a profound and persistent gap separates this legal promise from the lived reality of its female workforce. The Constitution provides a powerful mandate for equality, and the judiciary has acted as a creative architect in expanding rights, most notably by establishing the right to a safe working environment. Successive statutes, from the Equal Remuneration Act to the POSH Act and the Code on Wages, have sought to codify these principles.

However, the implementation of this framework has been deeply flawed. The problem is not a deficit of laws, but a failure of enforcement rooted in structural weaknesses and pervasive cultural resistance. The POSH Act's reliance on a privatised redressal system through Internal Committees has often resulted in "compliance theatre," where procedural formalities mask a lack of genuine commitment to safety and justice. The report submitted by ICC can be manipulated, and misinterpreted by disciplinary authorities through their discretionary power. This system is structurally compromised by conflicts of interest and power imbalances, leading to widespread distrust and chronic under-reporting. The Act's most significant failure is its near-total inability to protect the over 90% of women in the informal sector, for whom the designated Local Committee mechanism is largely non-existent. The journey from being considered the "better half" to becoming a truly equal half remains unfinished. Moving forward requires more than incremental adjustments; it demands a fundamental rethinking of the implementation strategy. To make the legal

framework more inclusive the focus must shift from reactive redressal to proactive prevention, the following multi-pronged policy recommendations are advanced to bridge the chasm between law and reality:

1. Strengthen Internal Committees (ICs): The independence and competence of ICs must be non-negotiable. This requires mandating standardized, government-certified training for all IC members, focusing on legal procedures, evidence handling, principles of natural justice, and trauma-informed inquiry techniques.
2. Stricter penalties: Penalties including significant financial fines and director-level liability, should be imposed for non-compliance with IC formation, corporate interference in inquiries, or failure to act on IC recommendations.
3. Revitalize Local Committees (LCs): The LC must be transformed from a theoretical provision into the primary, trusted, and accessible redressal body for the unorganized sector. This requires a radical expansion of their numbers to ensure presence at the block or municipal ward level. LCs must be properly funded by the state and staffed with trained, full-time professionals, including legal experts and social workers, rather than relying on unpaid volunteers.
4. Adopt a Victim-Centric and Data-Driven Approach: The focus of the redressal process must shift from institutional risk management to ensuring justice and support for the victim. The entire redressal journey, from complaint filing to resolution, must be re-engineered around the needs of the complainant. This includes guaranteeing absolute confidentiality, providing access to free

legal aid and psychological counselling from the moment a complaint is filed, and implementing robust, legally enforceable protections against any form of retaliation or victimization.

5. Mandate Robust, Centralized Data Collection: To move from anecdotal evidence to data-driven policy, it must be mandatory for all ICs and LCs to submit detailed, anonymized annual data to a single, national portal (such as an enhanced She-Box). This data should include the number and nature of complaints, inquiry timelines, outcomes, and actions taken. This national database should be made publicly accessible in an aggregated format to allow researchers, policymakers, and civil society to monitor trends, identify high-risk sectors and industries, track compliance, and formulate evidence-based interventions.

6. Amend the Law for Inclusivity and Clarity: The POSH Act should be amended to explicitly and effectively cover the complexities of the gig economy, platform workers, and other non-traditional work arrangements, which are currently legal grey areas. For the informal sector, simplified, accessible reporting mechanisms that do not require written complaints—such as confidential helplines managed by LCs—should be legally recognized and established.

7. Promote a Culture of Prevention: The ultimate goal is to prevent harassment from occurring in the first place. This requires a cultural shift, driven by a clear tone from the top. Leadership in both public and private sector organizations must unequivocally and regularly communicate a zero-tolerance policy. Mandatory, regular, and interactive gender sensitization training should be implemented for all

employees at all levels. Transforming the 'better half' into an equal half is not merely a matter of law, but a project of social, cultural, and institutional change. While the legal framework provides the necessary tools, it is their determined, accountable, and sensitive implementation that will ultimately write the next chapter in India's long struggle for gender justice.

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