

## A Study of Legal Framework for the Protection of Women Harassment and Bullying in India

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### ABSTRACT

*Despite the enactment of the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act in 2013 (POSH Act), workplace bullying and sexual harassment remain persistent issues in India. According to data from the National Crime Records Bureau (NCRB), the country has recorded an average of 445 cases of sexual harassment at the workplace annually since 2018, with 419 cases reported in 2022 alone—an average of 35 per month. Himachal Pradesh led the numbers in 2022 with 97 cases, followed by Kerala (83), Maharashtra (46), and Karnataka (43). Notably, West Bengal reported only one case, despite recent public outcry following a high-profile incident. Although mechanisms exist under the POSH Act to address and resolve such complaints, the presence of 202 pending cases as of the financial year ending March 2023 suggests persistent challenges in enforcement and resolution. Factors such as withdrawal of complaints or the departure of either party from the organization contribute to unresolved cases. This abstract highlights the ongoing struggle faced by women in Indian workplaces, emphasizing the gap between legislative intent and ground-level realities in ensuring safe and equitable work environments.*

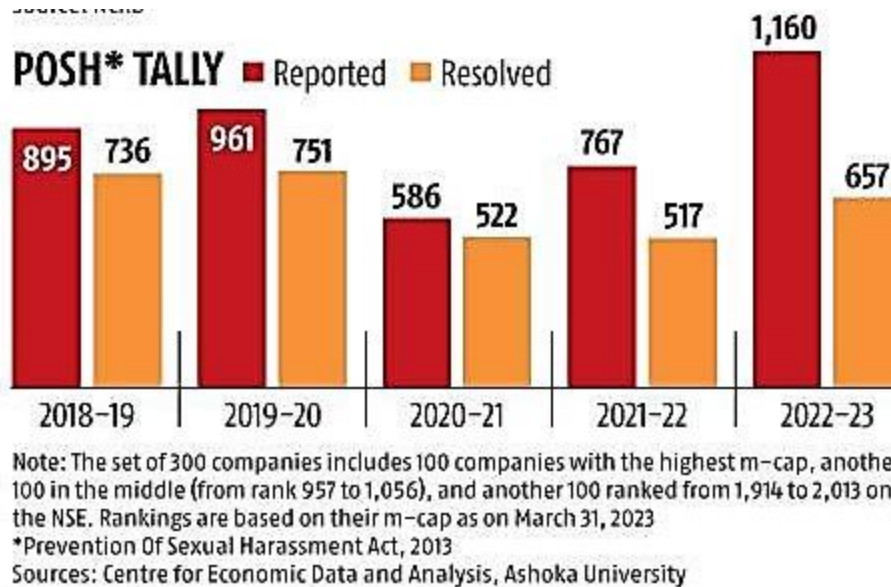
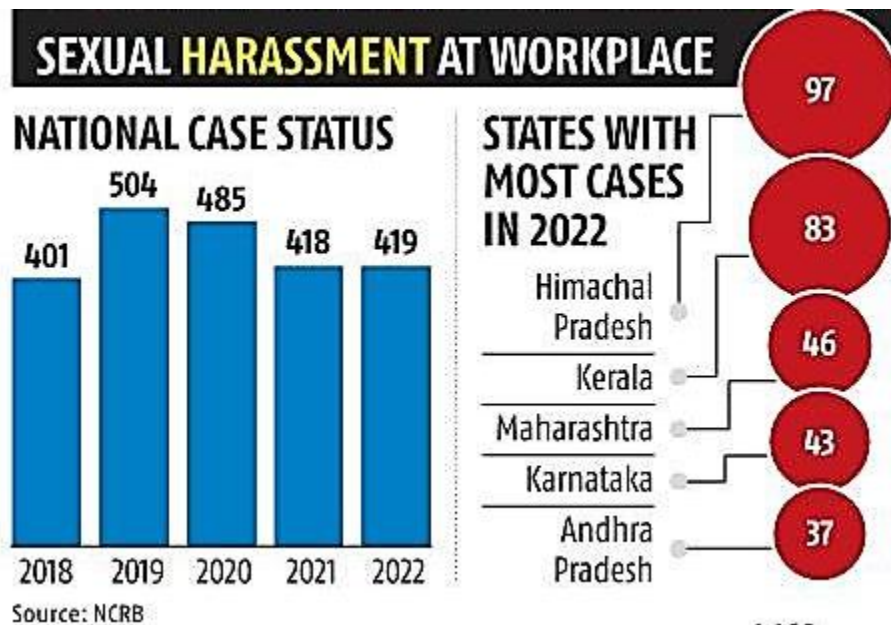
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### Introduction

Since 2018, India has consistently reported over 400 cases of sexual harassment at the workplace each year, averaging 445 annually, as per data from the National Crime Records Bureau (NCRB). In 2022 alone, 419 cases—around 35 per month—were officially reported. While these figures already signal a concerning trend, they likely represent only a fraction of the actual incidents, as underreporting remains a persistent challenge due to stigma, fear of retaliation, and lack of institutional support.

In 2022, Himachal Pradesh topped the list with 97 reported cases, followed by Kerala (83), Maharashtra (46), and Karnataka (43). These numbers are striking, particularly in the case of Himachal Pradesh, a state not typically associated with high workplace density or large urban corporate sectors. This raises critical questions about reporting mechanisms and public awareness in different states.

By contrast, West Bengal, despite recent public outrage following the alleged rape and murder of a young doctor at Kolkata's R G Kar Hospital, reported only one case of workplace sexual harassment in 2022. This disconnect suggests either severe underreporting or structural weaknesses in the implementation of the POSH Act, the legislation enacted in 2013 to safeguard women in the workplace.



#### Workplace Harassment: A Modern Challenge

Workplace harassment remains a serious and evolving issue, impacting employees across dimensions such as race, gender, disability, sexual orientation, and more. Despite increased awareness following the #MeToo movement, new forms of harassment—especially digital—are emerging due to technology and remote work.

Types of Workplace Harassment (Key Highlights):

- **Sexual Harassment** – Includes unwanted advances or comments.
- **Quid Pro Quo** – When benefits are offered in exchange for sexual favors.
- **Hostile Work Environment** – Persistent, discriminatory behavior that disrupts work.

- **Discriminatory Harassment** – Based on race, disability, age, religion, etc.
- **Disability, Racial, Sexual Orientation, Gender Identity Harassment** – Targeted mistreatment based on protected attributes.
- **Ageism & Religious Harassment** – Bias due to age or religious beliefs.
- **Personal, Physical, and Verbal Harassment** – Targeting individuals through insults, unwanted touch, or ridicule.
- **Psychological & Power Harassment** – Mental abuse or abuse of authority.
- **Online Harassment** – Cyberbullying via emails, chats, or social platforms.
- **Retaliation & Third-Party Harassment** – Reprisals or harassment by clients or outsiders.

#### **Organizational Response**

Companies must adopt comprehensive, proactive strategies to address all types of harassment, including clear reporting systems, training, and support tools. Solutions like HR Acuity help manage risks and build safer work environments.

#### **Real-Life Incidents Reflecting the Systemic Problem**

- **The Tehelka Case (2013)** – One of the most high-profile cases that brought attention to sexual harassment in Indian workplaces involved **journalist Tarun Tejpal**, former editor-in-chief of *Tehelka* magazine. He was accused of sexually assaulting a junior colleague during an official event. The case exposed how power hierarchies and organizational inaction often silence victims, even in progressive institutions.
- **TVF Case (2017)** – The founder of the digital entertainment company **The Viral Fever (TVF)**, Arunabh Kumar, was accused of sexual harassment by several women. This case gained traction during the #MeToo movement in India and led to wider awareness about the lack of redressal mechanisms in startups and media companies.
- **TISS Incident (2023)** – In March 2023, students and staff at **Tata Institute of Social Sciences (TISS)** protested against alleged inaction over complaints of sexual harassment against faculty members. This demonstrated the difficulty even educational institutions face in upholding POSH Act protocols and ensuring safe environments.

Despite such laws, enforcement remains weak. As of the end of FY23, 202 cases remained pending. The discrepancy between reported and resolved cases can often be traced to challenges like complainants withdrawing cases, fear of professional consequences, or employees (victims or accused) leaving the organization before resolution.

Furthermore, many organizations fail to constitute Internal Complaints Committees (ICCs), a requirement under the POSH Act. In several small- and medium-sized enterprises, awareness about the law is minimal, and women are often left without any formal support to address grievances.

#### **Landmark Judgments That Transformed Women's Rights**

- **CB Muthamma v. Union of India (1979)**

In this pioneering case, the Supreme Court struck down discriminatory provisions in the Indian Foreign Service (IFS) rules that hindered women's career progression. Specifically, Rule 8(2) required female officers to obtain government permission before marriage and allowed for their dismissal if domestic responsibilities were deemed to interfere with their duties. Additionally, Rule 18(4) prohibited married women from being appointed to the IFS.

The Court, led by Justice V.R. Krishna Iyer, held that these rules violated Articles 14 (equality before the law) and 16 (equality of opportunity in matters of public employment) of the Indian Constitution. The judgment emphasized that gender cannot justify inequality in employment and criticized the entrenched sex prejudice in public service rules.

- **Air India v. Nargesh Mirza (1981)**

This case addressed the discriminatory employment conditions imposed on female air hostesses by Air India. The airline's policy required women to resign upon marriage or pregnancy, a practice that was challenged as unconstitutional.

The Supreme Court ruled that such service conditions were violative of a woman's right to equality under Article 14 and her right to life and personal liberty under Article 21. The Court held that the airline's policies were arbitrary and discriminatory, reinforcing the principle that women should not be subjected to unequal treatment in employment.

- **State of Maharashtra v. Madhukar Narayan Mardikar (1991)**

In this case, the Supreme Court addressed the issue of sexual assault and the credibility of women's testimony. The accused had argued that the victim's testimony was unreliable due to her background.

The Court held that every woman, regardless of her background, has the right to bodily integrity and that her testimony must be given equal weight in legal proceedings. The judgment reinforced the principle that a woman's testimony should not be discounted based on her character or past, upholding the dignity and rights of women in the legal system.

- **Neera Mathur v. Life Insurance Corporation (1991)**

This case involved the dismissal of a female employee by the Life Insurance Corporation (LIC) for not disclosing her pregnancy. The LIC argued that the employee's pregnancy could affect her performance and attendance.

The Supreme Court ruled that the dismissal was unconstitutional, as it violated the employee's right to privacy and dignity under Articles 21 and 14 of the Constitution. The Court emphasized that a woman's reproductive rights and personal choices should not be grounds for discrimination in employment.

- **Vishaka v. State of Rajasthan (1997)**

In this landmark case, the Supreme Court addressed the issue of sexual harassment in the workplace. With no specific legislation in place, the Court laid down the **Vishaka Guidelines**, which mandated that all employers and institutions must take appropriate steps to prevent sexual harassment, provide a redressal mechanism, and ensure the safety of women at the workplace. These guidelines served as the foundation for the **Prevention of Sexual Harassment (POSH) Act, 2013**, which legally enforces these provisions.

- **Githa Hariharan v. Reserve Bank of India (1999)**

This case challenged the interpretation of the Hindu Minority and Guardianship Act, 1956, which stated that the father alone is the natural guardian of a minor child. The Supreme Court held that both parents have equal rights in the guardianship of their minor children, emphasizing that the mother is a natural guardian and her rights cannot be overridden by the father. This judgment promoted gender parity in parental authority and reinforced the principle of equality under Article 14 of the Indian Constitution.

- **Anuj Garg v. Hotel Association of India (2007)**

The Supreme Court struck down a provision that prohibited the employment of women in establishments where liquor was served, deeming it unconstitutional. The Court held that such a restriction violated the right to equality under Article 14 and the right to live with dignity under Article 21 of the Constitution. This judgment emphasized that gender-based employment restrictions are discriminatory and that women have the right to work in all sectors, including those previously considered off-limits.

- **Suchita Srivastava v. Chandigarh Administration (2009)**

This case dealt with the issue of reproductive rights and autonomy. The Supreme Court held that a woman's right to make decisions regarding her reproductive health is a fundamental right under Article 21 of the Constitution. The Court emphasized that forced sterilization or denial of reproductive choices violates a woman's dignity and personal liberty. This judgment reinforced the principle that women have the autonomy to make decisions about their bodies and reproductive health without coercion.

- **Vishaka v. State of Rajasthan (1997)**

In this landmark case, the Supreme Court addressed the issue of sexual harassment at the workplace. The Court laid down the Vishaka Guidelines, which mandated that employers create a policy against sexual harassment, establish a complaints mechanism, and ensure the safety and dignity of female employees. These guidelines served as the foundation for the Sexual Harassment of Women at

Workplace (Prevention, Prohibition, and Redressal) Act, 2013 (POSH Act), marking a significant step towards safeguarding women's rights in professional environments.

- **Githa Hariharan v. Reserve Bank of India (1999)**

This case challenged the interpretation of the term "after the father" in the Hindu Minority and Guardianship Act, 1956, which was construed to mean that a mother could not be a natural guardian of her minor child unless the father was unavailable. The Supreme Court held that both parents have equal rights to be natural guardians of their minor children, promoting gender parity in parental authority and ensuring that mothers are not subordinated in matters of child custody.

- **Anuj Garg v. Hotel Association of India (2007)**

The Supreme Court struck down a law that prohibited women from working as bar dancers in establishments serving liquor, deeming it unconstitutional and discriminatory. The Court held that such restrictions violated the right to equality under Article 14 and the right to practice any profession under Article 19(1)(g) of the Constitution, emphasizing non-discrimination in employment.

- **Secretary, Ministry of Defence v. Babita Puniya (2020)**

The Supreme Court granted Permanent Commission (PC) to women officers in the Indian Army, ensuring equal career opportunities. The Court held that gender cannot be a barrier to career advancement in the armed forces and that women should have the same opportunities for promotion and tenure as their male counterparts.

- **Aparna Bhat v. State of Madhya Pradesh (2021)**

This case addressed the issue of bail conditions in sexual assault cases. The Supreme Court set aside a bail condition that trivialized sexual assault by mandating the accused to tie a rakhi to the victim, emphasizing that such conditions undermine the seriousness of the offence. The Court issued directions to preserve the dignity of victims in judicial proceedings, ensuring that bail conditions do not perpetuate gender stereotypes or cause further trauma to survivors.

- **Hotel Priya v. State of Maharashtra (2022)**

The Bombay High Court struck down gender-based restrictions on female performers in orchestra bars, declaring them unconstitutional and discriminatory. The Court held that such restrictions violated the right to equality under Article 14 and the right to practice any profession under Article 19(1)(g) of the Constitution, emphasizing that women should not be subjected to arbitrary and discriminatory conditions in their employment.

- **State of Jharkhand v. Shailendra Kumar Rai (2022)**

The Supreme Court declared the "two-finger test" on rape survivors unconstitutional and illegal. This test, often used to determine a woman's sexual history, was deemed scientifically baseless and a violation of a survivor's dignity and bodily integrity. The Court directed the Union and State Governments to ensure that guidelines formulated by the Ministry of Health and Family Welfare are circulated to all government and private hospitals. Additionally, it called for curriculum reforms in medical education to prevent the use of such invasive procedures.

- **Aureliano Fernandes v. State of Goa (2023)**

The Supreme Court expressed concern over the poor implementation of the Prevention of Sexual Harassment (POSH) Act, directing governments to ensure workplace safety mechanisms. The Court noted that despite the existence of the POSH Act, many workplaces lacked proper implementation of its provisions. It directed authorities to take proactive measures to create safe working environments for women.

- **In Re: Right to Privacy of Adolescent (2023)**

The Supreme Court condemned moralistic gender stereotypes in judicial remarks, reaffirming adolescents' right to dignity and bodily autonomy. The case involved a petition concerning the privacy rights of adolescents. The Court emphasized that adolescents have the right to make decisions about their bodies without interference based on societal stereotypes.

- **Sarita Choudhary v. High Court of Madhya Pradesh (2025)**

The Supreme Court emphasized the need for a sensitive work environment and holistic assessments of female judicial officers' challenges, including those related to maternity. The case

highlighted the difficulties faced by female judicial officers in balancing professional responsibilities with maternity. The Court recommended measures to support women in the judiciary, ensuring they can perform their duties without discrimination.

- **Maatr Sparsh Initiative v. Union of India (2025)**

The Supreme Court recognized nursing mothers' right to breastfeed as a constitutional right and directed states to ensure feeding and childcare facilities in public buildings. The Court held that breastfeeding is integral to a child's right to life and a mother's right to nurture. It directed the construction of feeding rooms, crèches, and childcare facilities at public places to support nursing mothers.

### **Key Laws Protecting Women at the Workplace in India**

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

Also known as the **POSH Act**, this is the primary legislation aimed at preventing and addressing sexual harassment at the workplace. It:

- Mandates Internal Complaints Committees (ICCs) in every organization with more than 10 employees.
- Defines sexual harassment comprehensively.
- Prescribes procedures for complaints, inquiry, and redressal.
- Applies to all women employees (regular, temporary, interns, and even domestic workers).

### **Indian Penal Code (IPC), Sections 354A, 354D, 509**

These sections criminalize various forms of sexual harassment and stalking:

- **Section 354A:** Outlaws physical contact, demand or request for sexual favors, showing pornography, and sexually colored remarks.
- **Section 354D:** Addresses stalking, including online harassment.
- **Section 509:** Penalizes words, gestures, or acts intended to insult the modesty of a woman.

### **Factories Act, 1948 (Section 66)**

Provides safety provisions for women working in factories, including working hours, rest intervals, and prohibition of night shifts (subject to state amendments and consent).

### **Maternity Benefit Act, 1961**

Protects the employment of women during maternity and entitles them to:

- Paid maternity leave (26 weeks for the first two children).
- Nursing breaks.
- Crèche facilities in establishments with 50+ employees.

### **Equal Remuneration Act, 1976**

Mandates equal pay for equal work, prohibiting discrimination in recruitment and wages based on gender.

### **Employees' State Insurance Act, 1948**

Provides health-related benefits to women workers, including maternity, sickness, and disability benefits.

### **Industrial Employment (Standing Orders) Act, 1946**

Requires employers to define and share conduct rules, including disciplinary actions related to harassment or misconduct.

### **The Constitution of India (Fundamental Rights)**

- **Article 14** – Right to Equality
- **Article 15** – Prohibition of discrimination on the basis of sex
- **Article 16** – Equal opportunity in public employment
- **Article 21** – Right to life and personal liberty (includes right to dignity and safe workplace)

## Conclusion

While India has made significant legal strides to address and prevent sexual harassment and bullying of women at the workplace—most notably through the **Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act)**—the gap between legislation and implementation remains wide. Despite a clear legal framework, real-world enforcement continues to face serious obstacles including underreporting, social stigma, lack of awareness, weak internal complaint mechanisms, and institutional apathy.

High-profile cases and persistent NCRB data reveal that many women still struggle to access justice and safety in their workplaces. Internal Complaints Committees (ICCs), mandated by the POSH Act, are often absent or dysfunctional, particularly in smaller or informal work sectors. Furthermore, the slow pace of resolution, withdrawal of complaints due to fear of retaliation, and poor monitoring weaken the deterrent effect of the law.

For the legal protections to be truly effective, a multi-pronged approach is necessary—stronger institutional accountability, better awareness and training, timely redressal mechanisms, and cultural shifts in workplace behavior. Only then can the rights guaranteed under the Indian Constitution and the POSH Act translate into safe, inclusive, and empowering work environments for women across the country.

The continued occurrence of sexual harassment in Indian workplaces, despite a dedicated legal framework like the POSH Act, reflects a deeper cultural and structural issue. While data from states like Himachal Pradesh and Kerala may suggest better reporting, low figures in states like West Bengal amid evident public incidents underscore the pervasive problem of underreporting. Real-life cases—ranging from media and academia to corporate offices—highlight the urgent need for better enforcement, awareness training, and organizational accountability to ensure that women can work without fear or intimidation.

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