



INTERNATIONAL LAW
JOURNAL

**WHITE BLACK
LEGAL LAW
JOURNAL**
**ISSN: 2581-
8503**

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

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Dr. Navtika Singh Nautiyal

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Dr. Rinu Saraswat



Associate Professor at School of Law, Apex University, Jaipur,
M.A, LL.M, Ph.D,

Dr. Rinu have 5 yrs of teaching experience in renowned institutions like Jagannath University and Apex University. Participated in more than 20 national and international seminars and conferences and 5 workshops and training programmes.

Dr. Nitesh Saraswat

E.MBA, LL.M, Ph.D, PGDSAPM

Currently working as Assistant Professor at Law Centre II, Faculty of Law, University of Delhi. Dr. Nitesh have 14 years of Teaching, Administrative and research experience in Renowned Institutions like Amity University, Tata Institute of Social Sciences, Jai Narain Vyas University Jodhpur, Jagannath University and Nirma University.

More than 25 Publications in renowned National and International Journals and has authored a Text book on Cr.P.C and Juvenile Delinquency law.



Subhrajit Chanda



BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); Ph.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

QUEST FOR EQUALITY: INTERROGATING INDIA'S POSH ACT AND WORK PLACE JUSTICE

AUTHORED BY: MS. SHAMNA SHERIN, BA, LL.B

Advocate

INTRODUCTION

In the evolving landscape of workplace dynamics, the Prevention of Sexual Harassment (POSH) Act stands as a pivotal legislative framework aimed at safeguarding the dignity and rights of individuals in professional settings. Enacted in 2013, this statute marks a significant milestone in India's legal framework, addressing a long-standing issue that had often been overlooked or inadequately addressed. The POSH Act not only mandates stringent measures to prevent instances of sexual harassment but also establishes a comprehensive mechanism for redressal, thereby fostering a work environment that is safe, inclusive, and conducive to professional growth.

The enactment of the POSH Act heralded a paradigm shift, moving beyond mere rhetoric to institutionalize a framework that places the onus on employers to ensure a harassment-free workplace. By delineating clear guidelines for the constitution of Internal Complaints Committees (ICCs) and laying down procedures for investigation and resolution, the Act empowers victims while imposing accountability on organizations to proactively address issues of harassment. This proactive stance not only aligns with international standards but also reflects India's commitment to upholding fundamental rights in the workplace.

However, as with any legislative framework, the efficacy of the POSH Act lies not just in its formulation but also in its implementation and enforcement. Challenges abound, ranging from awareness gaps and cultural inhibitions to varying interpretations of legal provisions. Furthermore, the dynamic nature of workplace interactions necessitates continuous evaluation and adaptation of the Act to ensure relevance and effectiveness in addressing emerging forms of harassment.

This research paper embarks on a critical analysis of the POSH Act, delving into its strengths and limitations through the lens of judicial interpretation, scholarly discourse, and empirical evidence. By

examining landmark cases, scholarly critiques, and comparative analyses with global practices, this study aims to unravel the complexities surrounding the Act's application and its impact on organizational culture. Moreover, it seeks to propose actionable insights for enhancing the Act's implementation, thereby advancing the cause of gender equality and workplace justice.

Through this exploration, the paper not only contributes to academic discourse but also serves as a pragmatic guide for policymakers, legal practitioners, and organizational leaders striving to foster a work environment free from harassment. By interrogating the nuances of the POSH Act, we endeavor to illuminate its role in shaping the future trajectory of workplace dynamics and societal norms, ultimately advocating for a more equitable and inclusive professional landscape.

GLOBAL VIEW OF SEXUAL HARASSMENT

The International Labour Organization (ILO) stands as a pivotal United Nations agency dedicated to advancing social justice and upholding human and labour rights globally. Comprising 187 member countries, the ILO convenes government representatives, employers, and workers to establish international labour standards, formulate policies, and implement programs aimed at ensuring equitable and dignified working conditions for all individuals, irrespective of gender. Within this framework, sexual harassment is defined as any form of unwelcome sexual conduct that, in the reasonable perception of the recipient, creates an intimidating, hostile, or offensive work environment. This definition underscores the severity of such behavior when perpetrated by individuals in positions of authority who wield influence over the recipient's career prospects, encompassing critical aspects such as recruitment, assignments, contract renewals, performance evaluations, and promotions.

Moreover, the 1981 UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) provides a comprehensive definition of sexual harassment. It includes behaviors such as unwelcome physical contact, advances, sexually suggestive remarks, the display of pornography, and explicit sexual demands through words or actions. Such conduct not only compromises the dignity of the victim but also poses significant health and safety risks. It is deemed discriminatory under CEDAW when a woman reasonably believes that her objection to such behavior could adversely affect her employment, including opportunities for recruitment or promotion, or when it contributes to creating a hostile work environment.

THE INDIAN CONTEXT

Article 14 of the Indian Constitution guarantees equality before the law for every citizen, a principle underscored in the Constitution's Preamble. Women, therefore, possess a legal entitlement to a secure workplace environment. Articles 14, 15, and 21 collectively uphold principles of equality, liberty, and the right to live a life free from discrimination under Indian constitutional law. Workplace sexual harassment constitutes a grave form of sex discrimination, profoundly infringing upon a woman's fundamental rights as articulated in Article 19(1)(g) of the Constitution of India, and compromising her dignity, physical well-being, and mental health. This deleterious impact extends to diminished productivity and adverse economic consequences, exacerbating socio-cultural gender hierarchies that perpetuate inequality in both professional settings and broader societal contexts.

Despite the gravity of sexual harassment in workplaces, incidents often go unreported due to fear of repercussions such as jeopardizing one's livelihood or tarnishing personal and professional reputations. Recognized increasingly as a form of violence against women and a violation of their rights, workplace sexual harassment prompted legislative action culminating in the enactment of the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013. This legislation aims to foster safe and supportive work environments that uphold women's right to equality of opportunity and status. Effective implementation of the Act holds promise in enabling more women to assert their rights to gender equality, life, liberty, and equitable working conditions on a global scale, thereby promoting inclusive economic growth through enhanced workplace security.

The pervasive nature of the issue complicates accurate documentation, though official statistics reveal disparities in women's representation in the workforce, with figures standing at approximately 25.3% in rural areas and 14.7% in urban settings. These statistics underscore the imperative to safeguard the rights and workplaces of a substantial female workforce, particularly the 93% employed in the informal sector who remain largely unprotected by existing legal frameworks.

CHALLENGES AND LIMITATIONS: ASSESSING DRAWBACKS OF POSH

ACT1) GENDER EXCLUSIVITY: THE LIMITATIONS

The vulnerability of transgender individuals to pervasive discrimination and violence is extensively documented. Witten asserts that transgender people face disproportionate rates of physical and

psychological abuse, often making them primary targets in hostile workplace environments. A 2019 survey by The Guardian highlighted alarming statistics, revealing that 70% of lesbian, gay, bisexual, and transgender (LGBTQIA+) individuals experience sexual harassment in their workplaces. The economic repercussions of such discrimination are starkly illustrated in the World Bank's 2014 report, "The Economic Cost of Homophobia and the Exclusion of LGBTQIA+ People: A Case Study of India," which estimates a GDP loss of 1.0%-1.7% due to workplace exclusion based on sexual orientation and gender identity. Moreover, findings from the Indian LGBTQIA+ Workplace Climate Survey 2016 underscore systemic barriers, with over half of respondents fearing termination due to their LGBTQIA+ status and a significant majority lacking access to formal support networks.

The National Human Rights Commission's study on transgender rights further exposes profound injustices, revealing that 92% of transgender persons are denied economic participation and subjected to physical abuse, with discrimination often beginning within their own families. This systemic marginalization perpetuates a cycle of silence and non-disclosure in the workplace, as documented by Pinder & Harlos, who observe that fear of reprisal leads many to conceal their identities or endure harassment without recourse. The dearth of comprehensive research on transgender workplace experiences, as highlighted by McFadden's systematic review, underscores the urgent need for robust documentation to catalyze policy reforms.

Bina Agarwal's advocacy for enhanced "bargaining power" among marginalized communities underscores the transformative potential of informed research and documentation. Such efforts are pivotal in substantiating claims of discrimination and galvanizing legislative and policy interventions to protect transgender rights. Despite these imperatives, inclusive policies within corporate sectors remain inadequate. A scrutiny of global practices reveals significant deficiencies, with a notable absence of anti-discriminatory measures benefiting transgender employees in prominent UK firms and a lack of comprehensive initiatives in leading Indian companies, as highlighted in the Workplace Equality Index Report 2020.

In light of these challenges, the imperative for scholarly inquiry and corporate accountability in fostering inclusive workplaces for marginalized communities, including transgender individuals, remains pressing. This necessitates a paradigm shift towards evidence-based policy-making and corporate governance that prioritizes equity and human rights.

ADDRESSING GENDER NEUTRALITY ISSUES

The discourse surrounding the inclusion of men within the ambit of the POSH Act highlights significant concerns regarding its gender-specific nature. Key apprehensions raised include the presumption that sexual harassment affects only women, despite an increasing presence of women in the workforce across various hierarchical levels. Critically, the absence of empirical data supporting the exclusive victimization of women, juxtaposed with global practices of gender-neutral sexual harassment legislation in countries like Denmark, UK, and France, underscores the necessity for a more inclusive approach. The Standing Committee Report (SCR), while justifying the exclusion of men, posits that women disproportionately bear the brunt of workplace sexual harassment, thus justifying gender-specific legislative measures as affirmative action under Article 15 of the Indian Constitution. However, such reasoning overlooks two fundamental flaws. Firstly, it erroneously confines the discourse on Gender Neutrality to a binary gender framework, disregarding the experiences of non-binary genders, including transgender individuals. Secondly, while acknowledging the historical disadvantage faced by women, it fails to justify the exclusion of men and non-binary genders from protections against workplace sexual harassment. Despite recommendations within the SCR to consider provisions for addressing sexual harassment against men, the POSH Act persists in its exclusionary stance.

INDIA'S RESPONSE TO GENDER NEUTRALITY

A. Tracing Significant Developments

The issue of gender neutrality within rape laws was first prominently debated in the *Sudesh Jhaku v. KC Jhaku* case, where Justice Jaspal Singh advocated for a gender-neutral definition of rape to ensure equal protection for all victims of sexual assault, regardless of gender. Subsequently, the Criminal Law (Amendment) Bill, 2012, influenced by the 172nd Law Commission Report, proposed such reforms. In the aftermath of the Nirbhaya case, the Justice Verma Committee underscored the necessity for gender-neutral legal frameworks, despite the limited inclusivity reflected in the Sexual Harassment of Women at Workplace Bill, 2012. The University Grants Commission's Sexual Harassment Regulations of 2016 marked a progressive step, extending the right to file complaints of sexual harassment to all genders within educational institutions, not just women. However, challenges persist, as highlighted by recent legal petitions seeking gender-neutral amendments to sexual harassment laws under IPC sections 354, 354A, 354B, 354C, 354D, and 375, albeit without success.

B. Lack of Statistics in Male harassment and Gender Based Stereotypes

Research by the Centre for Civil Society in 2013 revealed significant gaps in global rape and sexual assault laws, with only a minority incorporating gender-neutral language. In India, surveys indicate that a notable proportion of adult men report instances of coerced sexual activity, challenging the stereotype of men solely as aggressors in sexual harassment scenarios. The reliance on gender-specific definitions of sexual harassment perpetuates societal stereotypes and inhibits a comprehensive understanding of harassment dynamics across genders. Judicial insights, such as those in *People v. Liberta*, caution against statistical disparities as a rationale for excluding gender groups from legal protections, urging a more inclusive approach to legal reforms.

C. Transgender Rights

Transgender rights in India have seen significant judicial recognition, culminating in the NLSA verdict affirming the constitutional rights of transgender individuals under Articles 14, 15, 16, 19, and 21. Despite this recognition, the legal framework in India predominantly adheres to binary gender classifications, impacting transgender individuals' rights in areas like marriage, adoption, and inheritance. The Transgender Persons (Protection of Rights) Act, 2019 marked a legislative milestone, yet ongoing societal discrimination and legal ambiguities necessitate continued advocacy for transgender rights and inclusion within existing workplace protections.

D. Characterizing Sexual Harassment: Inclusion of LGBTQIA+

India's sexual harassment laws, while originally focused on protecting women, face criticism for overlooking cases involving individuals identifying as Gay, Bisexual, Queer, Asexual, and allied identities. The Supreme Court's progressive stance in cases like *Hiral P. Harsora v. Kusum Narottamdas Harsora* and the partial decriminalization of Section 377 of the IPC underscored the need for inclusive legal frameworks that address sexual harassment across diverse sexual orientations and gender identities. Moving forward, there is a compelling need for legislative reforms that uphold the constitutional rights of all individuals, irrespective of gender or sexual identity, within India's legal framework.

2. DRAWBACKS IN LEGISLATIVE SCHEME

Under the legislative framework of the Act, an 'aggrieved woman' is defined broadly to encompass women of any age, regardless of employment status, who allege having experienced sexual

harassment. The Act's definitions of 'employer' and 'workplace' are expansive, encompassing all conceivable organizations and work environments across both private and public sectors. Judicial interpretation, exemplified in the case of *Malabika Bhattacharjee v. Internal Complaints Committee, Vivekananda College and Ors*, has confirmed that allegations of sexual harassment under the Act can be maintained against individuals of the same gender.

Organizations are mandated by the Act to establish an Internal Complaints Committee (ICC) comprising a minimum of four members, including a Presiding Officer and an external member from a non-governmental organization with at least five years of experience in social work related to sexual harassment issues. This external member's role is pivotal, ensuring an impartial presence to advise and support the ICC, as underscored in the Supreme Court's ruling in *Punjab and Sind Bank and Ors. v. Durgesh Kuwar*. Moreover, the Presiding Officer must be a senior-level woman, and at least half of the ICC members should be women.

While the Act recommends a minimum of four members for the ICC, practical considerations suggest constituting a five-member committee to avoid deadlock scenarios. Including two external members, ideally one with a legal background, is advisable to enhance the ICC's expertise and independence. Curiously, the Act does not stipulate that an external member must be present for the ICC to achieve quorum, nor does it require a majority of women members for quorum purposes.

A critical ambiguity in the Act concerns whether ICC reports must be unanimous or based on majority opinion, necessitating immediate legislative clarity to prevent potential deadlock situations. Empowered akin to a Civil Court under the Code of Civil Procedure, 1908, the ICC is authorized to summon witnesses and documents.

In conducting inquiries, the ICC must adhere strictly to principles of natural justice. Key principles include the rule against bias, mandating impartiality among ICC members, and *audi alteram partem*, ensuring fair opportunity for both complainant and accused to be heard. Despite these principles, many ICC members lack legal expertise, complicating quasi-judicial functions entrusted to them by the Act, which itself lacks sufficient descriptive clarity for effective implementation by non-legal experts.

To mitigate these challenges, robust training programs are imperative for ICC members to effectively discharge their statutory duties, a necessity underscored repeatedly by judicial authorities. Judicial precedents, such as those established in *Rashi v. Union of India and Another* and *Delhi University & Anr. v. Bidyug Chakraborty and Ors*, elucidate specific requirements for ICC composition and functioning, emphasizing impartiality, credentials, and adherence to Visakha Guidelines.

Addressing procedural fairness, the Delhi High Court's guidelines in *Ashok Kumar Singh v. University of Delhi & Ors* advocate for a structured approach to witness examination, safeguarding identities while ensuring fair cross-examination opportunities for the accused. Notwithstanding the quasi-judicial nature of ICC proceedings, adherence to natural justice principles is paramount, mandating fair and reasonable conduct.

The Act's reliance on ICCs to enforce its provisions poses challenges, particularly as ICC members often lack the requisite expertise to handle sensitive complaints effectively. Consequently, High Courts frequently adjudicate writ petitions challenging ICC reports for procedural lapses under Article 226 of the Constitution. This highlights a fundamental flaw in the Act and Rules, wherein ICCs wield considerable authority over potentially life-altering inquiries without commensurate expertise.

Instances of hesitation among ICC members to conduct impartial inquiries into complaints against senior management (e.g., CEOs, CFOs) underscore practical implementation challenges, raising doubts about ICC members' impartiality and objectivity.

A critical issue pertains to the treatment of electronic evidence (e.g., WhatsApp chats, video recordings) in ICC proceedings. Unlike judicial proceedings, ICCs are not bound by strict rules of evidence under the Indian Evidence Act, 1872, yet must ensure the integrity and authenticity of electronic evidence presented. Questions arise regarding reliance on secondary copies of electronic records absent dispute over their authenticity, necessitating ICCs to independently verify the accuracy and integrity of such evidence.

In summary, while ICCs play a pivotal role in enforcing the Act's provisions, significant legislative, procedural, and practical challenges persist, underscoring the need for ongoing judicial guidance and

legislative clarity to enhance their efficacy and fairness in addressing sexual harassment complaints.

According to subsection 1 of Section 4[13] of the POSH Act, workplaces with multiple offices or administrative units across different locations are required to establish an Internal Complaints Committee at each of these locations. This statutory requirement poses significant challenges for small businesses operating franchises, such as restaurants or service centers, which operate on narrow profit margins at each establishment. It serves as a deterrent for small businesses and startups considering expansion into multiple locations or maintaining employee counts below ten.

Therefore, employers must take proactive measures to cultivate an environment that empowers women to report incidents without fear of reprisal and fosters respectful interactions post-complaint. It is imperative for employers to be attuned to these issues, promote awareness of a zero-tolerance stance against harassment, shaming, or bullying, and facilitate women's advancement within the organizational hierarchy. Legislative reforms should include stringent anti-discrimination policies and impose a legal obligation on employers to enforce these policies effectively.

CHALLENGES AND SYSTEMIC FAILURES IN PROTECTING WOMEN'S RIGHTS IN THE INFORMAL SECTOR

In the informal sector, a significant majority of women are excluded from the protective ambit of labor laws, depriving them of essential social benefits such as maternity leave, sick leave, and health insurance. Operating in precarious environments, they frequently fall victim to widespread sexual harassment without recourse. Compounding their vulnerability, the absence of functioning Local Committees (LCs) and accessible grievance channels exacerbates their plight. Domestic workers endure perilous conditions, confined within private spaces where they are susceptible to sexual harassment and violence. Shockingly, they remain excluded from crucial labor protections. Addressing this, India's ratification of the International Labour Organization's Domestic Workers Convention is imperative, yet remains pending. Under the Prevention of Sexual Harassment (POSH) Act, LCs are mandated to report cases involving domestic workers to the police. However, fear of humiliation and job loss deters these workers from filing complaints. This reluctance stems from a pervasive fear among women, even in cases of rape, owing to ineffective enforcement and the threat of reprisal from employers who often manipulate the legal system to silence dissent. The Martha Farrell Foundation's interview with a part-time domestic worker underscored the prevailing

sentiments: while aware of the POSH Act, the worker expressed skepticism about seeking police intervention due to perceived ineffectiveness in protecting their rights. Such disillusionment resonates widely among women, highlighting the systemic failures that persist despite legislative provisions. Human Rights Watch's comprehensive survey, encompassing 85 interviews across formal and informal sectors, revealed a stark reality of governmental inaction in enforcing existing laws and bridging gaps in informal sector protections. Similarly, the Martha Farrell Foundation's 2018 study documented widespread deficiencies in establishing and effectively operating LCs at the district level, indicative of a broader systemic incapacity to address sexual harassment cases. Fundamentally, the inadequate awareness and operational lapses surrounding LCs reflect a critical failure in governmental efforts to disseminate information and allocate resources for effective implementation of the POSH Act. This systemic inertia underscores the urgent need for comprehensive reforms to safeguard the rights and dignity of women in the informal sector.

4. THE IMPACT OF RETALIATION ON REPORTING

WORKPLACE HARASSMENT

Women frequently abstain from reporting instances of workplace harassment due to apprehensions of reprisal by the perpetrator or the organization. Many fear that speaking out against the harasser could lead to social stigma, embarrassment, and further harassment. These concerns are compounded when the complaint involves a senior employee, increasing the likelihood of hostility from colleagues or supervisors, potential negative references for future employment, or even termination. This regressive trend of victim blaming and silencing fosters an environment where victims feel discouraged, fearful, and continue to endure suffering long after the initial incident.

Notably, the existing legal framework, such as Section 12[5] of the Act, outlines measures that employers may take during an inquiry, including transferring the aggrieved woman, granting up to three months' leave, or providing other suggested relief. However, there is a notable absence of provisions aimed at fostering a supportive environment and ensuring the continued safety of women who choose to remain in their current employment post-incident. Section 19[6] of the Act enumerates extensive employer duties but does not explicitly mandate measures to protect complainants from stigma or harassment. While unintended, this omission suggests a lack of workplace security for complainants, potentially compelling them to seek alternative employment for their own safety.

Despite the existence of the PoSH Act and SHe-Box, a significant 62% of workplace sexual harassment incidents go unreported. Reasons for this underreporting include embarrassment (45%), hope that the issue will resolve itself (38%), fear of retaliation (35%), and anxiety (24%). Strengthening the Act with robust anti-retaliation measures is imperative to assuage fears of reprisal and encourage more victims to come forward and lodge complaints without fear of adverse consequences.

5. COMPLIANCE AUDIT AND GOVERNMENT SCRUTINY

Sections 21, 23, 24, and 25 of the Act delineate the Government's responsibility to oversee the functioning of Internal Committees, Local Committees, and employers, alongside overseeing the entire implementation spectrum of the Act. These provisions mandate the Government to promote awareness and maintain comprehensive data on sexual harassment cases in workplaces, encompassing both filings and resolutions. Monitoring serves as a pivotal metric for evaluating compliance among stakeholders and identifying areas warranting further scrutiny. Without such oversight, negligent parties may evade penalties for breaching their obligations, hindering a critical analysis of legal deficiencies and thereby diminishing the Act's efficacy.

Consequently, a portion of the Act's shortcomings can be attributed to governmental agencies' inadequate review and supervision. Empirical evidence reveals widespread non-compliance instances. For instance, a 2015 survey conducted by FICCI and Ernst and Young highlighted that 31% of surveyed companies failed to adhere to the Act. Similarly, a 2018 study by the Martha Farrell Foundation and the Society for Participatory Research in Asia identified numerous districts and states that either failed to establish committees or failed to constitute them in accordance with statutory requirements. Additionally, data from 2020 released by the National Commission for Women indicated the filing of 201 complaints related to workplace sexual harassment.

Despite these glaring statistics indicating systemic failures, there is a conspicuous absence of information on governmental actions to track case statuses or initiatives undertaken to address these issues. Based on available data, it appears that governmental efforts to gather data, enforce legal provisions, or rectify operational deficiencies have been inadequate or nonexistent, contravening their statutory obligations.

To ensure effective implementation of the Act, the government must conduct rigorous audits to systematically compile data on complaint filings and resolutions by the committees. Moreover, it should actively monitor the establishment and functioning of these committees, while enforcing penalties against non-compliant employers. Additionally, the government should consider centralizing and publicly disseminating this data online to enhance transparency and accountability across stakeholders. Upholding these responsibilities is paramount to fostering safe and conducive work environments for women, thereby fulfilling its mandate under the Act.

6. PROCEDURAL AND TECHNICAL LIMITATIONS OF THE ACT

The Act is marred by certain procedural intricacies that hinder its core objectives. Section 9 mandates that a victim of sexual harassment must lodge a complaint within three months of the incident, with a provision for extension by another three months under specific circumstances acknowledged by the Committee. However, the Act does not afford the option for anonymous complaints. These provisions create an atmosphere that inadequately addresses the seriousness of sexual harassment incidents, which are profound affronts to human dignity and often require considerable time for the victim to process and confront. The decision to report such incidents demands strength and may be delayed by days, weeks, or even months as the victim gathers courage. Moreover, the fear of public exposure and its attendant shame, embarrassment, and stigma discourages many victims from coming forward. Courts, in adherence to strict interpretations of these provisions, often cite procedural non-compliance as grounds for denying justice. This runs counter to the Act's fundamental purpose of fostering a climate of safe reporting, social protection, and effective redressal.

Therefore, there is an urgent need to amend these technicalities to introduce greater flexibility. The judiciary, as demonstrated in the landmark case of MJ Akbar v. Priya Ramani defamation case, emphasized that "a woman has the right to lodge a grievance at any platform of her choice, even after decades. A woman cannot be penalized for speaking out against sexual abuse, and the right to dignity cannot be sacrificed to protect reputation." In light of such recent judicial pronouncements, it is imperative that legislative reforms be undertaken to better accommodate the sensitive nature of these incidents and uphold the principles of justice and dignity.

7. EXCLUSION OF MONETARY COMPENSATION IN CONCILIATION

The Prevention of Sexual Harassment (POSH) Act of 2013 omits provisions for monetary settlements during conciliation, thereby disregarding crucial safeguards against potential abuse by employers seeking to resolve complaints discreetly. This absence allows unscrupulous employers to coerce victims into opting for conciliation to evade formal inquiry, without providing an avenue for appeal against such settlements.

8. ABSENCE OF STATUTORY TIMELINE FOR CONCILIATION

The POSH Act lacks a prescribed timeline for conducting conciliation or implementing settlements arising from it. This absence leads to uncertainty regarding the acceptable duration between responding to a harassment complaint and initiating a formal inquiry, necessitating clarification for effective implementation.

9. HANDLING CROSS ORGANIZATIONAL HARASSMENT COMPLAINTS

The Act does not specify which organization's Internal Committee (IC) should handle complaints involving individuals from different employers. This ambiguity raises concerns about the jurisdiction, enforceability of IC recommendations, and the possibility of joint committees to resolve such cases effectively.

10. SILENCE ON ANONYMOUS COMPLAINTS

Employers under the POSH Act are not mandated to address anonymous complaints or take suo motu cognizance of unreported incidents of sexual harassment. This omission leads to disparities in how organizations handle such complaints, raising questions about an employer's statutory liability if their IC declines to entertain an anonymous complaint.

11. ANNUAL REPORTING OBLIGATIONS

Under the Companies (Accounts) Amendment Rules, 2018, companies must disclose compliance with the POSH Act's provisions on Internal Complaints Committees in their annual reports. This requirement adds to directors' responsibilities but may inadvertently deter incorporation due to increased regulatory burdens.

12. EXCLUSION OF SUPREME COURT EMPLOYEES

The POSH Act explicitly excludes employees governed by Supreme Court service regulations from its purview. This exclusion raises significant implications, as allegations of sexual harassment against judges can only be addressed by committees established under the Supreme Court's in-house procedures, as per guidelines set in 1999.

CONCLUSION

The Prevention of Sexual Harassment (POSH) Act, 2013 represents a significant legislative stride towards ensuring dignity and equality in India's workplaces. Enacted to mitigate the pervasive issue of sexual harassment, the Act mandates stringent measures and establishes institutional frameworks aimed at fostering safe and inclusive work environments. Despite its commendable objectives, the Act faces multifaceted challenges and nuances that necessitate critical evaluation and reformative action.

Recommendations

1. **Inclusive Amendments:** The current gender-exclusive nature of the POSH Act warrants immediate amendment to incorporate protections for all genders, including transgender individuals and non-binary persons. Drawing from global practices and evolving jurisprudence, legislative reforms should prioritize inclusive definitions and provisions that comprehensively address diverse manifestations of workplace harassment.
2. **Enhanced Enforcement Mechanisms:** Governmental bodies must undertake rigorous compliance audits to monitor the establishment and efficacy of Internal Complaints Committees (ICCs) and Local Committees (LCs) across sectors. This entails centralizing data collection, enforcing penalties for non-compliance, and disseminating information to enhance transparency and accountability.
3. **Empowerment through Awareness:** Robust awareness campaigns should be institutionalized to educate employees about their rights and the recourse available under the POSH Act. These initiatives should extend beyond formal sectors to encompass informal and marginalized communities, empowering individuals to assert their rights and access grievance redressal mechanisms without fear of reprisal.
4. **Procedural Clarity and Flexibility:** Legislative amendments should introduce flexibility in procedural requirements, including the extension of complaint filing timelines and provisions

for anonymous complaints. Such reforms align with judicial pronouncements emphasizing the right to dignity and justice for victims of sexual harassment, ensuring a supportive environment conducive to reporting.

5. **Intersectional Approaches:** Addressing the intersectional vulnerabilities of marginalized groups, including LGBTQIA+ individuals and domestic workers, demands tailored policy interventions. Legislative frameworks should integrate these considerations to uphold constitutional guarantees of equality and non-discrimination in both formal and informal sectors.
6. **Corporate Accountability and Training:** Corporates must prioritize the implementation of robust anti-discrimination policies and provide comprehensive training programs for ICC members. These initiatives should emphasize the equitable treatment of complainants and respondents, fostering a culture of zero tolerance towards harassment and promoting inclusive workplace practices.

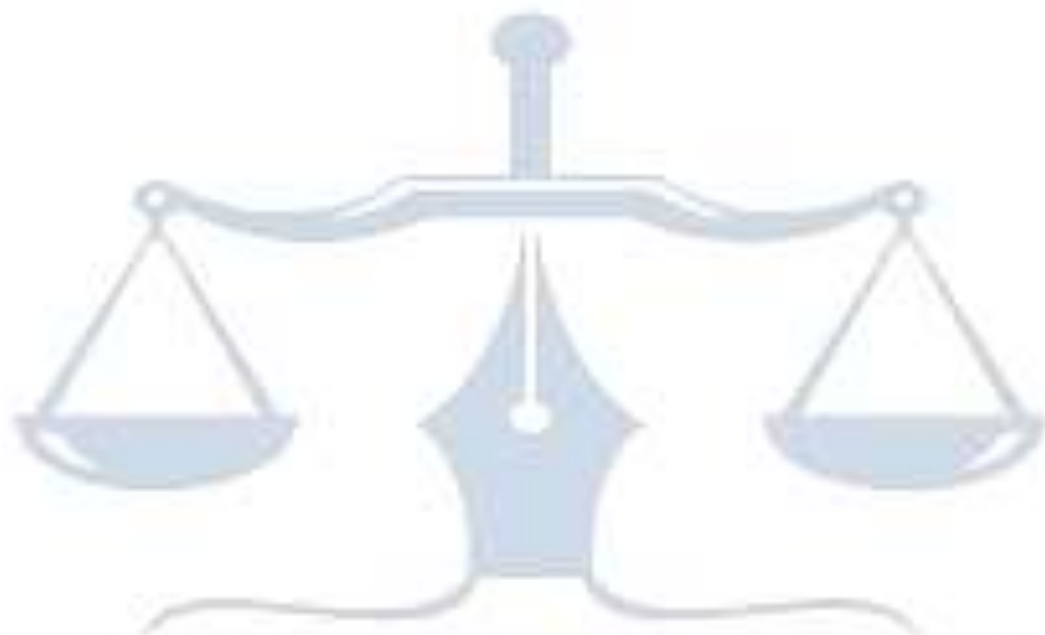
In conclusion, while the POSH Act represents a pivotal legislative milestone in India's pursuit of workplace justice, its efficacy hinges on comprehensive reforms, proactive enforcement, and inclusive practices. By addressing existing lacunae through legislative amendments, enhancing awareness and enforcement mechanisms, and promoting corporate accountability, India can reaffirm its commitment to gender equality and ensure dignified work environments for all. As stakeholders navigate these challenges, sustained dialogue, judicial guidance, and collaborative efforts are imperative to realize the Act's transformative potential in shaping equitable workplace dynamics and societal norms.

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