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FROM VISHAKHA TO POSH ACT TO LABOUR CODES: THREE DECADES OF SEXUAL HARASSMENT LAW IN INDIA PROGRESS, GAPS, AND GROUND REALITIES

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ABSTRACT

India's legal framework addressing workplace sexual harassment has evolved significantly over three decades, beginning with the landmark Vishakha judgment (1997), progressing through the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (PoSH Act), and most recently incorporating provisions within the Labour Codes. This comprehensive evolution reflects India's commitment to creating safer workplaces for women. However, despite legislative advancement, substantial gaps persist between legal provisions and their implementation.

This study examines the trajectory of sexual harassment legislation in India, analyzing the transformative impact of judicial activism, statutory interventions, and recent labour law consolidation. The primary objective is to assess the efficacy of existing legal mechanisms in preventing and addressing workplace sexual harassment while identifying systemic barriers to effective implementation.

The research question explores: To what extent have three decades of legal reforms translated into tangible workplace safety improvements for women? The critical research gap identified concerns the disconnect between robust legal frameworks and their practical enforcement, particularly regarding compliance in the informal sector, small enterprises, and emerging gig economy workplaces.

Through doctrinal analysis and evaluation of implementation challenges, this study concludes that while India has established a progressive legislative architecture, achieving meaningful workplace safety requires addressing awareness deficits, strengthening accountability mechanisms, expanding coverage to all employment forms, and fostering organizational cultures that prioritize dignity and equality beyond mere compliance.

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INTRODUCTION

Sexual harassment at the workplace constitutes a grave violation of women's fundamental rights to equality, dignity, and safe working conditions. In India, the legal recognition and redressal of workplace sexual harassment has undergone a significant transformation over the past three decades, marked by three critical milestones: the Vishakha judgment of 1997, the enactment of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act in 2013, and the integration of these provisions into the Labour Codes between 2019 and 2020.

The journey began in the aftermath of a horrific gang rape of Bhanwari Devi, a social worker in Rajasthan, which led to the Vishakha case—a watershed moment that established judicial guidelines for addressing workplace sexual harassment in the absence of specific legislation (*Vishakha v. State of Rajasthan*, 1997). Sixteen years later, the PoSH Act was enacted, providing a comprehensive statutory framework that mandated the constitution of Internal Complaints Committees (ICC) and Local Complaints Committees (LCC) for redressal (Government of India, 2013). Most recently, the consolidation of labour laws into four Labour Codes has sought to streamline and modernize India's employment regulations, including provisions related to workplace safety and harassment (Government of India, 2019).

Despite these legislative advances, the ground reality reveals a troubling disconnect between law and implementation. Studies indicate that a significant proportion of organizations remain non-compliant with PoSH Act requirements, awareness among women workers—particularly in informal sectors—remains abysmally low, and conviction rates in sexual harassment cases are negligible (Desai & Bhat, 2020; NCRB, 2022). This paper examines this gap between progressive legal frameworks and persistent implementation failures, analyzing the factors that impede effective enforcement and proposing pathways for reform.

BACKGROUND: UNDERSTANDING SEXUAL HARASSMENT IN THE INDIAN CONTEXT

CONCEPTUAL FRAMEWORK

Sexual harassment is broadly defined as any unwelcome sexually determined behavior, whether directly or by implication, that violates a woman's dignity and creates an intimidating, hostile, or offensive work environment (Vishakha v. State of Rajasthan, 1997). The PoSH Act expanded this definition to include explicit acts such as physical contact and advances, demands for sexual favors, sexually colored remarks, showing pornography, and any other unwelcome physical, verbal, or non-verbal conduct of a sexual nature (Government of India, 2013, Section 2(n)).

The framework recognizes two forms of harassment: quid pro quo harassment, where employment benefits are conditioned on sexual favors, and hostile work environment harassment, where pervasive sexual conduct interferes with work performance or creates an offensive environment (Kapoor & Cossman, 1996). Indian law, particularly post-PoSH Act, encompasses both forms but has faced criticism for inadequate attention to the intersectional dimensions of harassment, where caste, class, religion, and disability compound the vulnerability of women workers (Agnes, 2016; Kannabiran, 2012).

SOCIO-ECONOMIC CONTEXT

India's labor force participation of women stands at approximately 25%, one of the lowest globally, with the majority concentrated in the informal sector where legal protections are weakest (World Bank, 2023). Patriarchal attitudes, limited economic opportunities, and fear of social stigma deter women from reporting harassment. Research by Phadke et al. (2011) demonstrates that women's access to public and workplace spaces remains contested, with harassment serving as a mechanism to police women's mobility and presence in traditionally male-dominated domains.

The problem is particularly acute in sectors such as domestic work, agriculture, construction, and unorganized manufacturing, where power asymmetries are pronounced and avenues for redressal virtually non-existent (Patel & Parmentier, 2005). Even in formal workplaces, organizational culture often prioritizes reputation protection over survivor support, leading to underreporting and victim-blaming (Dhillon & Bakaya, 2014).

THE VISHAKHA JUDGMENT (1997) – JUDICIAL ACTIVISM IN THE FACE OF LEGISLATIVE VACUUM

GENESIS OF THE CASE

The Vishakha case emerged from the brutal gang rape of Bhanwari Devi, a saathin (grassroots worker) employed by the Rajasthan government's Women's Development Program, in 1992. Bhanwari Devi was assaulted by five men from an upper-caste community as retaliation for her efforts to prevent child marriage (Sood, 2008). The acquittal of all accused by the trial court, coupled with the absence of any legal framework to address workplace sexual harassment, prompted several women's rights organizations to file a Public Interest Litigation in the Supreme Court.

THE JUDGMENT: KEY PRINCIPLES

In a groundbreaking judgment delivered on August 13, 1997, a three-judge bench of the Supreme Court, led by Justice J.S. Verma, invoked Article 32 of the Constitution to fill the legislative void. The Court drew upon Articles 14 (equality), 15 (prohibition of discrimination), 19(1)(g) (right to practice any profession), and 21 (right to life and dignity) to establish that sexual harassment violates women's fundamental rights (*Vishakha v. State of Rajasthan*, 1997).

The Court laid down detailed guidelines, which came to be known as the Vishakha Guidelines, mandating all employers to:

- Prohibit sexual harassment explicitly
- Constitute a Complaints Committee with a woman as chairperson and at least half the members as women
- Provide for preventive steps including awareness programs
- Ensure no victimization or retaliation against complainants
- Make provisions for disciplinary action and prosecution where warranted

Significantly, the Court also referenced international conventions, particularly the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which India had ratified in 1993, to underscore the obligation to ensure a safe working environment (United Nations, 1979). This invocation of international law in the absence of domestic legislation marked a progressive approach to constitutional interpretation.

IMPACT AND LIMITATIONS

The Vishakha judgment was hailed as a landmark victory for women's rights and represented a bold assertion of judicial activism. It placed sexual harassment squarely within the framework of constitutional rights and established employer accountability (Menon, 2004). However, the guidelines suffered from several limitations. First, they lacked the force of law and depended on voluntary compliance. Second, enforcement mechanisms were unclear, with no penalty prescribed for non-compliance. Third, the guidelines primarily addressed formal sector employment, leaving the vast informal sector unprotected (Poonacha & Pandey, 1999).

Empirical studies conducted in the early 2000s revealed that awareness of the Vishakha Guidelines remained poor even among educated urban women, and implementation was patchy at best. Many organizations either ignored the guidelines entirely or constituted committees that existed only on paper (Sharma, 2004). The lack of governmental monitoring and the absence of penalties meant that compliance was left to the discretion of individual employers, resulting in highly uneven outcomes.

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

LEGISLATIVE JOURNEY

Sixteen years after the Vishakha judgment, Parliament finally enacted a comprehensive law on workplace sexual harassment. The delay was attributed to political inertia, resistance from employer lobbies, and the low priority accorded to women's workplace safety (Baxi et al., 2006). The passage of the PoSH Act in 2013 was precipitated by intense advocacy from women's rights organizations, coupled with international pressure following India's commitments under CEDAW and the increased media attention to sexual violence after the 2012 Delhi gang rape case (Dey, 2014).

KEY PROVISIONS AND INNOVATIONS

The PoSH Act built upon the Vishakha Guidelines while addressing many of their limitations. Its key features include:

Comprehensive Definition: The Act provides an expansive definition of sexual harassment covering physical contact, sexual advances, demands for sexual favors, sexually colored remarks, showing pornography, and any other unwelcome conduct of a sexual nature (Section 2(n)). It also includes the

concept of implied or explicit promises of preferential treatment or threats of detrimental treatment tied to sexual compliance.

Broad Coverage: Unlike the Vishakha Guidelines, the PoSH Act explicitly covers women in both organized and unorganized sectors, including domestic workers, and defines workplace expansively to include any place visited by an employee during the course of employment (Section 2(o)). This was a crucial expansion recognizing that harassment can occur outside traditional office premises.

Internal Complaints Committee (ICC): Every employer with 10 or more employees must constitute an ICC with a senior woman employee as presiding officer, two employee members committed to women's causes, and an external member from an NGO or association working on women's rights (Section 4). This ensures external oversight and independence.

Local Complaints Committee (LCC): District officers are mandated to constitute LCCs to receive complaints from women in the unorganized sector or from organizations with fewer than 10 employees (Section 5). This was designed to extend protection to the most vulnerable categories of workers.

Procedural Safeguards: The Act lays down detailed procedures for filing complaints (within three months, extendable to six months for valid reasons), conducting inquiries (within 90 days), and confidentiality requirements to protect survivor privacy (Sections 7-11).

Interim Relief: The Act empowers committees to recommend interim measures such as transfer of the complainant or respondent, granting leave, or restraining the respondent from acts prejudicial to the complainant during the inquiry (Section 12).

Penalties for Non-Compliance: The Act prescribes penalties for employers who fail to constitute ICCs, comply with the Act's provisions, or take action on committee recommendations. Penalties include fines up to Rs. 50,000 and potential cancellation of business licenses for repeated violations (Sections 26-27).

False Complaints: Controversially, the Act also provides for action against complainants found to have made false or malicious complaints (Section 14). While intended to prevent misuse, this provision has been criticized for potentially discouraging genuine victims from coming forward (Gangoli & Rew, 2011).

JUDICIAL INTERPRETATION AND CLARIFICATION

Since its enactment, courts have been called upon to interpret various provisions of the PoSH Act. In *Medha Kotwal Lele v. Union of India* (2013), the Supreme Court emphasized the binding nature of the Vishakha Guidelines until the PoSH Act came into force and directed all states to ensure implementation. In subsequent cases, courts have clarified that the ICC's jurisdiction extends to third-party harassment, that employers cannot delay inquiry proceedings indefinitely, and that retaliatory action against complainants amounts to contempt (Sharma, 2018). However, judicial responses have not been uniformly progressive. Several High Court judgments have set aside ICC findings on technical grounds or shown undue leniency to perpetrators, particularly when the accused occupies a position of power (Kumar, 2019). The judiciary's inconsistent approach has contributed to uncertainty in implementation and undermined the deterrent effect of the law.

IMPLEMENTATION CHALLENGES AND GROUND REALITIES

NON-COMPLIANCE AND LACK OF AWARENESS

Despite the PoSH Act's comprehensive framework, compliance remains dismally low. A 2018 study by the Indian Institute of Corporate Affairs found that only 36% of companies surveyed had constituted ICCs as mandated, with compliance even lower among small and medium enterprises (IICA, 2018). Government data for 2021-22 revealed that of the approximately 6.5 million establishments covered under the Act, fewer than 50,000 had filed annual returns—a statutory requirement—indicating widespread non-compliance (Ministry of Women and Child Development, 2022).

Awareness of the PoSH Act remains abysmally low, particularly among women in informal sectors. A survey by the Centre for Social Research found that 70% of women workers in the informal sector had never heard of the PoSH Act, and even among formal sector employees, only 40% were aware of their rights under the law (Centre for Social Research, 2019). This awareness gap is exacerbated by limited efforts at dissemination, with few employers undertaking mandatory awareness programs and government outreach remaining token.

STRUCTURAL BARRIERS TO REPORTING

Even where women are aware of their rights, multiple structural barriers impede reporting. Fear of retaliation is the most commonly cited reason for non-reporting, with studies showing that women who file complaints often face ostracism, denial of promotions, hostile work environments, and in extreme cases, termination of employment (Desai & Bhat, 2020). The patriarchal culture within many organizations means that survivors are subjected to victim-blaming, with questions raised about their behavior, attire, or presence in certain spaces at certain times.

Power asymmetries further complicate reporting, particularly when the harasser is a senior employee or holds significant organizational influence. In such cases, ICCs often face pressure—implicit or explicit—to protect the accused, and inquiries may be conducted in a perfunctory manner or delayed indefinitely (Dhillon & Bakaya, 2014). The lack of anonymity in small organizations and the absence of protection against retaliatory transfers or demotions create a chilling effect. For women in the informal sector, the barriers are even more pronounced. Domestic workers, for instance, work in isolated private spaces where harassment is difficult to prove and where they have little bargaining power given the absence of formal employment contracts (Neetha, 2013). Agricultural workers face harassment from landowners and supervisors but lack access to LCCs, which are either non-functional or geographically distant. Moreover, the intersection of caste and class means that Dalit and Adivasi women are disproportionately vulnerable to harassment yet least likely to have their complaints taken seriously (Kannabiran, 2012).

WEAKNESSES IN THE COMPLAINTS MECHANISM

The ICC and LCC mechanisms, while well-intentioned, have proven inadequate in practice. Many ICCs lack independence, with members often being close associates of management or having personal relationships with potential respondents. Training for ICC members is minimal, and most lack expertise in handling trauma-informed inquiries or understanding the gendered dimensions of workplace harassment (Radhakrishnan, 2018).

Inquiry procedures are frequently criticized for being adversarial and re-traumatizing, with complainants subjected to aggressive cross-examination and their sexual history or personal conduct becoming topics of scrutiny. The 90-day timeline for completing inquiries is rarely adhered to, with cases dragging on for months or years, causing immense psychological distress to survivors (Kumar, 2019).

LCCs, designed to protect women in the unorganized sector, have been an abject failure. Most districts have either not constituted LCCs or have committees that exist only on paper. A 2020 audit by the Comptroller and Auditor General found that in several states, LCCs had not received a single complaint in years, not because harassment was absent but because awareness of LCCs was virtually nil and access was prohibitively difficult (CAG, 2020). Even where complaints are filed, LCC inquiries are often perfunctory, and recommendations are rarely enforced given the absence of employer-employee relationships in informal settings.

LACK OF ENFORCEMENT AND ACCOUNTABILITY

The PoSH Act's enforcement provisions have proven toothless. While the Act prescribes penalties for non-compliance, including fines and cancellation of licenses, actual enforcement is rare. District officers tasked with monitoring compliance and imposing penalties are often overwhelmed with other responsibilities, lack training on the PoSH Act, and face political pressure to avoid penalizing influential businesses (Dey, 2014).

The requirement for employers to file annual returns has been widely ignored with impunity. In many states, the designated authorities have not initiated a single prosecution for non-filing, rendering this accountability mechanism entirely ineffective (Ministry of Women and Child Development, 2022). Moreover, the lack of a central monitoring body means that there is no systematic data collection on complaints, inquiries, or outcomes, making it impossible to assess the Act's impact or identify patterns requiring intervention.

Conviction rates for sexual harassment cases remain abysmally low. National Crime Records Bureau data for 2022 shows that while cases registered under Section 354A of the Indian Penal Code (the criminal provision for sexual harassment) have increased, convictions remain below 10% (NCRB, 2022). This low conviction rate reflects multiple factors: poor investigation, inadequate understanding of sexual harassment among police and prosecutors, and systemic biases that doubt women's testimony.

LABOUR CODES AND THE FUTURE OF SEXUAL HARASSMENT LAW

CONSOLIDATION UNDER THE LABOUR CODES

Between 2019 and 2020, the Indian government passed four Labour Codes aimed at consolidating 29 central labor laws into a simplified framework: the Code on Wages (2019), the Industrial Relations Code (2020), the Code on Social Security (2020), and the Occupational Safety, Health and Working Conditions Code (2020). The Occupational Safety Code incorporates provisions related to workplace sexual harassment, drawing largely from the PoSH Act but with certain modifications (Government of India, 2020).

The Occupational Safety Code mandates that every establishment employing 10 or more workers constitute an internal committee to address sexual harassment complaints, mirroring the PoSH Act's ICC requirement (Section 18). It also retains the provision for local committees in areas where establishments do not meet the threshold. However, the Code has drawn criticism for certain omissions and dilutions.

KEY CONCERNS AND CRITICISMS

Labor rights activists and women's organizations have raised several concerns about the treatment of sexual harassment under the Labour Codes:

Loss of Standalone Identity: By subsuming sexual harassment provisions within a broader occupational safety framework, the Codes risk diluting the specific focus and visibility that the PoSH Act provided. Critics argue that sexual harassment requires specialized attention and that integrating it into a general safety code may result in it being deprioritized (Sankaran & Madhav, 2021).

Reduction in Worker Protections: The Labour Codes have been criticized for weakening various worker protections, including making it easier for employers to hire and fire, reducing the scope of who qualifies as a worker, and limiting the power of trade unions. In this context, women workers' ability to seek collective support against harassment may be further diminished (Harriss-White et al., 2021).

Ambiguity in Implementation: While the Labour Codes have been passed, they have not been fully implemented, with rules and enforcement mechanisms still being finalized in many states. This delay

has created uncertainty about the status of existing PoSH Act protections and has been exploited by some employers to avoid compliance (Jha, 2022).

Insufficient Strengthening of Enforcement: The Labour Codes do not substantively strengthen enforcement mechanisms or address the accountability gaps that have plagued the PoSH Act. Without robust monitoring, increased penalties, and dedicated resources, the pattern of non-compliance is likely to continue (Shyam Sundar, 2020).

POTENTIAL FOR REGRESSION

There is a real risk that the transition to the Labour Codes could result in regression rather than progress. The PoSH Act, for all its implementation challenges, established a clear normative framework and created some institutional infrastructure for addressing workplace harassment. If the Codes are implemented without adequate attention to these specificities, and without learning from the PoSH Act's shortcomings, the gains of the past decade could be eroded (Menon & Nigam, 2022). Moreover, the broader political-economic context of the Labour Codes—which prioritize ease of doing business and labor flexibility over worker protections—suggests that women's safety concerns may be sidelined in favor of employer interests. The consolidation of labor laws, while potentially beneficial in simplifying compliance, also concentrates power in the hands of the executive and reduces the space for worker representation and collective bargaining (Harriss-White et al., 2021).

COMPARATIVE ANALYSIS—LEARNING FROM GLOBAL BEST PRACTICES

India's approach to workplace sexual harassment can be usefully compared with frameworks in other jurisdictions to identify potential areas for reform. While each legal system operates within distinct cultural and institutional contexts, certain best practices have emerged globally.

UNITED STATES AND EEOC ENFORCEMENT

In the United States, workplace sexual harassment is addressed primarily under Title VII of the Civil Rights Act of 1964, which prohibits employment discrimination on the basis of sex. The Equal Employment Opportunity Commission (EEOC) plays a central role in investigating complaints, mediating disputes, and litigating cases (EEOC, 2023). Unlike India's committee-based approach, the

U.S. system allows complainants to file charges directly with a federal agency, which has investigative powers and can impose significant penalties on employers found liable.

The availability of compensatory and punitive damages in Title VII cases creates strong financial incentives for employers to prevent harassment and take complaints seriously. India's framework, by contrast, limits remedies to disciplinary action and lacks the deterrent effect of substantial monetary liability (MacKinnon, 1979; Schultz, 2018).

UNITED KINGDOM: EQUALITY ACT AND EMPLOYER LIABILITY

The UK's Equality Act 2010 makes employers vicariously liable for harassment by employees unless they can demonstrate that they took all reasonable steps to prevent such conduct. This shifts the burden onto employers to proactively create safe workplaces rather than merely react to complaints (Equality and Human Rights Commission, 2020). The emphasis on reasonable steps has driven the development of comprehensive workplace policies, regular training, and organizational culture change initiatives.

India's PoSH Act touches on employer liability but does not create as strong a legal incentive for prevention. Strengthening vicarious liability provisions and clarifying what constitutes reasonable preventive measures could enhance compliance (Hepple, 2011).

SOUTH AFRICA: INTEGRATION WITH BROADER EQUALITY FRAMEWORK

South Africa's approach integrates sexual harassment within a comprehensive equality framework that addresses intersecting forms of discrimination. The Employment Equity Act and the Promotion of Equality and Prevention of Unfair Discrimination Act work in tandem to address workplace harassment with attention to race, gender, and other identity axes (Albertyn, 2009). This intersectional approach recognizes that harassment is often compounded by multiple forms of marginalization—a dimension inadequately addressed in Indian law.

South Africa also provides for specialized equality courts that handle discrimination cases, offering a less intimidating and more accessible forum than regular courts. India could consider similar specialized tribunals with expertise in workplace harassment and gender justice (Goldblatt, 2006).

SWEDEN: PREVENTIVE FOCUS AND TRADE UNION ROLE

Sweden's approach emphasizes prevention and assigns a significant role to trade unions in monitoring workplace safety and supporting workers who face harassment. The Work Environment Act requires employers to conduct regular risk assessments for psycho-social hazards, including sexual harassment, and to implement preventive measures (Swedish Work Environment Authority, 2021). Trade unions have the right to appoint safety representatives who can halt work if serious risks are identified.

India's labor movement, while historically strong in certain sectors, has limited involvement in addressing workplace sexual harassment. Empowering unions to play a monitoring and support role, particularly in sectors with high unionization, could strengthen implementation (Healy et al., 2011).

INTERSECTIONALITY AND MARGINALIZED WOMEN WORKERS

While the PoSH Act represents an important step forward, it has been critiqued for its inadequate attention to the intersectional dimensions of harassment. Women workers do not experience sexual harassment in a vacuum; their vulnerability and the forms harassment takes are profoundly shaped by caste, class, religion, disability, and sexuality (Agnes, 2016; Kannabiran, 2012).

CASTE AND SEXUAL HARASSMENT

Dalit women face sexual harassment not merely as women but specifically as Dalit women, with harassment often serving as a tool to reinforce caste hierarchies and assert upper-caste dominance. Studies document how Dalit women in agricultural work, domestic service, and manual scavenging face pervasive sexual violence that goes unreported because of their social marginalization and fear of caste-based retaliation (Rege, 2006; Rao, 2009).

The PoSH Act's mechanisms are ill-equipped to address this intersectional violence. ICCs and LCCs rarely include Dalit women or representatives from Dalit organizations, and inquiries often fail to recognize the caste dimensions of harassment. Moreover, the Act does not provide for cumulative consideration of sexual harassment alongside caste-based discrimination, leaving Dalit survivors without adequate recourse (Prasad, 2014).

CLASS AND INFORMAL WORK

The vast majority of India's women workers are concentrated in informal employment—domestic work, agriculture, construction, street vending, home-based production—where they lack formal employment contracts, job security, or access to social protections (Chen, 2012). For these women, the PoSH Act's frameworks are largely irrelevant. Domestic workers, for instance, work in isolated private households where harassment is difficult to prove, and where filing a complaint could mean immediate job loss without any safety net (Neetha, 2013).

While the Act theoretically covers informal workers and mandates LCCs, the reality is that LCCs are dysfunctional, and informal workers have neither the awareness nor the resources to navigate the complaints process. Class-based power dynamics mean that complaints by poor women against employers or contractors are often dismissed as false or motivated by financial gain (Patel & Parmentier, 2005).

DISABILITY AND VULNERABILITY

Women with disabilities face heightened vulnerability to sexual harassment but are often excluded from workplace protections altogether. Disability compounds gender-based marginalization, with women with disabilities facing barriers in accessing employment, experiencing higher rates of violence, and having limited ability to report or seek redressal (Ghai, 2002). The PoSH Act does not specifically address the needs of women with disabilities, and physical inaccessibility of complaints mechanisms, lack of accommodations during inquiries, and attitudinal barriers further impede access to justice.

RELIGIOUS MINORITIES AND COMMUNAL DIMENSIONS

Muslim women and women from other religious minorities face specific forms of harassment shaped by communal stereotypes and prejudices. In contexts of communal tension, sexual harassment can be weaponized as a form of communal violence, and minority women's complaints may be dismissed or reframed as communal disputes (Engineer, 2004). The PoSH Act's gender-specific framework does not account for these communal dimensions, and the absence of minority representation in ICCs and LCCs exacerbates the problem.

RECOMMENDATIONS FOR REFORM

Based on the foregoing analysis, this paper proposes a multi-pronged reform agenda to strengthen India's legal framework for addressing workplace sexual harassment and ensure meaningful protection for all women workers:

LEGISLATIVE REFORMS

- **Strengthen Enforcement:** Increase penalties for non-compliance, including substantial fines and suspension of business operations for repeated violations. Empower district officers with dedicated resources and staff to monitor compliance and prosecute violations.
- **Expand Definition:** Explicitly recognize intersectional harassment based on caste, religion, disability, and sexuality. Amend the definition to cover digital harassment, which has become increasingly prevalent.
- **Simplify Complaints Process:** Reduce procedural complexity and allow for anonymous complaints. Extend time limits for filing complaints, recognizing the trauma and fear that often delay reporting.
- **Introduce Vicarious Liability:** Make employers strictly liable for harassment unless they demonstrate implementation of comprehensive preventive measures, including regular training, robust policies, and responsive complaints mechanisms.
- **Remove Provision on False Complaints:** The provision deterring false complaints should be removed or significantly revised, as it has a chilling effect on genuine complaints. Existing laws on perjury and defamation are sufficient to address malicious complaints.

INSTITUTIONAL REFORMS

- **Establish Independent Commissions:** Create state-level independent commissions for workplace sexual harassment with powers to investigate complaints, impose penalties, and monitor compliance. These commissions should have representation from women's rights organizations, trade unions, and marginalized communities.
- **Revitalize LCCs:** Significantly strengthen LCCs by providing dedicated budgets, full-time staff, physical office spaces, and regular training. Conduct extensive outreach to informal sector workers to inform them of LCC existence and procedures.

- **Improve ICC Functioning:** Mandate regular training for ICC members on trauma-informed inquiry methods, intersectionality, and gender sensitization. Ensure ICC independence by prohibiting members with conflicts of interest and providing whistleblower protections.
- **Establish Specialized Tribunals:** Create specialized employment tribunals with expertise in workplace harassment to adjudicate appeals from ICC/LCC decisions and to handle criminal prosecutions, ensuring faster and more informed justice.

AWARENESS AND PREVENTION

- **Mandatory Comprehensive Training:** Require all employers to conduct mandatory, annual training for all employees on sexual harassment, with specific modules for supervisors and managers on prevention and response.
- **Mass Awareness Campaigns:** Launch sustained, multi-lingual, multi-platform awareness campaigns targeting women workers, particularly in informal sectors. Utilize community radio, NGOs, women's self-help groups, and panchayats to disseminate information.
- **Include in School Curricula:** Integrate education on consent, respectful relationships, and gender equality into school curricula to build a culture that prevents harassment from developing.
- **Encourage Bystander Intervention:** Promote workplace cultures where bystander intervention is encouraged and supported, with protections for employees who report harassment on behalf of others.

DATA COLLECTION AND MONITORING

- **Systematic Data Collection:** Establish a centralized database to track complaints, inquiries, and outcomes across all sectors. Disaggregate data by caste, class, sector, and geography to identify patterns and target interventions.
- **Regular Audits:** Conduct regular audits of ICC and LCC functioning, employer compliance, and district officer performance. Publish audit findings publicly to ensure accountability.
- **Research and Evaluation:** Support independent research on the effectiveness of interventions, barriers to reporting, and survivor experiences to inform evidence-based policy reforms.

SUPPORT SERVICES

- **Counseling and Legal Aid:** Mandate employers to provide access to free counseling and legal aid for survivors. Establish help lines and crisis centers specifically for workplace sexual harassment.
- **Economic Support:** Create support funds to provide interim financial assistance to survivors who face job loss or economic hardship as a result of harassment or reporting.
- **Rehabilitation Programs:** Develop rehabilitation programs to help survivors rebuild their careers, including skills training, job placement assistance, and psycho-social support.

CONCLUSION

Three decades after the Vishakha judgment, India's legal framework for addressing workplace sexual harassment has evolved considerably. The journey from judicially mandated guidelines to comprehensive legislation and now to integration within the Labour Codes represents significant normative progress. The PoSH Act, in particular, established a robust framework that expanded protections, created institutional mechanisms, and mandated employer accountability.

Yet, the gap between law and reality remains vast. Non-compliance is rampant, awareness is woefully inadequate, enforcement is weak, and the most vulnerable women workers—those in informal sectors, Dalit women, women with disabilities, and women from religious minorities—remain largely unprotected. The transition to the Labour Codes carries risks of further dilution and deprioritization if not accompanied by strengthened enforcement and sustained political will.

Addressing workplace sexual harassment effectively requires not merely legal reform but fundamental transformation of workplace cultures and gender norms. It demands recognition of the intersectional nature of harassment and the development of tailored strategies for reaching marginalized women. It requires robust enforcement backed by adequate resources and political commitment. And it necessitates the active participation of trade unions, women's organizations, and civil society in monitoring implementation and supporting survivors.

As India moves forward with implementing the Labour Codes, policymakers, employers, civil society, and the judiciary must ensure that the hard-won gains of the past three decades are not eroded. The promise of Vishakha—that women have a fundamental right to work with dignity and without fear of harassment—must be realized not just in legal text but in the lived experiences of millions of women

workers across the country. Only then can India claim to have truly addressed the scourge of workplace sexual harassment.

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