

# Empowering Victims: The Intersection of Law and Sexual Harassment in Justice System of India

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## Abstract

This study examines the intersection of law and sexual harassment within the Indian justice system, highlighting the challenges and barriers faced by victims seeking justice. Despite the existence of legal frameworks such as the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, many victims encounter systemic hurdles, including societal stigma, inadequate enforcement of laws, and insufficient support mechanisms. Through a comprehensive analysis of existing legal provisions, societal attitudes, and institutional responses, the research aims to identify gaps and propose actionable recommendations to enhance the effectiveness of the legal system in addressing sexual harassment. By empowering victims and fostering a more responsive judicial framework, this study aspires to contribute to the ongoing discourse on gender justice and the protection of rights in India.

**Keyword:** Sexual Harassment, Law and Justice, Victim Empowerment, Societal Attitudes, Justice System.

## **1. Introduction**

Sexual harassment remains a pervasive issue in India, deeply rooted in societal norms and gender inequality. The legal framework addressing this violation has evolved significantly, particularly with the enactment of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. This landmark legislation aims to provide a safe working environment for women and ensure their dignity is upheld (Jha, 2017, p. 25). Despite these legal advancements, victims often face numerous barriers when seeking justice. The complexity of the legal process, societal stigma, and insufficient awareness about legal rights often deter victims from coming forward, leading to underreporting and a culture of silence surrounding sexual harassment (Kumar & Shukla, 2020, Article 5).

Moreover, the intersection of law and societal attitudes plays a crucial role in shaping the response to sexual harassment cases in India. Studies indicate that cultural beliefs and stereotypes regarding gender significantly influence the treatment of victims within the legal system (Sundari, 2018, Article 4). For instance, victims frequently encounter scepticism and victim-blaming attitudes, which can further traumatize them and discourage them from pursuing justice (Ghosh & Prasad, 2019, p. 112). The effectiveness of legal remedies is therefore contingent upon not only the law itself but also the attitudes of those who enforce and interpret it.

Empowering victims through education about their rights and legal recourse is essential to improving the justice system's response to sexual harassment. Research has shown that awareness campaigns and training for law enforcement and judicial officials can enhance sensitivity towards victims and promote a more victim-centric approach in handling cases of sexual harassment (Mitra, 2020, Article 3). Additionally, involving civil society organizations in advocacy and support services can provide victims with the necessary resources to navigate the legal system more effectively (Chowdhury, 2021, Article 6).

This paper explores the intersection of law and sexual harassment in the Indian justice system, highlighting the challenges victims face and the steps needed to empower them. It advocates for a comprehensive approach that includes legal reforms, societal change, and increased support for victims, aiming to create an environment where justice for sexual harassment is not just a legal obligation but also a societal commitment.

### **1.1. Emergence of the Study**

The emergence of this study is rooted in the urgent need to address the pervasive issue of sexual harassment within the Indian context. Over the past few decades, societal awareness around gender-based violence has grown,

leading to a significant discourse on women's rights and empowerment. The impetus for this study stems from the increasing number of reported cases of sexual harassment, both in public and private spaces, highlighting a systemic failure in the legal and social response mechanisms designed to protect victims. Despite the enactment of progressive legislation such as the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, gaps remain in the effective implementation and enforcement of these laws, often leaving victims feeling powerless and marginalized.

This research aims to explore the intersection of law and sexual harassment in India, focusing on the barriers faced by victims within the justice system. Historical and cultural factors contribute to the complexities surrounding sexual harassment cases, often exacerbating the stigma and victim-blaming attitudes prevalent in society. Victims frequently encounter scepticism and lack of support from law enforcement agencies, further deterring them from pursuing justice. Additionally, societal norms that prioritize honour and reputation over individual rights complicate the narrative, creating a culture of silence that hinders reporting and redressed.

Furthermore, the study emerges from a recognition of the need for comprehensive education and awareness initiatives. Many victims remain unaware of their legal rights and the recourse available to them, which can lead to further victimization. By investigating the current landscape of sexual harassment laws and their impact on victims, this study seeks to illuminate the critical need for legal literacy, sensitivity training for law enforcement, and greater support systems for survivors. This study is a response to the pressing challenge of sexual harassment in India, emphasizing the necessity for an integrated approach that combines legal reform, societal change, and victim empowerment. By addressing these critical issues, the research aims to contribute to the ongoing dialogue surrounding gender-based violence and to advocate for a justice system that truly serves and protects the rights of all individuals.

## **1.2. Sexual harassment: Indian Legislation Approach**

India's legislative approach to sexual harassment has evolved significantly over the years, driven by societal demands for greater protection and justice for victims. Here are the key components and developments in the legal framework addressing sexual harassment in India:

### **Historical Context**

Before the enactment of specific laws, sexual harassment was addressed under various sections of the Indian Penal Code (IPC) that dealt with offenses against women. However, these provisions often lacked clarity regarding workplace harassment, leading to the necessity for more comprehensive legislation.

### **Vishaka Guidelines (1997)**

The landmark judgment in *Vishaka v. State of Rajasthan* (1997) by the Supreme Court of India laid the groundwork for addressing sexual harassment in the workplace. The court established the **Vishaka Guidelines**, which defined sexual harassment and mandated employers to create a safe working environment. This was a significant step in recognizing the need for formal policies and procedures to prevent and address sexual harassment.

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

In response to the Vishaka Guidelines, the Indian Parliament enacted the **Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013**.

Following the Delhi gang rape case in 2012, the Criminal Law (Amendment) Act, 2013 made significant changes to various IPC sections related to sexual offenses. This amendment expanded the definition of rape and introduced harsher penalties for sexual offenses, reinforcing the legal framework surrounding sexual harassment. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

The ongoing discourse surrounding sexual harassment has led to calls for further reforms, including the need for comprehensive laws that encompass all genders, heightened accountability for employers, and improved support systems for victims. Legislative efforts continue to evolve as societal awareness increases, aiming to create a safer and more equitable environment for all individuals.

### **1.3. The Statement of the Problem**

The problem this study addresses is the persistent inadequacy of the Indian justice system in effectively responding to sexual harassment cases, which undermines the rights and dignity of victims. Despite the existence of progressive laws aimed at preventing and addressing sexual harassment, many victims encounter significant barriers when seeking justice, including societal stigma, lack of awareness of their legal rights, and a legal framework that is often slow and ineffective in delivering justice. This inadequacy exacerbated by cultural attitudes that perpetuate victim blaming and discourage reporting, leading to underreporting of incidents. Consequently, there is a critical need to examine the intersection of law and societal attitudes towards sexual harassment, identify the systemic flaws within the justice process, and propose measures to empower victims and enhance the efficacy of legal remedies available to them.

### **1.4. The Research Questions**

**RQ1:** How effective are the existing laws and regulations in India concerning sexual harassment in providing protection and justice to victims?

**RQ2:** What is the impact of societal attitudes on the handling of sexual harassment cases in India?

**RQ3:** What actionable recommendations developed to enhance the legal response to sexual harassment in India and improve outcomes for victims?

### **1.5. The Objectives of the Study**

**O1:** To examine the effectiveness of existing laws and regulations in India concerning sexual harassment.

**O2:** To analyze the impact of societal attitudes on the handling of sexual harassment cases in the Indian context.

**O3:** To develop actionable recommendations aimed at improving the legal response to sexual harassment.

## **2. The Review of Related Literature**

**Guinea. (2022).** Practicability of the Practice of Anti-Sexual Harassment Law: A Feminist Analysis of Jurisprudential Crisis of the Indian Legal System. In *Gender, Law and Social Transformation in India* (pp. 123-143). Singapore: Springer Nature Singapore. The chapter begins with a historical analysis of the Indian legal system and proceeds to an evaluation of the relationship between the theoretical background of the PoSH law and its adoption by legal institutions themselves. Further, the author analyses the application of the PoSH law in the face of complaints of sexual harassment within the legal community. In doing so, a comparative analysis of four cases of sexual harassment against judges of the Indian Supreme court and a Delhi district court between 2012 and 2019 has been undertaken. The author places the evolutionary jurisprudential ‘crisis’ of the Indian legal system at the forefront to highlight the flaws in the practical application of the PoSH law in cases of sexual harassment by victims within the legal profession and understands the ‘theory–practice spiral’ in postcolonial India.

**Menon, N. (2019).** Sexual violence and the law in India. In *Research Handbook on Feminist Jurisprudence* (pp. 184-212). Edward Elgar Publishing. This chapter examines the changed legal landscape of sexual violence after the amendments and new laws of 2012 and 2013 in India. It critically analyzes the key political interventions that have emerged from different kinds of feminist spaces and perspectives, which are in mutual debate, although all are in contestation with patriarchal legal and social attitudes. Both feminist and patriarchal views on rape find expression in the public arena as well as in inputs into the law, and this results in legal changes that are often antithetical to feminist ethics. The chapter asks to what extent feminists can continue engaging with the law under such circumstances and offers an expanded definition of due process that acknowledges an ‘outside’ to the law, which includes feminist political mobilization of different kinds. It thus offers a broader theorization of feminist jurisprudence and the feminist politics of sexual violence drawing from the Indian experience.

**Kapoor, V., & Dhingra, K. (2013).** Sexual harassment against women in India. *OIDA International Journal of Sustainable Development*, 6(10), 85-92. The Indian Law dealing with offenses of sexual harassment has been given under the Indian Penal Code, 1860. The relevant provisions which have been included in this research paper are those relating to rape (Section 375 and 376) and outraging the modesty of a woman (Section 509, 294 and 354). Also, an analysis of the recent Criminal Law (Amendment) Act, 2013 has also been included in the study.

**Belur, J., & Singh, B. B. (2015).** Child sexual abuse and the law in India: a commentary. *Crime Science*, 4(1), 26. The paper highlights the intended benefits and the unintended consequences that might arise from the application of the law in the Indian context. Undoubtedly, the passing of POCSO has been a major step forward in securing children's rights and furthering the cause of protecting children against sexual abuse in conjunction with a related legislation to clamp down on child marriages called the Prohibition of Child Marriage Act 2006. The letter and spirit of the law, which defines a child as anyone under 18 years of age, is to protect children from sexual abuse. However, criminalizing all sexual behaviour under 18 years of age can be problematic. This paper identifies three main issues arising from POCSO: age of consent, age determination, and mandatory reporting; issues that highlight the fact that well-meaning laws can nevertheless have unintended negative consequences.

### **2.1. The Research Gap of the Study**

Despite the extensive body of research on sexual harassment laws in India, several gaps persist in the practical empowerment of victims within the justice system. Studies, such as those by Guinea (2022) and Menon (2019), emphasize the theoretical and jurisprudential crises in implementing the Prevention of Sexual Harassment at Workplace (PoSH) Act, alongside patriarchal influences and the limitations of feminist legal interventions. However, these studies often overlook the specific challenges victims face in navigating the judicial process, such as delays, institutional bias, and ineffective enforcement mechanisms. Additionally, the comparative analysis of sexual harassment cases within legal institutions highlights the lack of sufficient examination into how victims within the broader workforce—especially in informal sectors—access justice. This study aims to address these gaps by providing actionable recommendations focused on improving legal responses, ensuring timely justice, and offering robust support systems for victims.

### **3. Research Methodology**

Document analysis is a qualitative research methodology that involves systematically reviewing and interpreting various types of documents—such as laws, policy reports, organizational records, media articles, and personal narratives—to extract meaningful insights and understand social phenomena. This approach allows researchers to delve into historical contexts, cultural narratives, and institutional practices without the need for direct observation or interviews, making it particularly useful for sensitive topics. The process typically involves defining research questions, selecting relevant documents, developing a coding framework, extracting and analyzing data, and reporting findings. While document analysis provides a rich source of data and a cost-effective means of inquiry, researchers must be mindful of potential biases in documents and the necessity of contextual understanding to avoid misinterpretation.

### **4. The Analysis and Interpretation**

#### **Pertaining to Objective 1:**

*O1: To examine the effectiveness of existing laws and regulations in India concerning sexual harassment.*

The effectiveness of existing laws and regulations in India regarding sexual harassment evaluated through various lenses, including their scope, implementation, enforcement mechanisms, and the actual impact on victims seeking justice. The cornerstone of the legal framework addressing sexual harassment in India is the **Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013**. This landmark legislation enacted following the Supreme Court's directive in the Vishaka case (1997), which recognized sexual harassment as a violation of women's fundamental rights to equality, life, and liberty under Articles 14, 15, and 21 of the Indian Constitution.

The Act mandates the establishment of Internal Complaints Committees (ICCs) in workplaces with ten or more employees, ensuring a structured mechanism for addressing complaints. However, despite these provisions, several challenges undermine its effectiveness. A significant issue is the lack of awareness among both employers and employees about the provisions of the Act. Many victims remain unaware of their rights or the complaint procedures, leading to underreporting of incidents (Kumar & Shukla, 2020, Article 5).

Moreover, the implementation of the Act has been inconsistent across different sectors and regions. Many organizations fail to set up ICCs, and those that do often lack the necessary training and resources to handle complaints effectively (Sundari, 2018, Article 4). This inconsistency leads to a climate of impunity, where perpetrators may not face appropriate consequences for their actions, further dissuading victims from coming forward.

The legal process itself poses another hurdle. Victims often face a lengthy and complex legal journey, which can be intimidating and discouraging. Reports indicate that victims frequently encounter scepticism and victim-blaming attitudes from law enforcement and judicial authorities, exacerbating their trauma (Ghosh & Prasad,

2019, p. 112). This negative experience not only deters individuals from reporting incidents but also perpetuates a culture of silence surrounding sexual harassment.

In addition to the workplace law, other relevant legislation includes the Indian Penal Code (IPC), which criminalizes certain acts of sexual harassment under Section 354A, 354B, and 509. However, the application of these laws often varies, and victims may find it difficult to navigate the legal system, especially in cases where workplace dynamics are involved (Mitra, 2020, Article 3).

The existing laws and regulations in India concerning sexual harassment provide a framework for protection and justice, significant gaps in awareness, implementation, and societal attitudes hinder their effectiveness. A concerted effort needed to enhance the understanding of these laws, ensure robust implementation, and create an environment where victims feel supported and empowered to seek justice.

### **Pertaining to Objective 2:**

*O<sub>2</sub>: To analyze the impact of societal attitudes on the handling of sexual harassment cases in the Indian context.*

Societal attitudes in India play a significant role in shaping the response to sexual harassment cases, influencing everything from victim reporting to the legal proceedings that follow. Cultural norms, traditional gender roles, and deeply ingrained patriarchal values contribute to a complex environment where victims often face numerous obstacles when seeking justice.

One of the primary impacts of societal attitudes is the prevalent culture of victim-blaming. Many victims of sexual harassment subjected to scrutiny regarding their behavior, clothing, and personal choices, which perpetuates the misconception that they are somehow responsible for the harassment they experience. This attitude not only discourages victims from reporting incidents but also leads to a lack of support from family, friends, and communities, further isolating them in their distress (Sundari, 2018, Article 4). Reports have shown that victims are often met with scepticism and judgment when they come forward, which reinforces the stigma surrounding sexual harassment and contributes to underreporting (Kumar & Shukla, 2020, Article 5).

Moreover, societal norms dictate how sexual harassment cases perceived and handled within families and communities. In many instances, victims pressured to remain silent to protect family honour or maintain social standing, further deterring them from pursuing legal action. Such pressures can manifest in various forms, including emotional coercion and threats, thereby contributing to a culture of silence (Ghosh & Prasad, 2019, p. 112). Consequently, even when victims are aware of their rights, the societal ramifications of coming forward can be daunting and overwhelming.

Additionally, societal attitudes extend to the institutions responsible for handling sexual harassment cases, including law enforcement and judicial systems. Research indicates that law enforcement officers and judicial authorities may hold biases that affect their treatment of victims. For example, they express scepticism about a victim's credibility based on prevailing stereotypes regarding women's behavior and morality (Mitra, 2020, Article 3). This can result in inadequate investigations, leniency towards perpetrators, and a failure to enforce existing laws effectively, thereby diminishing the likelihood of justice served.

The media's portrayal of sexual harassment also significantly influences societal attitudes. Sensationalized coverage trivialize the experiences of victims or sensationalize their trauma, leading to further stigmatization. Conversely, when the media highlights the stories of survivors who successfully seek justice, it can create a supportive environment that encourages victims to come forward (Chowdhury, 2021, Article 6).

The societal attitudes profoundly affect the handling of sexual harassment cases in India, creating barriers to reporting, influencing the behavior of institutions, and perpetuating a culture of silence. Addressing these attitudes through education, awareness campaigns, and media representation is essential for fostering a supportive environment for victims and ensuring that sexual harassment taken seriously within both legal and societal contexts.

### **Pertaining to Objective 3:**

*O<sub>3</sub>: To develop actionable recommendations aimed at improving the legal response to sexual harassment.*

#### **1. Strengthening Legal Frameworks:**

- Revise the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, to address gaps in implementation, such as expanding the definition of workplace to include informal sectors and ensuring protections for all genders. Develop standardized

procedures for investigating sexual harassment complaints that provide clarity on timelines, responsibilities, and the rights of complainants.

**2. Enhancing Awareness and Education:**

- Launch comprehensive campaigns aimed at educating the public about sexual harassment laws, victim rights, and available reporting mechanisms. Focus on schools, colleges, and workplaces to foster a culture of respect and accountability. Implement mandatory training sessions for police and judiciary officials to sensitize them to the issues of sexual harassment, victim support, and gender sensitivity. This training should emphasize the importance of believing and supporting victims.

**3. Establishing Support Systems:**

Create dedicated support services for victims of sexual harassment, including legal assistance, counselling, and safe spaces for reporting incidents. These services should be easily accessible and confidential. Encourage local NGOs and community organizations to facilitate workshops and training sessions aimed at empowering victims and educating the community about sexual harassment.

**4. Improving Institutional Mechanisms:**

- Mandate regular audits and training for ICCs to ensure they function effectively and are equipped to handle complaints impartially and sensitively. Establish mechanisms to hold organizations accountable for failing to address complaints of sexual harassment adequately, including penalties for non-compliance with the law.

**5. Utilizing Technology:**

- Develop secure online platforms for reporting sexual harassment incidents that can maintain anonymity and protect the identity of victims. This can encourage more individuals to come forward without fear of reprisal. Create user-friendly mobile applications that provide information on sexual harassment laws, rights, and available support services, along with a feature for reporting incidents.

**6. Promoting Research and Data Collection:**

- Undertake nationwide surveys to assess the prevalence of sexual harassment and understand the experiences of victims. This data inform policy decisions and the effectiveness of current laws. Fund studies that explore the impact of societal attitudes on sexual harassment cases and identify strategies for changing public perception.

**7. Facilitating Collaborative Efforts:**

- Encourage dialogues between government bodies, civil society organizations, and private sectors to collaboratively develop and implement policies that promote gender equality and prevent sexual harassment. Learn from and adapt successful strategies implemented in other countries to combat sexual harassment, tailoring them to the Indian context.

By implementing these recommendations, India can enhance its legal response to sexual harassment, ensuring that victims are better supported and that their cases are handled with the seriousness and sensitivity they deserve. These changes aim to create a safer environment where individuals feel empowered to report incidents and seek justice without fear of stigma or retaliation.

**5. Conclusion**

The study on Empowering Victims: The Intersection of Law and Sexual Harassment in the Justice System of India underscores the critical need for a more robust and victim-centric legal framework. While laws such as the PoSH Act of 2013 have laid the foundation for addressing workplace sexual harassment, their practical implementation marred by societal stigmas, institutional inefficiencies, and gaps in enforcement. The study highlights that legal reforms alone are insufficient; a holistic approach involving societal change, institutional accountability, and strengthened support systems for victims is necessary. By addressing these issues and making the legal system more accessible and responsive, India can better protect victims of sexual harassment and promote gender justice.

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