

Women in Indian Workplaces: Challenges in addressing workplace sexual harassment

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Violence against women in India has steadily risen year after year, even as the population grows more aware of gendered violence and mass protests against the state of gendered violence take place. Power structures that enable violence against women in India are pervasive in work environments and other public spaces, across both formal and informal sectors. Underreporting of all forms of violence makes the scale of the problem difficult to understand and complicates attempts to address the issue. An examination of socio-cultural and institutional reasons for underreporting is critical in order to better understand and address workplace sexual harassment in India.

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Women in both formal and informal industries are less likely to report incidents of sexual harassment due to pervasive patriarchal cultural narratives and the phenomenon of victim-blaming. A study carried out by Menon and Allen in 2018 demonstrates that patriarchal narratives and victim-blaming are common practices amongst traditional formal responders, such as police.

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Background

Overview of workplace sexual harassment in India

Workplace sexual harassment in India must be understood in the wider cultural context surrounding all forms of sexual harassment and violence in India (Sambaraju, 2020). Crimes against women in general have risen steadily across the years, standing at over 400,000 cases of reported crime in 2019 (Bhuyan and Khaitan, 2021). Since the 2012 gang rape and murder of a young woman in Delhi, the issue of sexual harassment and violence has become publicly salient, but crime rates have continued rising and conviction rates remain low (Bhuyan and Khaitan, 2021; Times of India, 2020). Intertwined with sexual violence are wider power dynamics related to caste and religion, with many recent cases in the limelight involving victims from marginalised backgrounds (Times of India, 2020).

Workplace sexual harassment is a prevalent issue faced by many in India, but is underreported due to a multitude of reasons. In 2019, 505 cases of “insult to modesty of women at the work or in office premises” were recorded by the National Crime Records Bureau, but the actual number of incidents is likely much higher (Bhuyan and Khaitan, 2021). Even where committees are set up to investigate and collect data on the nature of workplace sexual harassment in India, few organisations have the necessary policies and structures to allow data collection and thorough investigation (Bhuyan and Khaitan, 2021). Adding to this challenge is the fact that nearly 90% of the working Indian population is employed in the informal economy, where they work without contracts, paid leave and health benefits (Deloitte, 2019)(Khan, 2020). Workers in the informal economy might be uniquely vulnerable to sexual harassment and have few formalised structures through which they can report incidents and seek redress (Indian Express, 2018).

Existing Legal Frameworks

The **Vishaka** guidelines were the first legal frameworks that recognised protection from sexual harassment in the workplace as the responsibility of employers (Tejani, 2004). Developed by the Supreme Court in 1997, the Vishaka guidelines state that all public and private sector organisations must develop policies and frameworks for the prevention and redressal of sexual harassment in the workplace (Usman, 2019). These guidelines were developed with the explicit understanding that legislation on this issue was to follow, thus, **The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act** (POSH Act) was developed in 2013 (Usman, 2019). Under the POSH Act, sexual harassment is defined as including “any one or more of the following unwelcome acts or behavior (whether directly or by implication) namely:— (i) physical contact and advances; or (ii) a demand or request for sexual favours; or (iii) making sexually coloured remarks; or (iv) showing pornography; or (v) any other unwelcome physical, verbal or non-verbal conduct of sexual nature.” The Act covers public and private organisations, as well as workers in formal and informal sectors.

While the POSH Act was a long-awaited and necessary piece of legislation, it does not come without its problems. In organisations that have more than ten employees, the primary redressal mechanism required by the Act is an internal investigation committee, leaving the nuances of each claim up to interpretation by the internal committee (Nishith Desai Associates, 2020). Workers in informal sectors are required to take their complaint to a Local Committee within three months of the incident, and risk facing a condonement of three months from the Committee if the complaint is brought outside of this window (Usman, 2019). Furthermore, the POSH Act explicitly protects only women employees, thus not recognising workplace sexual harassment faced by any other gender (Nishith Desai Associates, 2020).

Challenges

Naming and Shaming: Cultural Barriers to Reporting Incidents of Sexual Harassment

Women in both formal and informal industries are less likely to report incidents of sexual harassment due to pervasive patriarchal cultural narratives and the phenomenon of victim-blaming. A study carried out by Menon and Allen in 2018 demonstrates that patriarchal narratives and victim-blaming are common practices amongst traditional formal responders, such as police. Additionally, the onus for protecting oneself from sexual harassment and violence is largely placed on women. A government official was quoted in the study saying “Another challenge I would say in India is when police commissioners say ‘please avoid going late in the night’, people say ‘oh how could you say that’- with the complexity of the society people need to be careful as well” (Ria, in Menon and Allen, 2018: pg. 5). A lack of faith in official channels due to such attitudes being held at all levels of public institutions, as well as the fear of judgement, hold victims back from making complaints at all.

In addition to fear of judgment from formal responders, there is also an element of social shame attached to sexual harassment and violence. Victims of sexual harassment are sometimes seen as bringing shame on themselves and their family, due to the perceived link between women’s chastity and their honour (Chaudhuri, 2007; Menon and Allen, 2018). Women’s societal reputations are likely to be harmed if their community were to find out that they were sexually harassed, and they are likely to face accusations of being ‘characterless,’ which can in turn affect their marriage prospects (Chaudhuri, 2017; Menon and Allen, 2018; Sambaraju, 2020).

Professional Consequences of Reporting Workplace Sexual Harassment

Another barrier to the reporting of workplace sexual harassment is the fear of dismissal as a result of making a complaint. In a study done of healthcare workers in Kolkata, Chaudhuri (2007) found that in incidents where the perpetrator was in a position of relative authority, victims were less likely to report them as they did not think that any action would be taken against the perpetrator, and because of the possible consequences of making a complaint. “Many reported fear of dismissal, loss of income, blocking of promotion and victimisation in work assignments” (Chaudhuri, 2007: pg. 228). One participant even expressed that “[uncomfortable situations] have to be accepted as part of life” (Doctor, in Chaudhuri, 2007: pg. 228). Organisations are often unwilling to put sufficient policies in place to protect their employees, as was seen when an employee at KPMG reported an incident of sexual harassment (Sarpotdar, 2013). Rather than thoroughly investigating the complaint, the employee was dismissed and later publicly vilified after her name was released in a report on the case.

Policy Recommendations

Looking at the evidence presented so far, it is clear that tackling workplace sexual harassment must be intertwined with measures to address sexual harassment and violence in other spaces as well, and significant efforts are required to tackle cultural norms that shame victims and prevent them from getting the help and support they need. Critically, victims must be supported to speak up about their experiences and report perpetrators through the relevant channels. Possible policy considerations include:

- *Strengthening enforcement mechanisms outlined in the POSH Act of 2013, ensuring effective implementations across organised and unorganised sectors.*
- *Developing a policy framework for challenging existing socio-cultural attitudes towards sexual harassment.*
- *Holding public and private organisations accountable for creating an environment that allows victims of workplace sexual harassment to bring their claims forward with confidence.*
- *Expanding the criteria of who can be considered a victim of sexual harassment by including other genders in legal frameworks addressing workplace sexual harassment.*

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