

GENDER-BASED VIOLENCE IN WORKPLACES

COMMITTEE FOR MANAGING GENDER ISSUES



In August 2024, two significant events brought renewed focus to the ongoing challenges of workplace safety for women in India. The sexual assault and subsequent death of a 31-year-old trainee doctor at a government hospital in Kolkata on August 9 highlighted the vulnerabilities faced by female healthcare workers, particularly during night shifts. Concurrently, the release of the long-awaited Justice K. Hema Commission report on August 19 in Kerala shed light on the working conditions of women in the Malayalam film industry, exposing issues such as the casting couch, inadequate amenities on sets, wage disparities, and exclusion from the industry when refusing to comply with demands from perpetrators.

These specific incidents are part of a larger global and national pattern of violence against women. Global data from the United Nations reveals that one in three women worldwide has experienced violence, with younger women being particularly vulnerable. This trend is reflected in India, where the latest National Family Health Survey (NFHS) reports that 30 percent of women have been subjected to physical or sexual violence. The United Nations Declaration on the Elimination of Violence against Women defines this violence broadly, encompassing any gender-based act that causes physical, sexual, or psychological harm. Structural inequalities related to caste, class, communalism, homophobia, transphobia, and ableism further amplify gender-based violence, making it a pervasive issue across different strata of society.

In this context, the persistent non-compliance with the Prevention of Sexual Harassment (POSH) Act in the corporate sector is particularly troubling. In her insightful study, Akshi Chawla, Director of the Centre for Economic and Data Analysis (CEDA), examines how the POSH Act, enacted in February 2013 to improve women's safety at work, has been largely ineffective due to the lack of centralized data collection. Despite the Act requiring employers to report annual data on harassment complaints—a requirement further emphasized by the Securities and Exchange Board of India in 2018—a decade later, there is still no central system for collecting this data. This scattered and difficult-to-analyze information hampers efforts to effectively monitor and enforce the Act, undermining its intended purpose.

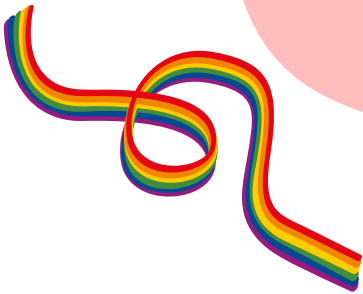


Moreover, the data that is available paints a concerning picture. While the number of reported cases by companies in their annual reports has increased over the years, nearly all these cases come from larger companies ranked in the top 100 on the National Stock Exchange. Medium and smaller companies report almost a negligible share of cases, suggesting a culture of silence or underreporting. As reiterated by the International Labour Organization, the lack of reported cases should be read with caution, as it in no way implies that there have been no such incidents. In fact in another troubling trend smaller firms, fearing increased costs and potential lawsuits, have grown reluctant to hire women altogether. This reveals a culture of complacency, legitimized by those in charge.

This raises an important question: how is an ecosystem that silences cases of sexual assault any less guilty than the perpetrators themselves? In the Kolkata sexual assault case, we saw the initial controversy over obfuscating the matter by framing it as a suicide. Similarly, the resurgence of sexual harassment narratives from several actresses who didn't speak out for fear of consequences showcases the urgent need for institutions to prioritize workplace safety. Traditional legal procedures have repeatedly failed women, and #MeToo's 'informal' procedures are a response to that failure. It is time for policymakers, institutions, and society as a whole to prioritize gender equality and address the root causes of violence. More than that, it is time that we demand accountability, cultivate an ethic of personal responsibility, and create safe spaces for women (and others) wherever we go.

QUEER PERSPECTIVE ON THE POSH ACT: A CRITICAL ANALYSIS

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, commonly referred to as the POSH Act, was a landmark legislation in India aimed at creating a safer work environment for women. However, while it has made strides in addressing sexual harassment, it presents significant limitations, particularly for the queer community. This article by Mosaic explores these shortcomings and offers suggestions for making the POSH Act more inclusive.

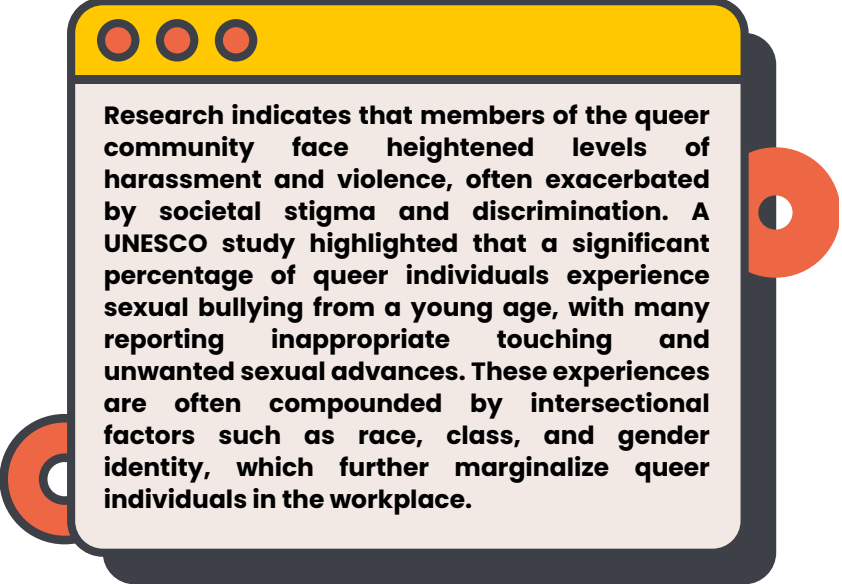


Understanding the POSH Act

The POSH Act was introduced to combat sexual harassment in the workplace. It defines sexual harassment and establishes procedures for complaints and inquiries. The Act acknowledges women as the primary victims of workplace harassment, which reflects a historical context of gender-based discrimination. However, this gendered approach has led to criticisms that the Act fails to protect a broader spectrum of identities, particularly those within the LGBTQ+ community.

The Act defines an "aggrieved woman" as the victim, leaving out men, non-binary individuals, and transgender persons. This exclusion not only perpetuates a binary understanding of gender but also ignores the unique experiences of queer individuals who face harassment in various forms. For instance, a trans woman may experience harassment that is not adequately addressed by a law that primarily focuses on cisgender women's experiences.

The POSH Act's failure to recognize these complexities is problematic. It operates within a framework that prioritizes a binary understanding of gender and overlooks the realities of queer identities. As a result, many individuals who are harassed may not feel empowered to report incidents, fearing that their experiences will not be taken seriously or will be dismissed altogether.



Research indicates that members of the queer community face heightened levels of harassment and violence, often exacerbated by societal stigma and discrimination. A UNESCO study highlighted that a significant percentage of queer individuals experience sexual bullying from a young age, with many reporting inappropriate touching and unwanted sexual advances. These experiences are often compounded by intersectional factors such as race, class, and gender identity, which further marginalize queer individuals in the workplace.

Criticisms of the POSH Act

Several criticisms of the POSH Act highlight its inadequacies in addressing the needs of the queer community:

- 1. Gender Binary Framework:** The Act's definition of an aggrieved party as exclusively a woman excludes men and non-binary individuals from protection. This binary framework fails to acknowledge that harassment can occur across all gender identities.
- 2. Lack of Proactive Measures:** The POSH Act primarily focuses on remedial measures after harassment has occurred, rather than preventive strategies. This reactive approach does not address the root causes of harassment and fails to create a culture of respect and inclusion.
- 3. Limited Scope of Protection:** The Act does not extend its protections to LGBTQ+ individuals, leaving them vulnerable in workplaces that may not be supportive or safe. The absence of legal recourse can deter individuals from reporting harassment, perpetuating a culture of silence.
- 4. Cisnormative Assumptions:** The Act's language and implementation are often rooted in cisnormative assumptions, which can alienate queer individuals. For example, the focus on heterosexual relationships in discussions of harassment fails to acknowledge the realities of same-sex harassment.



SUGGESTIONS FOR INCLUSIVE IMPLEMENTATION

To make the POSH Act more inclusive for the queer community, several steps can be taken by businesses and corporations:

1. Amend the POSH Act: The government should consider amending the POSH Act to include explicit protections for all gender identities. This could involve redefining the term "aggrieved party" to encompass individuals beyond the binary classification of male and female.

2. Comprehensive Training Programs: Organizations should implement training programs that focus on LGBTQ+ inclusivity and sensitivity. These programs can educate employees about the diverse experiences of queer individuals and promote a culture of respect.

3. Establish Safe Reporting Mechanisms: Companies should create safe and confidential reporting mechanisms that encourage individuals to come forward without fear of retaliation. This could include anonymous reporting options and the establishment of support networks for LGBTQ+ employees.

4. Promote Awareness and Advocacy: Organizations should actively promote awareness of LGBTQ+ issues and advocate for inclusivity within the workplace. This can involve celebrating Pride Month, hosting workshops, and supporting LGBTQ+ advocacy groups.

5. Regular Reviews and Feedback: Businesses should regularly review their policies and practices to ensure they are inclusive and effective. Seeking feedback from LGBTQ+ employees can provide valuable insights into their experiences and help identify areas for improvement.

The POSH Act represents a significant step forward in addressing workplace harassment, but it must evolve to meet the needs of a diverse workforce. By recognizing and addressing the unique challenges faced by the queer community, businesses can foster a more inclusive and equitable work environment. Implementing these suggestions will not only enhance the effectiveness of the POSH Act but also contribute to a culture of respect and dignity for all employees, regardless of their gender identity or sexual orientation.

In a world that is increasingly recognizing the importance of diversity and inclusion, it is imperative that legal frameworks and organizational policies reflect these values. By embracing a more inclusive approach, we can ensure that all individuals feel safe, respected, and valued in their workplaces.

Read more:

- [A decade of the POSH Act: What the data tells us about how India Inc. has fared](#)
- [Most women still don't report sexual harassment at work: Study](#)
- [Violence and harassment at work has affected more than one in five people](#)

The monthly newsletter from the [Committee for Managing Gender Issues \(CMGI\)](#) is an attempt to initiate conversations on discrimination, gender bias, sexual harassment, and related issues. We would love to have the community participate. Please reach out to Geetika Sharma at geetikas@iima.ac.in for submissions, queries, and/or feedback.

If you feel you have been subjected to sexual harassment or if you would like to make any suggestions regarding curbing sexual harassment or gender bias on campus, please reach out to us at: Email: chr-cmgi@iima.ac.in Phone: 97129 15533 Please note that any communication with the CMGI is strictly confidential.

