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

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ABSTRACT

Sexual harassment in the workplace is a global problem that affects people from the richest to the poorest countries. This is a syndrome that has a negative impact on both men and women. Sexual harassment is more common among women than among men. All of the protections, restrictions, and precautions in the world will not prevent such infractions from occurring.

It is not always unintentional when we claim something is unwelcome. Victims may agree to or actively participate in behaviour that they deem offensive or otherwise undesirable. As a result, sexual acts are only regarded undesired when the person who is the focus of such activities feels that way. The nuances of the situation determine whether or not a dating request, sexual comment, or joke is accepted. Sexual harassment at work may be viewed as a danger to a woman's right to equality, life, and freedom as protected by the Indian constitution.

The Supreme Court expressed this statement for the first time in the important case Vishaka vs. State of Rajasthan . As there was no legislation at the time, the Supreme Court utilised the authority provided to it by Article 32 of the country's constitution to develop rules to be followed by all workplaces and institutions in order to offer safeguards to avoid sexual harassment of working women.

Keywords: *sexual harassment, workplace, women, vishaka guidelines.*

I. INTRODUCTION

Sexual harassment in the workplace is a major issue. According to several polls and studies, sexual harassment is a serious and widespread problem. According to research, most Indian women are too conservative to seek legal action when they are subjected to sexual harassment.

Furthermore, research shows that it is prevalent in both the official and informal sectors. When it comes to working conditions, women are especially vulnerable in small-scale manufacturing and domestic service. Though there has been an increase in the number of safeguards in place

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to protect against specific infractions, this is most likely due to increased awareness and focus on gender justice. The outpouring of rage in response to sexual harassment allegations is normal. There have been various judgments and laws on this matter, ranging from the Vishaka decision to the present Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 [Sexual Harassment Act].

According to Zia Modi, judicial activity peaked in *Vishaka v. State of Rajasthan* [Vishaka]. In the historic Vishaka decision, the Indian Supreme Court took a fresh approach and pioneered the road of 'judicial legislation,' identifying and substantially relying on international treaties that had not been integrated into municipal law.

Before examining the ruling's implementation, it is required to read the proclamation. In this essay, we will go through the fundamentals of the *Vishaka case: Bhanwari Devi* served as a rural social worker for a Rajasthan development project aimed at reducing the occurrence of child marriage.

She sought to prevent Ramkaran Gujjar's newborn daughter from marrying, which resulted in a boycott and, in September 1992, the horrific rape of her and her husband by a gang of five men, one of them was Ramkaran Gujjar. Bhanwari and her family were unable to see a doctor at the Primary Health Centre because the one doctor on staff refused to examine her. In his report, the doctor in Jaipur just confirmed her age and made no mention of rape. The female cops at the station were as harsh to her. Even though the defendants were ruled not guilty by the Trial Court, Bhanwari did not give up the fight for equal treatment. In the months that followed, women's organizations and *saathins*³ across the country banded together to demand justice for Bhanwari. In December 1993, the High Court determined that the crime was a spiteful gang rape.

II. VISHAKA V. STATE OF RAJASTHAN

(A) Facts

This case revolved around the brutal gang rape of a social worker named Bhanwari Devi. Bhanwari Devi was employed by the Rajasthan government's Women's Development Project. She actively participated in spreading the influence of the state government's recent effort to end child marriage in her community. In 1992, she was raped in front of her husband by five people for having the audacity to stop the wicked custom of child marriage from spreading. The men were upset with her because a few months earlier, she had attempted to thwart the wedding

³ A Social worker

of a nine-month-old Gujjar child.

She incurred the wrath of four Gujjar men from the child's family and one Shravan Sharma when she was successful in stopping the marriage of this child, and she was attacked while/on the route to her home while her husband was being beaten and held. Bhanwari Devi and her husband then tried to report the incident to the local police station, but they were strongly discouraged and told not to do so because of the Gujjar family's position. The necessary medical examinations were then delayed by more than 52 hours, and the names of the people who were identified were not mentioned.

This Gang Rape Case was taken before the trial court, where the defendants were cleared of all charges, and hence acquitted. Due to the circumstances of the occurrence, the incomplete inquiry, broader concerns of casteism and family relations, and the general makeup of Indian patriarchal society, she was denied any form of justice or restitution. This sparked a backlash that eventually prompted Vishaka (the organization) to step in along with other groups working to uplift the status of women in India.

The matter came before the Supreme Court via a PIL that was filed following Articles 14, 15, 19, and 21 of the Indian Constitution⁴ by a group of NGOs called Vishaka in which due to the lack of legislative action in this area, the petitioners requested for court intervention to make workplaces safer for women and the protection of women from workplace harassment was vehemently argued.

(B) Issues

The issues raised in this case are the following-

- 1) Whether sexual harassment in the workplace is violative of Fundamental Rights under Articles 14, 15, and 21 of the Constitution?
- 2) Whether International Conventions can be applied when appropriate domestic laws are absent?
- 3) Whether there is a need for mandatory guidelines to be proposed in light of Sexual harassment in the workplace?

(C) Arguments of the case

Bhanwari reported the event to Pracheta (block-level worker), Rasila Sharma, who accompanied her to the Bassi police station to file a First Information Report (FIR). The FIR

⁴ INDIA CONST. art. 14, art. 15, art. 19, art. 21.

was filed after overcoming police skepticism and disinterest, a pattern that other rape victims have encountered throughout the world. Scholar Savitri Goonesekere observes that police in South Asia are unwilling to register rape cases and are cruel and indifferent to women who report rape. Bhanwari was ordered to leave her "lehenga" (length skirt) as evidence at the police station. At around 1 a.m., she had to wrap herself with her husband's blood-stained saafa (turban) and go 3 kilometers to the nearest station's hamlet, Kherpuria.

This apathy was evident in the Primary Health Centre (PHC) in Bassi, where the male doctor refused to check Bhanwari medically when no female doctor was present. The PHC doctor recommended her to Sawai Man Singh (SMS) Hospital in Jaipur, but said in his referral that she was being sent for a test to "confirm the victim's age."

The Medical Jurist in Jaipur refused to conduct any tests until a Magistrate issued orders; the Magistrate refused to provide the instructions till the next day because it was after his business hours. As a consequence, the vaginal swab was collected more than 48 hours after the claimed rape, despite Indian law requiring it within 24 hours. Her bruises and scrapes were not documented, and her concerns of physical distress were dismissed.

The Council argued on behalf of the Petitioners that sexual harassment in the workplace violates Articles 14, 15, 19(1)(g), and 21 of the Constitution. Furthermore, the counsel emphasized the necessity for legislation by noting the lack of sufficient legal provisions in the context of a safe working environment for women. Indeed, the respondent's counsel provided the Court with the necessary help in dealing with the mentioned societal ill. Ms. Meenakshi Arora and Ms. Naina Kapur also assisted the Court. In addition, the Court was aided by Shri. Fali S. Nariman, who was nominated as Amicus Curiae. As a result, the judicial aid supplied demonstrates a readiness to collaborate to achieve a better outcome while keeping the interests of the people in mind.

(D) Petitioner's Contentions

The petition was brought by a non-governmental organization called **Vishaka**, and it argued that sexual harassment of women at work violates the basic rights granted by Articles 14, 15, 19(1)(g), and 21 of the Indian constitution. These articles ensure the following:

1. Article 14 guarantees equality before the law and equal legal protection to all people.
2. Article 15 forbids discrimination based on religion, race, caste, gender, or place of birth.
3. Article 19(1)(g) permits the practice of any profession or the carrying on of any employment, trade, or business.
4. Article 21 guarantees a person's right to life and liberty.

As a result, sexual harassment at work breaches the aforementioned rights guaranteed by the Indian constitution. The petitioner also pointed out the gaps in the statute concerning the provision of a safe working environment for women. The petitioner also asked the court to create standards for preventing sexual harassment in the workplace.

(E) Respondent's Contentions

In this particular case, the respondent's counsel adopted an unconventional approach. The respondent's distinguished solicitor general appeared in court and sided with the petitioner. The respondent's attorney filed a request with the court, requesting it to give a feasible solution to the problem of sexual harassment in the workplace and draught rules to avoid future events of the same sort.

(F) Ratio Decidendi

It is a fundamental right to work in any activity, trade, or profession; yet, the availability of a safe working environment is crucial to the exercise of this right. In the Indian Constitution, the right to life includes the right to live with dignity.

The legislature and executive are primarily responsible for guaranteeing such safety and dignity through the implementation of relevant legislation and the establishment of suitable institutions. After considering several legal judgments and the pertinent Article of the Indian Constitution, the court found that gender equality is incorporated in the Indian Constitution and that protection from sexual harassment is an essential aspect of gender equality.

Article 32 gives the court the jurisdiction to enforce any essential rights in the absence of express legislation.

(G) Judicial Reasoning

First and foremost, the court determined that this act was a clear violation of Articles 14, 15, and 19(1)(g) of the Indian Constitution. A few additional provisions were also cited by the Court as being pertinent, most notably Articles 42 (*Provision for Just and Humane Conditions of Work and Maternity Relief*) and 51A (*Fundamental duties of the citizen*).

Second, the Court addressed the issue of applying international agreements in the lack of necessary domestic law. The court emphasized that a relevant international convention that is compatible with fundamental rights and in harmony with its scope can be used to advance the purposes of the constitutional guarantee as implied by Articles 51(c) and 253 (*Power of the Parliament to Enact Laws for the Implementation of International Conventions and Norms*), read in conjunction with Entry 14 under the Union List in the Seventh Schedule of the Indian

Constitution. The court further underlined Article 73 in addition to this (Extent of Executive power of the Union).

Thirdly, the court recognized the necessity for rules to ensure gender equality and stressed the role that international conventions and norms play in ensuring that sexual harassment is protected and that everyone has the right to a job that is done with dignity.

The *Beijing Statement of Principles of the Independence of the Judiciary in the LAWASIA* region was envisioned by the court and laid out the minimum requirements that must be taken into consideration to guarantee the Independence and efficient operation of the Judiciary. The Court referred to Articles 11 and 24 of the *Convention on the Elimination of All Forms of Discrimination Against Women* while deciding how to proceed with the current issue. The Court then cited the High Court of Australia's rulings in the cases of *Nilabati Behera v. State of Orissa*⁵ and *Minister for Immigration and Ethnic Affairs v. Teoh*⁶ to reiterate the application of international conventions for a better understanding of the fundamental rights explicitly stated in the Constitution through the lens of gender equality.

III. THE BIRTH OF VISHAKA GUIDELINES

The Vishaka Guidelines are the result of a large-scale, well-received movement against patriarchal workplace harassment and the more general issue of men's domination in the workplace. After witnessing Bhanwari Devi's agony and coming to the conclusion that there could be hundreds or maybe thousands of women in similar situations every day, Vishaka and four other well-known women's organizations addressed the Supreme Court of India with the same complaint.

They believed that it was imperative for the courts and the Constitution to acknowledge workplace sexual harassment as a serious offense that was making Indian women's lives miserable and challenging. In response to these allegations, the Supreme Court recognized the problem and cited the ratification of the *Convention on the Elimination of All Forms of Discrimination Against Women (CEADW)* to establish a set of rules that would act as a law regulating cases of sexual harassment in the workplace. The Supreme Court did this while pointing out that the current situation lacked legislation safeguarding women in the workplace.

(A) Judgment (The Vishaka Guidelines)

The three-judge bench issued the ruling, finding sexual harassment violative of the fundamental

⁵ Nilabati Behera v. State of Orissa, (1993) 2 SCC 746 (India).

⁶ Minister for Immigration and Ethnic Affairs v. Teoh, (1995) 183 CLR 273.

rights guaranteed by Articles 14, 15, and 19(1)(g) of the Indian Constitution. The Court established the guidelines to be followed at all workplaces until legislation is passed under Article 32 of the Constitution to implement the Fundamental Rights, taking into account the lack of domestic law governing gender equality and protection against sexual harassment at work. Additionally, according to the court, this falls under the purview of Article 141 of the Constitution. The promulgated guidelines are:

(B) Employer's Obligation

The employer has a legal obligation to prevent the commission of sexual harassment by clearly outlawing the behavior, ensuring good working circumstances, and including the prohibitions in any private sector or governmental conduct and punishment standards.

If there is this kind of wrongdoing in the workplace, the employer must take appropriate disciplinary action. Employers are required to take appropriate action when a case falls within the Indian Penal Code and is deemed to be an offense. The victims should be given the choice of seeking transfer to her or the wrongdoer, and it should be made sure that they are not subjected to discrimination as a result of this complaint.

Like in the instance of Bhanwari Devi, if an employee is being sexually harassed or tormented by a third party, the employer should help the employee in any way they can. This was not the case in the case of Bhanwari Devi, whose employer disclaimed all liability and failed to aid in her quest for justice.

Additionally, it is the responsibility of the employer to raise awareness of issues related to sexual harassment and women's safety within his organization. This can be accomplished by giving notice to the workforce, holding workshops, and coming up with other engaging ways to inform female workers of their rights.

(C) Definition of sexual harassment

It is described as an unwanted sexually motivated behavior, whether direct or indirect, including physical contact, the demand or request for sexually motivated favors, the showing of pornography, any sexually charged comments, or other unwanted physical, verbal, or non-verbal sexual activity.

(D) Establish a secure working environment

Every employer has a responsibility to ensure a secure working environment that allows all employees to develop and flourish. This entails taking the necessary precautions to safeguard the interests of female employees and make sure that no one engages in the practice of sexual

harassment. If an employer discovers evidence of sexual harassment or other improper behavior of a female employee, appropriate disciplinary action must be done.

(E) Complaint Redressal Committee

To guarantee that employee complaints are handled appropriately and that appropriate action is taken in response to a complaint, the standards mandate that all organizations establish a complaint redressal committee.

(F) Duty of the government to widen the scope of these guidelines

The guidelines also demand that the central government and state government pass the required laws to ensure that the private sector is subject to the same rules. This would aid in the development and prosperity of both women and the country as a whole.

The *Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redress) Act, 2013*, later took the role of the Vishaka guidelines. To better reflect current circumstances, the new statute passed in 2013 broadens the definition of aggrieved women to include women of all ages. Additionally, it expands the definition of the term "workplace," which was formerly restricted to the conventional office setting.

IV. ANALYSIS

The enactment of these guidelines that protect women from workplace harassment is the most significant outcome of the Bhanwari Devi Gang Rape Case. This case served as a stepping stone to allow for such legislation, making it simpler for hundreds of thousands of women to feel safer and more at ease at their workplaces. A nation with the population of India must undoubtedly take significant steps to protect all working women, whether they are employed in the organized sector or not. Although far from being perfect, the Vishaka guidelines show that a responsive and accountable government is capable of enacting change for the better and defending the rights of several thousands of working women.

The Supreme Court also noted that India has already ratified the *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)* and held that international conventions should be incorporated within fundamental rights to broaden their application and further its goal. Thus, it interpreted the 1980 CEDAW provisions in Articles 14, 15, and 21 of the Constitution and established legally obligatory standards for both private and public sector employers to adhere to protect the safety and dignity of working women. By issuing binding guidelines that became legislation as a result, the Supreme Court took a historic step by venturing into the realm of the executive. In *Vishakha v. State of Rajasthan*, the Supreme Court

defied this orthodox interpretation of the separation of powers and demonstrated that it would not hesitate to fill the vacuum left by the legislature's inaction to uphold the ends of justice. The judiciary cannot create laws; it can only interpret them. The Supreme Court received some criticism for this, and some of those critics pointed to this decision as an example of judicial overreach.

The Supreme Court's intervention in this matter was, nevertheless, justified as time has shown. Sexual harassment has become a very important topic in our public discourse in the modern era because of the influence and power of social media and other information networks. However, in 1992, it did not yet possess the air of gravity it does today. Fundamental rights were intended to be "vertically" enforceable, meaning that an individual could only use them to hold the state accountable. However, the supreme court decided through this decision that in some deserving circumstances, basic rights might also be enforced "horizontally," or by one person against another.

While there have been many instances in which women have successfully sued sexually harassing employers to obtain justice for themselves and a safer working environment, there have also been instances in which this protection given to women has been abused to bring baseless claims and to negotiate for higher pay and promotions. As a result, these rules have earned the moniker "double-edged sword," as they have the potential to both bring about justice for deserving litigants and wreak havoc for those who abuse them to achieve small-scale personal benefit.

In the meantime, the legislature has made an effort to change its long-standing tendency to take matters involving the safety and dignity of women for granted. This is more due to a fear of losing control of the judiciary than it is due to a genuine awareness. Public support for strong action against those responsible for this kind of sexually predatory behavior has increased since the 2012 *Nirbhaya Gang Rape case*⁷.

It should be highlighted that the parliament has yet to pass comprehensive legislation to address sexual harassment of women at work, even though more than 20 years have elapsed since the Vishakha case ruling was handed down. We can only hope that our legislators will pay attention to these events and act quickly to create a hospitable climate for women in both public and private workplaces. When senior police officer KPS Gill was accused of sexual harassment by Indian Administrative Service officer Rupan Deol Bajaj, the issue became a topic of public discussion in 1998. At a business gathering, Bajaj claimed that Gill had pinched her behind.

⁷ Mukesh v. State (NCT of Delhi), (2017) 6 SCC 1 (India).

She took her case to court, but it wasn't until 2005 that Bajaj was awarded the victory.

Despite the Supreme Court's decision to adopt this set of guidelines to safeguard women in the workplace, these regulations have not been very effective in reducing workplace harassment. While the implementation of these standards leaves much to be desired, they are a sophisticated technique to force businesses to acknowledge complaints and take action. Larger businesses and organizations frequently have an internal process for handling workplace sexual harassment complaints. This is typically accomplished by transferring or removing the offender from their current position and paying the victim, however, these processes frequently fail to result in a case being brought before the courts, leaving the penalties for sexual harassment actions meager and negligible.

The nature of Indian society also prevents women from reporting instances of sexual harassment since they risk being shunned from their workplaces and stigmatized. In addition to the issue of exclusion, the guidelines as they currently stand are ineffective in responding to grievances on occurrences that may have happened in the past or involved people in high positions. All of these flaws prevent the standards from reaching their full potential, thus steps must be taken to fix them and educate Indian society about the discrimination against women that occurs in the workplace.

V. POSITION AFTER VISHAKA JUDGMENT

Since the Vishaka ruling, several cases have emerged, each addressing a distinct set of problems, ranging from rule compliance to extra administrative and technological factors. Following the Vishaka verdict, for example, questions were raised concerning the status of the complaint committee's investigations into several other instances. The preliminary report against the accused government official, according to the Vishaka case, shall be the complaint committee's report. On the other hand, on April 26, 2004, the Supreme Court ruled that "the report of the Complaints Committee shall be recognized as an inquiry report under the (Classification Control and Appeal) Central Civil Services Rules." Following that, the appropriate disciplinary authority will respond to the report following established processes. Sub-rule (2) of *Rule 14 of the (CCA) CCS Rules, 1965* was updated to make this alteration official.

The parties argued in *Apparel Export Promotion Council v. A.K. Chopra*⁸ whether an employer's conduct toward a female employee constitutes sexual harassment if it violates moral

⁸ *Apparel Export Promotion Council v. A.K. Chopra*, (1999) 1 SCC 759 (Herein After referred as "*Apparel Export*")

norms and fails the "decency and modesty" criterion. This was the very first-time Vishaka's regulations were put into action. The court also considered whether the superior's claimed attempt to molest a female employee at work violated the standard of conduct and behavior expected of a superior. In this case, the parties posed several questions to the court along similar lines. The Enquiry Officer discovered that the respondent mistreated a lady on August 12, 1988, before the issue was considered by the Supreme Court. He was summarily fired from his post on June 28, 1989, since the Disciplinary Authority agreed with the Enquiry Officer's conclusions. While granting the writ petition, the learned single judge of the High Court held that "... *the petitioner attempted to molest rather than that the petitioner molested the complainant.*"⁹ As a result, the learned single Judge rejected the writ petition by ordering that the respondent be reinstated in his employment but without back pay. The High Court's Division Bench rejected the appellant's L.P.A. without disputing its correctness. The Division Bench upheld the learned single Judge's decision that the respondent tried but did not molest. The Supreme Court clarified in the appeal that the High Court appears to have ignored the settled position that the Disciplinary Authority is the sole Judge of facts in departmental proceedings and that the Appellate Authority has the power/and jurisdiction to re-appraise the evidence and come to its conclusion, on facts, as the sole fact finding authorities.

*"Once findings of fact, based on the appreciation of evidence are recorded, the High Court in writ jurisdiction may not normally interfere with those factual findings unless it finds that the recorded findings were based either on no evidence or that the findings were wholly perverse and/or legally untenable".*¹⁰

As a result, the Supreme Court's ultimate conclusion overturned the High Court's challenged judgment and upheld the decisions of the Departmental Appellate Authority and the Disciplinary Authority to terminate the respondent's employment.

Aside from the aforementioned issue, some judicial decisions have addressed various points. The primary question in the 2009 decision *U.S. Verma, Principal & Delhi Public Society v. NCW*¹¹. was whether the school treated the teacher's allegation of sexual harassment in the workplace effectively because of the Vishaka guidelines. After considering the whole approach used by the committee formed by the schools, it was found that the Vishaka norms were not followed. Educators were not treated fairly. As a result, the instructors were owed money. In

⁹ *Apparel Export case* at p. 768

¹⁰ *Apparel Export case*, at p. 770

¹¹ *U.S. Verma, Principal & Delhi Public Society v. NCW*, (2009) 163 DLT 557

*Dr. Punita K. Sodhi v. Union of India*¹², the legitimacy of an expert committee's findings was similarly questioned. The expert committee's technique, it was agreed, was too limited to be successful. The committee did not consider the petitioner's complaint's background or the particular instances of harassment described in the petition. This case was settled based on the formation of an expert committee to undertake a complete investigation.

Another case, *Dr. Anil Seth v. Delhi Commissioner for Women*¹³, looked into the commissioner's power and responsibilities. The Delhi Commission for Women was given eight weeks to develop an inquiry procedure that adhered to the Vishaka Guidelines. In *Srinivas Rajan v. Director of Matriculation Schools*¹⁴, the respondent misbehaved and sexually assaulted not just instructors but also parents at the Directorate of Matriculation Schools, DPI Complex, Chennai. The Madras High Court highlighted in this case that the requirements of the Vishaka ruling extended not just to sexual harassment experienced by female workers, but also by third parties or outsiders and that employers were expected to take adequate precautions to avoid such harassment. The minutes of the special inquiry committee were determined to violate the Vishaka Guidelines. The Supreme Court established these regulations under Article 141 of the Constitution, and all authorities are compelled to observe them under Article 142. *Sunita Sharma v. Union of India*¹⁵, as previously indicated, held that a bank's complaint committee was illegal because it lacked the essential third-party representation.

Despite the Vishaka judgment's findings, there was little progress in women's working conditions and positions. The case of *Medha Kotwal Lele v. Union of India*¹⁶ revolved around the government's failure to adequately implement the Vishaka recommendations. It is not enough to merely put procedures in place to guarantee that working women can do their jobs with the respect, dignity, and decency they deserve; execution must be full and comprehensive. Additional instructions were also provided.

In this judgment, the absence of a Complaints Committee in some jurisdictions, as required by the regulations, was identified as a source of concern. It was also established that if the Vishaka requirements are not met, anybody who believes they have been mistreated can file a case with the High Court. As a result, the Supreme Court has applied the law articulated in Vishaka to some earlier court judgments appropriately. The Vishaka decision is widely recognized as one

¹² *Dr. Punita K. Sodhi v. Union of India*, (2011) 1 LLJ 371 Del

¹³ *Dr. Anil Seth v. Delhi Commissioner for Women*, (2010) 119 DRJ 87

¹⁴ *Srinivas Rajan v. Director of Matriculation Schools office of Directorate of Matriculation Schools, DPI Complex, Chennai*, W.P. No. 2116 of 2011

¹⁵ *Sunita Sharma v. Union of India*, Petition (Civil) No(s). 240 Of 2012

¹⁶ *Medha Kotwal Lele v. Union of India*, (2013) 1 SCC 297 : AIR 2013 SC 93

such.

VI. JURISPRUDENTIAL ASPECT OF THE JUDGMENT

The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013, was passed in 2013 to protect women from sexual harassment in the workplace and to prevent and handle sexual harassment complaints. We considered not just Justice Verma's Vishaka mandate to guarantee women's equality¹⁷, but also their right to live¹⁸ and their right to work^{19,20} when formulating this statute. The legislation's policy goal is to educate the public about women's rights to freedom, equal pay, and other aspects of their lives where they may face prejudice. Women's economic empowerment and inclusive growth are thought to result from the increased workplace and school safety²¹.

Furthermore, the Sexual Harassment Act does not apply to the Vishaka case. Nonetheless, it is important to recall that the concept of "sexual harassment" was adopted from the Vishaka decision. According to many experts, the new legislation falls well short of what is required. A woman who has been harmed under the new rule must file a written complaint within three months²² after the occurrence unless the period is extended for good cause. Following receipt of a complaint, the ICC (Internal Complaints Committee)²³ or LCC (Local Complaints Committee)²⁴ will investigate in line with the applicable service regulations. The investigation must be finished within ninety days²⁵. Employers, for their part, have 60 days to take whatever disciplinary action they see appropriate.

Since the Vishaka guidelines and the 2013 Act redefine sexual harassment in such a way that it is no longer included in the scope of more serious sexual offenses like rape, which require criminal procedures, certain women's groups and activists argue vehemently that the internal committee system provides complainants with faster access to redress. Sexual harassment investigations and judgments may be delegated to private or in-house authorities as part of this larger deregulation strategy. In the area of labor relations, the employer has adopted the role of

¹⁷ The Constitution of India, 1950, Article 14.

¹⁸ The Constitution of India, 1950, Article 21.

¹⁹ The Constitution of India, 1950, Article 19(1)(g)

²⁰ Newsletter on Sexual Harassment Act, Available at <http://www.eshwars.com/SHA.pdf> Last accessed on February 3, 2023

²¹ <http://adcet.in/Committee%20against%20Sexual%20Harassment%20of%20Women%20at%20Workplace.pdf> Last accessed on February 3, 2023

²² Section 9, Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 ("The SH Act")

²³ Section 4, The SH Act

²⁴ Section 6, The SH Act

²⁵ Section 11(4), The SH Act

a de facto state.

Section 10 of the Sexual Harassment Statute, which provides for mediation to address the problem between her and the respondent, is also an essential aspect of this new law. However, this may be problematic for several reasons, including the fact that, according to Section 4(2) of the Act, the employer has the authority to select members of the ICC, raising concerns about the process's openness and objectivity. Furthermore, if the complainant fails to appear for three further sessions, the ICC may dismiss the application *ex parte* in line with Rule 7(5). As a result, the complainant may feel obligated to remain silent to conclude the investigation. Co-workers and supervisors may have observed the harassment and encouraged the complainant to submit a formal complaint, but she may have felt coerced into not carrying out her threat.

Workers chosen to serve on the panel are unlikely to have such abilities, and they may be hesitant to falsely accuse a superior, which is one of the many key attributes. Furthermore, an appeal against a conciliation settlement order is not permitted. This implies that even if a corporation is dissatisfied with the order, it must comply with it.

VII. CONCLUSION

It is therefore clear that the current Act is ineffectual because of various other gaps in the legislation that prevents it from addressing the widespread problem. The legislature has failed to pass any meaningful legislation. Several holes exist, such as those in the nomination procedure, the International Criminal Court's inadequacies, the challenges surrounding a conciliation with no appellate recourse, and the logistical challenges surrounding the inquiry's finish date and report delivery deadline. Direct, indirect, explicit, or implicit discrimination against women is a core cause of sexual harassment and other forms of violence against women. The efficiency of the same remains a serious issue despite the Vishaka ruling and subsequent laws thereon. We started by explaining that the court in Vishaka made history by establishing the first-ever legal precedents for sexual harassment cases when none previously existed. There are further examples that follow Vishaka and are a result of the implementation of new rules. Despite the judiciary's best-ever attempt, there is no system in place to track whether or not the instructions are followed. Even though the government has passed the Act described above, there is a high expectation that parliament will pass a more all-encompassing piece of legislation to effectively solve all the lingering policy problems.
