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# Gender-Neutral Sexual Harassment- A Need for Comprehensive Laws Addressing the Issue in India

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### ABSTRACT

Sexual harassment is still a commonly reported incidence in today's world across different cultures and workplaces due to divergence in the manner different genders view themselves as victims or offenders. Current legal systems and cultural discourses tend to only address female victims and male aggressors, thus ignoring potential harassment of gay and/or bisexual men. This paper aims to discuss the topic of gender-neutral sexual harassment by understanding and proposing the importance of a legal and policy adoption of both sexes as victims and offenders.

Delimitations of a Gendered Approach to the Issue of Sexual Harassment Despite the availability of different legal instruments at both international and national levels, administrators and policymakers still face many challenges regarding a gendered approach to sexual harassment. This is because gender-neutral perspective offers justice in as much as it erases biases and prejudice that are placed on gendered lens, inequality which exists in the society is eliminated, and the meeting of the societal, workplace and institutional needs are enhanced. They establish shortcomings and drawbacks like underestimation, social prejudice, and organizational opposition to progressive change for both male and female employees.

This paper thus calls for more legislation changes and more promotional campaigns and policy reformation towards equality and non discrimination. The change of the paradigm toward a gender equality approach of the present study seeks to advance, within this paper, the design and implementation of a fairer process designed to deal with sexual harassment in modern societies.

**KEYWORDS:** *Workplace harassment, LGBTQ+ rights, Sexual harassment laws, Victim protection, Gender identity and justice*

### INTRODUCTION

Sexual harassment is a prevalent phenomenon that affects people of all gender identities, and it is prevalent in the workplace, schools, and public spaces. Historically, the Indian discourse around sexual harassment has been gender biased, focusing on the victimization of women by men. While this is necessary to tackle the pervasive issue of gender-based violence, it fails to recognize that people of all genders—men, transgender people, and those identifying as non-binary—can be sexually harassed as well. As social attitudes shift and there is increased awareness of LGBTQ+ rights, the need for a gender-neutral legal framework in India has become increasingly urgent.

The Indian legislative response to sexual harassment, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act) and Section 354A of the Indian Penal Code (IPC), is gender-specific. While these provisions of law are needed to protect women from sexual harassment, they fail to recognize male or transgender victims, thus leaving a legal lacuna for those who do not fall within the conventional understanding of victimhood. While the Transgender Persons (Protection of Rights) Act, 2019 addresses a number of areas of discrimination, it does not specifically mention sexual harassment, thus leaving transgender people with limited legal redress. This exclusionary approach perpetuates the myth that men and non-binary people cannot be harassed, discouraging reporting and denying access to justice.

On the other hand, countries like Canada, the United Kingdom, and Australia have included gender-neutral provisions in their legislations on sexual harassment, recognizing that harassment is not necessarily a gendered concept. Such a framework provides equal protection of the law to all individuals, regardless of their gender identity. India, which is a signatory to several international conventions promoting gender equality—like the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Universal Declaration of Human Rights (UDHR)—still needs to implement comprehensive gender-neutral protection against sexual harassment.

Besides the legal framework, Indian workplaces, schools, and public spaces also reflect a gendered understanding of harassment. Most internal complaints committees (ICCs) under the Prevention of Sexual Harassment (POSH) Act are set up to address complaints that are mostly from women, thus leaving men and non-binary people with less recourse in seeking redress. The social stigma that encircles the problem further adds to the challenge, with men and LGBTQ+ people who are harassed facing disbelief, ridicule, or indifference when they attempt to report the incidents. The dominant patriarchal

mindset, in which it is presumed that men cannot be victims and that harassment is a women's issue, continues to be an obstacle to making headway toward the creation of a welcoming environment.

The need for a gender-neutral approach to sexual harassment in India goes well beyond legal reforms; it is a question of fundamental human rights. By adopting a more inclusive framework, India can move toward creating a legal and social environment that supports the rights and dignity of all individuals, with no one left out of protection on the basis of their gender identity.

This research aims to examine the phenomenon of gender-neutral sexual harassment in the Indian context, comparing legal prohibitions, social barriers, and possible reform. It will examine comparative legal models, determine weaknesses in current Indian policy, and propose reforms to a more effective and improved response to sexual harassment. Through this examination, the research aims to enhance the ongoing debate on gender justice and human rights in India.

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## LITERATURE REVIEW

There has been a great concern regarding the main assertion of the current position of legal relationship as a result of having gender-less laws against sexual harassment, particularly because scholars have maintained that contemporary conceptualization of sexual harassment essentially only protects women while erasing males and those of the queer community. Traditional sexual harassment laws were formulated within the post-industrial, women's rights framework, as a method of protection of women from male domination. For instance, Catharine MacKinnon (1979) was the earliest social scientist to define sexual harassment as a subtype of sex discrimination in social justice and latter in legal change. Nevertheless, the advancements in the last years have taken the focus of such acts from the gendered approach and emphasized that men and individuals of the LGBTQ+ community experience harassment as well. This has triggered debates on the desirable need to add the gender-neutral aspects in the harassment laws.

Research evidence reveals that harassment occurs to men and gay people, and the case is increasingly being documented. Researchers like Cortina et al. (2001) and Pina, Gannon, & Saunders (2009) have found that despite women being targeted most often, men also suffer sexual harassment at the workplace and the climax is that they will be laughed at or fired if they seek justice. In the same manner, Turchik & Edwards' (2012) on sexual harassment and assault on male reveal another challenge whereby male survivors are denied legal representation and social recognition of the vice, considering that men cannot be victimized. LGBTQ+ people are also vulnerable; according to the Human Rights Watch (2016) study most especially the Transgender and Non-binary people experience harassment in their places of work, school, and in public places but cannot sue for redress.

Analyzing the literature on comparative laws a number of nations collect has taken a stride towards gender neutral dealing of sexual harassment laws but India is still lagging behind. For instance, the United Kingdom's Equality Act of 2010 and the Canada's Criminal Code both consider that any gender of an individual can be a sexual harassment victim. This is because, as American courts noted in interpreting sections of the Civil Rights Act of 1964, specifically Title VII, the protections are available to both men and women. Sundowner Offshore Services, Inc. (1998), wherein the U.S Supreme court affirmed that sexual harassment of employees of the same sex is actionable under federal law. On the other hand, India still has POSH Act (2013) alongside IPC provisions that are gendered and devoid of legal protection to men as well the queer community.

Teenager people believe that women harassment laws should be abolished in order to eliminate discrimination instead of prolonging it. Many scholars present the idea that it becomes illogical and harmful where male and queer people are not included in legal protection mechanisms as proposed by Bourke (2020) and Siegel (2018). The authors Judith Butler (1990) & Michael Warner (1999) further expound on the vein that for policies to be effective in acknowledging the various experiences of harassment, they have to be gender-neutral. This has made legal reform not a policy option, but a required measure due to the limited understanding of harassment by the legal system and the encouragement of underreporting and stigma.

Legal changes have to be supported by cultural and structural changes in society and other organizations to address sexual harassment in a gender transformative manner. Hence, Koss, Hirsch, & Lang (2020) assert that cultural expectations and norms surrounding masculinity and victimhood contribute to a culture of non-reporting in male sexual assault cases. Meyer (2015) and Grant et al. (2011) also points out that many people in workplaces and education institutions face harassment by going through vocal and nonvocal homophobic remarks, but they fail to report because they are easily threatened to be fired or ignored, or denied their rights that the law may recognize. To address them, it is crucial to make gender-sensitive police training, HR departments of large firms, and judicial personnel for everyone, including the victims, to be treated equally fairly and with dignity. Also, there is need to carry out awareness and producible on the areas of culture that fuel prejudices and on the sexual harassment policies. Unless there are such changes in culture and institutions, even legal changes may not help as a victim may still be unable to report their case, seek justice, or get support.

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## STATEMENT OF RESEARCH PROBLEM

The current legal regime on sexual harassment in India is gendered and specifically focused on protecting women, which results in the exclusion of male, transgender, and non-binary victims. The POSH Act, 2013, although progressive, addresses only sexual harassment of women in workplaces and leaves all other gender identities without an express legal remedy. Similarly, sections of the Bharatiya Nyaya Sanhita (BNS), such as Sections 75 (Sexual Harassment) and 79 (outraging the modesty of a woman), perpetuate the concept of sexual harassment as a crime where the victim is always a woman and the offender is always a man. This legal gap serves as a barrier to justice for male and LGBTQ+ victims, discouraging them from reporting harassment due to social stigma and the absence of legal remedy.

Furthermore, the non-provision of gender-neutral internal complaints committees in workplaces and schools excludes non-female victims from seeking justice. Several institutions read existing laws narrowly and exclude non-female complainants. This exclusionary interpretation is contrary to principles of equality under Article 14 and protection from discrimination under Article 15 of the Indian Constitution.

The non-provision of inclusive gender-neutral sexual harassment laws also detracts from India's commitments under several international treaties and conventions, such as the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), which emphasize equal protection and non-discrimination.

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## RESEARCH OBJECTIVES

- To critically evaluate the loopholes and gaps in India's existing legal framework in the context of sexual harassment.
- To analyze the effect of gender-specific sexual harassment laws on male and LGBTQ+ victims in India.
- To analyze comparative legal systems in other countries that have adopted gender-neutral sexual harassment laws.
- To evaluate difficulties in implementing gender-neutral policies in workplaces, schools, and public spaces.
- To make holistic legal and policy recommendations to implement a gender-neutral model of sexual harassment in India.

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## RESEARCH QUESTIONS

- What are the shortcomings of the current legal framework of India in terms of gender-neutral sexual harassment?
- What are the challenges faced by male, transgender, and non-binary individuals when they try to report cases of sexual harassment and seek justice?
- How have different jurisdictions, such as the United Kingdom, Canada, and Australia, addressed the issue of gender-neutral sexual harassment in their legal frameworks?
- What are the specific legal and policy changes needed to ensure a gender-sensitive policy within the sexual harassment law in India?
- How does the lack of gender-neutral sexual harassment laws influence India's compliance with international human rights standards?

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## RESEARCH HYPOTHESIS

H<sub>0</sub>- The existing legal framework in India adequately addresses all types of sexual harassment, and there is no need for gender-neutral reforms.

H<sub>1</sub>- The existing legal framework in India does not adequately address all types of sexual harassment, and therefore, there is a need for gender-neutral reform.

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## RESEARCH METHODOLOGY

In this research project, both empirical as well as doctrinal methodology will be incorporated.

The empirical research methodology includes techniques from several disciplines to create empirical data that can be used to address research problems. In the empirical research methodology, data will be collected from various people regarding whether they know any non-female person facing sexual harassment and if any and if faced, whether they reported it to anyone, and whether they believe that any law needs to be brought to address such harassment.

In the Doctrinal methodology, research is completed on a legal suggestion by examining the current legal arrangement and cases. It likewise includes breaking down case regulation, organizing and systemizing lawful suggestions, and concentrating on legitimate establishments through legitimate thinking. In the Doctrinal Research Methodology, various legislations in different countries and jurisdictions will be analysed regarding gender neutral sexual harassment along with reports on how and to what extent those legislations have been able to address the multiple forms of sexual harassment faced by different genders.

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## CONCEPTUALIZING SEXUAL HARASSMENT

The Analysis of Sexual Harassment Needs Expansion Because It Goes Beyond Traditional Gender-Based Interpretations

Through traditional perspectives sexual harassment appears as an issue that targets mainly women while men remain in the role of offenders. The conceptual framework ignores the reality of men along with transgender people and non-binary persons who become victims of sexual harassment despite

its historic and systemic discrimination of women. The chapter presents evidence against gender-biased narratives about sexual harassment through an argument for unisex recognition of the phenomenon.

Understanding sexual harassment starts with recognizing its essence as power abuse rather than resting solely on gender-based interactions. The practice of sexual harassment relies on the power differences between workplace and academic settings and public spaces because it allows dominant personnel to misuse their authority against others. These power relations can involve gender elements but gender alone does not establish these conditions. Female supervisors may harass their male employees and LGBTQ+ workers undergo harassment stemming from their gender identity as well as their sexual orientation. The current legal system lacks proper mechanisms to respond to these current situations.

At a societal level the dominant belief exists that males stay superior and unapproachable throughout situations. Society teaches men to display toughness and immunity so they struggle to admit harassment incidents. The notion that women cannot commit sexual harassment perpetually hinders the legal process because male victims end up being unrecognized and unjustly treated. Non-binary and transgender people regularly encounter harsh discrimination along with harassment that society ignores because of their socially marginalized positions.

Gender plays no role in determining the emotional and mental health consequences that sexual harassment victims experience since their outcomes match as depression and PTSD alongside anxiety and suicidal thoughts. Discrimination and mockery threaten male harassment victims because these responses discourage them from pursuing relief under law. Many working people avoid reporting harassment since they believe it could tarnish their professional image while simultaneously signaling ineffective masculinity. The harassment experiences of LGBTQ+ victims face distinct challenges because their gender-based discrimination makes the process of seeking legal assistance much harder.

The existing legal structure of India under the POSH Act 2013 focuses mainly on protecting women from sexual harassment. The gendered nature of the POSH Act 2013 provides legal assistance to women who suffer from harassment but fails to recognize or protect male and Lesbian Gay Queer and Transgender employees. The IPC Section 354 and its associated rules apply mainly to offenses against women which perpetuates beliefs about the need for different levels of protection between male and gender-diverse persons. The failure to provide gender-neutral language in laws turns them into ineffective tools for protecting victims who are not female.

A group of international organizations has developed gender-inclusive frameworks to combat sexual harassment incidents. Under Canadian and Australian and United Kingdom laws all people irrespective of their gender can serve as victim and perpetrator of harassment. Their legal approach focuses on behavioral conduct instead of victim gender thus making laws more available for victims who come from diverse backgrounds. These models serve as examples for India to build stronger protection systems despite some differences.

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## THE PSYCHOLOGICAL AND SOCIAL IMPACT OF SEXUAL HARASSMENT

Sexual harassment is a traumatizing process that has a number of psychological, emotional and social effects for the victim. Especially, more research attention has been paid to the effects on female victims and less attention has been paid to males and members of the LGBTQ+ community. In this study, the chapter focuses on the psychological impacts that are labeled as harassment, social pressures that the deviant victims face and the limitations that hinder them from seeking redress.

### Psychological Impact on Victims

Sexual harassment takes a toll on the mental health of the victims, where they develop signs of anxiety or depression, they also develop PTSD and may even consider suicide. Although much has been said and written about the effects of harassment in the female victims, male and Lesbians, gays, bisexual, transsexual, queer, and Gender questioning victims have not been widely researched due to people's belief that they are rarely harassed. However, research has indicated that male victims are always likely to be emotionally tormented, given that most of them do not seek help. This kind of masculine culture of non-recognition does not allow men to express their emotions and in particular, they struggle to deal with trauma.

This is especially the case when the victims belong to the LGBTQ+ community since they suffer from discrimination for the violations of their rights as well as for their sexual orientations. Most experience harassment that is not only of the sexual nature but based on fear of homosexuality or transsexualism respectively. This leads to what might be described as the 'double edged trauma' where, besides the harassment, a victim suffers rejection and isolation from society. For example, the situation of trans people who, if harassed, often to receive lack of proper investigation and support by police and who experience additional psychological abuse.

One of the ways through which the psychological effect of this harassment is determined includes the power relation between the harasser and the harassed. If the perpetrator occupies a position of power for instance a manager, teacher or a senior colleague the victim feels overly powerless. This is more so the case in other facilities such as in workplace and learning institutions wherein the victims can be afraid to lose their jobs, make poor grades or their reputations ruined.

### Social Stigma and Underreporting

Of all the challenges faced in eradicating sexual harassment against male and LGBTQ+ victims, the social hurdles generated about the incidents lead the list. Due to this pressure and cultural norms that portray man as a protector, provider and an independent pillar, men do not report such cases as they feel that they are weak to have been harassed. As much as they are urged to speak out, they will most likely be laughed at, dismissed, or even threatened.

Some of the respondents are dismissed as liars or people who like overemphasizing their ordeals, the others are accused of being able to stand up for themselves. This leads to a culture of silence in which male victims do not report harassment or go for legal redress.

LGBTQ+ victims have other forms of stigma attached to them. In most cultures this means recognizing and condemning instances of sexual harassment against the Q and T people, is equivalent to recognizing their existence which some institutions legal and otherwise do not wish to do. Those who are part of the LGBTQ+ and dare to report harassment are likely to be either dismissed or even blamed for being harassed. In some cases, they are advised that they deserved it because they are gay or they are of a certain gender or of a certain gender orientation. This also excludes them from legal and psychological support they require for them to lead normal lives again.

Also, the legal system also supports creation of such stigmas, which undergo certain changes and become ingrained in the lives of these people. Contrary to Pujara, it must be noted that in India, the POSH Act, 2013 is aimed at safeguarding women and hence, male and LGBTQ+ victims of harassment cannot legally complain. This has led to other clients relying on other forms of provisions of the Indian Penal Code (IPC) that does not specifically address sexual harassment. What has been facilitated by lack of legal recognition is for harassment to be seen as a 'women only' problem, leaving rest of the victims with no protection.

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## LEGAL FRAMEWORK ON SEXUAL HARASSMENT IN INDIA

An in-depth assessment of sexual harassment legal guidelines in India appears during this chapter paying particular attention to the POSH Act 2013 alongside the Bharatiya Nyaya Sanhita (BNS) 2023. The law introduced the POSH Act to combat harassment in the workplace though it primarily focuses on female victims and provides inadequate protection to male and LGBTQ+ population. The BNS adopts a gender-based perspective when defining sexual harassment because it assigns women the status of principle victims. The Transgender Persons (Protection of Rights) Act, 2019 addresses particular issues but it does not fully deal with sexual harassment situations.

A few provisions of the Indian Penal Code (IPC) criminalize the act of sexual harassment as:

- Section 354A: Creates a crime of unwelcome or aggressive sexual advances, requests for sexual favors, and other types of physical or verbal conduct of a sexual nature.
- Section 509 – Punishes words or acts generally calculated to hurt a woman's modesty.
- Section 375 – Qualifies rape as a crime only against women, and does not have any provision for rape against men or rape victims of transgender sex.

Yet, sexual harassment remains legally framed as a women's issue, not men, and sex as a women's issue, not men, perpetrated by men, not women. It makes sure that those women who turn out to be perpetrators can't be legally scrutinized and so, male and LGBTQ+ victims don't have any direction for them to seek justice.

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## COMPARATIVE ANALYSIS OF GENDER-NEUTRAL SEXUAL HARASSMENT LAWS

Different jurisdictions review their approaches to gender-neutral legislation on sexual harassment in this chapter. National laws throughout Canada together with Australia and the United Kingdom establish gender-neutral definitions of sexual harassment to defend all citizens equally from such offenses. This part of the research examines particular legal instruments together with judicial decisions and institutional rules which resulted in enhanced inclusive protections in these jurisdictions.

The study uses international legal models to draw essential best practices which improve understanding for India's legal structure. This evaluation examines how gender-neutral legislation affects reporting statistics together with the systems that assist victims and the reactions of the public. The text presents obstacles which emerge during law enforcement while traditional social institutions work against these reforms. The analysis creates a foundation for India to adopt gender-neutral sexual harassment laws because the evidence shows such legislation offers both practical implementation and full protection to all sexual assault victims.

### Comparative Analysis – Gender-Neutral Laws in Other Jurisdictions

To ensure gender neutrality of sexual harassment laws, many countries have moved to include title.x gender identity in the legal protection of the victim. The sexual harassment in India is framed as a crime only against women, however, countries such as Canada, UK, US, Australia have drafted laws that focus on the offender's behaviour and not the victim. In this chapter, a critical analysis of legal frameworks in other jurisdictions are done with reference to the best practices that India can learn from, in order to create an inclusive legal system.

#### United Kingdom – The Equality Act, 2010

Sexual harassment is outlawed in all forms of discrimination as per the Equality Act, 2010 in the United Kingdom and this includes all individuals regardless of gender. The law says that sexual harassment is any conduct of a sexual nature that interferes with the dignity of a person or creates an intimidating, hostile or offensive environment. Furthermore, it presupposes no victim is a perpetrator and no perpetrator is a victim but protects men and women and individuals of other genders.

In addition, strong workplace protection mechanisms, including mandatory anti harassment policies in businesses and educational institutions reinforce the UK approach towards gender neutrality. Harassment is a company's duty to, failing which failure to prevent harassment can result in company liability. By being proactive, it makes workplaces acknowledge that harassment is a serious thing instead of waiting for the victims to come forward.

#### Canada – Human Rights Legislation and Criminal Code

Canada's legislation regarding gender neutral sexual harassment is among the most comprehensive. Under federal and provincial human rights legislation, sexual harassment is defined as a sexual solicitation or advance where the advance is unwelcome (whether or not its undesirable character is communicated to the person accused of making the advance) and the person behaves in a manner that would reasonably be perceived to be harassing other persons. Sexual harassment falls under all persons (same sex, opposite sex and transgender). Moreover, the Criminal Code of Canada criminalizes different types of sexual misconduct without limiting this protection to women.

Canada is one of the most progressive countries when it comes to protecting LGBTQ+ people, as it also acknowledges that gender and sexuality based harassment often intersects. Canadian courts have ruled that sexual harassment laws must be interpreted broadly to not limit male or LGBTQ+ victims from claiming relief under policies or workplace guidelines protected under the laws or to deny relief to male or LGBTQ+ victims in law enforcement investigations.

#### United States – Title VII of the Civil Rights Act, 1964

In the US, sexual harassment falls under Title VII of the Civil Rights Act, 1964 which prohibits disability discrimination under Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e et seq.) which prohibits discrimination on the basis of race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, age (40 or older), disability and genetic information. The landmark case *Oncale v. The key role that Sundowner Offshore Services (1998) played in permitting male victims of workplace sexual harassment to be recognized under the law. Apart from that, the U.S. legal system also recognizes same sex harassment, being among the countries that allows harassment between persons of the same gender.*

Yet, like other legal frameworks in the U.S., even this protection comes with limitations, particularly with regard to cases involving those that are non binary. But the growing acceptance of sexual harassment as an issue of workplace rights instead of a sexual crime brings the issue closer to inclusiveness.

#### Australia – Sex Discrimination Act, 1984

The definition of sexual harassment in Australia's Sex Discrimination Act 1984 applies to all genders, and is defined as unwanted sexual conduct which makes a person feel offended, humiliated or intimidated. What's important is that the law does not deem harassment to be a crime only committed by men against women, and men, transgender and non binary people can legally seek redress as such.

Furthermore, Australia has strong workplace harassment policies from the government, mandating that businesses hold anti-harassment training as regularly as possible and to also have clear reporting mechanisms in place. Failure to do so can come at a cost for employers, which means that the companies don't just react to complaints of harassment, they take an active role in preventing it as well.

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## JUDICIAL INTERPRETATIONS AND THE NEED FOR REFORM

The courts have had a major influence to the formulation of policies in relation to sexual harassment laws in the country. Landmark cases such as *Vishaka v. In India, State of Rajasthan (1997) had provided basic workplace harassment protections, and other provisions have broadened the analysis at different times. However, practicability has been gendered within the legal system and continues to uphold the concept that sexual harassment is a offence majoring women. In this chapter, focus will be on scar findings, omission of the male and LGBTQ+ victims in the judicial systems, and the imperative need to adopt a gender sensitive and inclusive approach in the Judgments.*

#### Judicial Landmarks in Sexual Harassment Cases

1. *Vishaka v. I would like to examine one more technology in the state of Rajasthan in the year 1997, which created an inception in designing the workplace harassment laws in India – The Indian state case of Rajasthan.*

The above mentioned Supreme Court ruling became a landmark judgment in the context of sexual harassment laws in India. The case involved a horrific incident of a social worker, Bhanwari Devi, who was gang raped as was evident from a video recording and the mysterious death of a counsel for the survivors of the Bhopal gas tragedy Michel Syal for which there were no workplace protection for women. The court set some standards against workplace sexual harassment currently enshrined in the POSH Act 2013.

However, *Vishaka* was a progressive ruling but unfortunately was restricted to the female victims only. The guidelines laid down sexual harassment only from the prism of women's protection and did not allow male or any representatives of the LGBTQ+ community to be protected from workplace harassment.

2. This case of *Apparel Export Promotion Council v. A.K. Chopra (1999)* is an expansion of the Anti Harassment law.

In this case they argument by Supreme Court was that physical contacts are not mandatory for an act to be regarded as sexual harassment. An employer should have touched a sub-ordinate employee inappropriately and the court decided that even verbal or psychological misconduct was sufficient.

This judgment was significant in extending the meaning of harassment to be more than mere physical violence. But the gender roles used in the case of the law did not change – only a woman could be a victim, a man or an LGBTQ+ person was not protected by the law.

### 3. Medha Kotwal Lele v. Union of India (2012) – Strengthening Workplace Protection

This took the Supreme Court to uphold the Vishaka Guidelines and call on states to ensure compliance on having all the mechanisms of the workplace harassment committees in place. The ruling also pointed to the fact that employers have a duty of ensuring that they protect their employees from workplace related diseases.

However, the given judgment was progressive only in part as it failed to cover male or LGBTQ+ victims again. Much like the legal framework, the police remained sex-se zakáz oriented and still did not recognise harassment concerning men and boys.

### 4. Navtej Singh Johar v. Union of India (2018) – LGBTQ+ Rights and the Potential for Reform

In Navtej Singh Johar similar to the Ker 377 IPC, the Supreme Court declared homosexuality legal by decriminalizing section 377 IPC. The ruling was received positively since as it was advocating for recognition of the rights of the minority group but did not directly address sexual harassment against LGBTQ+ persons.

This case is an exception since it laid the foundation for the consideration of minorities in the legal frameworks. It set down the determination that sex and gender or sexual orientation should not be a basis for discriminations. It allows for future specific decisions to expand sexual harassment legislation to what is beyond the hetero-patriarchal paradigm.

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## SOCIOCULTURAL BARRIERS TO REPORTING AND JUSTICE FOR MALE AND LGBTQ+ VICTIMS

Legal changes need reform but social factors also affect who can report and how people see the claims of harassment victims. The deeply traditional family values and social rejection of LGBTQ+ people force male victims to abandon their right to law enforcement protection in India. This chapter analyzes what holds male and LGBTQ+ people from filing harassment reports plus outlines better ways to protect survivors from all backgrounds.

### 1. Gender Norms and the Male Victim Paradox

Traditional Indian culture depicted men as powerful unbeatable figures with women needing defense as weak and vulnerable people. The male-female binary causes many barriers to sexual harassment victim support for men.

#### A. The Social Stigma Against Male Victims

Men who experience sexual harassment must endure social judgment because people think males need to manage these situations because they hold dominance.

There is a harmful culture that denies attention to men who report sexual victimization.

People tend to think men do not have options to refuse participating in sexual encounters which blocks victim proof.

#### B. The Legal System's Bias Against Male Complainants

Under Indian law POSH Act, IPC Sections 375, 354, and 509 do not extend protection to men because they limit victim status to women.

Police departments refuse to record evidence from men who report physical attacks very often resulting in few cases coming to light.

Court staff members frequently doubt cases of male abuse mainly because these incidents seem unusual to them which reduces male victims' chances of winning their cases.

### 2. LGBTQ+ Victims: Double Marginalization in Harassment Cases

LGBTQ+ individuals deal with harassment different from others because of widespread prejudice toward homosexuality and transgender people. In Navtej Singh Johar v. Union of India the Supreme Court made a decision. After the Supreme Court made homosexuality legal in 2018 the LGBTQ+ community still experiences systematic failure to protect them from sexual harassment.

#### A. Workplace Harassment and Societal Rejection

Workers who do not fit traditional gender norms or sexual identities suffer more workplace harassment because people dislike their gender and sexual behaviors.

Gender-neutral employee policies are missing from most work environments because LGBTQ+ workers have no process to address harassment issues.

Neither managers nor other employees and outside institutions give transgender people peace from harassment.

#### B. Lack of Legal Recourse and Reporting Mechanisms

Due to federal law same-sex harassment victims in the LGBTQ+ community have no legal protection in India.

Police and official authorities react poorly when dealing with LGBTQ+ subjects who file complaints.

When victims fear their LGBTQ+ identity getting revealed against their will they stay silent because they risk being cut off from family, losing their job or facing violence.

### 3. Institutional Barriers and Lack of Gender-Neutral Policies

Different workplaces along with schools and law enforcement teams run on gender standards based on straight norms. Organizational systems that work better for male and LGBTQ+ victims become hard to overcome.

#### A. Gendered Workplace Policies

The POSH Act 2013 tells workplaces to set up complaint handling teams but these teams deal only with female victims' reports.

LGBTQ+ employees and men cannot officially report workplace harassment so these groups stay excluded from legal protection.

Many businesses ignore teaching staff about gender-neutral harassment rules which makes transgender workers and males exposed to harm.

#### B. Inaccessible Legal and Police Support

When men and members of LGBTQ+ communities report workplace harassment police officers routinely do not file First Information Reports and try to persuade them not to take formal action.

Non-female victims cannot find legal help so they have to face the system by themselves and give up on reporting their abuse more often than not.

Law enforcement and the courts usually ignore sexual misconduct between members of the same sex which supports the belief that only women suffer such attacks.

### 4. Psychological and Emotional Barriers to Reporting

Male and LGBTQ+ victims give extra consideration to their mental and emotional challenges when deciding whether to report harassment.

#### A. Fear of Not Being Believed

Male harassment victims worry that others will doubt or laugh at them if a female person did the harassment.

LGBTQ+ victims fear their complaints will lead to reduced support because of discrimination against their sexes.

#### B. Internalized Shame and Guilt

Male survivors consistently doubt their own strength when reviewing their experience and wonder if it falls under harassment in the first place.

The fear many LGBTQ+ victims experience from within themselves makes it harder for them to take action to protect their rights.

#### C. Retaliation and Career Consequences

Male victims hurt their career prospects when they speak about workplace harassment because people question their reliability.

LGBTQ+ people run the risk of workplace discrimination, social rejection and termination once they express their perspective.

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## CONCLUSION

For sexual harassment law to be gender neutral is necessary for the equal protection of all victims whatever their gender or sexual identity. This legal position can be highlighted within the existing Indian legal framework, under the POSH Act and the IPC provisions, where the only legal shield is provided to female victims, against men and the LGBTQ+ people. It plays into societal biases by causing the imbalance and preventing non female victims from reporting harassment by making them think that victims are only female.

The gender neutral legal framework is not about making some protections for women less, but predicated on extending some protections to everyone. The fact that sexual harassment represents a violation of personal autonomy and dignity of males should be recognized as being as much a legal cause for action by males as by females. If there is no reform, male and LGBTQ+ survivors will remain legally excluded, institutionally neglected and socially stigmatized.

A more inclusive justice system where all victims feel safe, supported, and empowered to seek justice is a system of uninterrupted social, political and economic policies and awareness initiatives. To dismantle gender biases in harassment laws and reporting mechanisms, policymakers, law enforcement agencies, the workplace and educational institutions must collaborate. As such, the objective should be a justice system that promotes fairness, equality and inclusivity without exacerbating gender stereotypes.



## RECOMMENDATIONS

It is significant that current protection against workplace sexual harassment is gender neutral so that it can protect everybody regardless of his/her gender or sexual preference. While the Indian laws today such as the POSH Act and the relevant sections of IPC basically cater to the needs of the female victim, men as well as the individual of the homosexual orientation and gender identity have legally no protection. Such exclusion sustains stereotypical views of the pathological black female, denies the victims their rights to justice, and is unfair. In their intersectionalist approach, legal changes dealing with sexual harassment can help to make the justice system more equal, survivor-orientated and free from gender bias. There is a need to work at instituting change in laws in the police force, judicial system, schools and workplaces in order for victims to be protected, believe that they have a right to report harassers, and free from prejudices related to reporting.

For this reason, it is necessary to change the provisions of the POSH Act where there are words such as gender, women or ladies that are used so that men and the lesbian, gay, bisexual, transexual and other equal individuals can also seek redress. The IPC should provide setting of special provisions for male and LGBTQ+ victims with the same level of punishment for the offenders. All police officers and judiciary staff should be trained on diversity and gender sensitivity, while complaints desk should be set up in the police stations, workplace, and legal aid centres. Public awareness should be created on such beliefs and policies to incorporate all sexes in fighting against harassments. There are other findings necessary to make such as the need to review corporate policies and introducing mental health and support services for all the survivors. By doing so, women in the workforce will be protected by law rather than being discriminated against based on gender bias, and harassed at workplaces where they are not wanted or safe.

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