



POSH ACT AND SEXUAL HARASSMENT OF WOMEN IN LEGAL PROFESSION WITH SPECIAL REFERENCE TO GWALIOR DIVISION

Radhika Saxena (Author)*

Research scholar

Jiwaji university, Gwalior M.P.

Mail id- radhika.dta007@gmail.com

Dr. Anjali Chouhan (Co-author)

Assistant Professor

Government Law College

Morena M.P.

Mail id- chauhananjuli@gmail.com

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* Corresponding author

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ABSTRACT

The practice of sexual harassment in the workplace is a significant barrier to the advancement of society and the economy on a global scale. The practice of sexual harassment is widespread in a variety of industries; nonetheless, it has a disproportionately negative effect on women and impedes their ability to develop in their careers in the legal profession. The objective of this study is to investigate the manner in which the legal community associated with the Gwalior Division of India has responded to the Prevention of Sexual Harassment (POSH) Act, 2013, as well as the impact that this act has had on female attorneys. A total of 347 area attorneys were issued questionnaires in an attempt to collect data via the use of descriptive and empirical research approaches. 57.1% of workers who are lawfully employed had the opinion that the POSH Act is not being implemented adequately, as shown by the findings found. As a further point of interest, a significant proportion of the participants, including both males and females, consider sexual harassment to be a significant obstacle to the development of the legal profession in the Gwalior Division sector. Taking into consideration these results, the research proposes that the Advocates Act of 1961 need to undergo a comprehensive revision in order to include sexual harassment as a category of professional misconduct. The legal profession would benefit from a workplace that is both safer and more egalitarian for both men and women if this were to be implemented.

Keywords: Legal, Harassment, Sexual, POSH, Prevention

INTRODUCTION

Legal professionals are not immune to the pervasive issue of sexual harassment in the workplace. Every day, many women still face sexual harassment, even though lawyers are supposed to be advocates for equality and justice. Bullying endangers their sense of self-worth, physical safety, and career progression opportunities[1]. This kind of inappropriate conduct not only causes immediate damage to the victims, but it also impedes the development of the profession and contributes to a lack of diversity and inclusion. This is why the Indian government recognized the need to address the issue of sexual harassment in the workplace and created the Sexual Harassment of Women at Workplace (Prevention,





Prohibition, and Redressal) Act, 2013 to set standards for how to handle such allegations in the legal and other professions.

The POSH Act's stated purpose is to make it feasible for women to work in a setting free of sexual harassment. In order to accomplish this objective, the legislation requires that complaints be handled in a certain manner and that infractions be punished with monetary penalties[2]. In addition to this, it mandates that businesses form Internal Complaints Committees, often known as ICCs. However, despite the progress that has been made, there are still barriers that stand in the way of its implementation and enforcement, especially in professions that have historically been controlled by males and are hierarchical, such as the legal system. It is possible that we may look at the Gwalior Division, which is home to a flourishing legal community that includes advocates, law firms, courts, and other legal institutions, in order to study how the POSH Act has impacted women working in the legal area in practice.

Women lawyers in this field encounter a number of professional problems, including social and cultural impediments such as gender bias and a lack of support mechanisms for victims of harassment[3]. These obstacles exacerbate the difficulties that women attorneys already experience. When they are subjected to sexual harassment, it is a persistent issue that makes it difficult for them to develop in their professions, take pleasure in their work, and participate fully in the legal system. This study aims to get a better understanding of the following: the perspectives of male and female attorneys in the Gwalior Division on sexual harassment; the efficacy of the POSH Act in reducing harassment within the legal profession; and the obstacles that women face while seeking legal representation.

In order to make it more difficult to participate in sexual harassment on the work, the study is being conducted with the intention of proposing modifications that are required, such as updating the Advocates Act of 1961. If we want to have a legal system in which women are able to engage freely and without fear, then we are going to have to take these appropriate steps. Putting a stop to sexual harassment in the legal industry is not only a need by law, but it is also a significant step towards attaining gender parity and strengthening India's rule of law[4].

OBJECTIVES

1. To evaluate how well the POSH Act is being used by female attorneys in Gwalior Division
2. To examine how sexual harassment is perceived and how it affects female attorneys.

HYPOTHESIS

1. The Gwalior section of the legal profession heavily and successfully enforces the POSH Act.
2. In the Gwalior division, sexual harassment has a detrimental impact on women's retention and professional advancement in the legal field.
3. In the Gwalior sector of the legal profession, sexual harassment mostly impacts women, with men's experiences of harassment receiving little attention.

METHODOLOGY

Participants

The individuals who participated in this study were legal practitioners who worked in the Gwalior Division of Madhya Pradesh in India. The sample consisted of individuals from the general public who had successfully submitted their applications to the Bar Council of India in order to become advocates[5]. A diverse range of individuals participated in the study. These individuals included attorneys working in private practice, public workers (including those working in the Ministry of Law





and Justice), judges serving in district and sessions courts, faculty members working in law schools (including adjuncts and full professors), and law students working toward master's degrees[6].

Measures and Procedure

The data for this cross-sectional study was collected by researchers using both online and offline approaches. A standardized questionnaire titled "Perceptions on POSH Act and Sexual Harassment in the Legal Profession" was sent to legal practitioners in the Gwalior Division. The purpose of this questionnaire was to determine the degree to which the POSH Act, 2013, was comprehended, put into practice, and enforced. In addition to that, physical copies were sent to key locations, including as the Gwalior District Court, the Morena Court, the Bhind Court, and educational institutions that offered legal education[7]. Email, LinkedIn, and WhatsApp were some of the digital media that were used in the distribution of the digital copies. All of the responses were voluntary and kept anonymous in order to ensure that they were honest. This was done since the subject matter was so sensitive. An summary of the objectives of the research, a provision for maintaining anonymity, and a section for obtaining informed permission were all included in the survey. 312 of the 450 questionnaires that were sent were returned in a manner that could be used for research purposes. The sample technique included a combination of stratified systematic choosing and purposive sampling in order to ensure that all of the many subgroups of the legal profession, which included gender, years of experience, and workplace type, were well represented[8].

Data Analysis

There were 29 questions total on the survey, and they ranged from multiple-choice to open-ended[9]. Five main groups were established for these:

1. Demographic profile of respondents
2. Awareness and significance of the POSH Act, 2013
3. Legal enforcement of the Act in the Gwalior legal community
4. Gendered perspectives on sexual harassment
5. Impact of harassment on the legal profession

After doing research on gender bias in the legal professions in Australia and Canada , we made a number of modifications to the questionnaire's design in order to make it more suitable for our particular setting. The IBM SPSS Version 21 was used in order to do the analysis on the data. A variety of descriptive statistics, such as percentages and frequencies, were used for the objective of summarizing demographic and general response patterns. To search for patterns and determine whether anything was noteworthy, we used inferential statistics such as analysis of variance (ANOVA), chi-square tests, and partial correlation analysis [10]. The reliability and internal consistency of the questionnaire were evaluated using Cronbach's Alpha.

RESULT

Table 1 displays the Cronbach's Alpha values, which indicate the internal consistency of the study instrument (questionnaire) items, which ranged from 0.71 to 0.86. With r values more than 0.70, we may conclude that the survey questions are valid and trustworthy in gathering information on sexual harassment incidents and the POSH Act's impact on the Gwalior Division's legal professionals[11].

Table 1: Internal Consistency of POSH Act Awareness and Perception Scales[12]

Scale	Number of Items	Cronbach's Coefficient
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Awareness of the POSH Act, 2013	8	0.777
Knowledge of legal provisions under the POSH Act	2	0.705
Perceived effectiveness of the POSH Act in the legal profession	5	0.863
Views on sexual harassment as a whole among lawyers	4	0.725

Table 2: Gwalior Division Legal Profession Participants' Characteristics by Gender (N = 347)[13]

Items	Category	Male	Female	Total	p-value	Hedges' g
Marital Status	Married	101 (73.2%)	37 (26.8%)	138 (39.8%)	p < 0.05	0.497
	Single	97 (49.7%)	98 (50.3%)	195 (56.2%)		
	Divorced	6 (42.9%)	8 (57.1%)	14 (4.0%)		
	Total	204 (58.8%)	143 (41.2%)	347 (100%)		
Institutional Affiliation	Ministry of Law & Justice	7 (3.4%)	0 (0.0%)	7 (2.0%)	p < 0.05	0.396
	Private Practice	144 (70.6%)	78 (54.5%)	222 (64.0%)		
	Judiciary (Court Staff)	9 (4.4%)	7 (4.9%)	16 (4.6%)		
	Legal Academia	26 (12.7%)	33 (23.1%)	59 (17.0%)		
	Law Universities (Postgraduate)	18 (8.8%)	25 (17.5%)	43 (12.4%)		
	Total	204 (100%)	143 (100%)	347 (100%)		
Job Designation	Senior Advocate	17 (8.3%)	2 (1.4%)	19 (5.5%)	p < 0.05	0.387
	Advocate in Private Practice	138 (67.6%)	91 (63.6%)	229 (66.0%)		
	Professional Student	25 (12.3%)	18 (12.6%)	43 (12.4%)		
	Judicial Staff	12 (5.9%)	8 (5.6%)	20 (5.8%)		
	Professor/Associate Professor	12 (5.9%)	24 (16.8%)	36 (10.4%)		



	Total	204 (100%)	143 (100%)	347 (100%)		
Age Group	Less than 20 years	5 (2.5%)	6 (4.2%)	11 (3.2%)	p < 0.05	0.517
	20–30 years	99 (48.5%)	100 (69.9%)	199 (57.4%)		
	30–40 years	54 (26.5%)	27 (18.9%)	81 (23.3%)		
	40 years and above	46 (22.5%)	10 (7.0%)	56 (16.1%)		
	Total	204 (100%)	143 (100%)	347 (100%)		

Results show that out of the Gwalior Division's legal professionals, 58.8% were male and 41.2% were female (Table 2). According to the cross-tabulation, 73.2% of the men and 50.3% of the women who took part in the study are married. Males in the region's legal profession are more likely to be married, highlighting a gendered variance in marital status. With 70.6% of men and 54.5% of women involved, private legal practice is the most common institutional affiliation among the participants[14]. Based on these data, it seems that women are more common at law schools and academic institutions, whereas men are more common in private practice and the MLJ. There is a significant distribution gap, as shown by the moderate overall effect size for gender-based variations in institutional affiliation (Hedges' $g = 0.396$, $p < 0.05$). The majority of the legal professionals in the area work as advocates for private law firms, with 66.0% of the total respondents holding this position.

While there are more women in the roles of professional student and professor/associate professor, men are more common in the roles of senior advocate, advocate in practice, and judicial staff. There is a gender disparity in professional positions within the Gwalior Division's legal area, as shown by the tiny but statistically significant impact size of gender variances in job classification (Hedges' $g = 0.387$, $p < 0.05$). The bulk of participants (57.4%) are young adults, suggesting that the Gwalior Division's legal workforce is mostly comprised of young professionals[15]. Having said that, there was a medium impact size statistically significant gender gap in terms of participant age. A noticeable difference can be seen in the age distribution: the '30 years and above' group is dominated by male participants, while the smaller age brackets are populated by more female participants. This data points to a younger female presence in the Gwalior Division legal profession, which may indicate a generational change in the sector or just a newcomer to the profession.

Table 3: Effect of Demographic Information on Participants' Perception of POSH Act Enforcement and Legal Profession Sexual Harassment of Women[16]

Demographic Information (Independent Variables)	Dependent Variable	df	χ^2	p-value
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Gender	Do you believe that Gwalior's legal community properly complies with the POSH Act?	1	11.824	0.001 **
	To what extent does sexual harassment in the legal profession become reduced by the POSH Act?	2	16.305	0.001 **
Marital Status	Do you believe that Gwalior's legal community properly complies with the POSH Act?	2	5.514	0.063
	To what extent does sexual harassment in the legal profession become reduced by the POSH Act?	4	6.155	0.188
Institution	Do you believe that Gwalior's legal community properly complies with the POSH Act?	4	5.231	0.264
	To what extent does sexual harassment in the legal profession become reduced by the POSH Act?	8	10.460	0.234
Designation	Do you believe that Gwalior's legal community properly complies with the POSH Act?	4	4.284	0.369
	To what extent does sexual harassment in the legal profession become reduced by the POSH Act?	8	10.282	0.246
Age	Do you believe that Gwalior's legal community properly complies with the POSH Act?	3	9.450	0.024 *
	To what extent does sexual harassment in the legal profession become reduced by the POSH Act?	6	17.965	0.006 **

Table 4: Impact of Participants' Characteristics on Sexual Harassment Perception and Gwalior Division Legal Profession Growth[17]

Variables	df	F	p-value
Does sexual harassment have an impact on Gwalior's legal profession's development?			
Gender	Between groups: 1	10.20	0.001 **
	Within groups: 345		
	Total: 346		
Marital Status	Between groups: 2	0.27	0.76
	Within groups: 343		
	Total: 345		
Age	Between groups: 3	1.66	0.15
	Within groups: 343		
	Total: 346		
Institution	Between groups: 4	2.20	0.05 *
	Within groups: 342		
	Total: 346		
Designation	Between groups: 3	1.79	0.14
	Within groups: 342		
	Total: 345		





DISCUSSION

Our primary expectation was that the legal community in the Gwalior Division would do their best to put the 2013 Prevention, Prohibition, and Redressal of Sexual Harassment of Women at Workplace Act (POSH Act) into practice[18]. According to our findings, this assumption is incorrect. There can be a number of things that explain this discrepancy. The majority of judges, court employees, and legal practitioners are men, and there are also inadequate laws that aim to prevent sexual harassment in the legal profession. There is also the issue of how widespread gender discrimination[19]. In addition, the Act is not successfully implemented owing to a number of issues, including the protracted court hearings that are caused by repeated adjournments, the late implementation of victim judgments or remedies, and the insecurity that is experienced by complainants and witnesses during trials[20]. Studies were out in different legislative jurisdictions corroborate this finding. One example is a report that the Federal Provincial Territorial Senior Officials for the Status of Women released. The report argued that despite the Canadian Criminal Code having provisions to address sexual violence, it was ineffective in doing so due to ambiguous wording and a lack of distinction between different categories of sexual offenses[21]. In a similar vein, the Canadian Centre for Justice Statistics pointed out that the rates of self-reported sexual assault remained the same for a decade. This was in part due to the fact that different legal definitions were being used[22].

Despite the fact that legislation such as the Sex Discrimination Act (SDA) of the United Kingdom addressed overt instances of sex discrimination, Mackay (2009) observed that these laws had less of an effect on the more systemic and institutionalized ways of acting that maintain women at a disadvantage[23]. Similar to the issue in India's legal profession, where the POSH Act is unable to be completely enforced due to the pervasive patriarchal traditions and norms that exist there, this scenario is also encountered. On top of that, the POSH Act has a number of parallels with the SDA in the United Kingdom, which was modified as part of the Equality Act (EA) in order to make the legal definition of sexual harassment more explicit and to provide clear sanctions for those who do not comply with the standards[24]. Despite the improvements that have been made, the subjective nature of "unwelcome behavior" and the criteria of reasonableness remain to be impediments for victims who are seeking justice. Given the information presented above, it is quite evident that the passage of the POSH Act would not be sufficient to put a stop to sexual harassment in the legal profession in India, much alone in Gwalior[25]. In addition to detailed and exhaustive legislative requirements, strong complaint resolution mechanisms, constant impact monitoring, and the addressing of long-standing cultural and institutional norms are essential for effective enforcement. Without fixing these systemic problems, the POSH Act will have a hard time fulfilling its goal of making legal offices safer for everyone who works there[26].

Table 5. Gender inequality, sexual harassment

Item	Gender	Mean	Standard Deviation	df	t	p
Does sexual harassment only affect female lawyers in the Gwalior Division?	Male	2.69	1.157	1; 343	0.840	0.650
	Female	2.79	1.198			





Does the Gwalior Division's male legal professionals need special protection under the POSH Act?	Male	1.30	0.459	1; 344	0.630	0.529
	Female	1.33	0.472			

According to the findings of this study, one of the primary reasons why there is such a significant gender disparity in the legal profession in India is because of sexual harassment. The departure of female advocates such as Malika and Charvi from their profession is reflective of a more widespread trend. This departure was brought about by harassment and male dominance[27]. Despite a rise in the number of women attending law school, statistics show that men still make up the vast majority of India's legal profession and court. Because it causes many women to leave their jobs too soon, sexual harassment is a major obstacle to women's professional advancement.

It is more probable for women to experience harassment in legal professions that are dominated by males. When it comes to female lawyers, sexual harassment has a negative impact on their professional satisfaction and retention, according to comparable findings from throughout the globe. As a result of the hierarchical structure of the legal sector, which often protects harassers, especially senior males, victims of harassment in the legal profession are frequently reluctant to disclose their experiences out of fear of retaliation or damage to their careers[28]. However, this study also found that males working in the legal profession are exposed to sexual harassment, despite the fact that laws like as the SHWWPPRA only protect women from being harassed in this manner. According to these and previous research, harassment has a differential impact on both sexes, but it does so in distinct ways. It was brought to light by a few male participants who raised attention to the misuse of sexual harassment laws that there was a perceived gender bias in the protections[29]. The establishment of a legal framework that is gender-neutral and offers equal protection to all persons is absolutely necessary in order to advance the cause of justice and reduce harassment. Over the course of time, this would be of assistance to the legal profession in achieving more balanced growth by boosting reporting and making workplaces safer[30].

CONCLUSION

According to the findings of this study, male dominance and persistent gender discrimination continue to be significant obstacles for women working in the legal profession, particularly in the Gwalior division. This persists even though the purpose of the POSH Act is to shield female employees from sexual harassment on the job. As they strive for professional advancement and entry into the legal field, women continue to face several obstacles, including the pervasive problem of sexual harassment. There is a correlation between the fear of penalty and inefficient enforcement, which leads to underreporting, which in turn affects the efficacy of the Act. It is essential to increase awareness of the POSH Act, ensure that it is properly enforced, and build a culture of zero tolerance inside the organization in order to safeguard female lawyers, achieve gender equality, and establish a legal profession that is more welcoming to all individuals in the Gwalior division.

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