

SEXUAL HARASSMENT AT WORKPLACE ACT, 2013: A REVIEW

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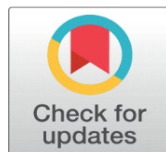
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ABSTRACT

The “Prevention of Sexual Harassment” (POSH) of “Women at Workplace Act” was introduced in India in 2013 to address the issue of sexual harassment (SH) against women in the workplace. The act requires all employers to establish internal complaint committees (ICCs) to investigate complaints of SH and to take appropriate action against the perpetrator. This abstract highlight the role of the POSH Act in creating a safer and more conducive work environment for women. The act has helped in empowering women by providing them with a platform to voice their grievances, ensuring that they are heard and taken seriously. It has also increased awareness about SH and its impact on women's mental and physical health, career prospects, and overall well-being. The POSH Act has contributed to creating a positive work environment where women feel more comfortable and confident in their roles. However, there are still many challenges to be addressed, such as the implementation of the law in smaller organizations, ensuring the confidentiality of the complainant, and creating awareness about the act among all employees. Overall, the POSH Act has been a crucial step in making the workplace better for women and in promoting gender equality and respect in the workplace.

Keywords: Prevention of Sexual Harassment (POSH), Internal Complaint Committees, Gender Equality, Sexual Harassment, Women Safety, Gender Sensitivity

1. INTRODUCTION

Sexual harassment against women in the workplace is a serious issue that has been prevalent for decades. It not only affects the physical and mental well-being of the victim but also has a negative impact on their career prospects, leading to a hostile and intimidating work environment. In India, the “Prevention of Sexual Harassment” (POSH) of “Women at Workplace Act” was introduced in 2013 to address this issue and create a safer and more conducive work environment for women. The POSH Act is a significant step towards ensuring that women are not subjected to SH in the workplace. The act makes it mandatory for all employers to establish an Internal Complaints Committee (ICC) to investigate complaints of SH and to take appropriate action against the perpetrator. This committee should comprise at least one external member who has knowledge and experience in dealing with cases of SH. The POSH Act is applicable to all workplaces, whether public or private, and covers all women, including temporary, contractual, and even interns. The POSH Act is not just about creating a complaint mechanism for women. It is also about creating awareness and sensitizing employees about SH and its impact on women. The act mandates that all employers should conduct awareness programs and training sessions for employees to create a gender-sensitive work culture. The act also requires

employers to display the details of the ICC at a prominent place in the workplace, making it easily accessible for women who want to lodge a complaint.

By giving them a place to air their complaints and ensuring that they are heard and taken seriously, the POSH Act has been instrumental in empowering women. It has contributed to the development of a welcoming workplace where women are at ease and self-assured in their positions. Additionally, the act has raised awareness of SH and its effects on women's life. In addition to making the workplace safer and more supportive for women, the POSH Act has had a favourable effect on workplace productivity. Women are more likely to be productive and engaged at work when they feel protected and respected, which improves performance and outcomes.

The act has also helped in creating a more diverse and inclusive workplace, where women feel valued and recognized for their contributions. The POSH Act is a significant step towards creating a workplace that is free from discrimination and harassment, and it is crucial that employers comply with the act's provisions to ensure a safe and inclusive work environment for all employees. However, the implementation of the act is still a challenge, especially in smaller organizations, where the ICC may not be established or may not function effectively. Confidentiality is another issue that needs to be addressed as many women fear retaliation from their colleagues or superiors if they file a complaint. Creating awareness about the POSH Act and its provisions among all employees is also essential to ensure that the act is effectively implemented. Overall, the POSH Act has been a significant step towards creating a harassment-free workplace for women and promoting gender equality. It has helped in empowering women and raising awareness about SH. The act also sends a strong message that SH is unacceptable and will not be tolerated in any form.

2. WHAT IS SEXUAL HARASSMENT?

The 2013 Act has also defined a quid pro quo arrangement undermining the consent of the aggrieved woman employee as sexual harassment. This is a significant clause as it removes the oft-referred defense by the accused that the act was consensual in exchange for some favor. The authority of the aggressor has been taken into account under this provision. In simple words, sexual harassment at workplace is an act or a pattern of behavior that compromises physical, emotional or financial safety and security of a woman worker. Legally speaking, sexual harassment includes such unwelcome sexually determined behavior as: physical contact and advances; a demand or request for sexual favors; sexually colored remarks; showing pornography; any other unwelcome physical verbal or non-verbal conduct of sexual nature.

Moreover, sexual harassment is also considered to have happened if the victim has reasonable apprehension of facing humiliation, and health and safety problem at the place of her work. If the employer or the co-workers by any action or words or gesture create a hostile environment for a woman worker, it amounts to sexual harassment.

The first country to define sexual harassment as a prohibited form of sex discrimination was United States of America. According to the definition of United Nations, "sexual harassment is defined as such unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, or submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual, or such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment".

Conduct of sexual nature includes a range of behaviors or actions, since there is a very wide range of activities which are expression of sexuality or have sexual connotations in our society. Therefore behavior which may appear relatively innocent like making a joke or innuendoes to behavior which is criminal like attempt to rape can all constitute to a conduct of sexual in nature.

Therefore, some forms of sexual behavior needs to be repeated over time to time in order to qualify for sexual harassment whereas some form of sexual behavior are so disturbing that their single occurrence can lead to sexual harassment. There are often cases at workplace when an employee is at a weak and vulnerable condition and is unable to object to the sexual harassment done by the employer in power. This doesn't mean that the actions were consensual and the sexual harassment did not occur. Therefore it is not necessary for the victim of sexual harassment to expressively object to the conduct if a reasonable person would understand the behavior to be offensive and sexual in context. Whether one or a series of incidents amounts to hostile work environment harassment depends on a balancing of the severity of the incidents and their frequency. A single incident may constitute harassment, especially if the incident is prolonged, offensive and very serious in nature, e.g., sexual touching or assault. Sexual harassment is also considered to have happened if the events varies in seriousness and frequency of occurrence.

3. SEXUAL HARASSMENT AND VISHAKA GUIDELINES:

To provide the working women security and safety at the workplace, these guidelines are known a milestone in the history of women empowerment. These guidelines and norms were laid down by the Hon'ble Supreme Court in Vishaka and Others Vs. State of Rajasthan and Others (JT 1997 (7) SC 384). Having regard to the definition of 'human rights' in Section 2 (d) of the Protection of Human Rights Act, 1993. However the case was related to a social worker Bhanwari Devi who opposed a child marriage in 1994 in the state of Rajasthan. Meanwhile she was raped in 1997 and a case was filed by an NGO in Supreme Court. In this case the Supreme Court issued new guidelines and directions for the protection of women at the workplace.

4. THESE GUIDELINES ARE:

- All employers or persons in charge of work place whether in public or private sector should take appropriate steps to prevent sexual harassment. It is necessary and expedient for employers in work places as well as other responsible persons or institutions to observe certain guidelines to ensure the prevention of sexual harassment of women.
- It is the duty of the employer or other responsible persons in work places and other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, settlement or prosecution of acts, of sexual harassment by taking all steps required.
- There should be appropriate work conditions in respect of work, leisure, health and hygiene to further ensure that there is no hostile environment towards women at work places and no employee woman should have reasonable grounds to believe that she is disadvantaged in connection with her employment.
- The employer shall constitute a complaint committee including a special counsellor or other support service, including the maintenance of confidentiality. The Complaints Committee should be headed by a woman and not less than half of its member should be women. It is the duty of employer to allow to raise issues of sexual harassment at a workers' meeting and in other appropriate forum.
- The employer has been entitled to initiate appropriate action in accordance with law by making a complaint with the appropriate authority. The victims of sexual harassment should have the option to seek transfer of the perpetrator or their own transfer. The employer shall take all necessary and appropriate disciplinary action against the offender in accordance with those rules.

5. LITERATURE REVIEW

Women's physical and emotional health suffers because of the long-standing problem of SH against women in the workplace. A big step has been taken towards ensuring a harassment-free workplace for women with the introduction of the "Prevention of Sexual Harassment" (POSH) of "Women at Workplace Act" in India in 2013. To evaluate SH complaints and take necessary action against the offender, the statute requires that all employers create an Internal Complaints Committee (ICC). (Ministry of Women and Child Development, 2013).

Research has shown that the POSH Act has helped in empowering women by providing them with a platform to voice their grievances and ensuring that they are heard and taken seriously. The act has contributed to creating a positive work environment where women feel more comfortable and confident in their roles (Bhatia & Sane, 2019). Studies have also shown that the POSH Act has increased awareness about SH and its impact on women's mental and physical health, career prospects, and overall well-being (Prasad & Prasad, 2020). However, the implementation of the act is still a challenge, especially in smaller organizations, where the ICC may not be established or may not function effectively. The lack of awareness about the act among employees and the fear of retaliation from colleagues and superiors are other issues that need to be addressed (Das & Choudhury, 2018).

To address these challenges, the act mandates that employers conduct awareness programs and training sessions for employees to create a gender-sensitive work culture. These programs have been shown to increase awareness about SH and its impact on women and create a more supportive work environment (Srinivasan & Mehta, 2017). The issue of SH in the workplace is not limited to any country or region but is a global problem that affects women across various sectors and industries (Gatrell et al., 2013). In response to this issue, several countries have introduced laws and policies to prevent and address SH in the workplace.

The "Indian Prevention of Sexual Harassment" (POSH) of "Women at Workplace Act", introduced in 2013, has been a significant step towards creating a harassment-free workplace for women. The act mandates that all employers establish an "Internal Complaints Committee" (ICC) to investigate complaints of SH and to take appropriate action against the

perpetrator (Ministry of Women and Child Development, 2013). The POSH Act has been shown to empower women and create a positive work environment, but there are still challenges to be addressed to ensure effective implementation and compliance with the act's provisions (Bhatia & Sane, 2019). Similar laws and policies have been introduced in other countries, such as the United States, where Title VII of the "Civil Rights Act" of 1964 prohibits SH in the workplace and the "Equal Employment Opportunity Commission" (EEOC) investigates complaints of SH (EEOC, 2020). In the United Kingdom, the Equality Act 2010 prohibits SH in the workplace, and employers are required to take appropriate measures to prevent and address SH (Equality and Human Rights Commission, 2018).

A study by Hughes et al. (2018) showed that training programs that focused on creating a respectful workplace culture and challenging problematic behaviors were effective in reducing the incidence of SH in the workplace. Despite the legal measures in place, SH continues to be a pervasive problem that affects individuals in different settings. In the educational context, for example, SH affects students and can lead to negative academic and mental health outcomes. Studies have shown that institutional policies and procedures that address SH and provide support to victims can lead to a reduction in such behavior (Bayer & Joshi, 2019).

Lim and Cortina (2005) examined the relationship between general incivility and SH in the workplace. They found that general incivility was positively related to SH and that this relationship was stronger for women than for men. The study also showed that the relationship between general incivility and SH was moderated by organizational climate. In organizations with a high level of sexism, the relationship between general incivility and SH was stronger than in organizations with a low level of sexism. Similarly, a study by Lee et al. (2019) investigated the relationship between organizational culture and SH. The study found that an organizational culture that was high in masculinity and low in femininity was positively related to SH. The authors suggested that organizations should promote a culture that values diversity and inclusivity to reduce the incidence of SH. In addition to organizational factors, individual characteristics have also been found to be related to SH.

A study by Gutek et al. (2016) found that individuals who endorsed traditional gender roles and who perceived themselves as having power over others were more likely to engage in SH. The study highlights the need for interventions that challenge traditional gender roles and promote gender equality.

6. OBJECTIVE

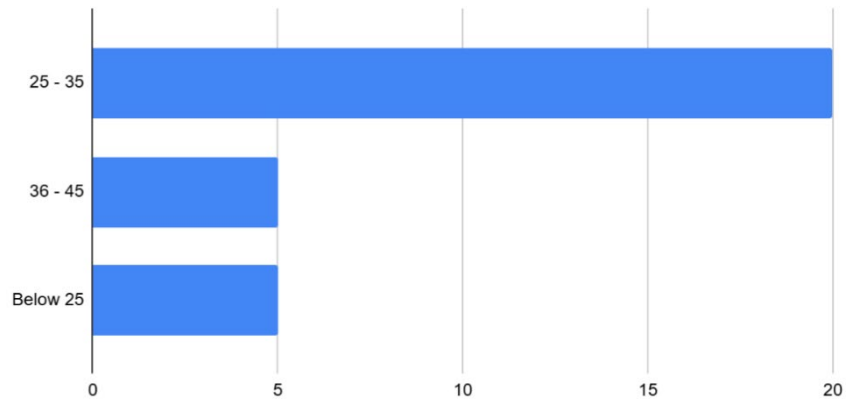
To find the role of POSH (prevention of sexual harassment) of women at workplace act in making workplace better for women.

7. METHODOLOGY

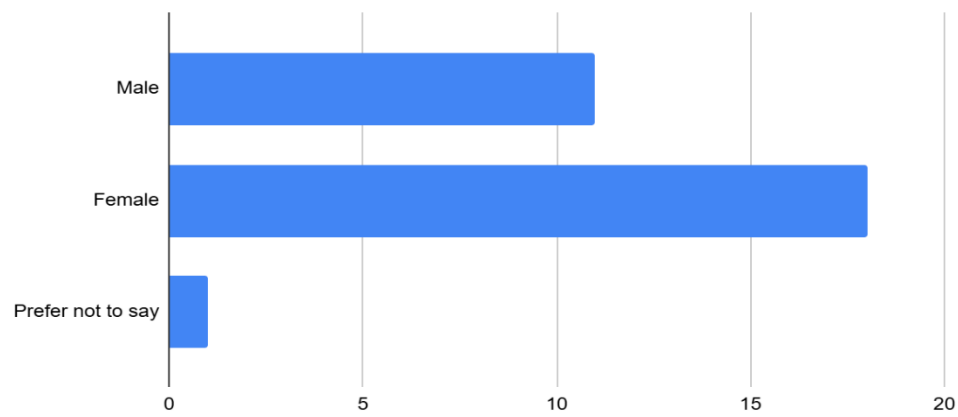
This study is descriptive in nature in which the data were obtained from the 31 respondents who are aware of POSH act. The major business area covered in the study were from Financial Services, IT and corporate sectors, advocates, teachers, professors. A checklist question was used to analyse and interpret the data. In a checklist question respondents choose "Yes" or "No" as well as open questionnaire was kept for all the questions.

8. DATA ANALYSIS AND INTERPRETATIONS

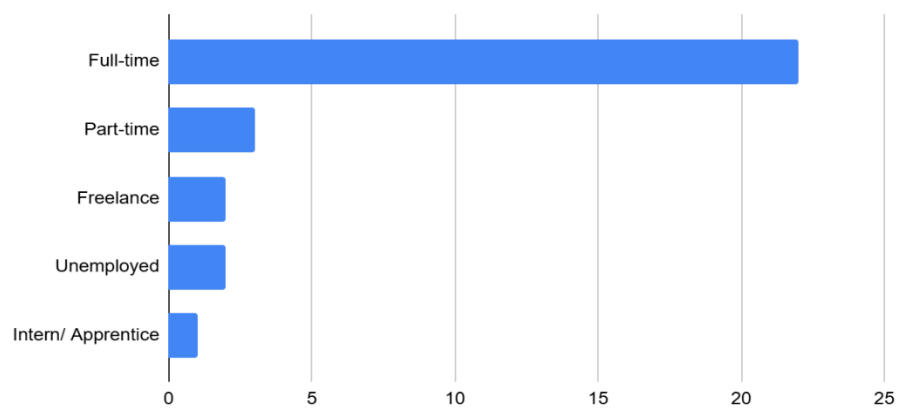
Count of What is your age group ?



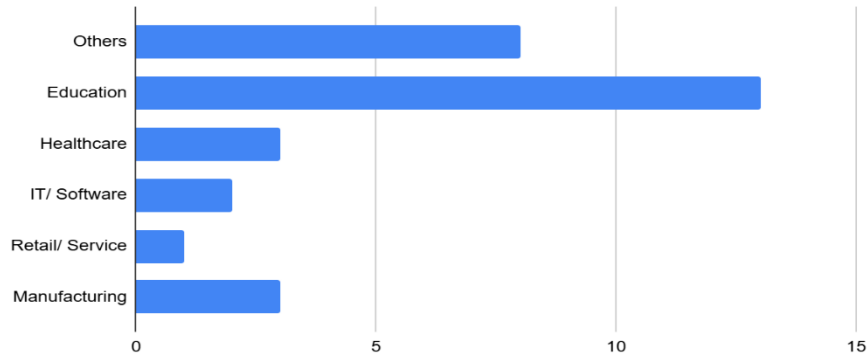
Count of What is your gender ?



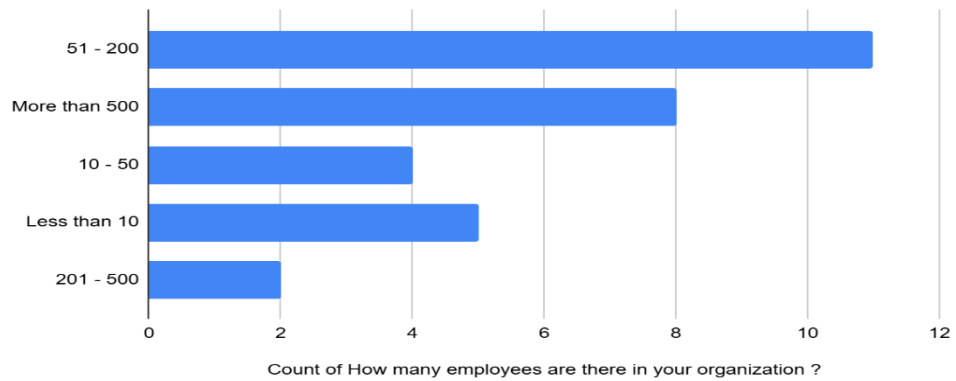
Count of What is your current employment status ?



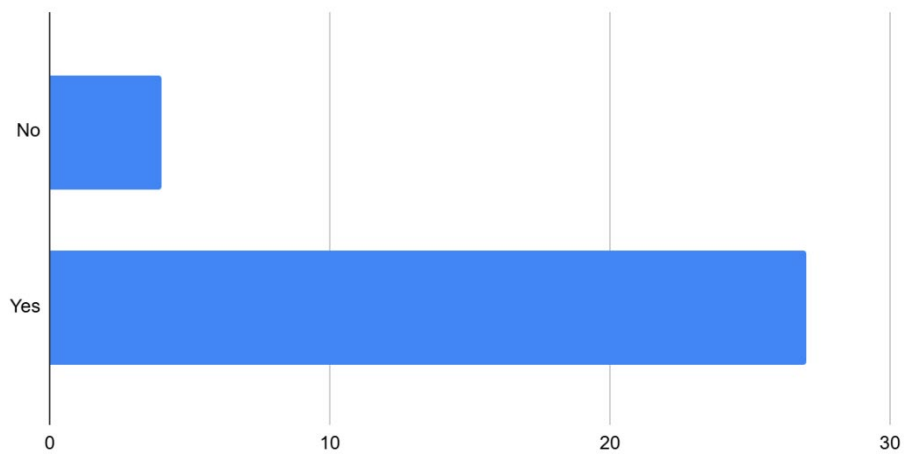
Count of Which industry do you work in ?



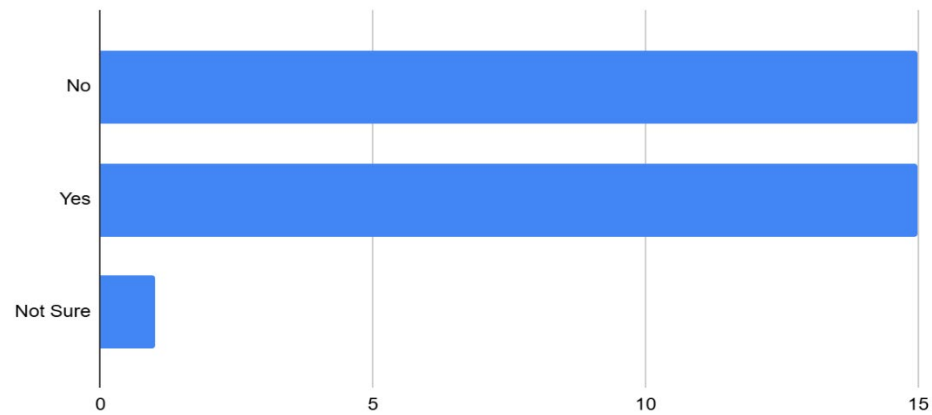
Count of How many employees are there in your organization ?



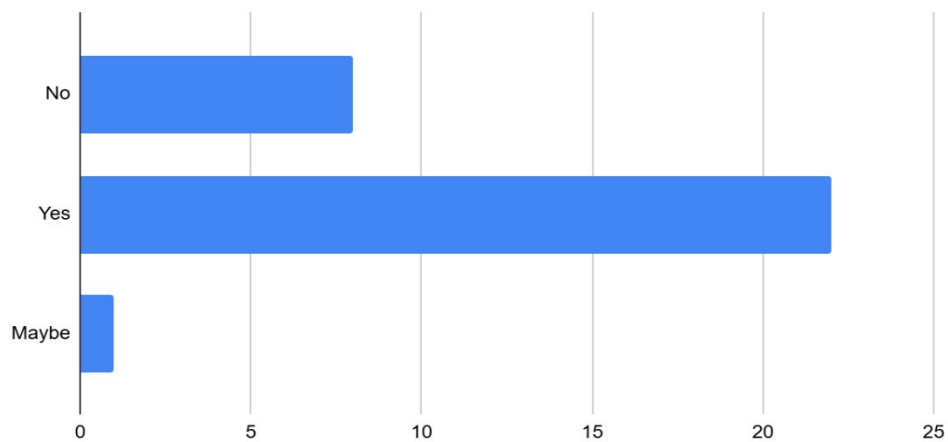
Count of Are you aware of the Sexual Harassment at Workplace (Prevention, Prohibition and Redressal) Act, 2013 ?



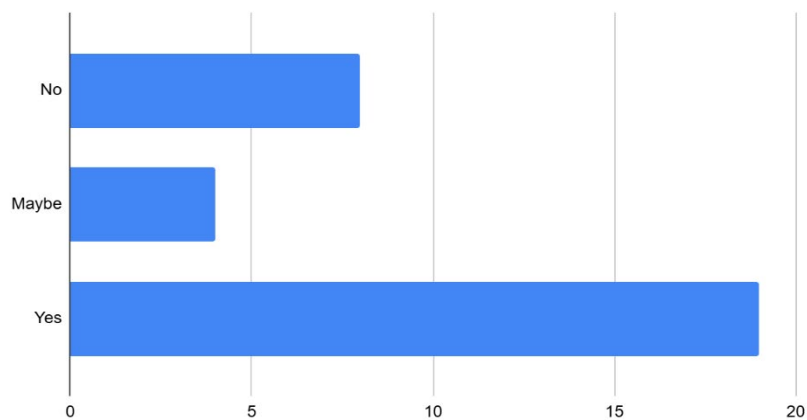
Count of Have you received any formal training on sexual harassment policies at your workplace ?



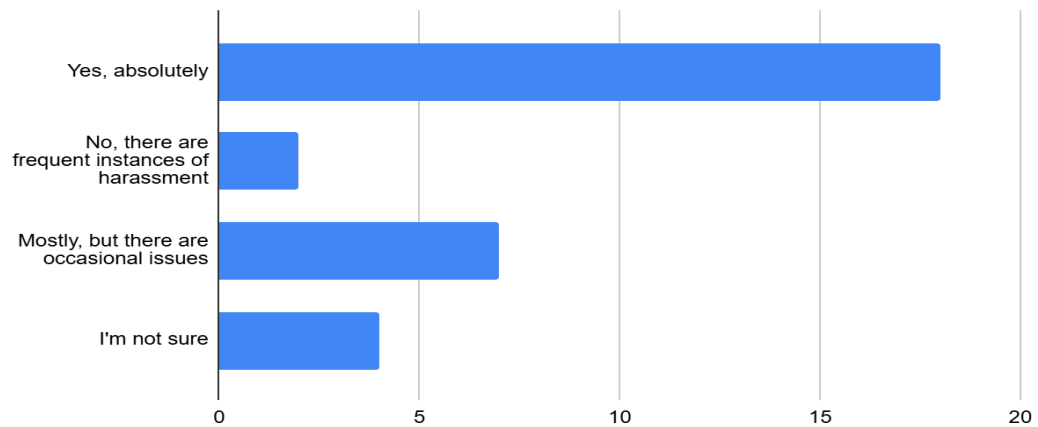
Count of Do you know the procedure for filing a complaint related to sexual harassment at your workplace ?



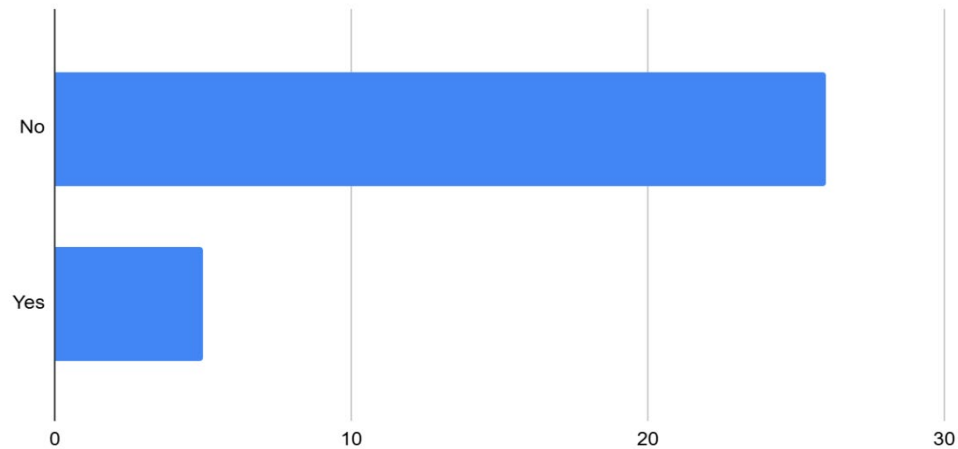
Count of Is there a designated Internal Complaints Committee (ICC) or similar body at your workplace to handle harassment complaints ?



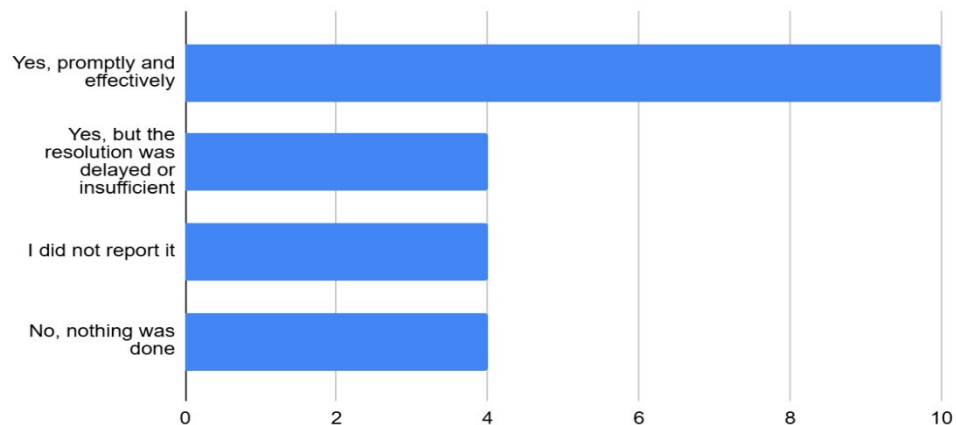
Count of Do you feel that your workplace is free from any form of sexual harassment ?



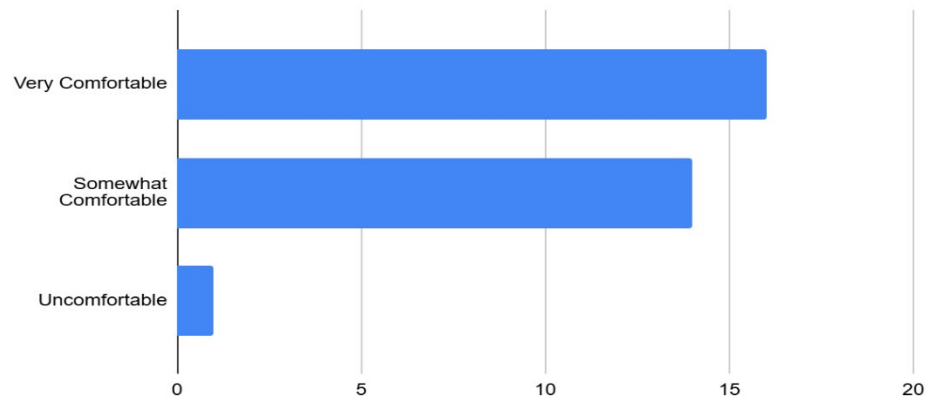
Count of Have you ever witnessed or experienced any form of sexual harassment at your workplace ?



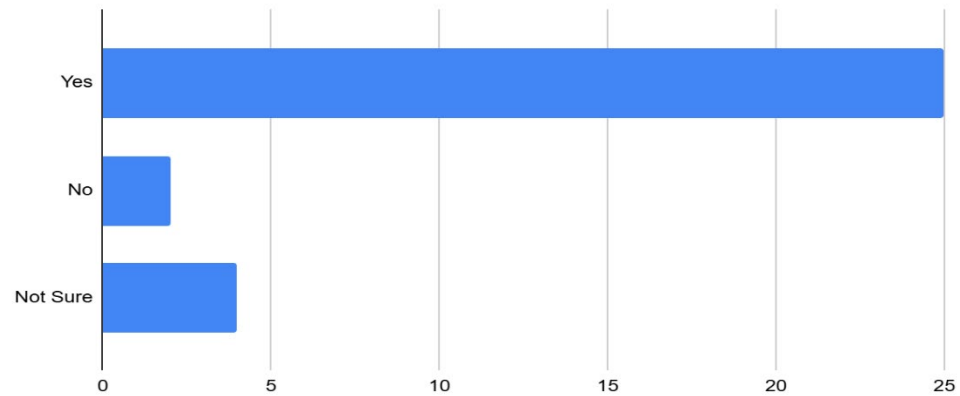
Count of If you experienced or witnessed harassment, was the issue addressed by the management or ICC ?



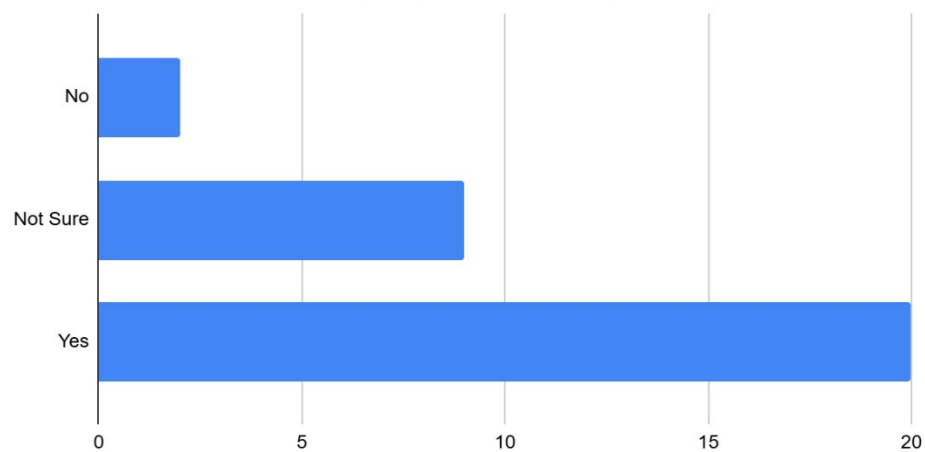
Count of How comfortable do you feel reporting a case of sexual harassment at your workplace ?



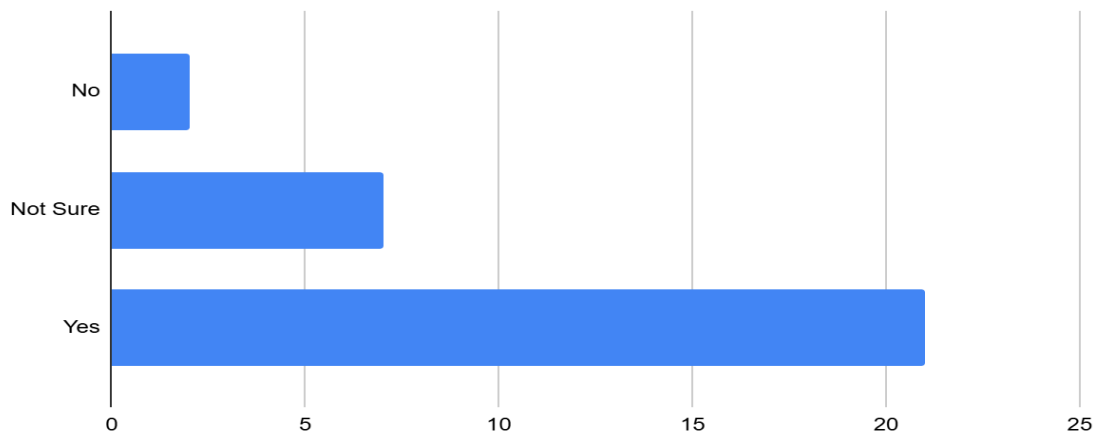
Count of Do you believe that your workplace fosters an environment of respect and safety for all employees ?



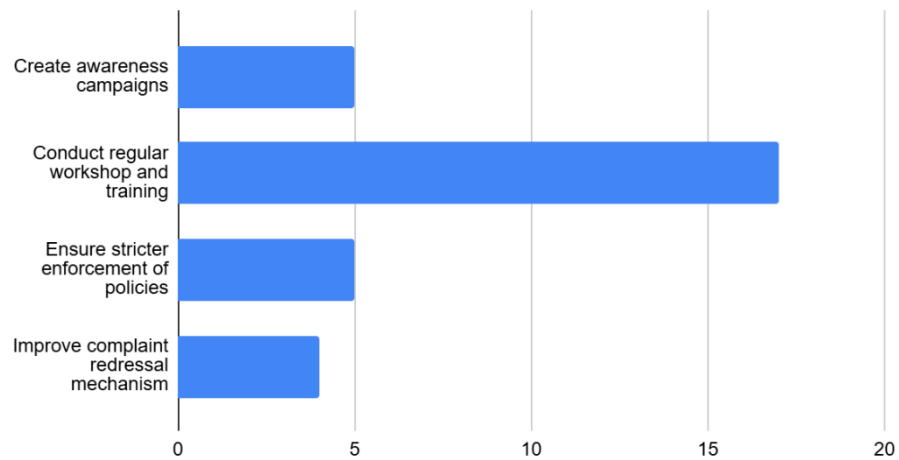
Count of Do you think the sexual harassment at workplace Act, 2013 has been effectively implemented in your organization ?



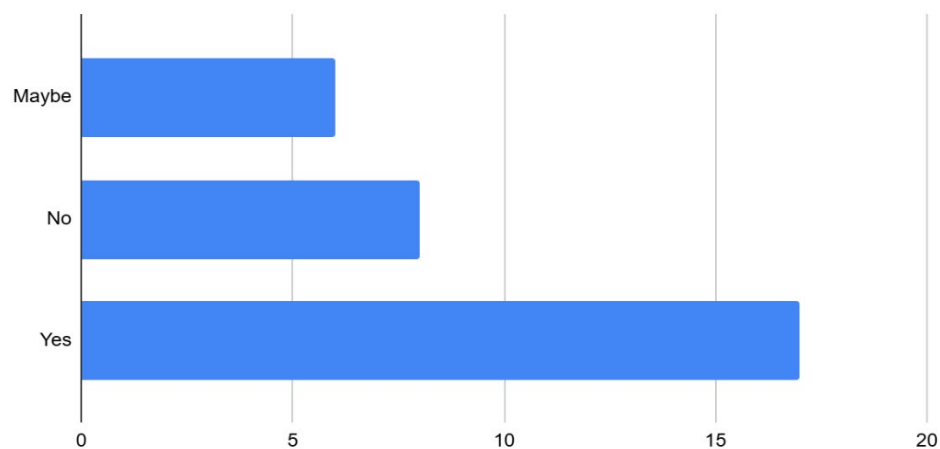
Count of Do you think your organization provides sufficient information about the right of the employees under this law ?



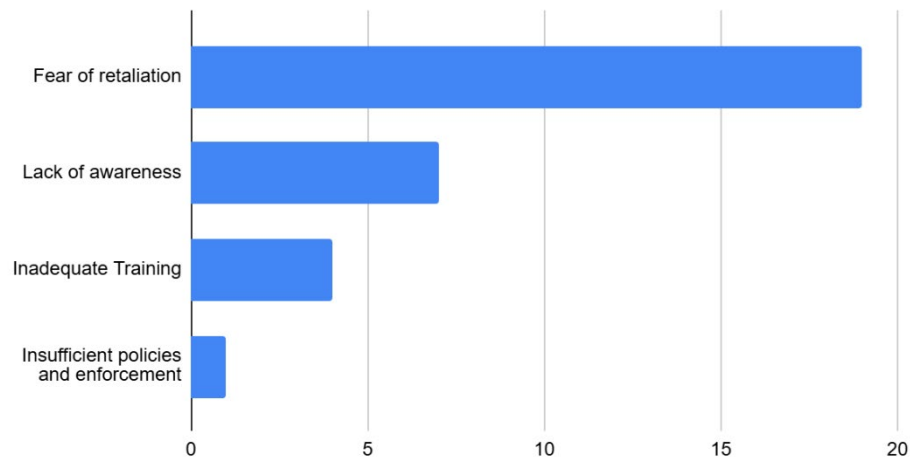
Count of In your opinion, what more can your organization do to prevent sexual harassment at your workplace ?



Count of Have you noticed any improvement in the work culture regarding sexual harassment in the past few years ?



Count of What do you think is the biggest challenge in preventing sexual harassment at the workplace?



When implementing the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013, there are several important considerations and suggestions to ensure compliance and foster a safe, respectful workplace:

1. **Clear Policy Communication** Ensure that your organization has a clearly articulated sexual harassment policy that outlines the process, definitions, and preventive measures. This policy should be communicated to all employees—new and existing—through orientations, emails, and handbooks.

2. **Setting up an Internal Complaints Committee (ICC)** Establish an ICC with a balanced representation, including women employees and external experts (such as a legal advisor or counselor) as mandated by the Act. The committee should be easily accessible, confidential, and capable of handling complaints impartially. Ensure that members of the ICC are trained in handling sexual harassment cases with sensitivity, confidentiality, and professionalism.

3. **Training and Awareness Programs** Conduct regular training sessions for employees (especially managers and supervisors) to raise awareness about sexual harassment, appropriate workplace behavior, and the available grievance redressal mechanisms. This can help prevent incidents and ensure that all employees know how to report them. Include specific training for the ICC to ensure its effectiveness in handling complaints.

4. **Confidentiality and Non-Retaliation** Maintain strict confidentiality throughout the investigation process. Ensure that employees who report harassment or participate in investigations are protected from retaliation, intimidation, or discrimination. Communicate to all employees that retaliation in any form will not be tolerated and will lead to serious consequences.

5. **Prompt Action and Timely Resolution** Implement a system that ensures swift action on complaints. The Act specifies that complaints should be resolved within 90 days, so it is important to set clear timelines for investigation and resolution while maintaining fairness and due process.

6. **Safe Reporting Mechanisms** Provide multiple, easy-to-use reporting channels, such as a dedicated email address, a hotline, or an online portal. Employees should feel comfortable reporting incidents without fear of judgment or bias. Encourage an open-door policy where employees can raise issues without fear of discrimination.

7. **Periodic Review and Feedback** Regularly review the effectiveness of the policies and procedures related to sexual harassment prevention. Solicit feedback from employees and ICC members to identify areas for improvement. Conduct periodic surveys or focus group discussions to assess the organizational climate regarding sexual harassment and take corrective actions when necessary.

8. **Promote a Respectful Workplace Culture** Foster an environment where all employees, regardless of gender, feel safe and respected. Encourage mutual respect, inclusivity, and zero tolerance for inappropriate conduct. Promote diversity, gender sensitivity, and respect in all aspects of the workplace, from hiring practices to day-to-day interactions.

9. **Support for Victims** Provide counseling and support services for employees who may have been affected by sexual harassment. Ensure that victims feel supported and that their emotional well-being is taken into account throughout the process. By following these steps, your organization can ensure compliance with the Sexual Harassment at Workplace

Act, 2013, and contribute to creating a safer, more respectful work environment.

1 response

At times, some female get into compromise due to pressure of the superior when such act is by their higher ups staffs. The fear of getting unjust pressurized in work field, mental harrassment& external pressure stops them from reaching appropriate authorities. Also, getting exposed to public stops them from complaining.

1 response

Partner with external organizations to provide psychological counseling and legal advice to complainants. Ensure complainants and accused are not forced into informal resolutions unless mutually agreed upon. Provide interim measures, such as workspace adjustments, during investigations.

1 response

Human eyes are same, there are no deviation between men and women, we have to came out of our closet. should restrict our animal and teach him humanity. basics of childhood.

1 response

Organization must provide assurance regarding the confidentiality of the report made by victims

1 response

The problem is not the law but the the implementation of the law by the people.

1 response

The head the institution should take every type of action for safety of women

1 response

People should to trained for spreading more awaeness on the same.

1 response

1) Every corporate should follow it very strictly

1 response

Should be religiously implemented

1 response

More awareness

1 response

Nothing

1 response

Na

1 response

No

9. CONCLUSION

Thus we can point out that violence and sexual harassment is also a very common phenomenon in today's world. However India is one of the countries which has framed many legislations to provide safety and security to women. The Sexual Harassment at the Workplace Act, 2013 is one of them. It is known as a milestone in the history of women rights especially working women. The Government of India constituted a committee under the headship of Justice J. S. Verma which reported for the protection of women. Often incidents like the gang rape in Delhi on 16th December 2012 have forced NGOs and public to protest for further strengthening of these laws. However, despite all the efforts, the sexual harassment cases have increased over the period of time. However, there are some drawbacks in the Sexual Harassment Act, 2013 for instance, it is heavily gender biased. Therefore it is necessary to make the Act gender neutral to provide justice to every victim. Apart from this, the working women in armed forces should also be included in the jurisdiction of this Act to make it comprehensive. For the effective implementation of the Act, it is necessary to create awareness among women towards their rights and duties.

The Prevention of SH (POSH) of Women at Workplace Act in India is a landmark legislation that seeks to address this problem by providing a legal framework for preventing and redressing SH. However, effective implementation of the law requires a concerted effort by organizations to create a culture that values diversity and inclusivity, challenges traditional gender roles, and provides bystander intervention training. Research on the topic suggests that organizational factors, individual characteristics, and bystander intervention all play a role in preventing SH in the workplace. Organizations need to recognize the importance of these factors and take steps to address them. Creating a safe and respectful workplace culture requires a sustained effort that involves not only legal compliance but also a commitment to changing

attitudes and behaviors. Overall, the POSH Act has the potential to make a significant difference in the lives of women in the workplace, but its success depends on the willingness of organizations to take proactive measures to prevent SH. By doing so, organizations can create a more productive, inclusive, and supportive workplace environment that benefits all employees.

CONFLICT OF INTERESTS

None.

ACKNOWLEDGMENTS

None.

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ANNEXURES

QUESTIONNAIRE ON - Sexual Harassment at Workplace Act, 2013: A Review

Section 1: General Information

1. What is your gender?

Male

Female

Non-Binary

Prefer not to say

2. What is your age group?

Below 25

25-35

36-45

46-55

Above 55

3. What is your current employment status?

Full-time

Part-time

Intern/Apprentice

Freelance

Unemployed

4. Which industry do you work in?

IT/Software

Healthcare

Education

Retail/Service

Manufacturing

Other (please specify)

5. How many employees are there in your organization?

Less than 10

10-50

51-200

201-500

More than 500

Section 2: Awareness of the Sexual Harassment Act, 2013

1. Are you aware of the Sexual Harassment at Workplace (Prevention, Prohibition, and Redressal) Act, 2013?

Yes

No

2. Have you received any formal training on sexual harassment policies at your workplace?

Yes

No

Not sure

3. Do you know the procedure for filing a complaint related to sexual harassment at your workplace?

Yes

No

I am not sure

4. Is there a designated Internal Complaints Committee (ICC) or similar body at your workplace to handle harassment complaints?

Yes

No

Not sure

Section 3: Perception of Workplace Environment

1. Do you feel that your workplace is free from any form of sexual harassment?

Yes, absolutely

Mostly, but there are occasional issues

No, there are frequent instances of harassment

I'm not sure

2. Have you ever witnessed or experienced any form of sexual harassment at your workplace?

Yes

No

3. If you experienced or witnessed harassment, was the issue addressed by the management or ICC?

Yes, promptly and effectively

Yes, but the resolution was delayed or insufficient

No, nothing was done

I did not report it

4. How comfortable do you feel reporting a case of sexual harassment at your workplace?

Very comfortable

Somewhat comfortable

Uncomfortable

Very uncomfortable

5. Do you believe that your workplace fosters an environment of respect and safety for all employees?

Yes

No

Not sure

Section 4: Implementation and Effectiveness of the Act

1. Do you think the Sexual Harassment at Workplace Act, 2013 has been effectively implemented in your organization?

Yes

No

Not sure

2. Do you think your organization provides sufficient information about the rights of employees under this law?

Yes

No

Not sure

3. In your opinion, what more can your organization do to prevent sexual harassment at the workplace?

Conduct regular workshops and training

Ensure stricter enforcement of policies

Improve complaint redressal mechanisms

Create awareness campaigns

Other _____

4. Have you noticed any improvement in the work culture regarding sexual harassment in the past few years?

Yes, significant improvement

Some improvement

No improvement

Worsened

Section 5: Suggestions and Feedback

1. What do you think is the biggest challenge in preventing sexual harassment at the workplace?

Lack of awareness

Fear of retaliation

Insufficient policies and enforcement

Inadequate training

Other _____

2. Any other comments or suggestions regarding the implementation of the Sexual Harassment at Workplace Act, 2013 in your organization?