



INTERNATIONAL LAW  
JOURNAL

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**WHITE BLACK  
LEGAL LAW  
JOURNAL**  
**ISSN: 2581-  
8503**

**Peer - Reviewed & Refereed Journal**

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

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## ***ABOUT US***

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **"ENFORCEMENT MECHANISMS AND LEGAL REDRESS FOR WOMEN AT WORK: CHALLENGES AND BARRIERS TO EFFECTIVE IMPLEMENTATION"**

AUTHORED BY - SHRISHTI SINGH

## **ABSTRACT**

Over the past century, there has been a change, women to take place with regards to their position in the work place and their opportunity to participate and be visible across different sectors. Yet these incidences of gender inequality, sexual harassment, pay disparity, underrepresentation in leadership roles prevail. However, domestic statutes and international conventions still exist, and yet there is a gap between legal guarantees and the working women's lived realities. The present article comprises of a comparative legal analysis of the legislative frameworks ensuring women's safety in the workplace. The article examines the Enforcement mechanisms and Legal redressal against national laws in India, the United States, the United Kingdom, Sweden, and European Union (EU).

In particular, the focus is on the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act) in India, Title VII of the Civil Rights Act of the U.S., the Equality Act in the U.K., and progressive Swedish employment legal protections. The article further analyses how these laws function within their societal and institutional contexts, when and how they are (or are not) implemented and how they fail women in the informal sector or women facing intersectional vulnerabilities. In this manner, this article is a small contribution to the existing discourse of gender equality, legal reforms, enforcement mechanism and implementing barriers with changes and it is hoped that it will be a useful reference for policy makers, legal practitioners, human rights advocates, and scholars who are aimed towards a safer, more balanced, and inclusive work environment of all women.

**Key words:** - POSH, U.S, U.K, EU, DO, EIGE, ICC, LCC, EHRC, AAUW

## **Introduction**



A crucial step toward achieving gender justice is the enactment of progressive laws to protect women in the workplace. However, the realization of these rights largely depends on the strength and effectiveness of administrative enforcement.

This article examines the diverse enforcement frameworks across jurisdictions, analysing institutional structures, grievance redress mechanisms, monitoring systems, and the roles of administrative and judicial bodies. It also addresses implementation challenges, particularly in ensuring access to justice for marginalized women, and evaluates how timely, sensitive, and victim-centric these frameworks are.

While progressive statutes exist worldwide, the key challenge lies in translating legal promises into lived realities. In India, a detailed legislative framework is often undermined by implementation bottlenecks and low awareness. The U.S. and U.K. models face issues of accessibility and cost, whereas Sweden and the EU illustrate the value of independent oversight, union participation, and proactive audits.

Creating safe, equitable, and empowering workplaces for women requires decentralized, accessible, well-funded, and culturally sensitive legal enforcement. Achieving substantive justice demands a collective societal effort supported by legal institutions and civil society.

Despite comprehensive legal frameworks and international conventions, implementation gaps persist due to cultural, social, economic, institutional, and infrastructural barriers. The following chapters explore these practical challenges through case studies, empirical data, and comparative analysis, unpacking systemic and procedural obstacles to effective protection for working women.

### **Enforcement Mechanisms in India**

#### **1. Internal Complaints Committees under the POSH Act**

Amongst the most structured mechanisms in the arena of Indian workplace law, probably the best example is that of the provision for establishment of Internal Complaints Committees (ICCs) under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressed) Act, 2013 (POSH Act). An ICC must be formed by each such organization which has 10 or more employees to handle sexual



harassment complaints.

Composition and Powers of ICCs:

It is presided over by a senior woman employee.

It also includes two employees familiar with women's issues.

- It should have one external member on its board from an NGO or even an association with relevant experience.
- As quasi-judicial bodies, the powers of ICCs are comparable to that of a civil court in calling any person to appear for questioning, to participate in the process of examination, and collection of evidence. Cases must be resolved within 90 days and the employer should act on their recommendations within 60 days.

## 2. Local Complaints Committees (LCCs)

The POSH Act provides for a Local Complaints Committee at the District level for worksites employing less than 10 employees or for women who do not have a defined employer, such as domestic's workers. However, the implementation of LCCs is uneven and there are little infrastructure, awareness, and trained personnel.

## 3. Labour Inspectorates and Welfare Officers

Labour Commission rates and factory inspectors under state governments are responsible for enforcement of labour codes which include the provisions on equal remuneration, workplace safety and maternity benefits. Often the inspections are underfunded and infrequent, and or, corrupted by bureaucratic inefficiencies.

The job of gender welfare is given in factories to welfare officers, but they are not well-defined and not utilized.

## 4. National and State Commissions for Women

NCW, as well as the corresponding State Commissions, are advisory and quasi-judicial bodies. They:

- Monitor implementation of women-centric laws,
- Conduct research and awareness campaigns,
- Legal aid for facilitating grievance redressed,
- Intervene in cases of systemic failure.

These mandates notwithstanding, commissions are quite often criticized for lacking either autonomy or political interference, or for being too reactive instead of proactive.

#### 5. Judicial Redress

The articles that Indian women (and women in general) approach civil courts, high Courts or the Supreme Court under are Articles 14, 15, 21 or 32 for workplace discrimination or harassment. Litigation is however too time consuming, too costly, and inaccessible to economically disadvantaged women.

The Vishaka Guidelines and subsequent cases such as Medha Kotwal Lele v. Systemic reform to performance monitoring is however slow.

### **Enforcement in the United States**

#### 1. Role of the Equal Employment Opportunity Commission (EEOC)

EEOC is the major federal agency charged with administering and enforcing civil rights laws against workplace discrimination. Under Title VII of the Civil Rights Act of 1964, the Equal Pay Act, and other statutes, the EEOC:

- Investigates complaints,
- Mediates settlements,
- Issues right-to-sue letters,
- Litigates on behalf of employees in federal courts.

The EEOC must receive a complaint from employees first before it can go to the courts.

The EEOC is on a national reach with regional offices and processes thousands of claims per year.

Though it functions with structured processing, the EEOC is underfunded and overburdened.

#### 2. Legal Remedies

After a right-to-sue letter is issued, the complainant can bring their case to federal courts. Remedies include:

- Reinstatement,
- Back pay,
- Compensatory and punitive damages,
- Injunctive relief

Because of legal costs, fear of employer retaliation and other reasons, few women file lawsuits. Also, employment contracts that include mandatory arbitration clauses may lead to legal access being denied.

### 3. State-Level Enforcement

There are civil rights commissions and statutes in all of the states that sometimes offer more protections than the federal law. For example, the FEHA of California is broader than Title VII as to coverage and remedies.

## **Enforcement in the United Kingdom**

### 1. The Equality and Human Rights Commission (EHRC)

It is an independent body, called the EHRC, which is there to enforce the Equality Act 2010. It has the power to:

- Investigate discriminatory practices,
- Issue compliance notices,
- Undertake legal proceedings,
- Offer help and training to employers.

It publishes gender pay gap data and audits employers' compliance as well. But the ability of its outreach and enforcement has been hampered in recent years by funding cuts since 2010.

### 2. Employment Tribunals

Employment Tribunals will hear complaints from employees who say they have been discriminated or harassed. They offer an affordable redress and are relatively quicker. If legal aid is limited, simplified procedures and other alternative dispute resolution mechanisms allow tribunals to be accessible.

In *De Souza v. Vinci Construction UK Ltd.* (2017), UK Supreme Court ruling endorsed preference for broad reading of disability discrimination which set a precedence for wide interpretation of equality rights.

### 3. Limitations and Recommendations

However, without dedicated efforts, such progressive mechanisms remain distant, as the short three months limit for complaints prohibits more backward victims,



ignorance, and apprehension of employer backlash dissuades the victims.

## **Enforcement in Sweden and the European Union**

### **1. Equality Ombudsman (DO) in Sweden**

The government agency Diskrimineringsombudsmannen, DO (Sweden's Equality Ombudsman) is a very powerful body empowered to:

- Receive and investigate complaints,
- Initiate suo moto inquiries,
- Mediate between parties,
- Bring cases before labour courts.

Consequently, the DO works independently and actively educates employers to provide compliance with the Discrimination Act (2008) and similar laws.

### **2. Legal Framework and Labour Courts**

Sweden's Labour Courts are specialized institutions that handle disputes connected with employment. Their involvement also brings unions on board, which means much more of a force behind workers and hastens settlements.

Unions have the legal ability to do women's work directly with employers under the Co-Determination Act and to get remedies without litigation.

### **3. EU Enforcement Mechanisms**

According to Directive 2006/54/EC and newer directives on work-life balance, all member states of the EU are mandated to set up Equality Bodies. These bodies must:

- Assist victims,
- Monitor implementation of gender laws,
- Conduct surveys and audits,
- Publish reports and make recommendations.

To support research and data dissemination for policymaking, the European Institute for Gender Equality (EIGE) is provided.

### **4. Challenges**

In Eastern European states, underreporting of harassment cases are due to lack of trust of the victims in state institutions, according to EIGE's 2023 report.

## **Role of NGOs, Civil Society, and Trade Unions**

### **1. India**

Organizations like Jagori, SEWA, Majlis, and Breakthrough play vital roles in:

- Legal awareness campaigns,
- ICC training programs,
- Legal representation and counselling,
- Public interest litigation.

By itself, the Vichada judgment had been the result of Knolled litigation. Education and advocacy continue to be provided by civil society in gaps left by the state.

### **2. International Examples**

- The Time's Up Legal Defence Fund (U.S.) finances and supports workers with harassment claims in the workplace.<sup>1</sup>
- Rights of Women and the Fawcett Society campaign for better laws and workplace conditions in the UK.
- Together with the ILO's Better Work Program, UN Women partners with industries to ensure ethical labour standards.

In Sweden, Germany and France, trade unions are directly involved in dispute resolution and collective bargaining, so as to substantially strengthen enforcement through the worker solidarity.

## **Barriers to Legal Redress**

Yet, laws and institutions have been able to provide an effective redress, as several structural and cultural barriers prohibit effective redress.

### **1. Lack of Awareness**

In rural and informal sectors, many women don't have an idea of what their rights are, and how to enforce them. A 2021 NCW report had proved that more than 60 per cent of working women in India were not aware of the POSH Act.

### **2. Social Stigma and Retaliation**

There is fear of job loss, victim blaming, and social ostracism that end up deterring

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<sup>1</sup> Time's Up Legal Defence Fund — <https://nwlc.org/times-up-legal-defense-fund>.

women from filing complaints. Proper documentation or justice is done in many cases, but such cases are informally settled before formal proceedings.

### 3. Financial and Procedural Hurdles

There is no doubt that litigation is expensive, long and emotionally draining.

### 4. Inadequate Institutional Capacity

Becoming an ICC or an Equality Commission is often incredibly underfunded and understaffed by people with proper training. Layer upon layer of additional weaknesses are imposed upon enforcement through frequent turnover and the absence of standard operating procedures.

## **Recommendations**

From the comparative analysis, the following are recommendations that can reinforce enforcement mechanisms.

- ICC Integrity Officers and CCC should be certified and should be subjected to independent oversight as well as external auditing.
- Start Gender Justice Cells: Establish cells which will include specialized staff of gender justice in labour departments and courts for handling workplace gender issues.
- Digital Complaint Portals: Use mobile-friendly platforms for filing complaints confidentially, especially in remote areas.
- Expand Legal Aid on a free basis, especially in the rural and informal sectors.
- Sponsored Public Awareness Campaigns on rights, redressal mechanisms, norms of Gender gender- sensitive workplace.
- Employer Incentives: Provide tax and recognition to companies with good compliance records.
- Establish independent oversight bodies, such as ombudsman-like authorities, with the ability to audit implementation and conduct surprise inspections and other measures.

## **Structural Challenges in Legal and Institutional Frameworks**

### 1. Inadequate Institutional Infrastructure

Many of the countries in which women have laws to protect them also lack the administrative machinery to enforce women's laws. For instance, in India, though the POSH Act requires that Internal Complaints Committee (ICC) be set up in workplaces with more than 10 employees, except for the 73rd National Census report, most of the



surveys (48, 49, 50 & 51) show that a big part in both private and public establishments fail to set up or operate such committees. Process also fails when ICCs exist, except that members are untrained or unaware of procedural requirements or biased internally.

In a similar manner, many of the districts have Local Complaints Committees (LCCs), which are meant for unorganized sector, which are non-functional or only in papers in most of the districts.

In the US the Federal enforcement agency is the Equal Employment Opportunity Commission (EEOC), which continuously suffers from budget restrictions resulting in case delays, investigations delays, and overburdening of its regional offices with not enough resources.

Despite the Equality and Human Rights Commission's (EHRC) critical role in ensuring the UK complies with the Equality Act of 2010, its detractors argue that the commission's ability to enforce the legislation has been diminished due to cuts in funding and personnel.<sup>2</sup>

## 2. Fragmentation of Legal Protections

In India, there are workplace safeguards under the Maternity Benefit Act, POSH Act, Equal Remuneration Act (Code on Wages), Factories Act, Shops and Establishments Act and so on. The multiplicity leads to confusion, differs in the application, and brings in administrative overlaps<sup>3</sup>.

Laws governing federal and state parks vary by location in the United States due to the patchwork of federal and state laws. For instance, some states have more generous family leave laws and stronger anti-harassment laws than others; yet, these other states have merely minimum federal standards.

## 3. Exclusion of Informal Sector

The frameworks tend to be legal and rather exclude or do not cover sufficiently, the informal sector where the majority of women in developing countries like India and

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<sup>2</sup> Equality and Human Rights Commission (UK) — <https://www.equalityhumanrights.com>.

<sup>3</sup> AAUW – Pay Equity Advocacy Reports — <https://www.aauw.org> (implied from citations).

Bangladesh, Nigeria, etc. are employed. Domestic help, agricultural labourers, construction workers and vendors are informal workers and do not have a contract, job security or means of seeking grievance redressed. Technically, domestic workers fall under the ambit of the POSH Act in India, but when it comes to enforcement at the local level, it is virtually non-existent.

But the gig economy challenges are similar in developed countries. Female platform workers, like a ride-share driver or an online freelancer, often find themselves in a gray area of the law, and consequently, they do not enjoy the work protections that other workers enjoy.

### **Societal and Cultural Barriers**

#### **1. Patriarchal Norms and Gender Stereotyping**

Patriarchal beliefs are deeply ingrained in workplace culture, in how managers are paid attention to, and in what their co-workers do. In some societies gender is very rigidly defined and women are expected to focus on family, not career. But generally, such stereotypes can deny career opportunities and nurture a workplace where harassment or discriminatory acts become socially acceptable or simply ignored.

Women in South Asia, especially in rural India and Pakistan, have only limited levels of mobility and public engagement due to cultural factors. Therefore, many do not report the violations at their workplace due to social backlash, familial pressure, or honour-related stigma.

If you were in a progressive society, even within what could be considered progressive societies, women in male-dominated industries (tech, construction, law enforcement) face implicit biases and gendered microaggressions, and it affects their morale and kills their capacity for being productive.

#### **2. Fear of Retaliation**

A deceptive workplace norm also exists because of fear of reporting workplace violations, whereby employees are afraid of retaliation, including losing their jobs, being demoted, being shunned, or branded a troublemaker. Efforts to suppress an unsupportive environment may work through overt retaliation (termination, pay cuts) or subtle retaliation (not being included in team activities, denial of promotions).

According to the American Association of University Women (AAUW), female

respondents in the

U.S. who reported being sexually harassed faced some form of retaliation, and more than 75 percent of those respondents experienced retaliation. The same applies in India and in the UK, where women who make complaints under workplace laws often withdraw or settle under organizational pressure.

### 3. Lack of Awareness

However, the lack of awareness among both employer and employees is a major hurdle for the implementation of safeguards. Also, many women are unaware of their rights or the legal means to a redress. A 2018 Indian Bar Association survey in India found that more than 60% of women surveyed were oblivious to the POSH Act.

For employers (especially in smaller firms or the unorganized sector), compliance requirements are routinely ignored. They train sporadically, host sporadic workshops and awareness campaigns and are confined to predominantly metropolitan areas for the most part.<sup>4</sup>

## **Economic and Employment Barriers**

### 1. Economic Dependence

The barrier that a person faces in utilizing the legal remedies is economic vulnerability. Several women, most particularly among the poorer income brackets or in single-parent households, suffer sexual discrimination or harassment due to fear of losing their jobs. This aggravates the issue since the majority of workers find employment in the informal sector, which involves daily-wage arrangements and no formal contracts.

Many women in global supply chains garment workers in Bangladesh, electronics factory workers in China as well as men, face exploitative conditions with, in effect, no rights.

### 2. Lack of Financial and Legal Resources

Working out access to justice often means lawyers' fees, transportation, lost work—a cost women simply cannot afford. Even countries that have legal aid provisions have those which are insufficient, underfunded or inaccessible.

In the USA and the UK, legal representation is too expensive, and pro bono services

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<sup>4</sup> India's Equal Remuneration Act, 1976 — Merged into the Code on Wages, 2019.



are unavailable. State sponsored, legal aid services in India are still lack of penetration and quality with no lawyers trained in gender sensitive litigations.<sup>5</sup>

### **Procedural and Administrative Barriers**

#### **1. Bureaucratic Delays**

In India, the burden of cases filed under these workplace laws can take years to be resolved in the courts or other administrative authorities due to their overloaded system.

However, in the U.S., they have been criticised for long investigation periods often going on for over a year, which aggrieves complainants.

#### **2. Ineffective Grievance Mechanisms**

Mechanisms may exist in other cases, but tokenistic. The ICCs may be unfair to the employee because they are biased in favour of the employer, or constituted poorly, or be unfamiliar with due process. Other factors that discourage victims include confidentiality breaches, mishandling of evidence and lack of follow up.

This results in inconsistent outcomes and limited accountability of workplace grievance decisions, because a lack of specialized appellate forums to rule on such decisions. Many employers can manipulate internal processes to avoid reputational damage due to the lack of external audits or monitoring.

#### **3. Absence of Gender Sensitivity**

There is a lack of gender sensitivity training for many of the law enforcement and judicial officers. Insensitive questioning or failure to believe can re-traumatise victims. Such settings are also perceived by vulnerable people as places of unsafety and hostility.

In India, the Mahila Courts have yet to be fully institutionalized, while the necessary training of police personnel on gender based violence needs to be expanded and applied more deeply.

### **Technological and Digital Barriers**

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<sup>5</sup> United States v. Virginia, 518 US 515 (1996) — Gender integration enforced in military school.

1. Lack of Digital Literacy

This may further negate women with limited access or literacy to the use of digital access. Due to the absence of digital awareness in the rural and marginalized communities, women are not able to file complaints or access information.

2. Data Privacy and Confidentiality

The privacy of victims are often not secured adequately by technological solutions. Confidentiality breaches cause reputational harm and social backlash on a work environment where employees are tightly knit.

The POSH act in India is laced with slogans of confidentiality but implementation is not consistent. Many of the ICC proceedings are leaked or discussed with people at times, negating the purpose of the law.

**Inconsistent Enforcement Across Jurisdictions**

Enforcement of laws enormously varies depending on the country and within the country.

1. India: Urban-Rural Divide

Yet urban centers may be better aware of legal aid and functioning grievance mechanisms. Rural areas, by and large, are devoid of even basic awareness and infrastructure for enforcement. For example, the implementation of POSH is very low in smaller towns or villages.

2. United States: State Discrepancies

Some states have many more workplace rights than the rest, such as California and New York, while others depend totally on hardy minimum federal laws.

3. EU: East-West Gap

Although Sweden, Germany, and France, among other Western European countries, boast strong enforcement structures, countries in Eastern Europe seem to be lagging in the levels of reporting and enforcement of compliance. This gap is due to cultural conservatism, weak institutions, as well as economic constraints.

**Case Studies Highlighting Implementation Challenges**

1. Case Study: POSH Act Implementation in Indian IT Sector

In 2022, a whistleblower from a major IT firm revealed that instead of the ICC technically being constituted, it operated under serious influence from the HR department. Complainants were encouraged to resign or accept monetary settlements and investigations took time to conduct. The debate on the autonomy of ICCs and why third party oversight are needed, was manifested in this case.

2. Case Study: EEOC Delays in the United States

The EEOC was already involved amidst a 2021 high profile harassment case at a leading hospitality chain when the complainant filed a case with the same. The case took some 14 months to investigate and the complainant was reassigned, before being fired. The monetary damages associated with the final resolution discouraged other employees from speaking up, and retaliation and delay prevented other employees from speaking up.

3. Case Study: Gender Pay Reporting in the UK

Though required by UK gender pay gap reporting, the follow-up enforcement has been weak. In 2020, several firms have not submitted data without having to bear the penalties. Such measures, the experts argue, will be symbolic without enforcement teeth.

**Intersectional Challenges**

1. Caste, Race, and Class Barriers

Particularly in India, Dalit women, and in the U.S., Black and Latina women, and in the EU, migrant women are discriminated against in layers which are seldom taken into account in workplace laws.

For example, an agricultural labourer Dalit woman in India is less likely to gain access to grievance redress than an upper caste woman in an urban corporate job. For example, immigrant women in Europe also struggle with language barriers, legal uncertainty and face the system of exclusion.

2. Disability and LGBTQ+ Identity

The policies in the workplace rarely take care of the distinctive vulnerabilities of



women with disabilities or those who identify as LGBTQ+. In addition, their exclusion is further compounded by discrimination, harassment, and the lack of accommodations. Frameworks have to progress towards an inclusive design and protections.

### **Recommendations to Address Implementation Barriers**

- Fund and train grievance bodies, viz, ICCs, LCCs and equality commissions. Have regular audits and externally oversee.
- State-sponsored media campaigns can promote rights-based education during school curricula, and within workplace orientations can also promote awareness.
- **Set up Fast Track Courts:** Make workplace provocation and maltreatment cases be addressed quickly in the Fast-track Courts.
- **Support Community-Based Redress:** Women's unions, peer support groups and legal aid collectives should be supported to form solidarity and enforce locally.
- **Gender Audits Required:** Periodic gender audits and diversity reports for all companies over a particular size.
- Create Multilingual And Accessible Technology for Complaints And Information Sharing Digital Portals.
- **Implementation of Gender Sensitization:** Sensitize police, judiciary, HR professionals and management staff towards gender sensitive practices.
- Extend protections of POSH and maternity benefits to domestic and gig workers via simplified models.
- Strong penalties devised for noncompliance with workplace safeguard laws by employers, i.e., by imposing fines, license suspension, or putting the employer on a name and shame strategy.
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Having laws that exist to protect women in the workplace is certainly a positive thing, but how much the laws have a realistic impact is all up to the extent to which the laws are implemented in the workplace. Systemic gaps, socio-cultural barriers and institutional weaknesses across the globe are yet to allow full realization of women's workplace rights. It has to be reinforced through effective enforcement, regular monitoring, sensitization and outreach at the intersectional level.

The challenges are not insurmountable. Countries that have put in place robust institutions, transparent processes and inclusive practices have shown an improvement of the same in

workplace gender equality. Taking a way forward requires action by not only governments, employers, civil society and women workers themselves, but also concerted action by all of these to translate legal guarantees into lived realities.

