

HOW SAFE THE WORKPLACES ARE: AN ANALYSIS OF SEXUAL HARASSMENT ACT FROM THE EYE OF EXTERNAL EXPERTS

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Abstract

The Vishakha judgment later metamorphosed into a comprehensive gender specific law - Sexual Harassment at Workplace, (Prevention, Prohibition and Redressal) 2013 (POSH Act) is a milestone in acknowledging and addressing the issue which for long was treated and tolerated as a normal activity, but had been highly demeaning to dignity of the women and a major obstruction in their professional growth. It brought under its purview everything demeaning and offensive to a woman from staring to stalking and obscene comments as well as any other misconduct – intentional or unintentional - which amounted to discrimination and undermined a woman's right to equality. Under the POSH Act 2013, the provision of constituting an Internal Complaints Committee (ICC) is mandatory and binding for all the organizations, both government and private, having 10 or more employees. The prerequisite in the law state clearly the importance an external expert shall hold in the committee. The paper articulates different dimensions and parameters of the law based on expert's experiences. It analysed the functioning and perspective of the external experts about the Act. The challenges, hurdles and drawbacks needed to be addressed to fulfil the vision of the law have also been analysed. Ten NGO members were extensively interviewed on the key issues like Constitution of the ICC, profile of chairperson, key priorities of the committee, frequency of meetings, and submission of annual reports. The sensitivity of ICC members and external experts, reasons accounted for such incidences, reporting of such cases, and extent of toleration, trivializing harassment, diluting/escaping punishment and support system for the victim.

Keywords: POSH Act, Sexual Harassment, NGO, Vishaka

How safe the workplaces are: An analysis of Sexual Harassment Act from the Eye of External Experts

The law against sexual harassment at workplace is a milestone in acknowledging and addressing the issue which for long was treated and tolerated as a normal activity, but had been highly demeaning to dignity of the women and a major obstruction in their professional growth. The legislation made it clear that sexual harassment cannot be taken casually as it not only subverts the constitutional values, but also results in grave repercussions. The law as it is today, has not been an overnight outcome. It has travelled a long gruesome journey combating patriarchal hurdles and establishing benchmark like 'Vishaka'. The landmark judgement delivered in the 'Vishakha and others versus State of Rajasthan 1997', also known as Bhanwari Devi's case, the Supreme Court of India laid down guidelines that for the first time dealt with the deep-rooted problem of harassment of women at workplace - an issue though an anathema to the long-stated constitutional goal of equality, was trivialized earlier. The Vishakha judgment later metamorphosed into a comprehensive gender specific law - Sexual Harassment at Workplace, (Prevention, Prohibition and Redressal) 2013 (POSH Act) – that brought under its purview everything demeaning and offensive to a woman from staring to stalking and obscene comments as well as any other misconduct – intentional or unintentional - which amounted to discrimination and undermined a woman's right to equality. However, despite sustained stress on implementation of the apex court's Vishakha guidelines and later POSH Act 2013, the situation has not reached desired satisfaction levels and the working condition for women at workplaces continues to be discriminatory. The fact is reflected in the Team Lease 2016 study on gender. It revealed that a glaring 72% woman face gender discrimination at workplace in India and reported a need to strengthen policies to check sexual harassment. Further, the poor and dismal implementation of the law has time and again been discussed by Majumdar (2003) and Oversier (2010).

The enormity and pervasiveness of the sexual harassment at work place can be gauged by the data provided by the Ministry of women and Child Development which reveals that number of cases registered a steep rise by 54% in just three years from 2014 to 2017. It was possible because women now had a law which they could use to protect themselves. The unabated harassment at the workplace plays a pivotal role in restricting participation of women in

the labour force of India. Inadequate redressal of such issues not only hampers women's wellbeing but also holds back their socio-economic development.

Under the POSH Act 2013, the provision of constituting an Internal Complaints Committee (ICC) is mandatory and binding for all the organizations, both government and private, having 10 or more employees. The objective of the Supreme Court guidelines behind providing a compliant mechanism was that, whether or not such conduct constitutes an offence under law, a redressal procedure is needed to make the victim feel assured that there is a place where she can knock in the times of need. However, despite this mechanism, many cases go unreported which speak volumes about how pervasive and entrenched gender insensitivity is in our social system. The age-old patriarchal mindset of treating women of easy virtue and as available, when they come out of their home, makes the situation even more grim.

The ICC is basically a primary mechanism empowered to act like a Civil Court for addressing and resolving sexual harassment complaints. However, when Indian Bar Association Organization, a Non-Profit Organization in 2016, asked women of various cities during a survey, if there was an ICC at their workplace and do they function effectively in handling harassment cases, out of 6047 respondents, 67% replied an emphatic 'No'. According to Sarpotdar (2017), told to India spend, women come to these committees believing them to be fair and independent, but find that they are actually puppets in the hands of organization's superiors. A report by National Commission for Women (NCW) in 2018 also states at many places ICCs were in place, but only on paper and women employees are totally unaware of their existence, constitution and other whereabouts.

The section 4(1) of the Act mandates constitution of an ICC and section 9(2) lays down that the committee will have a woman as a presiding officer/chairperson. Besides, it states, at least two members of the committee must be from among the employees and one from a non-government organization committed to the cause of women or experience in social work or have legal knowledge. The role of external members is crucial, not only for the formation of the committee, but also for the fair execution of proceedings. Such an external member should not be there just for the sake of it, but should be well versed with the intricacies of law and ensure the law is implemented in letter and spirit. This expert should be competent enough to coordinate with other committee members and capable of taking a justified stand in case employers or other members have shadowed intentions.

Despite the fact that the law shall gain impetus through the effective role played by the External experts, Social science research has failed to analyse it from this very perspective for example Chaudhry,P.(2018) focussed on functioning and challenges of the committees, also revealing failure in constituting ICC and amendment in accordance to the law but did not took into consideration the experiences of experts. Similarly Sartpodar,A.(2016) reported primarily about the formation of Complaint Committees and also about the treatment of the complaint from the perception of the employer, is certainly an important analysis but would have been more yielding if it considered the expert's stand in treatment of the complaint. Another study in the Government offices of Kerala by Bhavila,L. and Bushra Begum,R.K.(2017) surveyed about the constitution, structure, frequency of meetings and awareness among the members gives an initial idea about the basics the act but fails to mention anything about the experts , their role and the outcomes of competent experts..An important paper in context of the kind of Change needed in the ICC by Kothvade,S.(2019) studied effectiveness and impact of the law in relation to power dynamics. Her prime focus remained to strengthen the civil redressal system, All these parameters would have substantially added to social science research if it also calibrated from experts point of view. In yet another study by Vijayalakshmi,A.(2018) illustrates that the #metoo movement needs to expand taking in its ambit the woman from poor, rural and lower caste. It discusses the under reporting of the cases of sexual harassment by women both in organized as well as unorganized sectors and attributes it to normalization of the sexual harassment in workplace or even due to financial compulsions faced by women in difficulties but does not talks anything about how pivotal external experts can be in bringing out bridging the discrepancies.

The Study:

The primary idea of conceptualising this paper was to understand the process of law substantiating Gender rights. Across the world India is the most oppressive societies, subjecting women to extreme discrimination and exploitation. Despite women focussed strategies for upliftment they are still treated differently. This unequal gender equation is equally pervasive across domains of family and work. While the constitution through law is vocal about gender equality culturally conceived patriarchy and socially constructed gender roles obstruct its fair execution. Patriarchy, misogyny, male chauvinism all in different proportions and through different modes operate across society to subordinate women. In contemporary society, the workplace after family holds significance. Also women coming out of their houses are to be considered of easy virtue. In such a scenario it becomes indispensable to study

such a law which seems to be instrumental in ushering change towards gender balance, shaking the long entrenched patriarchy through orientations, awareness programs, putting in place restorative justice.

The various studies revolved around and focussed on power equations and the imbalance rooted in the structure and execution of the law. They put up the glaring discrepancies of what law states and visions and how power structures dominate and disbalance the execution. It is also portrayed how the law is dwarfed when it comes face-to-face with power hierarchy. They evaluated the Constitution and dynamics of the internal complaint committee in reference to Vishaka guidelines and also the presence and assertiveness of External experts. It also checked the frequency of meetings of internal complaint committees in different departments, the compilation and submission of annual reports, the entire process of redressal on various dimensions which hurdled lawful execution, the shortcomings of ICC which need to be recalibrated in order to bring out envisioned outcomes.

The relevance of the paper can be made out by the fact that though the literature talks extensively about so many aspects discussed above but despite the External Experts being so indispensable the studies have not analysed these aspects from the experts point of view.

The paper articulates different dimensions and parameters of the law based on their experiences. It analyses the functioning and perspective of the external experts about the Act. The challenges, hurdles and drawbacks needed to be addressed to fulfil the vision of the law have also been analysed. The purpose of any law is to reform and not just punish the violator. Its success depends on those who are entrusted by the law to be its catalyst of change. The external experts are the catalyst under the POSH Act 2013. This prerequisite in the law states clearly the importance an external expert shall hold in the committee. Also in normal course employees are reluctant to voice their complaints and concerns to the people from the same workplace, thus the presence of an external entrusts confidence and also authenticity to the entire redressal mechanism.

The paper investigated the entire thing in the light of the Constitution of the ICC, profile of chairperson, key priorities of the committee, frequency of meetings, and submission of annual reports. The sensitivity of ICC members and external experts, reasons accounted for such incidences, reporting of such cases, and extent of toleration, trivializing harassment, diluting/escaping punishment and support system for the victim. Sharing experiences about different kinds of cases, role of the external expert, and investigation in the absence of evidence, evaluation of a complaint to qualify offence under law. To what extent the Act has been able to bring change and suggestions to better the law.

Ten NGO members were interviewed. In-depth interviews were conducted with them. The external experts are from Lucknow city and in the age group of 40-70. All of them are quite well informed about the law in letter and spirit, some of them are even involved in it right from its inception. Some are scholar activists while some are law practitioners, medical practitioners, and rest are women rights activists. They are considered to be a major voice on all the issues related to atrocities on women and against discriminatory practices of Triple Talaq, Halala, polygamy etc. They are external experts in government organisations like NABARD, RBI, Sanjay Gandhi postgraduate Institute of Medical Sciences, Jagjivan Ram Police Academy, NILET, Water Resource Department, Border Security Force and several degree colleges, Food Corporation of India, Women and Child Development, KKC College, Shakti Bhawan and Punjab National Bank, Seed Corporation, Public Works Department, Mahila Kalyan Vibhag, Lucknow University.

At Crossroads: Law, Implementation, Perception

The first and the most pertinent question posed to the respondents was how they analyze implementation of the law in the organizations where they have been invited as external experts of ICCs. All the respondents said that most of the employees/employers perpetually remain in a denial mode. The first reaction of these people is outright denial of indulging in any objectionable conduct. The most common response, the respondents got from employees/employers, was that "such things do not happen in our organization". Some of them even brazenly told experts that "If any harassment was taking place at their workplace, it would have certainly been reported". Another strange response put forth before experts by some of the staff was "Have you seen it happening? I haven't".

When asked about the constitution of the ICC the frequency of their meetings, all the respondents said that they found said that the committees were constituted by the organizations only when a case was reported despite the fact that it is mandatory since 2013 – when the law came into effect - for all the organizations with more than 10 employees to have a permanent ICC. One of them said that she noticed that formation of ICCs by most organizations has been initiated in the past 2-3 years. Earlier, there was no such platform. Sharing her experience, the other said that she found, at most places ICCs existed only on papers. At 99% of places where she went as an

external expert, she noticed that formation of ICCs was treated as cosmetic exercise to meet Supreme Court guidelines and activated only when a case is reported, whereas as per law they should be spreading awareness and taking measures 24X7 to make the workplace safe for women. Yet another respondent said that she came across cases where even women employers consider constituting ICC as a burden and do it only for meeting the requirement mandated by the POSH Act.

How casually organizations take formation of ICC was also revealed from the fact that some of them took telephonic consent from the respondents to appoint them as external experts in the committees, but no formal letter or communication was sent in the follow up. Respondents were neither informed about the status of the committee, nor was any meeting held. In fact, respondents currently have no idea whether they are still external experts in the ICC for which telephonic consent was taken or a new committee has been reconstituted by the organization with another person as an external expert.

When asked about the frequency of the meetings, the external experts unanimously replied that it was very poor. Except in organizations like RBI and FCI, most organizations do not conduct regular meetings as mandated by the Act and call a meeting only when a case is reported. Three out of the ten respondents said that they themselves remind organizations to conduct regular meetings as provided in law. One of the respondents recalled how male members mocked the very idea of ICC and the law by taunting female colleagues in meetings through remarks like "Aaj to meeting hai aap logon ki. Kanoon bana hi aap logon ke liye hai" (It's women's meeting today. After all, the law has been made for women only). Another respondent said that at times she reminds organizations that the law is meant to check harassment, for which not only complaints should be addressed promptly as and when they are lodged, but *sou motu* actions must also be taken to identify black sheep because the ICC's mandate is not limited to holding a meeting when a complaint is lodged. She said that she also tells organizations that the law also calls for proactive action to implement its provisions in letter and spirit with an objective to make the workplace a better place for women. However, most organizations are reluctant to do so, she added.

Another big lacuna in implementation of the law was that organizations rarely had training and orientation programs for the employees. The ten respondents altogether are external experts in ICCs of over 100 organizations, of which only 20 were found to be conducting an orientation program only once a year. All the respondents said that though the law has put an obligation on the employer to organize workshops and awareness programs at regular intervals to sensitize employees and orientation programmes for ICC members, this clause seems to be the weakest in terms of implementation. Respondents said that even if the awareness programmes are conducted, they are meant for white collar designations, but the problem is one size cannot fit all, hence there is a need for tailored training capsules for different positions in the same organization. Mere constitution of ICCs in accordance with the guidelines does not suffice the purpose. The ICC members need to be well oriented to understand the essence of the Act that requires defying patriarchy, more gender sensitivity and justified action.

One of the respondents said that she has seen members of ICCs at a few places who have no idea of the redressal mechanism because either they had not gone through any orientation programme or participated in training workshops in a non-serious manner. Such members are not able to follow required procedure and put in efforts judiciously while investigating cases. This in turn leads to inadequate redressal of the victim's complaints. At times, such lack of knowledge also ends up in inefficient probes of false complaints. In both the cases, justice remains undelivered. She also said that a comprehensive approach is required to tackle such sensitive issues. The awareness drives among employees and training of the ICC members should be a continuous process and not a once-a-year affair subject to the availability of the budget. The process should be monitored diligently and reviewed periodically so that it can be regularized to produce desired results. Justice can be delivered only when the ICC members are trained to implement Vishakha recommendations and carry out unbiased investigation within stipulated time frame.

As per section 21 of the POSH Act 2013, the ICC has to submit an annual report on various issues including number of complaints received and settled; number of cases pending for over 90 days; number of workshops and awareness programs conducted and actions taken by the employer. Only three respondents said that some of the organizations where they are external experts submitted annual reports of the ICC activities. Rest said that they had no idea whether or not this is being followed at places where they were invited to be ICC external expert. All the respondents were unanimous on the issue that failure to submit reports and submission of inadequate reports is the main reason why required data and statistics are not available to analyze the extent of the problem and the impact of the law. The respondents strongly felt if this noncompliance is dealt with strongly and organizations are made accountable through a monitoring system, it will make all of them to implement recommendations seriously. This in turn will deter the patriarchy embedded in the minds of employers and employees. They also said that though the

law provides for a Rs 50,000 fine on organizations for non-compliance, it is rarely exercised and thus has failed to accomplish the objective.

A Bane: The Patriarchy and Culture of Silence

Gender sensitivity is the core idea behind the law. It is pitted against deep rooted gender inequality engraved over the centuries in the public psyche by various factors. Explaining how the entire social fabric is knitted around discrimination, subordination and deep rooted unconscious bias, one of the experts gave an example of the Indian film industry which since long had been normalizing ogling and stalking of women and passing comments on them. She went on to say that even the psyche of the female employees, who are made members of ICC, has been conditioned by the prevalent culture to suit the patriarchy. However, she also said that though it is not easy to develop an unbiased and assertive outlook overnight, proper orientation programs may play an important role in bringing change in the way of thinking and approach. Such programs, she added, help ICC members to look at the complaints in a gender-neutral manner and investigate in a justified way.

Most of the experts were also of the view that some improvement is taking place, though very slow, in the attitude of ICCs because of the stress laid to adhere to the law and strictness of law enforcing agencies for implementation of the Act in letter and spirit. Experts said that they noticed that earlier ICCs wanted to dispose of complaints without considering the human aspect - the plight of victims and the impact of their decisions - but now the committees have gradually started taking the law a bit seriously.

Sexual harassment is like a pandemic which can be found in every part of the world and has been identified very late in Indian context. Indian society differs from other countries in culture and customs, particularly in terms of entrenched patriarchy. All the respondents agreed that first and foremost reason behind sexual harassment is patriarchy. However, they also said that patriarchy is not a stand-alone concept. It intertwines with power dynamics to create a hostile work environment with the motive to subordinate women. This, experts said, experienced when they came across many cases wherein it was not the sexual desires, but the intention to dominate that made men harass women, particularly in lower jobs where women who step out of their houses are considered to be of an easy virtue.

The most important suggestion which came up in the study was that while it is essential to sensitize men on gender issues, it is equally important for women to break the culture of silence and come out of the feeling of stigma, besides being more assertive. The experts also said that despite having such a gender specific law, the society as a whole has failed to support and encourage women to report such harassment. One of the respondents quoted certain studies to support her point that even now 99% of the harassment cases are not reported by women for some reason or another. While some victims lack confidence, others are deterred from lodging complaint because of the poor execution of the law by the organization and weak investigation by the ICC, even as many who come from financially weak background tolerate harassment because of fear of losing job and social stigma attached to the complainant, if she dares to report her harassment. These factors, she said, makes a victim hesitant in getting entangled in the process of investigation. Such a victim reports the case only when the threat becomes more profound than the fear of the stigma. Another respondent said, the society on each and every step teaches women to remain silent, be submissive and not to raise their voices. She felt that to make victims report such cases, we need to change the process of socialization where the victim is not made to feel guilty, her character is not assassinated and she is not looked as an object. Apart from empowering women, we need to cultivate values where a wrong is accepted as wrong no matter who did it and to whom it is being done, she said. One of them said that in order to accomplish the desired goal, we will have to break the culture of silence and make women understand that they are not 'bechari'. We need to instil women with confidence enabling her to be assertive to reap the intent of the law. It is also needed to stop trivializing, overlooking and avoiding such misconduct by men.

All the experts were of the opinion that the age-old patriarchy has converted the objectionable acts into tolerable ones. Most of the time staring or sexually coloured remarks, songs, filthy talks and double meaning jokes are not considered to be offensive, but it does not mean that they don't compromise the dignity of women. Most of the men carry a notion that they can get away by doing anything. This attitude can only be amended by effective and rigorous implementation of the law and executing recommendations firmly. The law has provisions to provide a support system to the victim. The organizations should provide it if the victim demands. For example, leave till the proceedings are over or transfer to another place or posting according to her convenience.

The Act mandates that each organization must have an external expert in the ICC to maintain impartiality in investigations and to see due process of law is followed. The provision rightly presumes that if the complaints are not addressed in an appropriate manner, it may lead to grave damages. This makes the role of external expert crucial in the proceedings taken up by the ICC. One of the respondents said that while the law clearly defines that external expert needs to be from an NGO or social organization and someone committed for cause of women as well as one who has an experience in dealing such cases, organizations mostly considered the first option and do not give equal importance to the latter which carries the essence of the whole clause. Most of the organizations tend to appoint external appoints who although are associated to a social organization, but lack experience in dealing sexual harassment cases. It is this lack of experience which in due course fails in redressing the issue which has adversely impacted the whole process.

According to one of the respondents, for an external expert it is very important to abide by principles of natural justice. She said that proceeding with a preconceived notion that every complaint is true is inappropriate. It is here that an external expert's role becomes crucial in investigating the incident in a fair manner and bestowing justice. Another expert said that only those external experts who are well versed with the law and have experience can weed out false complaints and hear out the two parties in the case without any bias. Another added that since sexual harassment complaints are rarely supported by hard evidence, it becomes extremely difficult to prove the case. The misconducts are extremely contextual. It is therefore very important to look at the background of the relationships. It is actually about the restructuring of narratives to draw a picture based on circumstantial evidence, she added. Since ICC deals with incidents that take place within the organization and its constitution mandates to have employees from the same workplace, at times members due to power dynamics feel reluctant in voicing actions and recommendations, making the role of the external expert even more crucial. It has also been observed that as the ICC members who come from the same social setup to which the offender belongs and have the same stereotyped notions about women, it further leads to victimization of the victim. This can be addressed only when the committee has well oriented members and fully conversant external experts.

Some Experiences: Despite a law with strong provisions of transparency, confidentiality and bestowing justice, external experts also had some bitter experiences while discharging their responsibility. One of the respondents narrated such an incident where the evidence proved that the culprit was guilty, but since the members of the committee were interested in saving the accused, they trivialized the misconduct. She said that when she couldn't get other members to conduct an investigation fairly, she submitted a separate report about the whole incident, fulfilling her responsibility. She further added that though she could not do much but her stand in submitting a separate report helped her to take the case in court where she could get justice done. Such instances are quite encouraging from the lens of law.

Another incident where though the victim didn't make any formal complaint, but when she came to know about it through a different channel, she asked the head of the institute and the members to take suo moto cognizance, but they feigned helplessness taking plea that the law mandates a written complaint. Another respondent narrated such an incident where the accused was guilty, but since some senior employees of the organization wanted to protect the accused, they resolved that the committee be reconstituted with a different external expert. One of them stated a case where the complaint filed by the victim seemed to be in the purview of the Act, but in-depth investigation revealed that the conduct was against the service rules, not one of sexual harassment.

Footprints in the Offing: When asked about the impact of the law, the respondents said although a substantial difference are not visible, it has at least triggered a consciousness about something which earlier was invisible and considered trivial. According to one of the respondents, it took almost a decade to initiate a definitive law on the sexual harassment at workplace, but it cannot be denied that this law certainly proved to be strengthening the constitutional modality. It cannot be said that the act has ended such incidents, but it has shattered silence to some extent. Since long women have suffered the brunt of patriarchal setup, but this law is now helping them to come out of the closet, she said.

Despite the fact that still all the cases are not reported, experts agreed that such an act, where the redressal is in-house and the victim needs not to run to the police and court, has at least been able to put fear in the heart and head of wrongdoers. It has made a dent in the notion in the patriarchal setup that men can escape such misconduct. Now, women can no longer be considered as objects or subordinate humans. The derogatory treatment cannot be taken as normal and tolerable. Earlier, male employees always took flirting with women and commenting on them to be harmless without realizing that it could be embarrassing and hurting for the female staff. This, on one hand, resulted in an unfriendly work environment and on the other undermined women's dignity. Since the law is now in place, employees indulging in such acts can be held legally accountable. It can be used as a deterrent against such actions.

Another important clause in the Act, discussed by one of the experts was Restorative Justice, which not only provides redressal to the victim, but also helps in maintaining cordial environment at the workplace. The law is commendable in its objective to bring equality, but experts opined that for the results to be directly proportional to the intent there needs to be a substantial focus on its implementation. Accountability needs to be fixed and rigorously executed in cases of noncompliance. Further, we need to bring awareness not only among the women, but in the entire workplace about the law, its provisions, constitution of ICC and the redressal mechanism.

According to one respondent, even after enactment of the empowering law, the cases being reported are just the tip of the iceberg. The problem of sexual harassment at workplace is much more deep and huge in size than it seems to be. Women, even if they know that there is a law by this name, have been found to be totally ignorant about the redressal mechanism - the ICC, its members, where to complain, how to complain and what the process is. All the external experts stressed that along with proper implementation of the law, the need is to have a vigilant monitoring of the ICC and fixing of accountability on submission of reports. This will help in a total reknitting of the social fabric required to cultivate more sensitive minds and equality loving people.

Conclusion and Suggestions

The paper analysed the views and experiences of the external experts, POSH 2013 on provisions of constitution and function of Complaint Committees, perception and sensitivity, culture of silence and normalising/trivialising harassment. It revealed that the law has certainly been able to create a level of awareness to some extent on how the sexual harassment at workplace has been undermining dignity of women, besides providing a ray of hope to victims. But, there are miles to go before we can achieve the constitutional dictum of equal opportunity by creating a safe environment at places of work for 50% of our population. Despite the mandate to hold regular meetings and conduct regular orientation/training programs as well as awareness sessions still most of the organisations still take it as formality demeaning its value. Most of the employees at the very outset deny any such incidences which articulate an insensitive attitude. Patriarchy intertwined with power dynamics and the culture of silence to shove such misconduct under the carpet till it becomes a threat to propagate these misdeeds. Besides the stigma attached to complaints it's also their ignorance as well as lack of confidence in the entire process which holds them from complaining. Since the success of the law depends on those who are entrusted to execute it, appointment of competent and committed external experts can invigorate ICCs formed. Experts also put up the fact that most of the organisations have external experts for name sake. They neither are well versed with the law nor are assertive enough to execute the investigation without getting navigated with what the organisation expects them to. Only the experts having desire and will to bring change can gender-sensitize other members. Gender sensitivity alone can make realise the importance of running awareness campaigns for the employees and orientation workshops for the ICC members. It certainly verifies that the role of external experts is quite pivotal to bestow justice.

What really needs to be understood is that POSH 2013 and ICCs are not just legal formality, but an integral part of the overall management, because if implemented with sincerity and sensitivity, the law can help in increasing the efficiency and productivity of the organization on one hand while achieving constitutional goals on the other making society a better place. Specifically tailored orientation programs for gender sensitisation can be held for various sections of the staff in the similar as various training exercises for employees are carried out from time to time to keep them updated with the latest in their field. The effort put in implementation of law can be treated as a social investment which will make their workplace "healthy" and "productive" – two major things required for excellence in any field. There is a need to overhaul the methods of ICs so as to ease the access barriers promoting the culture of silence. The civil rules that need to precisely look into power structures and account for them when dispensing justice. These endeavors will encourage women to report and resort to justice. The restorative method is also important as it rehabilitates and reintegrates not only the victim but also the accused and thus strikes a balance. In the context of ICs, the civil rules seeking to end sexual harassment need to be reflective of an intrinsically and uniquely social situation that is present in their workplace. The sole intention must not only be to settle an inquiry but it should reflect to end harassment with the conclusion of enquiry.

However, the most crucial point – appointment of an external expert – is the most difficult one as well in the implementation of POSH 2013. The key question is - How to appoint a competent and committed external expert? The major hurdle is the mental block conditioned by patriarchy that tends to take the issue of sexual harassment casually and considers execution of the law as a legal formality. This attitude is responsible for organizations picking those persons as external experts who generally accept the line taken by the employers. In order to address this lacuna, a legal provision by way of introducing a clause on appointment of external experts can bring the change. For example, a provision can be made in the law directing all the states in the country to constitute a

committee comprising retired high court or Supreme Court judges known for delivering judgements of gender issues. This committee then can select women fit to be external experts based on the work done by them and create a resource pool of about 100 experts. This figure may change according to the size and requirement of a state. It should be made mandatory for the organizations to pick external experts from the said pool. Once a right person is appointed as an external expert in the ICC of an organisation, it will certainly help in accomplishing the implementation of law not merely in words but in spirit. The law can also make a provision of external experts submitting an independent report to the committee of judges if they find employers not abiding the law sincerely. The committee, if it finds the report credible, can penalise the organisation.

What needs to be engraved in public psyche is that the entire exercise prescribed in the law, if executed efficiently, would not only deliver justice to a victim, but also help in lifting workplaces out of patriarchal mire and converting them into a place where work is evaluated on merit and not on sexual consideration or power dynamics. Such a proposition, on one hand, will provide women an atmosphere where they can exhibit their talents without any inhibition or restriction and on the other; it will be conducive for the well-meaning men as well because such an environment will discourage its misuse.

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