



INDIAN JOURNAL OF LEGAL AFFAIRS AND RESEARCH

VOLUME 3 ISSUE 1

Peer-reviewed, open-access, refereed journal

IJLAR

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www.ijlar.com

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Introduction

Welcome to the Indian Journal of Legal Affairs and Research (IJLAR), a distinguished platform dedicated to the dissemination of comprehensive legal scholarship and academic research. Our mission is to foster an environment where legal professionals, academics, and students can collaborate and contribute to the evolving discourse in the field of law. We strive to publish high-quality, peer-reviewed articles that provide insightful analysis, innovative perspectives, and practical solutions to contemporary legal challenges. The IJAR is committed to advancing legal knowledge and practice by bridging the gap between theory and practice.

Preface

The Indian Journal of Legal Affairs and Research is a testament to our unwavering commitment to excellence in legal scholarship. This volume presents a curated selection of articles that reflect the diverse and dynamic nature of legal studies today. Our contributors, ranging from esteemed legal scholars to emerging academics, bring forward a rich tapestry of insights that address critical legal issues and offer novel contributions to the field. We are grateful to our editorial board, reviewers, and authors for their dedication and hard work, which have made this publication possible. It is our hope that this journal will serve as a valuable resource for researchers, practitioners, and policymakers, and will inspire further inquiry and debate within the legal community.

Description

The Indian Journal of Legal Affairs and Research is an academic journal that publishes peer-reviewed articles on a wide range of legal topics. Each issue is designed to provide a platform for legal scholars, practitioners, and students to share their research findings, theoretical explorations, and practical insights. Our journal covers various branches of law, including but not limited to constitutional law, international law, criminal law, commercial law, human rights, and environmental law. We are dedicated to ensuring that the articles published in our journal adhere to the highest standards of academic rigor and contribute meaningfully to the understanding and development of legal theories and practices.

IMPLEMENTATION DEFICIT OF THE POSH ACT IN THE UNORGANISED CONSTRUCTION SECTOR: INSTITUTIONAL FAILURES AND CHALLENGES FACED BY WORKING WOMEN

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ABSTRACT

This paper examines the implementation deficit of the POSH Act, 2013 in India's unorganised construction sector. Despite legislative intent, women construction workers remain vulnerable due to informal employment and a lack of awareness regarding legal remedies. Through a doctrinal study, the research identifies critical institutional failures, specifically the dysfunction of Local Committees, administrative apathy, and procedural barriers such as strict limitation periods. The study concludes that the gap between law and practice necessitates urgent reforms, including mandatory audits of Local Committees, simplified reporting procedures, and the integration of POSH compliance into labour welfare inspections.

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CHAPTER I

1.1 INTRODUCTION:

Women constitute a significant segment of India's workforce and play a vital role in the nation's socio-economic development. Historically, although women enjoyed a respected status during the Vedic period, their position gradually deteriorated in later eras due to entrenched patriarchal norms. In the post-independence period, increasing economic pressures and aspirations for financial independence have led to a growing participation of women in the workforce, particularly within the unorganised sector.

Despite their increasing presence, women workers continue to face systemic discrimination at every stage of life ranging from unequal access to education and healthcare to wage disparities and unsafe working conditions. Sexual harassment at the workplace remains one of the most pervasive and underreported forms of gender-based violence. It not only violates a woman's dignity and fundamental rights but also creates an intimidating and hostile work environment that severely affects productivity and mental well-being.

In India, the legal recognition of sexual harassment as a workplace violation emerged with the landmark judgment in *Vishaka v. State of Rajasthan* (1997), which laid down binding guidelines for employers. This judicial intervention ultimately led to the enactment of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act). While the Act establishes mechanisms such as Internal Committees and Local Committees to address complaints, its effective implementation has largely been confined to the organised sector.

The unorganised sector—particularly the construction industry—employs a large number of women who are economically vulnerable, socially marginalised, and largely unaware of their legal rights. The absence of functional complaint mechanisms, weak enforcement of Local Committees, fear of job loss, and lack of institutional accountability make women construction workers especially susceptible to sexual harassment.

This paper critically examines the implementation deficit of the POSH Act in the unorganised

construction sector. It seeks to analyse the structural and institutional challenges faced by women workers in accessing justice, assess the functioning of Local Committees, and highlight the gaps in the existing legal framework. The study aims to contribute to the discourse on strengthening workplace safety for women in the informal economy through effective legal and policy reforms.

1.2 STATEMENT OF PROBLEM:

Despite the enactment of the POSH Act, 2013, women working in the unorganised sector continue to face significant barriers in reporting and redressing incidents of sexual harassment. The lack of awareness, ineffective constitution of Local Committees, absence of appellate mechanisms, and socio-economic vulnerability of women workers contribute to underreporting and denial of justice. This study seeks to examine the structural deficiencies in the implementation of the POSH Act, particularly in the construction sector, and analyse whether the existing legal framework adequately protects the rights of women in the unorganised workforce.

1.3 OBJECTIVES OF STUDY:

- 2 To examine the nature and extent of sexual harassment faced by women workers in the unorganised construction sector.
- 3 To analyse the effectiveness of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 in protecting women working in the unorganised sector.
- 4 To study the role and functioning of Local Committees under the POSH Act in addressing complaints from women construction workers.
- 5 To identify the legal, institutional, and social barriers that prevent women in the unorganised sector from reporting sexual harassment.
- 6 To suggest legal and policy reforms for strengthening the implementation of the POSH Act in the unorganised construction sector.

6.1 RESEARCH QUESTIONS:

- i. Whether the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 is effectively implemented in the unorganised construction sector in India?

- ii. What are the major legal, institutional, and social barriers faced by women construction workers in reporting sexual harassment at the workplace?
- iii. Whether the existing Local Committee mechanism under the POSH Act provides adequate access to justice and redressal for women in the unorganised sector?

6.2 REVIEW OF LITERATURE:

1. The **Report on Conditions of Work and Promotion of Livelihoods in the Unorganised Sector (2008)** provides a comprehensive overview of the structural vulnerabilities faced by workers in the unorganised sector, noting the lack of job security, social protection, and effective grievance redressal mechanisms. The report underscores that women workers remain disproportionately affected due to informal employment arrangements and weak institutional oversight.
2. **Rapaka Satya Raju (1989), in *Urban Unorganised Sector in India***, analyses the socio-economic characteristics of the unorganised workforce and highlights how informal employment structures perpetuate exploitation and invisibility of labour, especially among women.
3. **Kulwant Rai Gupta (2009)** further situates the unorganised sector within the broader framework of development economics, emphasizing that the lack of regulatory enforcement directly impacts women's access to fair wages, dignity, and workplace safety.
4. **C.P. Rai's work *Working Women in India* (2002)** offers a detailed account of the conditions of working women, identifying gender-based discrimination, wage disparity, and sexual exploitation as recurring challenges. Rai observes that women's labour is often undervalued and their grievances remain unaddressed due to social stigma and fear of retaliation.
5. **Amal Mandal's research on women workers in brick factories (2005)** documents harsh working conditions, absence of safety measures, and frequent instances of verbal and sexual harassment. Mandal emphasizes that the informal nature of such workplaces leaves women without effective remedies. Renana Jhabvala's work on liberalization and women workers highlights how economic reforms have intensified informalisation, pushing more women into insecure and unregulated employment.
6. **Meenu Anand (2006)** draws attention to the invisibility of women's labour, arguing that despite their significant contribution, women workers remain excluded from legal and social

protections.

7. **Dr. Meenakshi Gupta's *Women Rights under Labour Law*** critically analyses labour legislations affecting women and points out the gap between statutory protections and their practical enforcement, particularly in the unorganised sector. Roma Mukherjee (1997) discusses the limited legal remedies available to women in India and stresses the need for effective implementation mechanisms. Judicial pronouncements such as **AIR 1982 SC 879**, **AIR 1976 SC 1868**, and **AIR 1981 SC 1829** have reinforced the constitutional mandate of equality and dignity for women workers, yet their impact remains limited in informal workplaces.
8. **M.D. Singh and Gurpreet Pany (2004)** examine sexual victimization of women in India, identifying workplace harassment as a pervasive but underreported issue due to fear, stigma, and lack of institutional support. Collectively, the existing literature reveals a significant gap between legal recognition of women's rights and their realization in the unorganised sector, particularly concerning protection against sexual harassment—thereby justifying the need for the present study.

6.3 RESEARCH METHODOLOGY:

This study follows a **doctrinal research methodology** and is based on **secondary sources of data**. The research relies on books, academic articles, government reports, and judicial decisions relating to women workers in the unorganised sector. Relevant statutes, case laws reported in AIR and LLJ, and scholarly writings have been analysed to examine the implementation of legal protections against sexual harassment. The study focuses on the Indian legal framework with specific reference to women working in the unorganised construction sector.

CHAPTER II

2.1 WHAT IS ORGANISED SECTOR :

The government has acknowledged the existence of an organized sector. In this industry, employment is guaranteed, and job conditions are predetermined and predictable. A collection of legislation applies to businesses, educational institutions, and medical facilities that are part of the organized sector. Because proper corporate registration is necessary, it is quite difficult to get into

the organized sector. The government taxes and regulates the sector.

In addition to work stability, professionals in the organized sector often benefit from other benefits such various allowances and compensation. They work a predetermined schedule, receive compensation increases on a regular basis, and have a fixed monthly income.

Workers in the organized sector are protected by rules pertaining to minimum salaries, safe working conditions, and retirement benefits. They also operate in a structured atmosphere with set working hours. This industry contributes to increased productivity, tax income, and formal employment, all of which are important for a nation's economic success.

This industry mostly consists of government buildings, public sector enterprises (PSUs), big businesses, hospitals, schools, banks, and industries. Compared to those in the unorganized sector, workers in this sector frequently have better working conditions and more job security.

2.2 WHAT IS UNORGANISED SECTOR:

In their Report on Conditions of Work and Promotion of Livelihoods in the Unorganised Sector, the National Commission for Enterprises in the Unorganised Sector defined the term "**unorganised sector**" in Indian contexts as "consisting of all unincorporated private enterprises owned by individuals or households engaged in the sale or production of goods and services operated on a proprietary or partnership basis and with less than ten total workers."¹

Easy entry, small-scale operations, local ownership, unclear legal status, labour-intensive, low-tech methods, flexible pricing, less sophisticated packaging, lack of a brand name, lack of good storage facilities and an efficient distribution network, low access to government schemes, financing, and aid, lower entry barriers for employees, and a higher percentage of migrants with lower compensation rates are some of the characteristics that define this sector.² Workers in unorganized

¹ Report On Conditions Of Work And Promotion Of Livelihoods In The Unorganised Sector. Academic Foundation. 1 January 2008. p. 1774. ISBN 978-81-7188-678-4. Retrieved 26 March 2013.

² Rapaka Satya Raju (1989). Urban Unorganised Sector in India. Mittal Publications. pp. 11–17. GGKEY: J0UK90X1FYN. Retrieved 18 April 2025.

sector businesses have less job security, less opportunities for advancement, no paid time off, and less protection from employers engaging in unethical or unlawful behaviour.³

5.3 DIFFERENCE BETWEEN ORGANISED AND UNORGANISED SECTOR

Table No. 1

<u>CONTENTS</u>	<u>ORGANISED SECTOR</u>	<u>UNORGANISED SECTOR</u>
Definition	Refers to the economy's formal sector.	Refers to the economy's informal sector
Registration	Government authorities have registered and regulated	Not formally regulated or registered
Size of Enterprises	Usually bigger and more established businesses	The majority of small and micro-sized businesses
Labour Relations	Complies with official labour agreements and rules	Flexible and informal work arrangements
Job Security	more job security for workers in general	Poor job security and increased risk of losing one's job
Wages and Benefits	uniform pay and benefits for staff	Pay may be reduced, benefits may be limited, or none at all.
Working Conditions	More likely to follow labour rules and regulations	Working conditions could be dangerous and less controlled.
Productivity	Higher levels of productivity in general	Reduced output as a result of scarce resources
Technology Advancement	More inclined to use modern technology	Restricted availability to use modern technology

³ Kulwant Rai Gupta (1 January 2009). Economics of Development and taPlanning. Atlantic Publishers & Dist. p. 746. ISBN 978-81-269-1011-3. Retrieved 18 April 2025.

Skill Development	Prioritize training initiatives and skill development.	Limited skill development or on-the-job training are two possible options.
Social Security	Workers are entitled and eligible for social security benefits	Absence of workers' social security benefits
Unionization	Many times, a unionized workforce	Decreased unionization and diminished collective bargaining power
Formal Records	Maintains official documentation and accounting procedures	Inadequate documentation
Tax Compliance	Frequent compliance and payment of taxes	Informal trades and tax noncompliance are common.
Market Share	could have a substantial market share.	reduced market share as a result of informality
Economic Impact	makes substantial contributions to the formal economy.	is essential and plays a vital role to the economy's unorganized sector.
Government Oversight	Subject to oversight and controls by the government	Minimal government supervision
Access to finance	Formal financial institutions are easier to reach.	Restricted availability of official financial services
Business Stability	More steady and less prone to variations	susceptible to alterations and uncertainty in the economy
Employee Benefits	many advantages, like health insurance, paid time off, etc.	Limited or no extra perks for workers
Innovation and Research	may spend money on innovative and research projects.	Restricted opportunities for innovation and research
Mobility and advancement	Prospects for professional advancement and mobility	Fewer chances to progress in your career

Informal Economy Linkage	Insufficient involvement in the unorganized sector	has a tendency to be closely associated with the unorganized sector.
Compliance with Labour law	complies with labour laws and rules	Not all labour laws will be followed.
Formality of operation	Clear corporate procedures and a formal structure	Unofficial activities with adaptable frameworks
Training Programs	Frequent efforts to improve skills and training	Few or no official training courses
Market Access	frequently has simpler access to official marketplaces.	has trouble getting into formal markets.
Job Stability	Workers have more job security.	Regular job turnover and insecurity
Awareness about Sexual Harassment	There will be many camps conducted in these camps	Very limited camps by NGOs
Complaint Committees	There is both Interna and local committees access to organised sectors	Only local committee is available to unorganised and mostly they are not aware of the Rights. ⁴

The distinction between the organised and unorganised sectors has significant legal implications, particularly in the implementation of labour welfare and protective legislations. While the organised sector benefits from structured compliance mechanisms, the unorganised sector suffers from weak enforcement, lack of awareness, and institutional absence. This distinction becomes crucial in understanding the implementation deficit of the POSH Act, especially in sectors such as construction where women workers remain largely outside formal regulatory frameworks.

⁴ <https://testbook.com/key-differences/difference-between-organised-and-unorganised-sector> (last Visited on 18 April 2025)

CHAPTER III

1.1 STATUS OF WOMEN IN THE UNORGANISED CONSTRUCTION SECTOR

In India and around the world, the situation of working women is regarded as extremely disturbing. In-depth analysis is necessary since the issues and challenges faced by working women are multifaceted, differing from one woman to another on a personal level and from one area to another on a general one⁵. In addition to sexual harassment among working women, there are extremely major issues with earnings, employment, income, and standard of living.

They cannot benefit in any way from social security programs. They do not profit from current social programs since they are illiterate and ignorant. According to the Time for Equality at Work study by the International Labour Organization, women make up the largest group⁶. It would be a "waste of human talent and resources" to ignore the growing socio-economic disparities in the workplace, the research cautions, and it might have catastrophic consequences for political stability and social balance. Indeed, the fact that women workers play a crucial role in the process of national development is becoming increasingly apparent.

1.1.1 POOR HEALTH:

An individual's social standing and health are intimately related. Women are generally viewed as having a lesser status and being used primarily for reproduction. Due to various biological factors, women everywhere must endure some inherent disadvantages as compared to men. **Menstruation, pregnancy, delivery, nursing, childrearing, menopause**, and all of its problems are things they must endure. They are weaker physically. These biological disadvantages of women have received varying attention in India due to the country's diverse cultural, social, and economic circumstances. The law forbids women from working in both the organized and unorganized sectors in hazardous and demanding jobs.

But since the vast majority of them are employed in the unorganized sector, they rarely profit from the laws. Women are paid less for their labour and are not entitled to the medical benefits and other

⁵ Quoted from C.P.Rai, "Working Women in India" 2002, 1st edition, Vol 2 ,pp 449

⁶ Mahesh V. Joshi, "Women rural Labourers , problems and prospects " ,1999 P2

benefits that are provided by employment laws. Due to these discriminatory practices, women are at a twofold disadvantage since they bear a Men and women can work in the same occupations, but for a variety of reasons, women may be more impacted than their male coworkers.

According to a survey of Gujarati agate workers, 60.4% of males and 70.6% of women had lung illness. T.B. and pneumonia affected 17.9% and 12.9% of the males, respectively, while 19.6% and 21.6% of the females were affected. It is commonly believed that women are at a disadvantage due to their physical characteristics and maternal responsibilities. However, this is not the case in practice. Whether it's farming, planting, transplanting, winnowing, weeding, harvesting, grinding, or pounding, women have never shied away from hard work. It has been observed that women perform physically demanding jobs like head-loading, crafts pulling, construction, etc. instead of men. Men are mostly to blame for whatever "disadvantage" that women's maternal roles may bring about. Therefore, these duties must be viewed as essential tasks that women must fulfill and for which they must receive fair compensation. Working women now have to handle both the home and the workplace due to men's reluctance to take on certain childcare and household duties. These obligations lead to physical and mental issues, which eventually result in health risks.⁷

1.1.2 LACK OF SOCIAL SECURITY:

It is now a given that society ought to lessen the financial suffering that each individual faces as a result of uncontrollable events. In terms of employment, the state is meant to regulate the working environment to preserve human dignity and avoid or minimize unforeseen circumstances in workers' lives. Moreover, these measures are merely known as social security.⁸

The Unorganized Workers' Social Security Act of 2008 has just passed. In the event of illness, disability, maternity leave, unemployment, old age, or the death of the family's principal provider, unorganized workers are entitled to benefits under the Act. The Act's definition of "Unorganised Workers" is broad and inclusive, encompassing "home-based workers," temporary workers who get daily or monthly compensation, and even farmers who toil on shall land holdings. Therefore,

⁷ Quoted from C.P.Rai, "Working Women in India" 2002, 1st edition, Vol 2 ,pp 454-455

⁸ Amal Mandal, "Women Workers in Brick Factory", 1st Published ,2005, P.87

the **goal** of the legislation is to provide as much **social safety net as possible**. Women workers do not receive social security benefits in spite of these admirable accomplishments. To receive the advantages under this Act, you must register. Additionally, employers and contractors may conceal information, making it difficult to register the workers.

The problem is worse for female employees. They carry out the responsibilities of a mother, housewife, and employee. A lack of capital and assets, low and irregular income, frequent accidents, illnesses, and other unanticipated events, poor living and working conditions, low bargaining power, and a lack of opportunities for skill development and external connections are some of the interconnected factors that keep these women stuck in a vicious cycle of poverty. For female employees, maternity benefits and child care facilities are crucial. These provisions are not present in the informal economy. The most productive years of a woman's life are also her reproductive years. If maternity leave and child care are not provided, women workers usually have to leave their occupations to have children and care for the baby.⁹

In contrast, the organized sector's current social security programs are essentially income maintenance programs as opposed to income support programs. Income support programs are more necessary in the unorganized sector. Employees in the unorganized sector labour for themselves or for wages, which are essentially seasonal and pay relatively little. The worker in the unorganized sector with irregular Because they are very inexpensive, women have always been favoured as labourers. However, because of the Maternity Act's legislative necessity to create beneficiary programs or offer paid leave, hiring women usually entails higher expenses and hassles.

However, the reason for the lack of transparent reporting of the decline in women's empowerment after security measures were put in place is not that factory owners accepted the extra cost, but rather that they intended to do away with the welfare measures. In reality, women are primarily employed as casual labourers, allowing for the disregard of imposed provisions. Employers purposefully withdraw from those facilities under this or that pretense, even while women are formally

⁹ Renana Jhabvala, "Liberalization and the women workers"

employed, and enforcement officers' laxity makes such skipping quite easy.¹⁰

1.1.3 ABSENCE OF CHILD CARE FACILITIES :

There are no childcare facilities for women employed in the unorganized sector; even in the organized sector, crèches are either non-existent or inadequately furnished. Women workers are frequently compelled to leave their children at home, where they are cared for by their older children, elderly parents, or neighbours, especially in the unorganized sector.¹¹

This leads to a tremendous deal of emotional stress and anxiety. In light of financial limitations, many even give up their jobs, which makes the situation worse. Some women, especially those who are migrants, are unable to entrust their infants or very young children to anyone in the barracks, so they bring them to the workplace. Women continue to work in the construction sites, caring for children by bay feeding them as necessary and lying them on the bottom of the a pre constructed area.

Some local mothers also find it impossible to leave their children with others, therefore they must work for the necessary pay. Women are also forced to create their own child care arrangements due to the lack of facilities. As a result, malnourished children are frequently seen playing close to dirt mounds or skulking around in the dust and mud. Children are also observed to be following their working mother. A small number of babies are also laid out on a piece of cloth beneath a tree or the sun, where they scream for attention. Such a scene should not be rare to any thoughtful tourist.

In actuality, almost all small-scale enterprises lack childcare facilities. Another obstacle mentioned is a lack of room for putting the provision into effect. In order to avoid incurring additional costs, employers also purposefully avoid hiring married individuals or women with children. Other factors include ignorance of the use of this specific clause and a lack of negotiating leverage to

¹⁰ Amal Mandal, "Women Workers in Brick Factory", 1st Published, 2005, P.87

¹¹ Meenu Anand, "Women's Work: Visible Work, Invisible Hands, Women's Link," October – December, 2006, vol.1, No.4, P.5

compel the employer to supply the facility.¹²

1.1.4 GENDER DISCRIMINATION:

In most civilizations, women engage in almost the same occupations due to the sexual division of labor. Gender is the term used to describe how biological differences between men and women operate in social circumstances. The sexual division of labor, where certain jobs are allotted to men and women separately, is one way that gender is expressed at the economic level. In a broader sense, women are responsible for reproduction, while men are responsible for production.

With their primary duties being the house and the hearth, women are still viewed as secondary income earners even if an increasing number of them are working for pay. There is severe sex-segregation and bias in the division of labor. Women are assigned to labor-intensive, unskilled jobs, while men are assigned to higher-paying, skilled jobs. Even when they are doing the same type of work, women are often paid about 30% less than males.¹³

In every field, women are at the bottom of the hierarchy; they tend to be helpers, supplemental or secondary rule workers, and undertake the hard and dangerous jobs for lower pay. For instance, men carry out every professional task in construction. Male helpers in the unskilled group dig holes, mix mortar, and transport cement sacks. Nonetheless, women move bricks, mortar, and materials.

To a certain degree, the Indian judiciary has taken the initiative to ensure that women receive socioeconomic justice. A excellent indication of judicial activism is the innovative thinking that can be seen in cases such as *Randhir Singh v. Union of India*¹⁴, *People's Union for Democratic Rights v. Union of India*¹⁵, *C.B. Muthamma v. Union of India*¹⁶, *Kishori Mohanlal Bakshi v. Union of Indias*¹⁷, and *Air India v. Nargeesh Meerza*¹⁸. The Court correctly ruled that **women should be**

¹² Supra note 135 , P. 93

¹³ Dr. Meenakshi Gupta , *Women Rights under Labour law* , Regal Publication , New Delhi , PP.63-65

¹⁴ AIR 1982 SC 879,882

¹⁵ (1982) 2 LLJ 454 (SC)

¹⁶ AIR 1976 SC 1868

¹⁷ AIR 1962 SC 1139

¹⁸ AIR 1981 SC 1829

treated equally since they are the ones who participate in society. According to the Supreme Court, antiquated laws that utilize women's biology as an excuse for segregation are irrational and therefore unconstitutional. Surprisingly, the Supreme Court recently decided that favouring women in the workplace was only an affirmative action and did not always equate to reservation. Gender discrimination has been seen everywhere, despite the judiciary's efforts.

Discrimination against female employees persists, especially in the area of compensation. Part of the reason for the discrimination is their own lack of concern about their jobs, which permits them to work for any wage to supplement their families' meager income. As a result, employers can readily exploit the situation. For whatever reason, employers assume that women are less productive than males. Some individuals are horrified and reluctant to employ women because they think that their very presence will result in needless and unforeseen labour-related issues.¹⁹

1.1.5 POOR LIVING AND WORKING CONDITIONS:

The living and working conditions of workers in the unorganized sector are extremely poor, and the welfare facilities that are genuinely accessible to them are quite limited, even though numerous labour laws have been extended to this sector. Because their jobs are seen as subordinate to those of men, women employees suffer the most. The labour rules that apply to the sector either do not have special provisions for the welfare and protection of female employees or do not enforce them at all. Work is frequently low-skilled, unskilled, and poorly compensated. Work is not always available, and when it is, they must put in enormous hours.

They are forced to work under appalling living and working circumstances. Women employees' bargaining leverage is limited. His circumstances in the unorganized sector are seen to be highly unsatisfactory. This is due to the fact that in addition to the unfavourable conditions of their living quarters, these workers lack access to adequate drinking water, sanitary facilities, health care, and educational opportunities. These workers' living arrangements fall into one of the following categories: dwellings in neighbouring villages, such as huts, kachcha quarters, pakka quarters, or their own houses. Regretfully, there are insufficient doors, windows, ventilation, weatherproof

¹⁹ Amal Mandal, "Women Workers in Brick Factory", 1st Published, 2005, P.21-26

roofs, and facilities for cooking and washing in the quarters.

Workers in the building and construction industry always handle dusty, hard, or harsh materials including sand, cement, concrete bricks, and more. They were therefore more susceptible to diseases and accidents. The company hasn't taken any action to prevent workers from inhaling contaminants like dust fumes. Female labourers' hands and feet were frequently found to be in poor condition, with many scrapes. No female employees have received hand gloves or any other protective equipment for handling building and construction materials.²⁰

3.2. SEXUAL HARASSMENT IN THE UNORGANISE SECTOR: AN INVISIBLE REALITY:

Another significant risk that working women must deal with is sexual harassment. Many working women experience sexual harassment at work, regardless of whether they are employed in the organized or unorganized sector, are low-paid, illiterate employees, or are highly educated, high-paid executives.

Unwanted sexually determined behaviour, including as physical contact and advances, sexually suggestive comments, displaying pornography, and making sexual demands verbally or physically, is referred to as sexual harassment.²¹

"Subtle forms which may include sexual innuendos, appropriate favour, blatant forms, leering, pinching, grabbing, hugging, patting, brushing against, touching extreme behaviour amounting to attempted rape " the list states.²²

Sexual harassment may occur when someone considers their own sexual activity offensive. Such conduct could be overt or covert, vocal or nonverbal. It can involve a variety of actions, such as inquiring about a woman's sex, explicitly demanding that she engage in sexual activity with men, pinching, putting arms around her shoulder repeatedly while acting friendly, or patting women's butts while they are working in the office or hallway. However, sexual harassment can be

²⁰ Dr. Meenakshi Gupta , Women Rights under Labour law , Regal Publication , New Delhi , PP.66-69

²¹ Roma Mukherjee: Legal Status and Remedies for women in india,30 Deep and Deep Publication,1997

²² M.D. Singh and Gurpreet pany , “ Sexual Victimization of women in India,” Indian Socio – Legal Journal an international journal of legal Philosophy , law society , 2004, Vol XXX,No.1

psychological as well as physical. In more extreme situations, the sexual harassment resulted in attempted or real rape, but it can also be restricted to verbal and socially acceptable affectional gestures.

In the unorganised construction sector, women workers are particularly vulnerable due to male-dominated worksites, informal supervision, lack of awareness about legal rights, and economic dependence on contractors. Sexual harassment often remains unreported as women fear retaliation, loss of livelihood, and social stigma. The invisibility of such incidents highlights the urgent need for effective legal mechanisms and institutional support, which the POSH Act seeks to address.

CHAPTER IV

4.1 INSTITUTIONAL FAILURES UNDER THE POSH ACT :

Although the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 provides a comprehensive legal framework, its implementation largely caters to the organised sector. Women working in the unorganised sector continue to face structural and institutional barriers due to the absence of effective enforcement mechanisms, lack of awareness, and administrative apathy.

4.2 DRAWBACKS OF THE PRESENT LITIGATION:

Although there are no real standards for employers in the unorganized sector, the laws pertaining to sexual harassment issues primarily address situations of sexual harassment in the formal and organized sectors. The following are some issues with handling the same:

4.2.1 LOCAL COMMITTEE AARE CRITICAL FOR POSH IMPLEMENTATION

The law creates two kinds of committees to prevent and deal with sexual harassment in the workplace: a **local committee** for the unorganized sector and **an internal committee** for the organized sector. The phrase "unorganised sector" describes companies that employ fewer than ten people. Section 6 of the POSH Act mandates that a District Officer establish a Local Committee to address sexual harassment allegations from unorganized firms. The district official must designate a nodal officer in each block, taluka, tehsil, or ward to receive the complaints, and they

must be sent within seven days of being received.

The committee is composed of an ex-officio member who is the district's social welfare or women and child development officer; two members from NGOs or associations that address sexual harassment issues; one member who is a woman working in a district block, taluka, tehsil, ward, or municipality; and a chairperson, who is usually a distinguished woman in the social work field who is committed to the cause of women. It is also required that at least one nominee be a woman from a Scheduled Tribe, Scheduled Caste, Other Backward Class, or Minority Community.

4.2.2 NON CONSTITUTIONAL OF LOCAL COMMITTEES:

District administrations are crucial in giving women from the unorganized sector a way to seek remedy for sexual harassment. If the allegations are confirmed, the District Officer must not only designate the committee and notify the **local nodal officials**, but also take the Local Committee's recommendation into consideration. In addition, the inquiry report pertaining to the **sexual harassment allegations is given to the District Officer**. On the other hand, district officers have been shown to be inadequate in their responsibilities. The majority of local committees are "defunct," with members having "improper constitutions of membership" and "lack of awareness of roles and responsibilities among members,"

4.2.3 NON APPOINTMENT OF APPELATE AUTHORITIES:

Employers who fail to establish an internal committee in violation of the Act face penalties. The District Officer's actual accountability isn't ensured by a precise method, though. There is also a dearth of useful information on how local committees operate, which has been less studied than internal committees. This holds true for civil society organizations like the NCW (National Commission on Women) as well as local government committees. This illustrates once more the lack of interest in investigating the activities of local committees in government organizations. As a result, women working in the unorganized sector are less able to demand better legal implementation.

4.2.4 POOR FOCUS ON MARGINALISED WOMEN:

The law's failure to take into account the widespread marginalization of women workers in the

unorganized sector during the complaint and investigation process is another major issue. Informal sector employees use a process similar to internal committees to raise complaints with informal Local Committees. It ignores the particular challenges marginalized working women face when reporting harassment. First of all, unlike women in the formal sector, daily wage earners and domestic workers do not have the necessary paperwork to confirm their employment. Furthermore, any harassment complaint needs to be filed within three months in compliance with with **Section 9**. The statute does, however, allow the committee to continue hearing complaints after this period. Social science researcher Anagha Sarpotdar found that committees do not interpret the provision to consider the marginalized situation of unorganized sector workers as an excuse for the delay in registering complaints.

There should be no timeframe for filing a complaint, according to the Verma Committee. Rather, complaints concerning the facts and circumstances of the case, as well as the individual's circumstances, should be accepted in a reasonable amount of time. Before starting an inquiry into the complaint request, the Committee may then use party conciliation to settle the disagreement and record the agreement. Because it will make it more difficult for women to register valid complaints, the Verma committee had also recommended that this clause be eliminated. This is particularly true for workers in the unorganized sector given the power imbalance between the two parties.

In a same spirit, **section 12** allows a woman who has been wronged to temporarily avoid future victimization by being granted three months of leave, a transfer to a different branch, or other relief while the case is still pending. This presupposes that a leave policy is in place and that the business has several branches. This may not be the case in the unorganized sector. The great bulk of India's current labour and social security laws only apply to the formal sector; they have no bearing on the country's sizable informal sector. According to several surveys, working women in the unorganized sector are forced to leave their jobs. These women's circumstances are far more vulnerable because many of them are the sole breadwinners for their families.²³

²³ <https://www.nujs.edu/wp-content/uploads/2024/01/vol-8-iss-4-6.pdf> (last visted on 20 April 2025)

CHAPTER V

5.1 CONCLUDING OBSERVATIONS:

The present study critically examined the implementation deficit of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 in the unorganised construction sector, with particular focus on institutional failures and the lived realities of women workers. While the enactment of the POSH Act marked a significant legislative step towards recognising sexual harassment as a violation of women's fundamental rights to equality, dignity, and safe working conditions, its benefits have largely remained confined to the organised sector.

The research reveals that women working in the unorganised construction sector continue to face heightened vulnerability due to informal employment arrangements, economic dependence on contractors, lack of awareness about legal remedies, and weak institutional mechanisms. Sexual harassment in such workplaces remains largely invisible and underreported, not due to its absence, but because of fear of retaliation, loss of livelihood, social stigma, and absence of accessible complaint mechanisms.

The Local Committee mechanism, which forms the backbone of redressal for women in the unorganised sector, suffers from poor constitution, lack of training, administrative apathy, and absence of monitoring. As a result, the promise of the POSH Act remains largely unrealised for women construction workers. The study thus concludes that the problem lies not in the absence of law, but in its ineffective implementation.

5.2 RESEARCH QUESTION AND ANSWERS :

1. Whether the POSH Act, 2013 is effectively implemented in the unorganised construction sector in India?

The study finds that the POSH Act is **not effectively implemented** in the unorganised construction sector. While the Act provides for Local Committees to address complaints from unorganised workplaces, their existence and functioning remain largely deficient. In many districts, Local Committees are either non-functional or improperly constituted, and women workers are often unaware of their existence. The absence of strict accountability mechanisms for District Officers

further weakens enforcement.

2. What are the major legal, institutional, and social barriers faced by women construction workers in reporting sexual harassment?

Women construction workers face multiple interlinked barriers, including:

- Lack of awareness about the POSH Act and complaint procedures
- Absence or dysfunction of Local Committees
- Fear of job loss, wage cuts, or blacklisting by contractors
- Economic dependence and poverty
- Social stigma and cultural silence surrounding sexual harassment
- Procedural hurdles such as limitation periods and lack of documentation

These barriers collectively discourage women from reporting harassment and accessing justice.

3. Whether the Local Committee mechanism provides adequate access to justice and redressal?

The research concludes that the Local Committee mechanism **does not provide adequate access to justice** in its current form. Structural flaws such as non-appointment of members, lack of sensitivity towards marginalised women, procedural rigidity, and poor dissemination of information significantly undermine its effectiveness. The mechanism fails to accommodate the realities of informal employment and power imbalance inherent in the construction sector.

5.3 SUGGESTIONS AND RECOMMENDATIONS

To bridge the gap between legal recognition and actual protection, the following measures are recommended:

a) **Strengthening Local Committees**

Effective implementation of the POSH Act in the unorganised construction sector requires the mandatory constitution of functional Local Committees in every district. Periodic audits must be conducted to ensure compliance with statutory requirements. Committee members should be adequately trained, gender-sensitive, and include representatives from grassroots organisations

familiar with the realities of informal labour. Regular legal and capacity-building training is necessary to enable committees to discharge their functions effectively.

b) Awareness and Outreach Programs

Awareness regarding the POSH Act must be enhanced through outreach programmes conducted at construction sites in local languages. The involvement of NGOs, trade unions, and women's collectives is essential for disseminating information about sexual harassment, complaint procedures, and available redressal mechanisms. Increased awareness can significantly reduce underreporting and empower women workers to assert their rights.

c) Simplification of Procedures

Procedural requirements under the POSH Act should be simplified to accommodate the conditions of the unorganised sector. The limitation period for filing complaints must be relaxed in appropriate cases, considering the vulnerability of women workers. Local Committees should accept oral complaints and provide assistance in documentation to ensure access to justice is not hindered by technical barriers.

d) Accountability of District Officers

Clear accountability mechanisms must be imposed on District Officers responsible for implementing the POSH Act. Statutory penalties should be prescribed for failure to constitute and monitor Local Committees. Mandatory annual reporting on the functioning and case disposal of Local Committees would enhance transparency and administrative accountability.

e) Integration with Labour Welfare Mechanisms

POSH implementation should be integrated with existing labour welfare and inspection frameworks. Compliance with sexual harassment redressal mechanisms should form part of labour inspections and construction licensing requirements. Such integration would strengthen enforcement and ensure safer workplaces in the unorganised construction sector.

f) Adopting a Survivor-Centric Approach

The enforcement of the POSH Act must adopt a survivor-centric approach that recognises the

economic vulnerability of women construction workers. Interim relief measures, along with access to legal aid, counselling, and rehabilitation support, should be ensured to enable survivors to seek redressal without fear of retaliation or loss of livelihood.

g) **Introduce Legal Aid and Helplines for Construction Workers**

Given the fear of retaliation and job loss, there should be anonymous helplines, mobile legal aid clinics, and on-site grievance redressal clinics specifically targeted at women in construction. These services should be managed by State Women Commissions or local NGOs in partnership with the government.

5.4 CONCLUSION:

Ensuring a safe and dignified workplace for women in the unorganised construction sector is not merely a statutory obligation but a constitutional mandate rooted in Articles 14, 15, and 21 of the Indian Constitution. Unless the POSH Act is implemented in a manner that is sensitive to the realities of informal labour, it will continue to remain a symbolic law for millions of women workers. Meaningful reform requires political will, administrative accountability, and a shift towards inclusive, ground-level enforcement mechanisms. Only then can the law truly serve its intended purpose of protecting women's dignity and promoting substantive equality at the workplace.

REFERENCES:

Books Referred:

- Meenakshi Gupta , “Women Rights under Labour Law ”, Regal Publication, New Delhi – BOOKS
- Meenu Anand, “Women’s Work: Visible Work, Invisible Hands, Women’s Link,” October – December ,2006, vol.1,No.4,
- Mahesh V. Joshi , “Women rural Labourers , problems and prospects “ ,1999 P2
- Quoted from C.P.Rai, “Working Women in India ”2002, 1st edition, Vol 2 ,pp 454-455
- Amal Mandal, “Women Workers in Brick Factory”, 1st Published ,2005, P.87
- M.D. Singh and Gurpreet pany, “Sexual Victimization of women in India,” Indian Socio –

Legal Journal an international journal of legal Philosophy, law society, 2004, Vol XXX, No.1

- Roma Mukherjee: Legal Status and Remedies for women in india, 30 Deep and Deep Publication, 1997

Journals :

- Sexual Harassment of Women In Informal And Unorganised Sectors in India : An Analytical Study (<https://www.nujs.edu/wp-content/uploads/2024/01/vol-8-iss-4-6.pdf>)

Bare Acts:

- Sexual Harassment of women at workplace (Prevention, Prohibition, and Redressal) Act, 2013
- The Constitution of India, Bare Act
- Buildings and other construction workers act (Regulation of employees and condition of service) act 1996

Websites:

- <https://testbook.com/key-differences/difference-between-organised-and-unorganised-sector>

Reports :

- Report On Conditions Of Work And Promotion Of Livelihoods In The Unorganised Sector. Academic Foundation. 1 January 2008. p. 1774. ISBN 978-81-7188-678-4.
- Retrieved 26 March 2013.
- Rapaka Satya Raju (1989). Urban Unorganised Sector in India. Mittal Publications.
- pp. 11–17. GGKEY:J0UK90X1FYN. Retrieved 18 April 2025.
- Kulwant Rai Gupta (1 January 2009). Economics of Development and taPlanning. Atlantic Publishers & Dist. p. 746. ISBN 978-81-269-1011-3. Retrieved 18 April 2025.

Case Laws:

- Vishaka V. State of Rajasthan (1997) 6 SCC 241.
- Randhir Singh v. Union of India AIR 1982 SC 879,882
- People's Union for Democratic Rights v. Union of India 1(982) 2 LLJ 454 (SC)

- C.B. Muthamma v. Union of India AIR 1976 SC 1868
- Kishori Mohanlal Bakshi v. Union of Indias AIR 1962 SC 1139
- Air India v. Nargeesh Meerza . AIR 1981 SC 1829

