

News

Limitation under the POSH Act: The Real Representation of Justice Delayed, Justice Denied



This piece was inspired by a personal experience. After navigating my university's internal sexual harassment redressal process under the POSH Act, I came to the unsettling conclusion that the law, which was hailed as a landmark when it was passed in 2013, is subtly failing the women it was intended to protect.

The POSH Act's six-month outer time restriction for filing a written complaint—which SCI further increased in **Vineeta Patnaik v. Nirmal Kanti Chakrabarti & Ors**—is the slow procedural suffocation.

Section 9 of the POSH Act is insufficient.

According to Section 9 of the POSH Act, a woman who feels wronged must submit a written complaint to the Internal or Local Committee (IC or LC) within three months of the incident, or within three months of the last incidence in the case of a series of episodes. The first proviso to Section 9(1) extends this limit by an additional 3 months if the IC or LC is satisfied, for reasons specified in writing.

However, this timeline is profoundly weak in how it recognizes the real life repercussions of sexual harassment, the social hierarchy and even international standards.

Psychology of trauma is irreconcilable with a three-month window

Studies on sexual violence reporting patterns show that a majority of survivors do not make formal disclosures in the period immediately following an incident, with many choosing to come forward weeks, months, or even years later due to psychological phenomena such as acute trauma, **PTSD, shame, self-blame and a rational fear of negative consequences.**

The US Department of Veterans Affairs' National Center for PTSD has recorded that approximately 45% of women who experience rape meet the diagnostic criteria for PTSD, a condition whose avoidance symptoms specifically compel survivors away from formal engagement with the people and processes connected to their trauma. Research also reveals that over 60% of women do not perceive their experience as fitting legal standards of assault at the time it occurs, further postponing the moment when formal complaint

becomes feasible. **Thus, the 3-month deadline proved to be insufficient for a majority of aggrieved women.**

Furthermore, even the proviso for a further 3-month window to make a complaint does not remedy this problem since it is simply discretionary and conditioned wholly on the IC's or LC's subjective opinion.

Although the Act provides for the necessary constitution of the IC, in practice, IC composition is often sub-standard. Reports have even documented an employer reconstituting the IC during a pending inquiry to get a more favourable outcome. Where the respondent occupies a senior position, as is the case in the vast majority of workplace harassment instances, the institutional demands on IC members are intense. The Delhi High Court has stated that an IC constituted of individuals from the same department or unit as the

defendant causes fair concern of prejudice. To put it briefly, the proviso exposes the complainant to an institution that might be compromised.

Furthermore, the proviso only prolongs the time frame for submitting a formal complaint. The statute of limitations does not expire during any informal complaint, attempt at conciliation, or initial administrative procedure.

Asymmetry of power

Specifically, hierarchical workplace dynamics led to the creation of the POSH Act. However, the coercive power dynamics that dictate whether a complainant feels safe enough to take action are structurally blind to the three-month interval. The respondent holds a position of power over the complainant in the majority of recorded POSH complaints. In

university contexts, this is made worse by the possibility that junior faculty, research scholars, and students—including minors—may live with or be academically dependent on the respondent for years.

Additionally, the application of the 6-month ceiling in educational institutions where minors may be enrolled as students has received virtually no intellectual or judicial attention. When a minor is sexually harassed in an institutional setting, she may not have the institutional expertise or emotional support to file a formal complaint for up to six months.

Teenagers and minors are not given any special treatment under the Act. The workplace IC mechanism is not covered by the Protection of Children from Sexual Offences (POCSO) Act, which does offer more protective limitation rules. One of the most understudied fundamental defects in India's anti-harassment legislation is this jurisdictional vacuum.

Comparisons across international borders

The limited nature of the Indian framework makes it a global anomaly. In the US, complaints must be submitted to the Equal Employment Opportunity Commission (EEOC) within 180 days after the most recent discriminatory act, or within 300 days in states with their own anti-discrimination laws and agencies, according to Title VII of the Civil Rights Act. The

reaction has been even more extreme in **Canada**. In **2017**, the Province of Alberta passed **Bill 2 (An Act to Remove Barriers for Survivors of Sexual and Domestic Violence)**, which completely removed the statute of limitations for civil lawsuits resulting from sexual misconduct. **Under Bill 132 (2016)**, Ontario adopted a similar strategy for sexual assault

claims, eliminating the two-year civil limitation term. Additionally, Canadian courts have concluded that the statute of limitations does not start until the employee's last day of employment in cases where sexual harassment is a continuous course of behavior. The criminal prosecution of sexual offenses in the UK is not subject to a statutory statute of limitations. A three-year extendable statute of limitations is applicable in civil cases, and judges have broad discretion to extend it in the interest of justice.

India's 6-month absolute ceiling is incredibly restrictive in light of this.

An analysis of the Vineeta Patnaik ruling

About eight months after the last alleged conduct in April 2023, the complainant in this case filed a sexual harassment complaint against NUJS Vice-Chancellor Chakrabarti in December 2023. The LCC rejected it, citing Section 9's time bar. On September 12, 2025, the Supreme Court affirmed the dismissal following contradictory High Court decisions.

The comparison between Order VII Rule 11 of the Code of Civil Procedure (CPC) and Section 9 of the POSH Act was the apex court's most legally contestable argument in the case.

The Court decided that LCs and ICs could dismiss time-barred POSH allegations without conducting a thorough investigation using the same reasoning.

This comparison is essentially flawed. The CPC is a statute of procedure that governs civil suits between private parties before regular civil courts. The procedure is adversarial in nature, and the parties are assumed to have roughly equal procedural capacity, be represented by legal counsel, and be subject to the entire spectrum of equitable doctrines that courts have developed over centuries. In contrast, a protective welfare law known as the POSH Act was passed in order to address a systemic power disparity.

Welfare statutes must be read liberally and purposefully in favor of the beneficiary class, as the Supreme Court has emphasized time and time again. Procedural barriers should not be interpreted in a way that undermines the protective intent of the act, according to the Court's own jurisprudence on the interpretation of social welfare laws, from labor law to consumer protection.

The POSH Act's legislative aim is reversed when a POSH complaint is equated with a civil plaintiff using the CPC. The lacuna in India's framework for protecting women in the workplace was addressed by the Vishaka guidelines, which gave rise to the POSH Act. In the exact area where the legislation most obviously meant otherwise, procedural formality takes precedence over substantive justice when the strictness of CPC threshold dismissals is

imported into this framework.

Other treatments than POSH

Section 75 and Section 354 of the Bharatiya Nyaya Sanhita (BNS), which criminalize sexual harassment, and **Section 514 of the Bharatiya Nagarik Suraksha Sanhita (BNSS)**, which has a statute of limitations of three years—much longer than POSH's six months—are two examples of the overlapping mechanisms that India's legal system offers for dealing with behavior that may constitute workplace sexual harassment. Most significantly, the POSCO Act offers a reporting structure with no set statute of limitations in cases when the complaint is a minor. Additionally, women employees in the public and private sectors can directly file complaints using the Sexual Harassment Electronic Box (SHe-Box) Portal.

These options, however, necessitate dealing with the police, who are known to be antagonistic toward female complainants, who are therefore vulnerable to secondary victimization and where conviction rates are still pitifully low. If anything, there are more psychosocial obstacles to criminal reporting than there are to internal IC complaints.

Most importantly, none of these substitutes offer what the **POSH Act was intended to offer: a low-threshold, expert, confidential, workplace-specific forum for the resolution of sexual harassment allegations.** The POSH Act is evidence of the legislature's understanding that women in the workplace should have access to a specific, specialized system for pursuing justice, but it only serves as a façade for that promise in the absence of a revised statute of limitations.