



Stretching the Scope: Understanding Gender-Based Discrimination as Workplace Harassment under the Protection against Harassment of a Women at Workplace, 2010 in Pakistan

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ABSTRACT

This research examines the evolving interpretation of the Protection against Harassment of Women at the Workplace Act, 2010 in Pakistan, with a focus on understanding gender-based discrimination as a form of workplace harassment. While the Act was initially designed to address sexual harassment, recent legal developments including the 2022 amendments and the Supreme Court's 2023 review judgment³⁴ have broadened its scope to include discriminatory practices such as unequal pay, denial of promotions, and exclusion from decision-making roles. The study highlights the constitutional guarantees of equality and dignity for all citizens, alongside Pakistan's international obligations under ILO conventions, and evaluates how effectively these protections are being translated into workplace realities. Using secondary data, including FOSPAH statistics from July 2023 to June 2024, which recorded 823 complaints (655 harassment and 168 property rights cases), the research underscores both progress and persisting challenges. Findings reveal that although awareness of workplace rights is increasing, weak enforcement, cultural barriers, and institutional biases continue to limit women's equal participation in the workforce. The study concludes that legal reforms, awareness campaigns, and institutional accountability are essential to ensure that gender-based discrimination is fully recognized and addressed as workplace harassment. Expanding the scope of the Act not only fulfills constitutional and international commitments but also contributes to creating safer, more inclusive workplaces in Pakistan.

Keywords: Gender-Based Discrimination, Workplace Harassment, Protection against Harassment, Act 2010, Pakistan Legal System.

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INTRODUCTION

Pakistan, the "Land of Purity," gained independence in 1947 with a vision of equality for all its citizens. Muhammad Ali Jinnah emphasized that no nation could progress without women standing alongside men. The Constitution of Pakistan also guarantees equal rights and opportunities for women. Yet, despite this foundation, patriarchal traditions and cultural practices have continued to marginalize women, restricting their role in public life. Historically, women

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played a significant part in the independence movement, and several have risen to prominence in politics and leadership, such as Fatima Jinnah, Begum Liaquat Ali Khan, and later Benazir Bhutto, Pakistan's first female Prime Minister (Khan, 2027). However, for many women, the reality has been marked by violence, exploitation, and denial of rights, with cases like Mukhtar Mai and Malala Yousafzai highlighting the struggles faced by women in both rural and urban contexts. Today, Pakistani women continue to face challenges such as domestic violence, workplace discrimination, low literacy rates, and lack of representation in decision-making roles. According to global rankings, Pakistan remains near the bottom in terms of gender equality. These social, economic, and cultural barriers perpetuate male dominance and limit women's participation in national development, leaving almost half of the population constrained by inequality (Khan et al, 2026).

Background of the Study

The Constitution of Pakistan pledges “*fundamental rights, including equality of status, of opportunity and before law, social, economic and political justice, and freedom of thought, expression, belief, faith, worship and association, subject to the law and public morality*” to its citizens. This country, conceived under the principles of a democratic nation, accrues several cultures, traditions, dialects, and religions- with roughly a 208.57 million populace. The minorities, if categorized under their constitutional weight, can be construed on the basis of sex, religion, or geographical location. Yet despite the alleged sanctity and security sworn to its citizens, Pakistan sees a rise in intolerance, unacceptance, and discrimination over a period of years. Ironically, the largest segment of the aforementioned include virtually the second largest portion of the populace: women. Women are viewed as a minority because of their marginalization inside the discretionary cycle. To scrutinize the contemporary situation of women in Pakistan, we delve deeper into the beginning, where it was from the onset of industrialization and urbanization in the West that women began to seek economic independence to break free from male domination and exploitation with a self-established movement in 1960s that buoyed and sought the need to establish training prospects and workplaces for women. This led to the eventual formation of legislation that regulated the hopeful erasure of discriminatory behavior in the workplace. Yet, even as the working conditions improved, women soon began to face victimization, exploitation, and subjection at the hands of their superordinate and peers, actions that were eventually deemed as sexual harassment. Invariably, in the present scenario, this issue is not new, the term, however, consistently institutionally unrecognized by public traditions and by varying degrees- the law (Lin & Song, 2024).

The paper seeks to elucidate and tacit the issue of institutional harassment, principally deliberating on an analysis of the causation and circumstances that pertain to the underreporting or nonreporting of the aforementioned in Pakistan, while drawing inferences from preexisting literature. Contextually, the paper also aims to address existing religious cultures and traditions and societal norms such as shame, with regards to Pakistan. It is also annotated that 95% of Pakistan's populace is dictated by Muslims while the remainder is subdivided into primarily Hindus, Christians, Ahmadis and a couple of different denominations. To preface, Hindus and Christians find themselves powerless against persecutory treatment because of their religious convictions, and

likewise Ahmadis, whilst following the lessons of Mirza Ghulam Ahmed, digress from the essentials of Islam and thus, are not viewed as Muslim and excluded in dominantly Muslim nations, for example, Pakistan. Subsequently, minority concerns are exacerbated by the negligible portrayal of their respective communities in major municipal organizations that in turn subject them to variable hardships, unique to each community. Since its inception, Pakistan's history has seen a conundrum of military regimens, multiple amendments to its constitution, and has been a home to a weak judiciary, riddled with internal problems that constrained the concerns of the minorities (Khan & Jilani, 2023). The subsequent marginalization and alienation of these minorities is evident in virtually all aspects of civil and military foundations, and with the growing extremism in Pakistan, they find themselves also targeted by not only the public sector of society but also the judicial sector being unfavorably negative towards the communities. Within the parameters of this paper, research is utilized to ascertain what generic groups of minorities are present, and thereby ascertain what changes need to be implemented pertinent to their survival and growth by enumerating issues surrounding them. In recent years, while perception about harassment has grown exponentially, aided further by various targeted organisations, research based on company cultures and societal patterns empowering this behavior are severely lacking. In this paper, we assess not only the aforementioned questions, but shed light on queries that have not yet been fully researched as to analyze and understand the sensitive nature of the topic better, while pertaining to Pakistan (Faisal et al., 2023).

Concept of Harassment

In 2010, the Protection Against Harassment of Women at the Workplace Act was enacted in Pakistan with the primary objective of safeguarding employees from sexual harassment and ensuring a safe working environment. However, the application and scope of this legislation were tested in 2021, when the Supreme Court of Pakistan delivered a landmark judgment on cases tried under the Act. The Court held that, for conduct to fall within the ambit of the Act, it must demonstrate a sexual nature coupled with sexual intent. This interpretation significantly narrowed the application of the law, limiting its protection to incidents strictly of sexual harassment, while excluding other forms of degrading, abusive, or discriminatory behavior that may occur in workplaces. Despite this restrictive interpretation, the Court acknowledged that harassment in all its forms undermines human dignity. Importantly, the Court expanded the conceptual understanding of harassment to include gender-based discrimination that creates a hostile and abusive work environment, as well as the denial of equal opportunities and disparagement of abilities based solely on gender. This judicial development marked an essential step towards aligning domestic jurisprudence with constitutional guarantees of liberty, dignity, and equality (Khan et al., 2022).

The Act, however, was also criticized for its narrow definition of “workplace,” which only extended to formal office settings such as factories, offices, or physical sites of employment. This left vulnerable groups—including domestic workers, informal workers, freelancers, and those working remotely or off-site—without adequate legal protection. Recognizing these deficiencies, Parliament enacted significant amendments to the Act in 2022. These amendments broadened the definition of both “harassment” and “workplace,” extending coverage to educational institutions,

studios, courts, highways, sporting arenas, and any setting linked to work activities. Furthermore, the amendments expanded the definition of “employee” to include informal workers, trainees, apprentices, students, performers, and sportspersons, while also ensuring inclusivity by replacing the gendered term “woman or man” with “any person,” thereby extending protection to transgender persons. The 2022 amendment represents an attempt to harmonize Pakistan’s domestic framework with its international commitments, including the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and ILO conventions on discrimination in employment. While the amendment has successfully broadened the scope of the Act, practical challenges remain in its implementation. Procedural delays, burdensome litigation processes, and the social stigma associated with filing harassment complaints continue to impede victims from accessing justice. Nevertheless, the Supreme Court’s decision in the PTV case and the subsequent legislative reforms reflect a progressive evolution of the law, paving the way for a more inclusive and equitable workplace environment in Pakistan (Javed et al., 2021).

Scope and Limitation:

The Federal Ombudsperson Protection Against Harassment at Workplace Act, 2010 was enacted to safeguard the right of individuals, particularly women, to work in a safe and respectful environment. The scope of the Act extends to all workplaces in both public and private sectors and provides a formal complaint mechanism through inquiry committees and the Federal Ombudsperson’s office. Its main objective is to ensure that no individual, especially women, is forced to leave or compromise on their work due to harassment, intimidation, or abuse. By aligning itself with Pakistan’s international commitments under instruments like the UDHR, CEDAW, and ILO Conventions, the Act attempts to integrate global standards of equality, dignity, and protection into the local legal framework. In doing so, it emphasizes that harassment is not merely an individual issue but a violation of the fundamental right to work and to contribute to the country’s economy without fear or discrimination. Despite its importance, the Act is not without limitations. Its definition of harassment has often been interpreted narrowly, focusing largely on sexual harassment, while leaving out broader forms of workplace discrimination such as unequal pay, lack of promotion opportunities, and hostile treatment unrelated to sexual conduct. For instance, Pakistan’s obligations under ILO Convention 100 on equal remuneration and ILO Convention 111 on eliminating discrimination in employment are only partially addressed, as the law does not explicitly deal with pay equity or wider non-sexual biases. Another limitation lies in its implementation: while the law provides mechanisms on paper, weak institutional capacity, social stigma, and lack of awareness often discourage victims from filing complaints. In many cases, women fear retaliation, reputational harm, or lack of confidentiality, which undermines the effectiveness of the law. The Act also faces the challenge of being treated as a symbolic gesture rather than a comprehensive reform. It is sometimes presented as fulfilling Pakistan’s international commitments, yet in practice, gaps remain in translating those commitments into real workplace equality. Moreover, the law does not fully account for intersectional discrimination, such as bias on the basis of religion, ethnicity, or social class, which can compound gender-based challenges in the workplace. Hence, while the Act is a significant step in addressing workplace harassment,

its scope is limited, and meaningful progress will require both stronger enforcement and broader legal reforms (khan et al., 2021).

Significance of the Study:

The significance of studying gender-based discrimination as workplace harassment under the Protection against Harassment of Women at Workplace Act, 2010, lies in highlighting how subtle and systemic forms of discrimination are often overlooked within legal and organizational frameworks in Pakistan. While the Act primarily addresses explicit harassment, expanding its scope to include discriminatory practice such as unequal pay, limited promotions, biased hiring, or exclusion from decision-making can provide stronger protection for women in the workforce. This perspective is crucial for ensuring that the law evolves to address the broader realities of workplace inequality, thereby promoting safer, fairer, and more inclusive professional environments. Moreover, such research contributes to legal scholarship, policymaking, and organizational reforms, ultimately supporting women's increased participation in Pakistan's labor force and advancing national development goals (Usman et al., 2021).

Research Objectives:

The objectives of this research are to critically examine the scope and limitations of the Protection Against Harassment of Women at the Workplace Act, 2010 in addressing not only sexual harassment but also broader forms of gender-based discrimination in Pakistan, and to analyze how judicial interpretations, including the 2021 Supreme Court ruling, have shaped the application of the law. It also aims to evaluate the significance of the 2022 amendment in redefining key terms such as "workplace," "employee," and "harassment," while investigating how effectively these reforms address modern workplace realities, including informal, remote, and gig economy settings. Beyond legal provisions, this study seeks to understand the socio-cultural barriers, including patriarchy, workplace hierarchies, and stigma, that hinder the implementation of the law. Furthermore, it will assess the extent to which Pakistan's framework aligns with international human rights standards and best practices, explore the lived experiences of women facing non-sexual workplace discrimination such as unequal pay, lack of promotions, and hostile work environments, and finally, propose policy, legal, and institutional reforms to make workplaces safer, more inclusive, and equitable for all employees.

Research Questions:

1. In what ways can gender-based discrimination be legally interpreted as workplace harassment under the Protection Against Harassment of Women at Workplace Act, 2010 in Pakistan?
2. What are the implications of expanding the scope of the Act to encompass gender-based discrimination for ensuring equality and protection in Pakistani workplaces?

Methodology:

This paper analyzed only secondary data obtained from various sources of literature which included but were not limited to academic books, student publications, and journals. Due to the

limited time available to assure authenticity alongside the sensitive nature of the research topic, primary data was not collected to conduct this research.

CONCEPTUAL FRAMEWORK

In Pakistan, workplace harassment remains a widespread issue, with surveys showing that around 93% of working women have faced some form of harassment. The World Economic Forum's Global Gender Gap Report 2023 ranked Pakistan 142 out of 146 countries, highlighting severe gender inequality, particularly in access to employment opportunities. One of the key barriers to women's participation in the workforce has been workplace harassment. To address this, Parliament enacted the Protection against Harassment of Women at the Workplace Act, 2010. Under Section 2(h), "harassment" was defined narrowly as sexual advances, requests for sexual favors, or sexually demeaning conduct that created a hostile work environment. For years, this definition was understood to cover harassment of a sexual nature only. In 2021, the Supreme Court of Pakistan, in the case of *Nadia Naz v. President of Pakistan*, confirmed this narrow interpretation. The Court held that only harassment of a sexual nature fell within the scope of Section 2(h), while other demeaning or discriminatory conduct, even if harmful, was not actionable under the law. This decision excluded many cases of gender-based workplace discrimination from legal protection (Khan et al., 2020).

Following this, Parliament amended the law in 2022 by inserting Section 2(h)(ii), expressly adding "discrimination on the basis of gender" into the definition of harassment. However, this amendment was not retrospective, meaning that complaints filed between 2010 and 2022 continued to be decided according to the restrictive interpretation laid down in *Nadia Naz* (2021). Later, in March 2023, the Supreme Court reviewed its earlier judgment in *Nadia Naz*. The Court adopted a purposive approach, holding that even before the 2022 amendment, the legislative intent behind the 2010 Act was to protect women from all forms of workplace harassment, including gender-based discrimination. The Court referred to the debates in the National Assembly and Senate, as well as Pakistan's obligations under international instruments such as CEDAW and ILO Conventions 100 and 111, to conclude that the Act was always intended to eliminate both sexual harassment and gender-based discrimination. Importantly, the Court clarified that in harassment cases, the standard to be applied is the perspective of a "reasonable woman." This means that the determination of harassment should be judged from the viewpoint of the victim, recognizing that discriminatory behavior—even if not explicitly sexual—can constitute workplace harassment.

Workplace Harassment under the Act:

"Harassment" means

(i) any unwelcome sexual advance, request for sexual favors, stalking or cyber stalking or other verbal, visual or written communication or physical conduct of a sexual nature or sexually demeaning attitudes, including any gestures or expressions conveying derogatory connotation causing interference with work performance or creating an intimidating, hostile or offensive work environment, or the attempt to punish the complainant for refusal to comply to such a request or is made a condition for employment; or

(ii) discrimination on the basis of gender, which may or may not be sexual in nature, but which may embody a discriminatory and prejudicial mind-set or notion, resulting in discriminatory behavior on the basis of gender against the complainant (Kanwel et al., 2020).

Intersection of Harassment and Discrimination:

Harassment and discrimination at the workplace are deeply interconnected, as both stem from unequal treatment based on gender. Discrimination occurs when an employee is denied opportunities, promotions, or equal pay merely because of their gender, while harassment involves conduct that creates a hostile, intimidating, or offensive work environment. Often, discriminatory practices take the form of harassment—for example, systematically excluding women from decision-making roles, mocking them for their gender, or creating barriers to their professional growth. Thus, discrimination is not only unequal treatment in policy or practice but can also manifest as harassing behavior that demeans, isolates, or undermines an individual at work. Recognizing this overlap is essential, as it shows that harassment cannot be viewed narrowly as only sexual in nature; rather, it is part of a broader spectrum of gender-based discrimination that violates the right to equality and dignity in the workplace.

Gender and Work in Pakistan:

Pakistan's labor market reflects a sharp gender imbalance, with women's participation ranging between 22–26% compared to more than 80% for men. This disparity not only highlights persistent structural inequalities but also represents a considerable loss to national productivity and economic development. Despite a growing willingness among women to enter the workforce, factors such as restricted mobility, safety concerns, inadequate transportation, and discriminatory social norms continue to constrain their opportunities. Furthermore, women's significant engagement in unpaid household and agricultural work remains undervalued and excluded from official economic indicators, limiting their access to paid employment and decision-making authority within both households and the broader economy.

The challenges shaping this inequality are multi-dimensional. Female labor force participation in Pakistan remains among the lowest in the world and has shown minimal progress in recent years. Deeply rooted socio-cultural expectations often restrict women's presence in public spaces, while safety concerns and lack of supportive infrastructure further discourage mobility. In addition, systemic discrimination within organizations restricts women's access to better-paying and higher-status employment. The double burden of paid and unpaid labor also constrains women's ability to pursue professional growth, reinforcing a cycle of economic and social dependency.

The consequences of these disparities are significant for individuals, organizations, and society at large. Economically, Pakistan loses substantial potential output by excluding women from active participation in the labor force. Increased female labor market participation could meaningfully raise the country's GDP and contribute to sustainable growth. On a social level, women's financial inclusion is closely linked to enhanced bargaining power within households, improved decision-making capacity, and intergenerational benefits such as better education and

health outcomes for children. Thus, addressing gender inequality in work is both an economic imperative and a social necessity for Pakistan's long-term development (Ahmad & Haider, 2027).

Overcoming these challenges requires coordinated action across state, private, and community levels. The private sector can foster inclusivity by creating safe, flexible, and skill-oriented workplaces that recognize women's potential beyond traditional roles. Stronger legal and policy frameworks are equally important in safeguarding women's rights, promoting equal opportunities, and protecting against workplace harassment. Targeted interventions—such as improved access to skills development, credit, markets, and safe transport—can enable women to expand their economic participation. More importantly, addressing underlying cultural and structural barriers through awareness campaigns, education, and infrastructure development is vital for creating an enabling environment where women can contribute meaningfully to Pakistan's economy and society.

LEGAL FRAMEWORK AND JUDICIAL INTERPRETATION:

Constitutional Safeguard on Equity and Dignity:

The Constitution of Pakistan serves as the supreme law of the land and provides the foundation for addressing workplace harassment and gender-based discrimination. Several constitutional provisions guarantee equality, dignity, and protection against discrimination, forming the basis for interpreting and expanding the scope of the Protection against Harassment of Women at the Workplace Act, 2010 ("the 2010 Act"). Article 4 of the Constitution guarantees the right of every citizen to be treated in accordance with law and not be subjected to arbitrary action. Article 9 secures the right to life and liberty, which has been expansively interpreted by Pakistani courts to include the right to live with dignity. Most importantly, Article 14 explicitly declares human dignity as inviolable, establishing a strong constitutional foundation for protecting individuals from humiliating or degrading treatment in the workplace.

Article 25 guarantees equality before the law and prohibits discrimination on the basis of sex alone. It further directs the State to take affirmative action for women and children to ensure equality of rights. This provision not only prohibits direct gender discrimination but also requires the State to create an enabling environment where women can participate fully in economic and social life. Article 27 supplements this by mandating equal opportunities in public employment, prohibiting discrimination in appointments solely on the basis of sex. These constitutional provisions collectively provide the normative foundation to argue that harassment and discrimination at the workplace, whether sexual or non-sexual in nature, violate the fundamental rights of women. They form the backdrop against which the judiciary has been called upon to interpret and expand the scope of the 2010 Act. The constitutional emphasis on equality and dignity also aligns with Pakistan's international obligations, further strengthening the case for broad protection against workplace discrimination and harassment.

International Commitments (CEDAW, ICCPR, ILO Conventions):

Pakistan is a signatory to several international human rights instruments that impose obligations to eliminate gender discrimination and safeguard equality in employment. These

commitments have been invoked by courts in Pakistan when interpreting domestic laws and addressing gaps in statutory protections. The most significant of these is the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), ratified by Pakistan in 1996. CEDAW obliges State parties to eliminate discrimination against women in all spheres, including employment. Article 11 specifically requires measures to ensure equality in employment opportunities, remuneration, promotions, and safe working conditions free from harassment. The CEDAW Committee has consistently emphasized that workplace harassment, whether sexual or gender-based, constitutes a form of discrimination under the Convention.

Pakistan is also a party to the International Covenant on Civil and Political Rights (ICCPR), which guarantees equality before the law (Article 26), the right to dignity (Article 7), and the right to liberty and security of the person (Article 9). Harassment and discrimination at the workplace undermine these rights, particularly the right to dignity and equality. Additionally, Pakistan has ratified key International Labour Organization (ILO) conventions, including Convention No. 100 on Equal Remuneration (1951) and Convention No. 111 on Discrimination in Employment and Occupation (1958). Convention 111 requires member states to eliminate all forms of discrimination in employment, including gender-based exclusion and hostile workplace practices. While Pakistan has not ratified ILO Convention No. 190 (Violence and Harassment Convention, 2019), the principles contained in earlier conventions already impose obligations to address harassment and discrimination comprehensively.

These international instruments reinforce the idea that workplace harassment should not be narrowly construed as only sexual in nature. Rather, harassment includes any conduct that denies women equal access to employment opportunities, demeans their dignity, or creates an intimidating work environment. Pakistan's courts have, in recent years, referred to these commitments in adopting a purposive interpretation of domestic legislation, ensuring consistency between local legal frameworks and international standards (Fatima et al., 2025).

Judicial Interpretations of Harassment in Pakistan:

Judicial interpretation has played a central role in shaping the understanding of harassment under the 2010 Act. Courts in Pakistan have been tasked with defining the scope of "harassment" in ways that align with constitutional guarantees and international commitments. A review of landmark cases highlights the evolution of this interpretation from a restrictive to a more inclusive approach.

The Nadia Naz Case (2021): Restrictive Interpretation:

In *Nadia Naz v. President of Pakistan* (2021), the Supreme Court of Pakistan delivered its first authoritative interpretation of Section 2(h) of the 2010 Act. The Court held that harassment under the Act was limited to conduct of a "sexual nature." This included unwelcome sexual advances, requests for sexual favors, and other sexually demeaning behavior. Importantly, the Court excluded other forms of discriminatory or demeaning behavior, even if equally harmful, from the ambit of the Act. The Court acknowledged that harassment in a broader sense could cause serious harm, but maintained that the legislature had specifically confined the Act to sexual harassment. This restrictive interpretation created a significant gap in legal protection, leaving

victims of gender-based workplace discrimination without remedy under the 2010 Act. For instance, a woman denied promotion solely because of her gender, or subjected to exclusionary practices, would not fall within the statutory definition of harassment as interpreted in *Nadia Naz* (2021).

The 2022 Amendment: Legislative Expansion:

In response to this judicial interpretation, Parliament enacted amendments to the 2010 Act in January 2022. The amendment inserted Section 2(h)(ii), which expressly included “discrimination on the basis of gender” within the definition of harassment. This represented a significant legislative expansion, recognizing that harassment is not confined to sexual misconduct but may also take the form of discriminatory practices rooted in gender bias. The amendments also expanded the definitions of “employee” and “workplace.” Employees were redefined to include not only formal workers but also trainees, students, freelancers, performers, and sportspersons. Similarly, the definition of workplace was broadened to cover educational institutions, studios, courts, highways, sporting arenas, and digital or virtual workplaces. Importantly, the amendments replaced gendered terminology (“man or woman”) with the term “any person,” thereby extending protection to transgender individuals. This legislative development demonstrated Parliament’s intent to align Pakistan’s domestic framework with its international commitments and to ensure more comprehensive protection against workplace harassment and discrimination.

The Nadia Naz Review (2023): Purposive Interpretation and the Reasonable Woman Standard:

In March 2023, the Supreme Court revisited its earlier judgment in *Nadia Naz*. Exercising its review jurisdiction, the Court departed from its restrictive interpretation and held that the original intent of the 2010 Act was to protect against all forms of harassment, including gender-based discrimination. The Court adopted a purposive approach, emphasizing that legislation must be interpreted in light of its object and purpose. In this case, the purpose of the 2010 Act was to create safe workplaces and eliminate gender-based disadvantages. The Court examined parliamentary debates and reports from the National Assembly Standing Committee on Women Development to conclude that the legislature’s intent was always to address diverse forms of harassment, not limited to sexual misconduct.

Additionally, the Court stressed that in harassment cases, the perspective of the victim is paramount. It adopted the “reasonable woman standard,” recognizing that women may perceive discriminatory behavior as harassing even when it lacks explicit sexual content. This approach ensures that courts consider the lived experiences of women, rather than applying abstract or gender-neutral standards that may overlook the realities of workplace discrimination. The 2023 review judgment thus restored broader protection to victims and reinforced the constitutional guarantee of dignity and equality. It also harmonized domestic jurisprudence with Pakistan’s international obligations under CEDAW and ILO conventions.

Critical Analysis:

The evolution of judicial interpretation in Pakistan reflects a gradual but important shift from formalistic to purposive reasoning. The restrictive interpretation in *Nadia Naz* (2021) created

a legal vacuum by excluding gender-based discrimination from the scope of harassment. This not only undermined constitutional guarantees but also placed Pakistan at odds with its international commitments. The 2022 amendment sought to correct this by explicitly recognizing gender discrimination as harassment. However, legislative action alone was insufficient without judicial endorsement. The Supreme Court's review judgment in 2023 thus plays a crucial role in bridging the gap between legislative intent and judicial interpretation. By adopting the reasonable woman standard, the Court acknowledged the importance of contextualizing harassment within women's lived realities. This approach represents a progressive shift in Pakistani jurisprudence, ensuring that workplace laws are not interpreted in a vacuum but in light of broader social and cultural dynamics.

At the same time, challenges remain in implementation. Despite legal reforms and progressive judgments, workplace harassment and discrimination continue to be underreported due to stigma, fear of retaliation, and lack of confidence in complaint mechanisms. Effective enforcement will therefore require not only strong legal frameworks but also institutional reforms, awareness campaigns, and cultural change. The constitutional guarantees of dignity and equality, Pakistan's international commitments, and evolving judicial interpretations collectively form a robust framework for addressing workplace harassment and gender discrimination. While the initial restrictive approach of the Supreme Court in *Nadia Naz* (2021) limited the scope of the 2010 Act, subsequent legislative amendments and the Court's review judgment in 2023 have restored and expanded protections. By adopting a purposive approach and the reasonable woman standard, the judiciary has reaffirmed that harassment encompasses both sexual and gender-based discrimination, aligning domestic law with international human rights standards.

Nevertheless, the journey from formal recognition to practical realization remains incomplete. The effectiveness of these legal protections will ultimately depend on their enforcement, the capacity of institutions, and the willingness of society to confront and dismantle patriarchal norms that perpetuate inequality. Chapter 3 thus underscores the legal and judicial foundations of workplace protection in Pakistan, while highlighting the need for sustained efforts to ensure safe, inclusive, and dignified workplaces for all.

ANALYSING THE IMPLEMENTATION OF PROTECTION AGAINST HARASSMENT OF A WOMAN AT WORKPLACE ACT 2010 IN PAKISTAN

Islam lays down a strong foundation of equality and justice, making it clear that no person is superior to another based on gender, wealth, or social status. The Quran repeatedly emphasizes that men and women are spiritually equal before Allah and will be judged only by their deeds. For example, Allah says: "But those who do well—whether male or female—and have faith will enter Paradise and will never be wronged" (Quran 4:124). This demonstrates that both men and women share the same religious and moral responsibilities, and that neither gender holds a higher rank in terms of faith or accountability.

At the same time, the Quran explains that true superiority is based on piety and righteousness, not gender. Allah declares: "Surely the most noble of you in the sight of Allah is the most righteous among you" (Quran 49:13). Yet, despite such clear guidance, gender-based

discrimination persists in many Muslim societies where customs and traditions sometimes overshadow these Quranic principles. Practices such as unequal access to education, limited career opportunities, or biased social roles for women contradict the spirit of equality that Islam established more than 1400 years ago. Moreover, Islam grants women specific financial rights and protections, which are often overlooked in practice. Women are entitled to marital gifts, inheritance, and financial security, while men bear the responsibility of providing for their families. This system was designed to safeguard women's independence and dignity. However, when misinterpreted or applied unjustly, these provisions are sometimes used to limit women's rights instead of protecting them. Thus, gender-based discrimination in Muslim societies is less about religion and more about cultural practices that deviate from the Quran. To truly honor Islamic teachings, it is essential to challenge discriminatory norms and revive the Quranic vision of justice, equality, and dignity for all.

Fundamental Rights:

The Constitution of Pakistan guarantees fundamental rights to all citizens, regardless of gender, and affirms equality as a cornerstone of justice. It declares that every individual is equal before the law and entitled to its protection, with no room for discrimination on the basis of sex, religion, race, caste, or residence. The dignity of every person is recognized as inviolable, and citizens are granted essential freedoms, including the right to speech, expression, association, assembly, and movement. In addition, both men and women have the constitutional right to pursue any lawful profession, occupation, or trade, reflecting a commitment to equal opportunity in economic and social spheres. Alongside these general rights, the Constitution also makes specific provisions to safeguard and empower women. It allows the state to introduce special measures for the protection of women and children, and under Article 34, stresses women's full participation in all areas of national life. Further legislative steps have been taken to strengthen these protections, such as the Acid Control and Acid Crime Prevention Act of 2011, which criminalizes acid attacks with strict penalties, and workplace protection laws that create safe environments free from harassment and intimidation. Together, these constitutional guarantees and legal measures aim to ensure dignity, safety, and empowerment for women, though their effectiveness depends largely on strong enforcement and social awareness.

Overview of the Act's Implementation:

The Protection Against Harassment of Women at Workplace Act, 2010, was introduced as a response to growing recognition that women face not only explicit harassment but also subtle forms of discrimination that undermine their dignity and participation in the workforce. The law defines harassment in narrow terms, focusing on unwelcome sexual advances, requests for favors, and verbal or physical conduct of a sexual nature. However, in practice, women experience a broader spectrum of discriminatory behaviors that create hostile work environments, such as denial of promotions, exclusion from decision-making roles, unequal pay, and biased recruitment practices. These forms of gender-based discrimination are often overlooked but function as indirect harassment, discouraging women from advancing in their careers. Although the Act has been a significant step forward, its implementation reveals gaps in addressing these broader patterns of workplace inequality. In many workplaces, compliance remains limited to formalities, while

discriminatory practices persist under the surface. This makes it essential to analyze not only how the Act has been implemented but also how its scope can be stretched to address gender-based discrimination as a form of workplace harassment.

Institutional Mechanisms and Their Functioning:

Under the Act, organizations are required to establish three-member inquiry committees and adopt a code of conduct. These mechanisms were designed to prevent and respond to complaints of harassment. However, their effectiveness in addressing gender-based discrimination remains weak. For instance, an inquiry committee may act when explicit harassment is reported, but it may not intervene when women are systematically sidelined from leadership opportunities or receive fewer benefits compared to male colleagues. Similarly, the Federal Ombudsman Secretariat for Protection Against Harassment (FOSPAH) has played a crucial role in hearing appeals and ensuring accountability. Yet, most of its focus has remained on traditional harassment cases, with little emphasis on discrimination that creates hostile or unequal workplace environments. This demonstrates the need to broaden the institutional approach to recognize discriminatory practices as part of the harassment framework.

Role of Inquiry Committees and Ombudsman:

Inquiry committees and the Ombudsman are central to the Act's implementation. In principle, these bodies should protect women from all forms of workplace hostility. However, due to a narrow interpretation of "harassment," many discriminatory behaviors are not formally recognized as violations. For example, practices such as unequal workload distribution, gender bias in evaluations, or discouraging women from applying for promotions are rarely brought before committees, even though they create an intimidating or humiliating environment.

The Ombudsman's office has set important precedents, but there is still a lack of clarity on whether systemic discrimination can be taken up as harassment under the law. Expanding the mandate of these institutions to address discrimination alongside harassment would significantly strengthen protections for women at work.

Awareness and Compliance among Organizations:

Awareness is a critical element of the Act's effectiveness. While some organizations have displayed codes of conduct and conducted training sessions, these efforts often focus narrowly on sexual harassment. As a result, employees may recognize harassment only in its most explicit forms, while discriminatory practices are normalized or dismissed as organizational culture. In many workplaces, particularly in the private and informal sectors, there is limited knowledge of how gender bias—such as paying women less than men for the same job or excluding them from decision-making—contributes to a hostile environment. Awareness campaigns need to broaden their focus, educating employers and employees alike that gender-based discrimination is not only unjust but also falls within the spirit of workplace harassment laws.

Case Registration and Resolution Trends:

According to the Federal Ombudsman Secretariat for Protection Against Harassment (FOSPAH), a total of 823 cases were registered between 1st July 2023 and 30th June 2024. Out of these, 655 cases related directly to workplace harassment, while the rest concerned women's property rights disputes. The high number of harassment complaints demonstrates that individuals are increasingly aware of the Act of 2010 and are willing to seek justice through formal mechanisms. At the same time, the property rights cases highlight how gender-based discrimination also extends beyond workplaces into inheritance and ownership matters. While the rising number of reported cases is a positive sign of awareness, it also highlights the scale of workplace harassment and gender discrimination in Pakistan. The relatively lower number of property rights cases compared to harassment cases further suggests underreporting, especially in culturally sensitive issues like inheritance.

Number of Cases Reported by Each Gender:

Out of the total 823 cases, 593 were filed by women and 230 by men from 1st July 2023 to 30th June 2024. This breakdown shows that although workplace harassment and discrimination affect both genders, women are disproportionately impacted. The higher number of complaints by women reflects the greater risks and challenges they face in male-dominated workplaces, where discriminatory practices and harassment are more prevalent. However, the presence of 230 male complainants also indicates that harassment and workplace misconduct are not limited to women alone, underscoring the importance of having gender-neutral mechanisms in law. This gender-based reporting pattern demonstrates that while the Act has been successful in providing a platform for both men and women, its implementation remains most critical for women, who continue to face systemic inequalities and vulnerabilities in professional environments.

Challenges in Effective Implementation:

The major challenge in implementing the Act is its limited scope. While it explicitly addresses harassment, it does not fully capture the ways in which discrimination creates unsafe and hostile workplaces. Many women avoid reporting because discriminatory practices such as unequal promotions, favoritism toward male colleagues, or stereotyping are not always recognized as actionable offenses under the Act. Cultural and social norms also reinforce silence. Women often fear retaliation, damage to their reputations, or being labeled as "troublemakers" if they challenge discriminatory practices. In addition, inquiry committees may lack proper training, leading them to dismiss or minimize complaints of gender bias. Without stronger monitoring and enforcement, organizations can comply on paper while continuing discriminatory practices in reality.

Impact on Women's Workplace Safety and Participation:

Where the Act has been effectively implemented, it has improved workplace safety and encouraged more women to join the workforce. The presence of visible mechanisms such as inquiry committees gives women greater confidence in seeking redress. However, because the Act has not yet fully addressed gender-based discrimination, its impact on broader workplace equality is limited. Women continue to face barriers in promotions, leadership roles, and decision-making processes, which discourages them from long-term career growth. This undermines the spirit of

the Act, as the ultimate goal is not only to prevent harassment but also to ensure equal participation and dignity in the workplace. Recognizing gender-based discrimination as part of workplace harassment would help achieve this goal.

Causes of Gender Discrimination at Workplace in Pakistan:

1. **Traditional Mindsets and Stereotypes:** In Pakistan, many still believe men are the main breadwinners while women belong at home. This mindset often leads to women being seen as less capable at the workplace.
2. **Marriage, Motherhood and Family Responsibilities:** Employers assume women will prioritize marriage or children over their jobs. Because of this, they are often denied opportunities or promotions.
3. **Unequal Pay:** In many Pakistani workplaces, women are paid less than men even when doing the same work with the same qualifications.
4. **Lack of Women in Leadership:** Men dominate higher management and decision-making positions. Women face a “glass ceiling” that prevents them from advancing into leadership roles.
5. **Harassment and Microaggressions** Workplace harassment is a major issue in Pakistan. Women face both sexual and non-sexual harassment, including inappropriate comments or being excluded from important tasks.

Gaps between Law and Practice:

The gap between the Act’s provisions and workplace realities is most evident in its treatment of discrimination. Legally, harassment is narrowly defined, but in practice, women experience both harassment and discrimination as part of the same continuum of hostility. Organizations often set up committees but fail to address discriminatory behaviors, leaving women unprotected in many situations. Thus, while the law provides an important foundation, it does not yet cover the full spectrum of workplace injustices faced by women. Bridging this gap requires not only stricter enforcement but also a conceptual shift to treat gender-based discrimination as a form of harassment.

RECOMMENDATIONS:

1. Provide specialized training to inquiry committees and FOSPAH officials to broaden their understanding of harassment, including gender-based discrimination.
2. Launch nationwide awareness and education campaigns for employers and employees about the 2022 amendment and expanded definition of harassment.
3. Require all organizations to submit annual compliance reports on the implementation of the Act.
4. Conduct random audits to ensure that inquiry committees are functional and accessible, not only on paper.
5. Adopt a gender-neutral approach that explicitly protects women, men, and transgender persons against harassment and discrimination.
6. Strengthen confidentiality safeguards and protection measures to reduce fear of retaliation for complainants.

7. Provide free legal aid and professional counseling services for victims of workplace harassment and discrimination.
8. Establish anonymous complaint channels, including online portals, to make reporting safer and more accessible.
9. Impose stricter penalties on organizations that fail to comply with the Act or ignore complaints.
10. Institutionalize collaboration between FOSPAH, labor departments, and human rights commissions to address systemic discrimination.
11. Make gender sensitivity and workplace harassment prevention training mandatory for all levels of staff, including management.
12. Develop a centralized digital system to lodge, track, and monitor complaints nationwide.
13. Extend legal protections and awareness campaigns to women in rural areas and the informal sector.
14. Introduce incentives such as recognition awards for organizations with strong compliance and effective implementation of the Act.
15. Use media and digital platforms to promote success stories, encourage reporting, and reduce stigma around workplace harassment.
16. Conduct periodic national surveys to measure workplace harassment and gender-based discrimination trends for evidence-based policymaking.

CONCLUSION:

The Protection Against Harassment of Women at the Workplace Act, 2010, represents a milestone in Pakistan's legal framework for safeguarding dignity and equality at work. However, its earlier narrow interpretation limited the scope mainly to sexual harassment, leaving gender-based discrimination such as unequal pay, denial of promotions, or exclusion from decision-making largely unaddressed. With the 2022 amendments and the Supreme Court's 2023 review judgment, the law has now been expanded to recognize discrimination itself as a form of workplace harassment, aligning it more closely with constitutional guarantees of equality and dignity. Despite these positive developments, practical challenges remain. Weak enforcement, lack of awareness, institutional resistance, and cultural stereotypes continue to hinder the law's effectiveness. The latest FOSPAH statistics (823 total cases reported between July 2023 and June 2024, with 655 related to harassment and the rest to property rights) show both an increase in awareness and the persistence of hostile workplace environments. Significantly, the number of complaints by men (230 cases) indicates that workplace harassment and discrimination are not issues faced by women alone but affect all genders. To bridge the gap between law and practice, Pakistan must focus on strong institutional mechanisms, nationwide awareness campaigns, gender-sensitive training, and effective monitoring. Expanding the scope of harassment to encompass gender-based discrimination is not only essential for women's empowerment but also vital for creating inclusive workplaces where merit, dignity, and equal opportunity prevail. Ultimately, meaningful implementation of this Act is key to strengthening Pakistan's workforce, reducing systemic inequalities, and fulfilling both constitutional commitments and international obligations toward gender justice.

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