



**POSH IMPLEMENTATION PROPOSAL
SUBMITTED BEFORE
THE FILM INDUSTRY POSH MONITORING COMMITTEE
BY THE WOMEN IN CINEMA COLLECTIVE (W.C.C.)**

Sub: Proposed ROADMAP to ensure implementation of the Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act 2013 - SHWP Act in the Malayalam Film Industry

WCC is a voluntary collective of women working in Malayalam cinema formed in the year 2017 to work towards securing gender equality and safety in the workspace and was subsequently registered as an association under the Societies Act. WCC originated as a solidarity response to a sexual attack on a woman in Malayalam cinema, hence ensuring compliance to the Sexual Harassment of Women at Workplace Act in the Malayalam cinema workplace has been a primary goal.

BACKGROUND: The Malayalam Film industry is one of the fast-growing film industries in India rising from 94 films in 2009 to 220 films certified in 2019. (Source : Deloitte & MPA study) The industry is producing films which are acclaimed at national and international levels and employing large numbers of people and women among them. Earlier more women were working primarily before camera but over the years the number of women in different departments of the film industry have been increasing.

Significant number of organisations that have been set up for the welfare of the employees and ease of functioning within the industry however many issues related to women remain to be addressed. The introduction of the Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act 2013 (SHWP Act) was significant but no measures have been taken to integrate SHWP Act in the workings of the Malayalam film industry. It may be noted that the 'entertainment industry' is specifically covered under the definition of 'Workplace' given under Sec 2 (O) (ii) of the SHWP Act and as per law every employer of more than 10 persons has to constitute IC under Sec. 4 of the Act. Despite the mandatory nature of the law, the film units in the Malayalam film industry which always have more than 10 employees during production, are working in violation of this law. Therefore, the women working on these film productions are not able to avail the protection that the SHWP Act provides for. In response to the Public Interest Litigation filed by WCC, a court order has been issued by the Kerala High Court which clearly defines the film industry as an industry where it is imperative to implement PoSH in every film unit.

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WCC has been conducting research on the integration of the SHWP Act in multiple film industries and found proactive examples of implementation with testimonials from many sources which can be clear step wise precedents to follow in the Malayalam film industry PoSH implementation. WCC welcomes the move of the authorities to step in and ensure proper PoSH implementation as per the legal directives of the High Court of Kerala and the SHWP Act 2013.

We would like to share with you

1. Proposed Roadmap steps – Annexure A
2. Employers & Employees of the industry – Annexure B
3. Precedents of PoSH implementation in film industries – Annexure C
 - Letter from Producers Guild of India about Posh implementation
 - Letter from Telugu Film Chamber of Commerce about PoSH
 - Letter from Screenwriters Association about PoSH implementation
 - Letters from top Producers in India about PoSH implementation
 - Excel Entertainment (Mr.Farhan Akhtar’s comp’ny)
 - Unilazer Productions (Mr.Ronnie Screwvala’s company)
 - Annapurna Studios
4. Setting up Resource Centres – Annexure D
5. PoSH Clauses in contracts – Annexure E
6. PoSH Handbook – Annexure F

Kindly note that to bring a work culture evolution in the film industry, the Prevention and Prohibition provisions of the Act require serious attention as much as the Redressal.

In the Malayalam Film industry, there is a demonstrated history of all industry bodies coming together to implement change (like introduction of contracts), and there is a clear workflow of systems and checks for production matters within the industry. With proper Governmental intervention the compliance to SHWP (PPR) laws can also be integrated well.

However, there is a grave lack of awareness among the members of the industry and the associations regarding the norms of the SHWP Act. WCC is happy to organise a workshop by PoSH legal consultants for the Monitoring Committee for a clear understanding of our goals.

WCC will be extremely happy to extend available research information, help and facilitation, if required, in this regard.

Justice Hema Committee has on 31.12.2019 presented a study report to the State Government about gender related issues and exploitations. The Commission presented evidence and has publicly declared the great extent of sexual harassment that is prevalent in the Malayalam film industry and the systemic nature of the same. However so far neither have the observations of the report been published nor has any action has been yet taken ensure the compliance of this mandatory law in the film industry. We urge the Monitoring Committee to seek access to the

findings of the JHC to incorporate necessary action into the functioning of the monitory committee.

Dated this 27th day of June, 2022

Thanking You,

Women in Cinema Collective,



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Enclosed: Annexures A, B, C, D, E, F,
Further information available on request

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ANNEXURE A**PROPOSED ROAD MAP STEPS by the Monitoring Committee****STEP 1: SCOPE OF WORK**

- A. Nominate members of the Monitoring Committee
- B. Define the Terms of Reference, methodology and timelines
- C. Create a milestone-based roadmap for PoSH implementation.
- D. Draft a Gender policy that can be adopted by all organisations and productions.
- E. Create a Malayalam version of the PoSH Handbook & Posh Law e- book


STEP 2: DIRECTIVE & STATUS REPORT

- A. Issue directive to all active film producers seeking a current status report of their compliance to SHWP Act within 30 days, along with directive for strict adherence to it in all stages of film production. (List of active producers can be acquired from Kerala Film Chamber based on certifications done in last few years.)
- B. KSFDC & Chalachitra Academy can set up Resource Centres for awareness and integration of SHWP (PPR) Act provisions (*Kindly refer Annexure D). Engage PoSH consultants and systematically conduct workshops for every film going into production and aid them in setting up ICs.
- C. Issue directive to all industry bodies to report to WCD about their steps undertaken to implement SHWP (PPR) Act provisions and adopt a zero tolerance policy towards sexual harassment in the industry (*Kindly refer to Annexure E)
- D. Direction to industry bodies for inclusion of SHWP (PPR) / PoSH clauses* (Please refer Annexure E) in all employee contracts and zero tolerance to sexual harassment in their respective bye laws and policies.
- E. Direction to Chamber and CBFC that those who approach Kerala Film Chamber to register the names of the proposed film venture, give an undertaking that he/she would implement SHWP Act at all stages of production as specified u/s 4 of the Act and that the final clearance of the film is given by Film Chamber & CBFC subject to the implementation evidenced on this.

STEP 3: NOTICE & ACTION

- A. Notice to all non-complying / non-responsive producers to comply with the law within 15 days and implement a zero tolerance policy towards sexual harassment and inclusion of SHWP (PPR) clauses, commonly known as, PoSH clauses* (Prevention of Sexual Harassment clauses) in their employee contracts. (Kindly check Annexure G)
- B. Direction to Labour Department or relevant authority at the end of notice period, to conduct SHWP (PPR)/ PoSH Audit of productions and report to WCD to check compliance.
- C. Punitive measures against non-complying entities (as per SHWP Act penalties) – business license cancellation/ financial penalties etc.

STEP 4: ENSURING COMPLIANCE – Long term

- A. ICs functioning within the film industry should be able to function legally and autonomously without any subversion of the law. Any IC unable to function should report back to the Monitoring Committee and appropriate action must be taken to set right.
 - B. Setting up a system of spot checks and raids to check SHWP (PPR) Act implementation.
 - C. Publish annual status report on PoSH status within the film industry.
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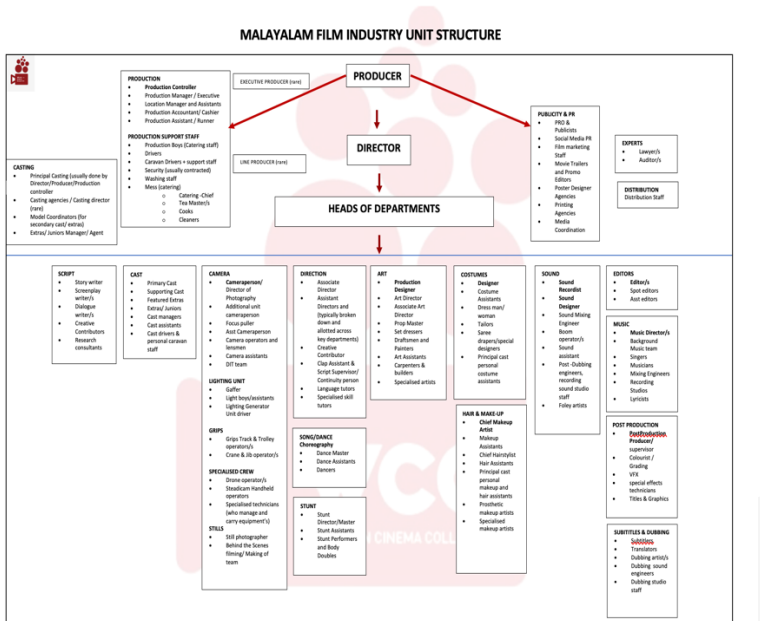
ANNEXURE B

EMPLOYEES & EMPLOYERS of the film industry:

The work processes of the film industry are as follows

1. the writing of the script (including crew and at times discussions with cast)
2. the preproduction (including crew and discussions with cast)
3. the production including (including cast & crew)
4. the post production (including cast & crew)
5. the certification and release exhibition of the film (including crew & exhibition staff)
6. the marketing & publicity - pre-release & post release (including cast and crew)

Through these multiple stages hundreds of people are engaged to work in every production of the film industry in the capacity of contract workers, full time employees, trainees, daily wage workers, volunteers etc. The SHWP Act provisions need to be implemented to cover all of these stages.



ANNEXURE C

PRECEDENTS of Compliance interventions

SHWP (PPR) Act and CORPORATE SECTOR

The Ministry of Women and Child Development (Central Govt.) pursued the Ministry of Corporate Affairs to amend the Companies (Accounts) Rules, 2014 to make it mandatory that all companies to file their compliance of the SHWP Act. This measure helps the government monitor whether organisations are complying with the Sexual Harassment at Workplace Act, 2013. <https://poshatwork.com/mandatory-disclosure-of-compliance-in-annual-reports-of-companies/>

SHWP (PPR) ACT AND HINDI FILM INDUSTRY

1. In October 2018 Maharashtra State Women's Commission notified film industry bodies in Maharashtra and set a deadline of 30 days for compliance and notified that non-compliance can attract fines and jail terms. Vijaya Rahatkar MSWC Commissioner communicated the same to the labour department and asked officials to check all establishments after a month.

<https://timesofindia.indiatimes.com/city/pune/state-womens-commission-chief-gives-1-month-for-posh-compliance/articleshow/66170609.cms>

<https://thewire.in/women/maharashtra-state-commission-for-women-issues-notice-to-nana-patekar-three-others>

2. This resulted in immediate compliance measures taken by film associations like Producers Guild of India amending its by-laws to make it mandatory for members to implement SHWP Act at their workplace.

<https://www.thehindu.com/entertainment/movies/producers-guild-of-india-asks-members-to-enforce-posh-law/article25510833.ece>

3. Today the Hindi film industry and the OTT platforms have integrated the SHWP Act into the working practices and contracts.

SHWP (PPR) ACT AND TELEGU FILM INDUSTRY

The Telugu Film industry has worked towards creating the Sexual Harassment Redressal Panel that comprises of film industry members, police officers, activists, advocates to over see the implementation of PoSH in the industry. With the efforts of the Telugu Film Chamber of Commerce and Voice of Women (VoW) detailed steps have been taken towards integration of PoSH in the workings of the film industry. Specific information has been provided in the letter from TFCC to WCC.

ANNEXURE D**SET UP RESOURCE CENTRES :**

- Chalachitra Academy is a nodal point for dissemination of information for matters related to the film industry so they can create a SHWP Act AWARENESS CELL to work with the industry bodies and conduct workshops to generate awareness about SHWP
- K.S.F.D.C. is involved in active productions and so they can create a SHWP Act INTEGRATION / FACILITATION CELL that will train / guide filmmakers and producers through the process in early stages by with the engagement of professional SHWP consultants.

Both these organisations are already having Internal Committees for the Prevention, Prohibition & Redressal of Sexual Harassment, so they have the first-hand experience and understanding of the functioning as per SHWP Act. They are ideal to facilitate discussion among all industry bodies for immediate implementation. Once this infrastructure is set up, the existence of this support service may be mentioned in all the communications send from the Department end in this regard.

Every film production coming forth to register their production should have attended the workshop and accessed the information from the resource centres and made their ICs.

WCC can facilitate a list of empanelled PoSH experts who can be the external members on the ICs of the film production.

ANNEXURE E

Sample SHWP Act Compliance Clause – an extract from a Writer’s contract with a film production house in the Hindi film industry.

1. Sexual Misconduct/Harassment:

(i) The Writer hereby agrees and undertakes that he has not done, prior to the Execution Date and shall not, during the Term of this Agreement, do any act or behave or conduct himself in any manner, directly or indirectly, that contravenes the provisions of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 or other applicable laws;

(ii) In the event, the Writer is aware or becomes aware or suspects of any incident or occurrence of any sexual misconduct, harassment and/or predatory behaviour anywhere on the shooting sets, outdoor locations etc. of the Film, anytime during the Production Schedule and during the Term of this Agreement, the Writer hereby agrees and undertakes to escalate and report to the Producer and/or its designees, as soon as it comes to his knowledge but not later than eight (8) hours of such aforesaid behaviour, incident and/or occurrence.

ANNEXURE F

Handbook published by the Film & TV Producers Guild of India.