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EVALUATING THE EFFICACY OF POSH ACT IMPLEMENTATION IN INDIAN SERVICE LAW: A COMPREHENSIVE ANALYSIS OF LEGISLATIVE INTENT, JUDICIAL INTERPRETATION, AND PRACTICAL IMPEDIMENTS IN WORKPLACE SEXUAL HARASSMENT REDRESSAL

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I. ABSTRACT

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (hereinafter referred to as the POSH Act) stands as a landmark statute in India's gender protection architecture, emerging from decades of advocacy following the Vishaka judgment of 1997. More than a decade following its enactment, the efficacy of the POSH Act remains contested. While the Act has catalysed structural institutional mechanisms through Internal Complaints Committees (ICCs) and Local Complaints Committees (LCCs), implementation gaps persist across formal and informal sectors. This paper comprehensively evaluates the efficacy of POSH Act implementation through three dimensions: the legislative and constitutional framework, the evolving jurisprudence particularly following the Supreme Court's 2023-2025 interventions, and the empirical reality of compliance and service law application. The analysis demonstrates that although the Act represents a sophisticated amalgamation of prevention, prohibition, and redressal mechanisms grounded in fundamental rights jurisprudence, its efficacy is significantly constrained by procedural ambiguities, inconsistent compliance, sectoral disparities, and institutional capacity deficits. This paper argues that efficacy must be reassessed not merely as formal compliance but as substantive access to justice, survivor agency, and workplace cultural transformation. The paper concludes with recommendations for legislative harmonisation,

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institutional strengthening, and enforcement mechanisms calibrated to the realities of India's diverse labour market.

II. KEYWORDS

POSH Act; Sexual Harassment; Internal Complaints Committee; Service Law; Workplace Equality.

III. INTRODUCTION AND CONSTITUTIONAL FOUNDATION

A. The Imperative of Workplace Protection

The workplace, as a locus of productive capacity and individual autonomy, is simultaneously a space where structural power inequalities manifest acutely.² In India, the subordination of women through sexual harassment has historically been treated as a private, moral, or disciplinary matter rather than a violation of fundamental constitutional rights.³ The POSH Act, enacted on 21 April 2013, fundamentally reconceptualised this paradigm by recognising sexual harassment not as a conduct to be managed through isolated disciplinary mechanisms but as a violation of constitutional guarantees of equality and dignity.⁴ The legislative journey underlying this Act emerged from the pivotal *Vishaka v. State of Rajasthan* judgment of 1997, wherein the Supreme Court, hearing a petition arising from the gang rape of social worker Bhanwari Devi, held that sexual harassment at the workplace constitutes a violation of the fundamental rights enshrined in Articles 14, 15, 19(1)(g), and 21 of the Indian Constitution.⁵

The constitutional grounding is instructive. Article 14 guarantees the right to equality before law and equal protection of law, violated when women are subjected to discriminatory conduct premised on gender. Article 15 prohibits discrimination on the ground of sex. Article 19(1)(g) protects the right to practise any profession, trade, or

² *Medha Kotwal Lele & Ors. v. Union of India & Ors.*, (2013) 1 SCC 297.

³ *Nisha Priya Bhatia v. Union of India*, (2020) 13 SCC 56.

⁴ *Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013*, Preamble.

⁵ *Vishaka and Others v. State of Rajasthan*, AIR 1997 SC 3011.

business, which extends to freedom from harassment that constrains or forecloses such opportunities. Article 21, encompassing the right to life and personal liberty, has been interpreted expansively to encompass dignity and security in working environments.⁶ The combined reading of the Vishaka Guidelines, the POSH Act's legislative mandate, and India's obligations under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) collectively establish the principle of a non-hostile working environment as the foundational element of dignified employment. The POSH Act gave legislative recognition to the constitutional framework originally laid down in Vishaka, translating those judicially mandated guidelines into binding statutory obligations.⁷

B. The Statutory Scheme: Prevention, Prohibition, and Redressal

The POSH Act's architecture rests on three pillars: prevention of sexual harassment, prohibition of such conduct, and redressal of complaints.⁸ Section 2(n) defines sexual harassment as unwelcome acts or behaviour, whether directly or by implication, including physical contact and advances, demands or requests for sexual favours, sexually coloured remarks, showing pornography, or any other unwelcome physical, verbal, or non-verbal conduct of a sexual nature.⁹ This definition deliberately encompasses a spectrum of conduct, not confined to physical assault, recognising that harassment extends to the creation of hostile or intimidating work environments through subtle, cumulative, or psychologically damaging conduct.¹⁰

The preventive dimension is mandated through Section 19, which obligates employers to prevent sexual harassment through workplace policies, awareness programs, training,

⁶ Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC.

⁷ *Id.* at 15-20.

⁸ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Sections 2-20.

⁹ *Id.*, Section 2(n).

¹⁰ X v. Abraham Mathai & Ors., Kerala High Court, judgment dated 30 Sept. 2025.

and sensitization.¹¹ The prohibitive dimension criminalises sexual harassment as misconduct under service rules and, where applicable, under Section 75 of the Bharatiya Nyaya Sanhita, 2023 (BNS).¹² The redressal dimension is operationalised through the ICC for workplaces with ten or more employees (Section 4) and through Local Complaints Committees (LCCs) for smaller establishments and workers in the unorganised sector.¹³ The complaint process (Section 9) permits filing within three months of the incident, extendable by three months upon demonstration of adequate cause.¹⁴ The inquiry process must comply with principles of natural justice and must be completed within ninety days (Section 11).¹⁵ The outcomes, whether recommendations for disciplinary action, compensation, or interim relief, are binding on employers (Section 13), with implementation required within sixty days.¹⁶

C. Research Objectives

This study pursues the following objectives:

1. To examine the legislative architecture and constitutional underpinnings of the POSH Act, 2013, and assess whether its framework adequately addresses the complexity of workplace sexual harassment in formal and informal sectors;
2. To analyse the evolution of judicial interpretation of the POSH Act, with particular attention to the Supreme Court's interventions between 2023 and 2025;
3. To evaluate the empirical landscape of POSH implementation, including compliance rates, reporting trends, and resolution patterns across sectors and geographies;

¹¹ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Section 19.

¹² Bharatiya Nyaya Sanhita, 2023, Section 75.

¹³ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Sections 4-8.

¹⁴ *Id.*, Section 9.

¹⁵ *Id.*, Section 11.

¹⁶ *Id.*, Section 13.

4. To identify institutional and structural impediments that constrain the effective functioning of Internal Complaints Committees and limit survivor access to justice; and
5. To propose legislative and institutional reforms capable of transforming POSH compliance from a formal exercise into a substantively effective mechanism for workplace equality.

D. Research Questions

This paper seeks to address the following research questions:

1. Has the POSH Act, as a legislative instrument, succeeded in translating the constitutional mandate of workplace equality and dignity into effective institutional mechanisms, and where does its architecture fall short?
2. How has judicial interpretation, particularly through the Supreme Court's 2023–2025 interventions, refined the scope, procedure, and enforcement obligations under the POSH Act, and what gaps remain?
3. What structural and operational factors explain the persistent divergence between formal POSH compliance and substantive access to justice for aggrieved women, particularly in informal and service-sector employment?
4. What legislative amendments and institutional reforms are necessary to ensure that the POSH Act achieves genuine efficacy as measured by prevention, timely redressal, and cultural transformation in Indian workplaces?

E. Research Methodology

This paper adopts a doctrinal research methodology, relying primarily on legislative texts, judicial decisions, and authoritative secondary literature as its sources. The doctrinal method entails systematic analysis of the POSH Act and its allied Rules, relevant constitutional provisions, Supreme Court and High Court judgments, and parliamentary materials including the Amendment Bill of 2024. It is supplemented by an empirical dimension drawing upon reports and datasets published by government agencies, research institutions, and civil society organisations to contextualise doctrinal

findings against implementation realities. The scope of the study is confined to Indian domestic law and does not undertake comparative analysis of foreign POSH legislation, except to the extent that international instruments such as CEDAW inform constitutional interpretation. The study does not involve primary fieldwork, interviews, or human subjects research.

F. Research Problem

Despite the enactment of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, significant gaps persist in its enforcement and institutional implementation. This paper identifies and examines the structural and procedural deficiencies that hinder effective redressal of workplace sexual harassment, including inconsistencies in compliance mechanisms, lack of accountability frameworks, and the limited efficacy of Internal Committees. The study seeks to address the underlying legal and institutional challenges that continue to impede the realization of a safe and equitable workplace environment.

IV. JUDICIAL EVOLUTION: FROM VISHAKA TO CONTEMPORARY JURISPRUDENCE

A. The Landmark Judgment of Aureliano Fernandes v. State of Goa

The most significant recent intervention by the Supreme Court concerning POSH implementation came in *Aureliano Fernandes v. State of Goa and Others*, wherein the Court expressed grave concern that more than a decade following the Act's enactment, its implementation remained characterised by serious lapses in enforcement.¹⁷ The case itself involved an individual found guilty of sexual harassment through an ICC inquiry conducted, according to the Court, in undue haste in violation of principles of natural justice.¹⁸ However, the Court's cognisance extended far beyond the individual dispute to

¹⁷ *Aureliano Fernandes v. State of Goa and Others*, supra note 3.

¹⁸ *Id.*

encompass systemic failures in POSH implementation across governmental and private institutions.

The Supreme Court issued a series of far-reaching directives in August 2025.¹⁹ State governments and Union Territories were mandated to designate District Magistrates, Additional District Magistrates, or Collectors as District Officers to oversee ICC and LCC functioning.²⁰ A nationwide, district-wise compliance survey was ordered to physically verify whether workplaces with ten or more employees have constituted ICCs in conformity with Section 4 of the POSH Act, to be completed within prescribed timelines.²¹ Local Complaints Committees were to be constituted immediately in districts where they were absent or non-functional.²² The Court mandated that the composition of ICCs strictly adhere to statutory requirements, particularly the inclusion of an external member from a non-governmental organisation familiar with sexual harassment issues and possessing minimum five years of social work experience.²³ The directive further emphasised that digital transparency through the SHe-Box online portal must be operationalised to track complaints, investigations, and outcomes.²⁴

The practical significance of *Aureliano Fernandes* lies in its recognition that paper compliance, the mere existence of committees on organizational charts, is insufficient.²⁵ The Court acknowledged that the POSH Act cannot remain a mere formality on paper and that all employers, institutions, and authorities are duty-bound to implement the Act in letter and spirit.²⁶ This signified a judicial acknowledgment that eleven years of implementation had yielded institutional infrastructure without corresponding substantive change in workplace safety or access to justice.

¹⁹ Id. (August 2025 Directions).

²⁰ Id.

²¹ Id.

²² Id.

²³ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013, Rule 4.

²⁴ Ministry of Women and Child Development, Government of India, SHe-Box Portal (2022).

²⁵ *Aureliano Fernandes v. State of Goa and Others*, supra note 3.

²⁶ Id.

B. Jurisdictional Clarifications: Dr Sohail Malik v. Union of India

A subsequent Supreme Court judgment delivered on 10 December 2025, *Dr Sohail Malik v. Union of India*, clarified a crucial point of procedure: the ICC at the workplace of the aggrieved woman possesses jurisdiction to conduct inquiries even when the respondent employee works in a different department or organization.²⁷ The case arose when an IRS officer challenged the jurisdiction of the ICC at the workplace of an IAS officer complainant, arguing that only the ICC of his own department could inquire into complaints against him.

The Supreme Court held that the POSH Act is fundamentally welfare legislation grounded in protective principles favouring access to justice for complainants.²⁸ A narrow interpretation requiring an aggrieved woman to appear before an ICC at an alien workplace would create procedural and psychological barriers inconsistent with the Act's protective intent.²⁹ The Court established that the ICC at the aggrieved woman's workplace conducts a first-stage fact-finding inquiry, after which its findings may be transmitted to the respondent's employer or disciplinary authority for initiation of formal disciplinary proceedings under applicable service rules.³⁰ This two-stage process represents a sophisticated jurisdictional framework designed to balance accessibility for complainants with procedural fairness for respondents.

C. Natural Justice and Procedural Safeguards

A consistent thread running through recent judicial interventions concerns the rigorous application of principles of natural justice in ICC inquiries. The Supreme Court has held that bias, whether actual or apparent, vitiates proceedings and renders decisions void.³¹ The High Courts have repeatedly set aside ICC reports for violations of natural justice

²⁷ *Dr Sohail Malik v. Union of India & Anr.*, Civil Appeal No. 404 of 2024, 2025 INSC 1415 (Supreme Court of India, 10 December 2025).

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *A.K. Kraipak v. Union of India*, AIR 1970 SC 150.

including failure to furnish copies of complaints to respondents, conducting witness examination without affording opportunity for cross-examination, denying accused parties access to witness statements, and proceeding in procedural haste that precludes effective participation.

The Delhi High Court has clarified that while principles of natural justice are binding, their application is calibrated by courts to avoid disproportionate impediment to complainant protection. The operative principle is that procedural violations warrant interference only when they result in tangible harm to either party, meaning that technical lapses do not invariably vitiate proceedings, but deprivation of meaningful opportunity to defend results in quashing of ICC findings.

D. The Direct Nexus Test and Limitation Periods

The Supreme Court, in *Vaneeta Patnaik v. Nirmal Kanti Chakrabarti & Ors.* (2025 INSC 1106), addressing delayed complaints, introduced the Direct Nexus Test to determine whether subsequent administrative measures can be characterised as continuing sexual harassment.³² The Court clarified that complaints under Section 9 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 must ordinarily be filed within three months of the last incident, extendable by a further three months (six months maximum) upon demonstration of sufficient cause. It further held that administrative actions, including transfers or service-related consequences, cannot extend or revive this statutory ceiling in the absence of a direct causal nexus to the alleged act of sexual harassment.³³ Administrative actions such as transfers, non-renewal of contracts, or changes in reporting structure cannot be treated as extensions of alleged sexual harassment unless there is demonstrable causal connection between the original harassment and the later action.³⁴ This judgment has significantly narrowed the ambit of

³² *Vaneeta Patnaik v. Nirmal Kanti Chakrabarti & Ors.*, 2025 INSC 1106, Supreme Court of India, decided on September 12, 2025.

³³ *Id.*

³⁴ *Id.*

delayed complaints, reinforcing that the legislative intent reflected a preference for prompt reporting and early resolution.³⁵

V. LEGISLATIVE ARCHITECTURE AND SERVICE LAW INTEGRATION

A. The POSH Act Within the Service Law Framework

The application of the POSH Act within service law contexts reveals intricate layers of integration and potential conflict. For government employees, Central Civil Services (Conduct) Rule 3C, inserted subsequent to the Vishaka judgment, mandates that allegations of sexual harassment shall not be investigated except by the Complaints Committee constituted in accordance with the Vishaka Guidelines or the POSH Act.³⁶ The ICC report, upon finding allegations proved, is treated as a preliminary fact-finding report. The respondent's disciplinary authority then initiates formal disciplinary proceedings under the Central Civil Services (Classification, Control and Appeal) Rules, 1965, wherein the respondent receives a charge-sheet specifying allegations with supporting documentation and is afforded opportunity to file a reply, appear before the disciplinary authority, and cross-examine witnesses.³⁷

This bifurcation creates a two-stage process. Stage 1, the ICC inquiry, is designed to be speedy, accessible, and sensitised to trauma-informed procedures. Stage 2, the formal disciplinary proceeding, applies stringent procedural safeguards mandated by service rules. The Supreme Court has held that this framework does not violate principles of natural justice or create unfairness to respondents, provided that the preliminary inquiry adheres to principles of natural justice and that the formal disciplinary authority properly considers the ICC findings rather than relying mechanically upon them.³⁸

³⁵ Id.

³⁶ Central Civil Services (Conduct) Rules, 1964, Rule 3C.

³⁷ Central Civil Services (Classification, Control and Appeal) Rules, 1965, Rules 11-15.

³⁸ Dr Sohail Malik v. Union of India, *supra* note 29.

B. Integration with Disciplinary Action and Penalty Framework

Section 13 of the POSH Act empowers ICCs to recommend disciplinary action against respondents found guilty of sexual harassment. The Act provides that where service rules applicable to the respondent exist, disciplinary action shall conform to those rules.³⁹ Sections 13(3) and 15 further provide for compensation to aggrieved women, determined with regard to mental trauma, pain, suffering and emotional distress, loss in career opportunity, medical expenses, income and financial status of the respondent, and feasibility of lump-sum or instalment payment.⁴⁰ The discretion vested in ICCs in calibrating remedies reflects recognition that sexual harassment remedies extend beyond punitive sanctions to restorative justice and victim compensation.

For public sector employees, the procedural integration is thereby layered. ICC recommendations, upon acceptance by the disciplinary authority, are operationalised through formal disciplinary proceedings. This creates a question of timing and precedence. The CCS CCA Rules contemplate that the ICC report constitutes the basis for charge-sheeting, suggesting sequential rather than parallel proceedings.⁴¹ However, in practice, delays in ICC completion have led to protracted timelines for resolution, contributing to the backlog of pending cases.⁴²

C. Criminal Proceedings and Parallel Civil Remedies

The POSH Act does not substitute for criminal law proceedings. Section 19(h) mandates that employers assist aggrieved women in filing complaints under the Bharatiya Nyaya Sanhita, 2023, Section 75 of which criminalises sexual harassment as a cognizable offence (replacing the erstwhile Section 354A of the Indian Penal Code, 1860, which stood

³⁹ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Section 13.

⁴⁰ *Id.*, Sections 13(3) and 15.

⁴¹ Central Civil Services (Classification, Control and Appeal) Rules, 1965, Rules 14-15.

⁴² Ashoka Centre for Data and Evidence, *A Decade of the POSH Act: What the Data Tells Us About How India Inc. Has Fared*, ASHOKA UNIV. (2024).

repealed with effect from 1 July 2024).⁴³ The significant distinction is that the POSH Act operates on a preponderance of probability standard applicable in civil inquiries, whereas criminal prosecution requires proof beyond reasonable doubt. The Delhi High Court has clarified that ICC exoneration does not bar criminal prosecution, as the evidentiary standards and the nature of the proceedings are fundamentally different. This creates a scenario where an individual may be acquitted in an ICC inquiry but prosecuted criminally, or vice versa, reflecting the distinct purposes of civil workplace redressal and criminal justice.

VI. EMPIRICAL IMPLEMENTATION: COMPLIANCE LANDSCAPE AND DATA REALITIES

A. Quantitative Trends in Reporting and Resolution

The data on POSH implementation reveals a paradoxical pattern: rising reported complaints coupled with stagnant resolution rates and accumulating backlogs.⁴⁴ The Ashoka Centre for Data and Evidence, analysing a sample of 300 listed companies over a decade, documented significant escalation in reported cases.⁴⁵ In FY 2012-13, prior to the Act's enactment, 71 cases were reported. By FY 2023-24, cases had increased to 2,325, representing a 29 percent year-over-year increase.⁴⁶ Critically, however, the gap between reported and resolved cases has widened. Pending cases reached 435 in FY 2023-24, representing a 67 percent increase from 260 in FY 2022-23.⁴⁷ Across the 300 companies studied, only approximately 6 to 11 percent of pending cases are resolved annually, indicating that at contemporary resolution rates, a complaint filed today faces a multi-year queue before resolution.⁴⁸ The discrepancy between rising complaints and stagnant

⁴³ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Section 19(h).

⁴⁴ *Supra* note 50.

⁴⁵ *Id.*

⁴⁶ Sexual Harassment Complaints at India Inc. Rise 6.2% in FY25, HR TALK (2025).

⁴⁷ *Supra* note 50.

⁴⁸ *Id.*

resolutions suggests that while awareness of the POSH Act may be increasing, institutional capacity and operational efficiency have not kept pace.

B. Sectoral and Geographic Disparities

The compliance landscape exhibits stark sectoral variations. The IT and IT-enabled Services sector reports disproportionately high numbers of complaints, reflecting both genuine incidence and greater awareness within these sectors. Services sectors including hospitality, retail, and entertainment report significant incidents, sectors traditionally characterised by male-dominated workforces and hierarchical structures resistant to inclusive practices.

Geographic disparities are equally pronounced. State-wise analysis indicates that Himachal Pradesh reported 105 estimated cases in 2025, Maharashtra 50 cases, Karnataka 47 cases, and Kerala 91 cases, collectively representing approximately 75 percent of reported cases nationally. Conversely, states such as Sikkim and Lakshadweep report zero cases, a pattern suggestive of either genuinely low incidence coupled with strong preventive cultures, or more likely, systemic underreporting attributable to weak enforcement mechanisms and inadequate Local Committees.⁴⁹

C. Compliance Deficit: The Paper Versus Practice Divide

The Supreme Court in *Aureliano Fernandes* observed that even basic compliance, the constitution of ICCs in organisations with ten or more employees, remained incomplete across large swathes of the country.⁵⁰ Surveys conducted post-2023 indicate that approximately 59 percent of organisations have not established the mandatory ICC. In smaller towns and non-metropolitan areas, the compliance rate is below 50 percent.⁵¹ Among MSME (Micro, Small, and Medium Enterprises), which constitute the bulk of

⁴⁹ Id.

⁵⁰ *Aureliano Fernandes v. State of Goa and Others*, supra note 3.

⁵¹ Id.

India's organised sector employment, compliance is predominantly absent, driven by resource constraints and lack of awareness among business owners.⁵²

The zero-case paradox is instructive: many organisations report zero sexual harassment complaints despite employing women, a pattern suggestive of underreporting rather than absence of harassment.⁵³ Research indicates that approximately 33 to 70 percent of women experiencing harassment do not report it, attributable to fear of retaliation, stigma, doubt about procedural fairness, and trauma-related barriers to disclosure. A 2024 study found that 40 percent of women were unaware of POSH protections, and 53 percent of HR managers reported confusion regarding the law's provisions. These data indicate that the compliance infrastructure operates within broader environments of inadequate awareness and institutional mistrust.

VII. INSTITUTIONAL CHALLENGES AND OPERATIONAL IMPEDIMENTS

A. Internal Complaints Committee: Composition, Training, and Impartiality

The efficacy of the POSH Act is substantially contingent upon the functionality of ICCs. The statutory requirement mandates that ICCs comprise a Presiding Officer (a senior woman employee), internal members, an external member from an NGO with sexual harassment expertise and minimum five years of social work experience, and a member representing workers (in unionized organizations).⁵⁴ The external member is envisioned as ensuring independence and preventing institutional pressures from compromising inquiry integrity.⁵⁵

⁵² FISME Hosted Webinar on POSH Compliance for MSMEs, KNN INDIA (6 Jan. 2026).

⁵³ *Supra* note 60.

⁵⁴ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013, Rule 4.

⁵⁵ *Id.*

In practice, several impediments undermine ICC effectiveness. Many organisations nominate individuals lacking requisite expertise or independence.⁵⁶ The external member is frequently an individual with tenuous connection to the NGO sector or insufficient understanding of sexual harassment dynamics.⁵⁷ IC members face conflicts of interest. In hierarchical organisations, the Presiding Officer may report to senior management against whom complaints are filed, creating real or apparent bias. IC members typically lack formal training in conducting inquiries, evidence evaluation, or trauma-informed approaches. While Section 19 mandates employer-organised training, implementation is sporadic, with many IC members conducting their first inquiry without systematic preparation.⁵⁸

The Supreme Court has repeatedly emphasised that IC members must receive comprehensive training on POSH jurisprudence, principles of natural justice, cross-examination protocols, evidence evaluation, and document preservation.⁵⁹ The absence of such training has resulted in numerous procedural lapses: failure to furnish written copies of complaints, conducting inquiries in haste without affording sufficient time to respondents, and generating reports lacking evidentiary analysis or reasoned findings.⁶⁰

B. The Corner Office Problem and Power Dynamics

The POSH Act's remedial efficacy is particularly compromised when complaints are made against senior management. IC members, recognizing that findings against corporate leadership may trigger organisational retaliation or undermine management's authority, demonstrate reluctance to conduct rigorous inquiries.⁶¹ This phenomenon reflects the reality that even statutory protections against bias cannot fully insulate committees from organizational power dynamics. Aggrieved women filing complaints

⁵⁶ Cyrilam Marchand Blogs, POSH Act Implementational Challenges (2022).

⁵⁷ Id.

⁵⁸ Id.

⁵⁹ Aureliano Fernandes v. State of Goa and Others, supra note 3.

⁶⁰ Id.

⁶¹ Supra note 73.

against senior executives frequently encounter attenuated inquiry processes, acceptance of managerial explanations without critical scrutiny, and findings of insufficient evidence despite credible complainant narratives.⁶²

The phenomenon underscores a fundamental tension in the POSH Act's institutional design: committees constituted within organisations are simultaneously expected to exercise quasi-judicial independence from those organizations. Without structural separation or external oversight mechanisms, this expectation remains largely aspirational.

C. Remote Work and Virtual Harassment

The shift to remote and hybrid work has exposed gaps in the POSH Act's applicability. The Act defines workplace broadly to include places visited during the course of employment, and judicial interpretation has extended this to digital spaces where work is performed.⁶³ However, ICCs lack standardised protocols for investigating virtual harassment: determining whether conduct occurred at the workplace when both perpetrator and complainant are remote; preserving digital evidence (screenshots, chat logs, metadata); conducting remote hearings; and assessing the severity of conduct communicated through digital channels.⁶⁴

The practical challenges are compounded by the absence of clear guidance on when online conduct constitutes workplace harassment versus personal harassment occurring outside employment contexts.⁶⁵ These uncertainties, particularly acute in IT and IT-enabled services sectors where remote work is prevalent, contribute to inconsistent ICC approaches and litigation over jurisdictional boundaries.⁶⁶

⁶² Supra note 70.

⁶³ Id.

⁶⁴ Id.

⁶⁵ Id.

⁶⁶ Id.

VIII. STATUTORY GAPS AND INTERPRETIVE AMBIGUITIES

A. Scope of Sexual Harassment and the Hostile Environment Distinction

While Section 2(n) provides a detailed definition of sexual harassment, recent jurisprudence has exposed interpretive complexities. The Kerala High Court held that creation of a hostile work environment through rude, abusive, or unfair behaviour does not automatically constitute sexual harassment under the POSH Act unless linked to conduct of a sexual nature or sexual intent.⁶⁷ The judgment emphasized that discriminatory behaviour, workplace bullying, or labour disputes, even if disproportionately affecting women, do not fall within the POSH Act's ambit absent a sexual dimension.⁶⁸

This distinction is analytically sound but operationally creates boundary disputes.⁶⁹ Complainants assert that harassment patterns include non-sexual but gendered components alongside sexual elements, arguing holistic harassment patterns should be recognised. The current jurisprudence, however, compartmentalises complaints, requiring ICCs to identify specifically sexual conduct while treating other discriminatory elements as separate labour law matters.

B. Malicious Complaint Provisions and Chilling Effects

Section 14 of the POSH Act, 2013, read with Rule 10 of the POSH Rules, 2013, empowers ICCs to recommend action against complainants who file malicious or false complaints with knowledge of falsity.⁷⁰ This provision is intended to prevent weaponisation of the POSH mechanism for personal vendettas. However, in practice, the malicious complaint framework creates chilling effects on legitimate complaints. Respondents frequently

⁶⁷ X v. Abraham Mathai & Ors., supra note 12.

⁶⁸ Id.

⁶⁹ Id.

⁷⁰ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Section 14, read with Rule 10 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013.

counter-allege malice, requiring ICCs to assess complaints, credibility and intent.⁷¹ The threat of counter-complaint disciplinary action deters marginalised employees, particularly those in precarious employment, from filing complaints despite experiencing genuine harassment.⁷²

C. Exclusion of Male Employees and Gender-Neutral Concerns

The POSH Act, by design, protects aggrieved women exclusively.⁷³ While grounded in recognition of gendered power dynamics and women's vulnerability, this exclusion raises concerns regarding male employees experiencing sexual harassment and gender-nonconforming individuals.⁷⁴ The Act does not permit men to file POSH complaints. They may seek remedies through general labour laws or organisational policies but lack the Act's statutory protections and procedural guarantees.⁷⁵ This gendered approach, while reflecting statistical reality of harassment severity against women, has been critiqued as potentially underinclusive.⁷⁶

IX. SERVICE LAW SPECIFIC CHALLENGES AND COMPLIANCE MECHANISMS

1. State Variation in Implementation and Directive Compliance: Government sector implementation of the POSH Act exhibits significant state variation. While the Supreme Court's Aureliano Fernandes directives were delivered nationwide, compliance has been uneven.⁷⁷ As of August 2025, only the Andaman and Nicobar Islands had completed district-wise surveys verifying ICC constitution across

⁷¹ Id.

⁷² Id.

⁷³ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Section 2(a).

⁷⁴ The POSH Act: A Critical Analysis of Its Limitations and Proposed Reforms, INT'L J. FOR MGMT. RESEARCH (2024).

⁷⁵ Id.

⁷⁶ Id.

⁷⁷ Aureliano Fernandes v. State of Goa and Others, *supra* note 3.

public and private institutions.⁷⁸ Many states report partial compliance, with urban areas constituting ICCs while rural and remote districts remain uncovered.⁷⁹ The absence of dedicated budget allocation for POSH implementation in many states, coupled with administrative capacity constraints, has meant that compliance surveys proceed slowly or incompletely.⁸⁰

2. **District Officer Oversight and Verification Mechanisms:** The Aureliano Fernandes judgment directed District Magistrates or equivalent officers to assume responsibility as District Officers for overseeing POSH compliance.⁸¹ These officers are tasked with verifying ICC constitution, maintaining establishment records, monitoring complaint processing timelines, and submitting compliance reports to state governments.⁸² However, the efficacy of this mechanism is contingent upon allocation of dedicated personnel, training, and supervisory capacity.⁸³ In many districts, these responsibilities were added to existing workloads without corresponding resource allocation.⁸⁴ Consequently, compliance oversight remains sporadic, and verification surveys proceed at varied paces across jurisdictions.
3. **SHe-Box Portal and Digital Transparency:** The Sexual Harassment electronic-Box (SHe-Box) portal, operationalised by the Ministry of Women and Child Development, provides a centralised digital mechanism for workplace complaint registration, tracking, and escalation.⁸⁵ The portal aims to enhance transparency, enable survivors to monitor complaint status, and provide government authorities

⁷⁸ Supreme Court Directs District-wise Survey to Ascertain POSH Act Compliance by Employer, *SS RANA & CO.* (8 Sept. 2025).

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ *Aureliano Fernandes v. State of Goa and Others*, *supra* note 3 (August 2025 Directions).

⁸² *Id.*

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ Ministry of Women and Child Development, Government of India, SHe-Box Portal, <https://www.shebox.nic.in/> (last visited Jan. 16, 2026).

with aggregated data on POSH implementation.⁸⁶ However, portal usage remains limited. Many organisations remain unaware of the SHe-Box option; complainants often prefer internal ICC processes due to perceived confidentiality; and government agencies have not systematised processes for monitoring and acting upon SHe-Box complaints.⁸⁷

- 4. Mandatory Disclosure and Reporting Requirements:** The Companies (Accounts) Rules, 2014, as amended in July 2025, mandate detailed POSH disclosures in corporate board reports.⁸⁸ Companies must now disclose the number of complaints received, resolved, and pending; details of ICC member composition; training conducted; and confirmation of statutory compliance.⁸⁹ This amendment operationalizes the disclosure requirement in Section 4 of the POSH Act but specifies detailed granularity, enabling investors and regulators to assess POSH compliance as a corporate governance indicator.⁹⁰ However, corporate disclosure remains limited to listed companies. Unlisted companies, state-owned enterprises, and government institutions face weaker disclosure obligations, limiting visibility into their POSH compliance.⁹¹

X. PROPOSED AMENDMENTS AND FUTURE DIRECTIONS

A. The Amendment Bill of 2024

Introduced in the Rajya Sabha on 2 February 2024, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Amendment Bill proposes significant modifications reflecting recognition of implementation gaps.⁹² The limitation period for

⁸⁶ Id.

⁸⁷ Strengthening the Implementation of the POSH Act: The Critical Role of Data, ICPP ASHOKA (Oct. 2024).

⁸⁸ Companies (Accounts) Second Amendment Rules, 2025, effective July 14, 2025.

⁸⁹ Id.

⁹⁰ Id.

⁹¹ Id.

⁹² Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Amendment Bill, 2024.

filing complaints is extended from three months to twelve months, with further discretionary extension in exceptional circumstances.⁹³ This recognizes that trauma, fear, workplace hierarchy, and processing delays frequently prevent timely reporting.⁹⁴

The Amendment Bill proposes complete removal of the conciliation provision, ensuring that all complaints proceed through formal inquiry mechanisms rather than informal settlement.⁹⁵ The Amendment Bill enhances the definition of workplace to explicitly include digital and remote work environments, addressing the lacuna exposed by pandemic-driven remote work adoption.⁹⁶ The Bill proposes strengthening penalties and introducing graduated enforcement mechanisms, with enhanced penalties for repeat offences and for violations involving senior management or aggravated circumstances.⁹⁷

The Amendment Bill represents evolutionary refinement of the POSH Act based on decade-long implementation experience.⁹⁸ However, its passage has been delayed; as of January 2026, the Bill remains pending in Parliament.⁹⁹

B. Institutional Reforms and Capacity Building

Beyond formal amendments, several institutional reforms have been operationalized. The Ministry of Women and Child Development has established a dedicated POSH cell to coordinate implementation, facilitate state-level capacity building, and monitor compliance trends.¹⁰⁰ Several states have nominated senior women officers as POSH nodal officers responsible for oversight and coordination. Training programmes for ICC members, jointly conducted by the National Judicial Academy and ministry, have been expanded.¹⁰¹

⁹³ Id.

⁹⁴ Id.

⁹⁵ Id.

⁹⁶ Id.

⁹⁷ Id.

⁹⁸ Id.

⁹⁹ The PoSH Amendment Act 2024, POCKET HRMS (2026).

¹⁰⁰ Ministry of Women and Child Development, Government of India, POSH Cell Establishment (2024).

¹⁰¹ National Judicial Academy and Ministry of Women and Child Development, Training Programmes for ICC Members (2025-2026).

However, these incremental reforms remain insufficient without corresponding systemic changes. Dedicated legal aid programmes enabling survivors to engage lawyers during ICC inquiries; establishment of independent ombudspersons or appellate bodies to review ICC findings; and integration of POSH compliance into regular labour inspections are essential for substantive efficacy.

XI. CRITICAL ANALYSIS: EFFICACY ASSESSMENT AND RECOMMENDATIONS

A. Efficacy Reconceptualised: From Formal Compliance to Substantive Justice

Efficacy of the POSH Act must be reassessed beyond the metric of formal compliance: existence of ICCs, percentage of organisations with policies, number of trainings conducted. These metrics reflect institutional infrastructure but do not capture substantive outcomes: whether survivors access justice, whether harassment is prevented, whether workplace cultures transform toward genuine equality.¹⁰²

Measured against substantive indicators, efficacy remains limited. The growing gap between reported and unresolved cases indicates that institutional mechanisms are inadequate to process complaints. The zero-case paradox, whereby many organisations report zero complaints despite employing women, suggests that awareness, trust, and accessibility remain severely constrained.¹⁰³ The chilling effects of counter-complaint provisions and workplace power dynamics mean that marginalised employees continue to endure harassment rather than undertaking formal processes perceived as risky.

Efficacy, reconceptualised, requires that harassment is prevented through genuine organisational culture change rather than merely penalised when it occurs; that survivors experience accessible, fair, and timely redressal; that remedies are substantive, addressing both compensatory and restorative dimensions; and that implementation

¹⁰² Id.

¹⁰³ Id.

does not perpetuate existing inequalities through differential treatment of complainants and respondents based on hierarchical position or institutional power.

B. Prevention as the Unmet Imperative

The POSH Act is characterised as a Prevention, Prohibition, and Redressal measure, yet implementation has emphasised redressal mechanisms while underinvesting in prevention. Section 19 mandates that employers prevent harassment through workplace policies, awareness, and training, yet many organisations treat these as compliance formalities rather than genuine cultural interventions.¹⁰⁴

The Supreme Court has repeatedly emphasised that prevention is the foundational pillar.¹⁰⁵ Effective prevention requires explicit organizational commitment from leadership that harassment is intolerable; structural changes eliminating conditions facilitating harassment; bystander training enabling all employees to recognise and intervene in potential harassment; transparent complaint processes with genuine confidentiality protections; and demonstrated accountability through implementation of disciplinary recommendations and organisational learning from patterns of complaints.¹⁰⁶ Few organisations have undertaken this comprehensive prevention architecture. Where adopted, results have been measurable: increased reporting reflects not increased incidence but greater confidence that complaints will be taken seriously.¹⁰⁷ Yet such organisations remain exceptional rather than typical, indicating that the preventive dimension has not been operationalised at scale.

C. The Informal Sector and Marginalised Workers

The POSH Act explicitly addresses the informal sector through Local Complaints Committees, theoretically extending protections to domestic workers, agricultural

¹⁰⁴ Id.

¹⁰⁵ Aureliano Fernandes v. State of Goa and Others, supra note 3.

¹⁰⁶ Id.

¹⁰⁷ Id.

workers, and informal commerce participants.¹⁰⁸ In practice, LCC functionality is severely compromised. Many districts lack operational LCCs; those constituted lack dedicated personnel or budget; awareness regarding LCC processes is negligible; and barriers to informal sector workers filing complaints remain overwhelming. The Supreme Court has lamented that millions of women in the informal sector remain effectively outside the Act's protective ambit, perpetuating historical patterns whereby protective legislation benefits formal sector workers while marginalised populations are excluded.¹⁰⁹

XII. RECOMMENDATIONS FOR ENHANCED EFFICACY

The following recommendations are proposed to enhance the substantive efficacy of the POSH Act:

1. The pending Amendment Bill should be expeditiously enacted, incorporating the extended limitation perclarifyal of conciliation, and explicit coverage of digital workplaces.¹¹⁰ Gender-neutral language should be adopted to extend protections to all individuals experiencing sexual harassment, particularly gender-nonconforming and transgender employees.¹¹¹ Explicit provisions should address third-party harassment, clarifying employer liability and establishing whether third parties can be subjected to ICC proceedings or only excluded from premises.¹¹²
2. Dedicated ICC training programmes, jointly conducted by the National Judicial Academy and state governments, should be mandatory and comprehensive, covering POSH jurisprudence, trauma-informed investigation, evidence

¹⁰⁸ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Section 8.

¹⁰⁹ Aureliano Fernandes v. State of Goa and Others, *supra* note 3.

¹¹⁰ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Amendment Bill, 2024, *supra* note 119.

¹¹¹ *Id.*

¹¹² *Id.*

preservation, natural justice principles, and ICT-based inquiry documentation. External IC members should be selected through transparent processes with demonstrated expertise and independence rather than token NGO representation.¹¹³ Staggered tenure and rotation of IC members should be implemented to prevent incumbency and institutional capture.¹¹⁴

3. Labour inspectorates should integrate POSH compliance into regular workplace inspections, moving from reactive complaint-driven enforcement to proactive verification. Graduated penalty structures should differentiate between first-time and repeat violations, organisational size, and severity of violations, ensuring penalties are proportionate and genuinely deterrent.¹¹⁵ Independent ombudspersons or appellate bodies should be established at state levels to review ICC findings, providing survivors recourse when findings are manifestly unreasonable or procedurally defective.¹¹⁶
4. Organisations should be mandated to conduct regular gender audits assessing workplace culture, power structures, and conditions facilitating harassment.¹¹⁷ Bystander intervention training should be integrated into mandatory harassment prevention programs.¹¹⁸ Diverse representation in leadership should be linked to POSH compliance metrics, recognising that gender-diverse leadership correlates with greater cultural commitment to equality.¹¹⁹ External accountability should extend to senior management evaluation, linking POSH outcomes to executive compensation and promotion decisions.¹²⁰

¹¹³ Id.

¹¹⁴ Id.

¹¹⁵ Id.

¹¹⁶ Id.

¹¹⁷ Id.

¹¹⁸ Id.

¹¹⁹ Id.

¹²⁰ Id.

5. Decentralised ICC infrastructure should be strengthened through dedicated staffing and budget allocation.¹²¹ Community-based complaint mechanisms should supplement formal ICCs, enabling informal sector workers to file complaints through trusted community organisations.¹²² Employers of informal workers should be mandated to provide written employment agreements specifying POSH protections despite informal employment relationships.¹²³

XIII. CONCLUSION

The POSH Act, enacted in 2013 and grounded in nearly two decades of advocacy following the Vishaka judgment, represents a sophisticated statutory recognition that sexual harassment at the workplace violates fundamental constitutional rights to equality and dignity.¹²⁴ The Act's architecture spans prevention, prohibition, and redressal through accessible institutional mechanisms, reflecting best-practice legislative frameworks addressing gendered workplace violence.¹²⁵

However, more than a decade following enactment, efficacy remains constrained by persistent implementation gaps, procedural ambiguities, compliance deficits, and institutional inadequacies. The Supreme Court's recent interventions, particularly *Aureliano Fernandes* and *Dr Sohail Malik*, signal heightened judicial scrutiny and acknowledgment that paper compliance is insufficient.¹²⁶ The Court has underscored that the POSH Act cannot remain a mere formality and has issued far-reaching directives to strengthen institutional oversight and compliance verification.¹²⁷

¹²¹ Id.

¹²² Id.

¹²³ Id.

¹²⁴ *Vishaka and Others v. State of Rajasthan*, supra note 1.

¹²⁵ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Preamble.

¹²⁶ *Aureliano Fernandes v. State of Goa and Others*, supra note 3; *Dr Sohail Malik v. Union of India*, supra note 29.

¹²⁷ Id.

The empirical reality reveals a paradox: rising reported complaints coupled with stagnating resolution rates; creation of institutional infrastructure uncoupled from substantive cultural transformation; and formal legal protections coexisting with persistent underreporting, informal sector exclusion, and survivor reluctance to utilize available mechanisms. The gap between legal intent and lived implementation reflects not mere technical difficulties but structural challenges: organisational power dynamics that constrain IC independence; resource constraints limiting investigation quality; trauma-related barriers preventing reporting; and the absence of genuine organisational commitment to preventive culture change.

Reconceptualising efficacy from formal compliance to substantive justice requires not merely procedural refinement but systemic commitment to prevention, robust enforcement mechanisms, and cultural transformation. The proposed amendments, institutional reforms, and directorial interventions, if comprehensively implemented, offer potential for significant improvement. However, their success depends ultimately on organisational leadership's genuine commitment to workplace equality and dignity, a commitment which, while growing, remains far from universal or deeply internalised across India's diverse organisational landscape.¹²⁸

The journey from Vishaka to contemporary jurisprudence reflects evolving recognition of sexual harassment as a fundamental rights violation rather than a private interpersonal matter.¹²⁹ The next phase of POSH evolution must operationalise this recognition through substantive institutional change, ensuring that the Act fulfils its promise: workplaces in which all women, and indeed all workers, experience dignity, safety, and freedom from harassment.

¹²⁸ Id.

¹²⁹ *Vishaka and Others v. State of Rajasthan*, supra note 1.

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