

WORKPLACE SEXUAL HARASSMENT LAWS IN INDIA: EFFECTIVENESS, ENFORCEMENT GAPS, AND JUDICIAL TRENDS

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Abstract:

Workplace sexual harassment in India is primarily governed by the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, enacted in response to the landmark *Vishaka v. State of Rajasthan* guidelines. This paper critically examines the effectiveness of the statutory framework, focusing on its implementation, enforcement gaps, and evolving judicial trends. While the Act mandates the constitution of Internal Complaints Committees (ICCs) and provides procedural safeguards, its practical enforcement remains inconsistent, particularly in the informal sector and small establishments. Issues such as underreporting, lack of awareness, fear of retaliation, and inadequate institutional mechanisms continue to hinder its effectiveness. The study further analyses judicial pronouncements that have strengthened the interpretative scope of the law, emphasizing principles of gender justice, safe working environments, and employer accountability. Courts have increasingly underscored strict compliance with procedural requirements and have imposed liability for non-constitution of ICCs. However, inconsistencies in adjudication and delays in redressal reflect systemic challenges. The paper concludes that while India's legal framework is progressive in design, its impact is diluted by enforcement deficiencies, necessitating stronger monitoring mechanisms, capacity building, and a more inclusive approach to ensure substantive workplace equality and dignity.

Keywords: Workplace Sexual Harassment, POSH Act 2013, Vishaka Guidelines, Internal Complaints Committee, Gender Justice, Judicial Trends.

1. INTRODUCTION

1.1 Background and Context

Sexual harassment at the workplace represents one of the most pervasive yet systematically underreported forms of gender-based violence in contemporary societies. In the Indian context, the problem is compounded by deep-rooted patriarchal norms, institutional inertia, and the structural fragmentation of a labour market in which over 80% of women workers operate in the informal economy (The Diplomat, 2023). The legal response to this problem has been shaped, over the past three decades, by a combination of judicial activism and legislative intervention, culminating in the enactment of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 commonly referred to as the POSH Act. This statute, which came into force on December 9, 2013, marked a significant normative milestone: it transformed judicial guidelines into binding statutory obligations, extended protections to workers across the organised and unorganised sectors, and established an institutional framework for complaints, inquiry, and redressal.

However, the mere enactment of progressive legislation does not, by itself, guarantee substantive protection. More than a decade after the POSH Act came into force, its implementation record reveals a troubling divergence between legislative intent and ground-level reality. The International Labour Organization (ILO) reported that very few Indian employers were compliant with the statute, and empirical data from listed companies on the National Stock Exchange showed that as recently as FY 2022–23, 219 out of 300 sampled companies reported zero sexual harassment cases—a figure that reflects not a low incidence of harassment but a catastrophic failure of reporting mechanisms (Chawla, 2024; Wikipedia, 2025). The Supreme Court of India itself, in *Aureliano Fernandes v. State of Goa* [(2023) 2023 SCC OnLine SC 1483], acknowledged "serious lapses in the enforcement of the Act" even after a decade of implementation, directing all State and Union Territory governments to conduct compliance audits within six weeks (Bar and Bench, 2025).

This paper offers a comprehensive legal analysis of India's framework for addressing workplace sexual harassment, examining its historical genesis, statutory architecture, enforcement gaps, and evolving judicial trends. The central argument is that while India's legal framework is progressive in design and normatively robust, its real-world impact is diluted by structural enforcement deficits, a culture of underreporting reinforced by social stigma and employer non-compliance, and a systemic failure to protect those most vulnerable—women in the informal sector, domestic workers, and women in hierarchical institutional environments such as universities and medical establishments. The paper concludes with a set of targeted suggestions for strengthening the framework.

1.2 Research Objectives

This paper is guided by four primary objectives:

- To trace the historical and constitutional foundations of India's legal framework on workplace sexual harassment, from the Vishaka Guidelines to the POSH Act and subsequent developments.
- To critically assess the structural features of the POSH Act, including its scope, definitional provisions, institutional mechanisms, and identified implementation gaps.
- To examine evolving judicial trends in the interpretation and application of the POSH Act, with particular reference to Supreme Court and High Court decisions from 2013 to 2026.
- To propose concrete reform measures addressing enforcement deficiencies, inclusivity gaps, and institutional failures within the existing framework.

1.3 Methodology

The paper adopts a doctrinal legal methodology, engaging primarily with statutory texts, constitutional provisions, judicial decisions, legislative debates, and official data. Secondary sources include peer-reviewed articles, policy reports from the National Commission for Women, submissions from the Martha Farrell Foundation, data analyses from the Centre for Economic Data and Analysis at Ashoka University, and investigative reporting from platforms specialising in gender and labour rights. The paper analyses judicial decisions from 1997 to 2026, tracing the trajectory of gender justice jurisprudence from the constitutional foundations laid by *Vishaka* to the enforcement-focused interventions of the Supreme Court in its most recent term.

2. HISTORICAL AND CONSTITUTIONAL FOUNDATIONS

2.1 The *Vishaka* Moment: Judicial Lawmaking in a Legislative Vacuum

The legal history of workplace sexual harassment in India is inseparable from the facts and findings of *Vishaka & Ors. v. State of Rajasthan* [AIR 1997 SC 3011], universally acknowledged as the foundational judicial intervention in this domain. The case arose from the gang rape of Bhanwari Devi, a government-employed social worker under the Women's Development Programme of Rajasthan, who was assaulted in 1992 by upper-caste men as an act of retaliation for her efforts to prevent a child marriage in her village. The systemic failure of institutional response from local police dismissal of her complaint, to a district court acquittal of the accused, to the continued absence of any legal framework addressing workplace sexual violence prompted a coalition of women's rights NGOs, operating under the name Vishaka, to file a Public Interest Litigation under Article 32 of the Constitution of India (Record of Law, 2026).

The three-judge bench comprising Justice J.S. Verma, Justice Sujata V. Manohar, and Justice B.N. Kirpal delivered its landmark judgment on August 13, 1997. The Court held that sexual harassment of women at the workplace constitutes a direct violation of the fundamental rights guaranteed under Articles 14 (right to equality), 15 (prohibition of sex discrimination), 19(1)(g) (right to practise one's profession), and 21 (right to life and personal liberty with dignity) of the Constitution of India (*Vishaka & Ors. v. State of Rajasthan*, AIR 1997 SC 3011). Critically, the Court situated its analysis within the framework of international human rights law, reading the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1979, and the Beijing Platform for Action (1995) into the constitutional guarantee of gender equality under the principle that domestic law should be interpreted consistently with India's international obligations where there is no inconsistency (*Vishaka & Ors. v. State of Rajasthan*, AIR 1997 SC 3011). Invoking its power under Article 141, the Court declared the Vishaka Guidelines as law of the land, binding on all workplaces public and private until Parliament enacted appropriate legislation.

The Guidelines were comprehensive in scope. They defined sexual harassment to include unwelcome sexually determined behaviour such as physical contact and advances, demand or request for sexual favours, sexually coloured remarks, displaying pornography, and any other unwelcome physical, verbal, or non-verbal conduct of a sexual nature (*Vishaka & Ors. v. State of Rajasthan*, AIR 1997 SC 3011). They mandated every employer to constitute a complaints committee with a majority of women members and a female chairperson, to take action against offenders, and to raise awareness about sexual harassment. The normative significance of *Vishaka* extended well beyond its immediate procedural mandates: it was the first time that sexual harassment at the workplace was formally recognised as a fundamental rights violation and a form of gender discrimination in Indian law, and it established the principle that the right to work with dignity is an essential component of the right to life.

2.2 Limitations of the Vishaka Guidelines and the Path to Legislation

Despite their landmark status, the Vishaka Guidelines suffered from inherent structural limitations. Being judicial directives rather than enacted legislation, they lacked the coercive enforcement mechanisms, penal consequences for non-compliance, and procedural specificity necessary for effective implementation. Many employers, particularly in the private sector and small and medium enterprises, either remained unaware of the Guidelines or implemented them in a perfunctory manner constituting committees on paper without ensuring their functional independence or the competence of their members (Law Zone,

2025). The Guidelines also did not extend any specific protection to women in the unorganised sector, domestic workers, or women in non-standard employment arrangements.

It took sixteen years and the additional catalytic shock of public outrage following the gang rape of a young woman in Delhi in December 2012 for Parliament to enact the POSH Act in February 2013, which came into force in December 2013. The Act broadly codified the Vishaka framework while expanding its scope, adding procedural detail, and creating a dual institutional architecture of Internal Complaints Committees for the organised sector and Local Complaints Committees for the unorganised sector (Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, hereinafter "POSH Act"). The Criminal Law (Amendment) Act, 2013, enacted contemporaneously, criminalised sexual harassment as an offence under the then Indian Penal Code, now the Bharatiya Nyaya Sanhita (BNS), 2023 creating a parallel criminal law track for the most egregious forms of workplace harassment.

2.3 Constitutional Architecture Underlying the POSH Act

The POSH Act rests on a triangulated constitutional foundation. Article 14's guarantee of equality before law mandates that women workers not be subjected to the indignity of sexual harassment while their male counterparts are not, a condition that creates actionable discrimination. Article 15(3) expressly empowers the state to make special provisions for women, providing direct constitutional authorisation for gender-specific protective legislation. Article 19(1)(g)'s guarantee of the right to practise any occupation or profession would be rendered hollow if women could not access their workplaces without fear of sexual violation a point first articulated in *Vishaka* and subsequently developed in cases such as *Apparel Export Promotion Council v. A.K. Chopra* [AIR 1999 SC 625], where the Supreme Court upheld the dismissal of a superior officer for sexual harassment, holding that sexual harassment at the workplace is incompatible with the exercise of the right to work with dignity. Article 21's expansive right to life encompasses the right to live with dignity and the right to occupational health and safety, both of which are directly implicated by workplace sexual harassment (*Francis Coralie Mullin v. Union Territory of Delhi*, AIR 1981 SC 746). Article 42 a Directive Principle of State Policy obliges the state to make provision for securing just and humane conditions of work, lending further normative grounding to the POSH Act's protective mandate.

3. THE POSH ACT: STRUCTURAL ANALYSIS, IMPLEMENTATION, AND ENFORCEMENT GAPS

3.1 Definitional Scope and Coverage

The POSH Act provides a broad and inclusive definition of "sexual harassment" in Section 2(n), encompassing unwelcome acts or behaviour including physical contact and advances, demands or requests for sexual favours, sexually coloured remarks, showing pornography, and any other unwelcome physical, verbal, or non-verbal conduct of a sexual nature (POSH Act, 2013, s. 2(n)). Section 3 extends this definition to circumstances where submission to or rejection of such conduct is explicitly or implicitly made a condition of employment, used as the basis for employment decisions, creates a hostile or intimidating work environment, or humiliates the complainant in ways that interfere with her work performance.

The definition of "workplace" under Section 2(o) is deliberately broad, encompassing not only the primary employment premises but also any place visited by the employee in connection with her work, including transportation arranged by the employer (POSH Act, 2013, s. 2(o)). The definition of "employee" under

Section 2(f) is equally expansive, covering regular, temporary, ad hoc, and daily wage employees, as well as those engaged through contractors or working in a voluntary capacity, irrespective of the nature of the employment relationship (POSH Act, 2013, s. 2(f)). This breadth of coverage was intended to address the historical exclusion of informal workers—domestic workers, contractual labour, home-based piece-rate workers—from the protection of the Vishaka Guidelines.

Despite these formally inclusive definitions, the practical scope of the Act's protection remains severely constrained by structural factors discussed below.

3.2 Institutional Architecture: ICCs and LCCs

The POSH Act establishes two distinct complaints mechanisms depending on the size and nature of the employer. Section 4 mandates that every employer with ten or more employees constitute an Internal Complaints Committee (ICC) at each office or branch, with a presiding officer who must be a senior woman employee, a minimum of two other employees with commitment to women's causes or social work experience, and one external member from an NGO or association committed to women's issues (POSH Act, 2013, s. 4). The external member requirement is a critical independence safeguard designed to prevent institutional capture of the inquiry process.

For workplaces with fewer than ten employees, and for the unorganised sector, Section 6 mandates that the District Officer of every district constitute a Local Complaints Committee (LCC) to receive and inquire into complaints of sexual harassment. LCCs are intended to be the primary redressal mechanism for the vast majority of India's female workforce, who are employed in micro, small, and unorganised enterprises (POSH Act, 2013, s. 6).

The ICC model has shown measurable, if uneven, compliance among large listed corporations. Data compiled by the Centre for Economic Data and Analysis (CEDA) at Ashoka University from the annual reports of 300 NSE-listed companies reveal that the number of reported cases increased from 161 in FY 2013–14 to 1,160 in FY 2022–23—a trajectory that reflects growing awareness and reporting confidence, at least in the organised corporate sector (Chawla, 2024). However, this data also reveals that in FY 2022–23, 219 of the 300 companies surveyed reported zero cases, and 50% of all reported cases were concentrated in just eight companies, strongly suggesting that the apparent increase in aggregate reporting masks a structural failure of compliance across a large proportion of even the formally regulated sector (Chawla, 2024). In 2024, the National Commission for Women (NCW) received 215 complaints of workplace sexual harassment between January and December 2024—a figure that, set against the total female workforce of over 200 million, is self-evidently indicative of mass underreporting rather than a low actual incidence (Bar and Bench, 2025).

The LCC mechanism has been an almost comprehensive failure. A study by the Martha Farrell Foundation, conducted through Right to Information applications across 655 districts in 2018, found that only 29% of districts reported having constituted Local Committees, and only 15% confirmed that they had not constituted them—the remaining districts providing no information at all (BehanBox, 2022). RTI-based research by an NGO petitioner before the Supreme Court found that only five states provided complete details of their Local Committees, and no state provided information on the appointment of nodal officers to receive complaints from unorganised sector workers (BehanBox, 2022). Since no dedicated budget has been allocated at either central or state level for the constitution and functioning of LCCs, these committees remain either absent or wholly dysfunctional across most of the country (The Diplomat, 2023).

3.3 ENFORCEMENT GAPS: UNDERREPORTING, STIGMA, AND RETALIATION

The POSH Act's operational effectiveness is fundamentally undermined by the dual problem of underreporting and the social dynamics that produce it. Section 9's three-month limitation period for filing a complaint extendable by a further three months at the ICC's discretion has been widely criticised for failing to account for the psychological dynamics of trauma, workplace power hierarchies, and the time needed to gather evidence and summon institutional courage (Bar and Bench, 2025; KPI IAS Academy, 2025). The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Amendment Bill, 2024, introduced in the Rajya Sabha on February 2, 2024, proposes to extend this limitation period to one year with further discretionary extension, in recognition of this structural inadequacy (Bar and Bench, 2025). The Bill also proposes the removal of conciliation as a pre-inquiry option, ensuring that all complaints are subjected to formal inquiry rather than being settled informally a change designed to prevent institutional pressure being exerted on complainants to withdraw (Bar and Bench, 2025).

The culture of underreporting is reinforced by multiple overlapping factors. Fear of retaliation including adverse employment consequences, social stigma, and the risk of counter-complaints under Section 14 for "false or malicious" complaints creates a powerful chilling effect on prospective complainants (BehanBox, 2022). This risk is particularly acute for informal sector workers, who may fear being dismissed or falsely accused of theft or other misconduct by employers far more powerful than themselves (BehanBox, 2022). In male-dominated industries and government organisations, structural bias including gender stereotyping, organisational resistance to acknowledging harassment, and inadequate training of ICC members further suppresses reporting rates (MSW Management Journal, 2024). A FICCI-EY report from 2015 found that 36% of Indian companies and 25% of multinational corporations were not compliant with the POSH Act at that stage, a figure that ILO reporting has since characterised as representative of a continuing majority non-compliance among small and medium enterprises (Wikipedia, 2025).

The 2024 incident at R.G. Kar Medical College and Hospital in Kolkata where a trainee doctor was raped and murdered brought renewed attention to the particular vulnerability of women in healthcare and educational institutions. Courts in the aftermath emphasised that ICC compliance in institutional workplaces, particularly those with hierarchical power structures, requires specialised monitoring distinct from standard corporate compliance mechanisms (Bar and Bench, 2025). The inadequacy of Section 14's provision for action against false complaints has also been debated: while it is intended to prevent misuse, its practical effect is to deter genuine complainants who fear that their accounts, even if honestly given, may be characterised as malicious if not ultimately substantiated (KPI IAS Academy, 2025).

3.4 Procedural Lacunae: Digital Evidence, Confidentiality, and Institutional Bias

The POSH Act was drafted before the digital workplace became the norm, and its procedural framework does not adequately address the evidentiary challenges posed by workplace harassment that occurs through electronic communications WhatsApp messages, email correspondence, social media interactions, video and audio recordings, and dating application exchanges (Cyril Amarchand Mangaldas, 2022). While the strict evidentiary rules applicable to judicial proceedings under Section 65B of the Indian Evidence Act (now Section 63 of the Bharatiya Sakshya Adhinyam, 2023) do not strictly govern ICC proceedings, the absence of any guidance on how ICC members should assess the authenticity, completeness, and evidential weight of electronic communications creates significant inconsistency in inquiry outcomes (Cyril Amarchand Mangaldas, 2022). Cases increasingly involve disputes over the admissibility and

interpretation of screenshots, chat exports, and digital records, and the absence of standardised digital evidence protocols creates both a risk of injustice to complainants and a risk of procedural unfairness to accused persons.

Confidentiality obligations under Section 16 of the POSH Act are another area of practical difficulty. While the Act prohibits the disclosure of the contents of complaints or inquiry reports, or the identity of parties, this prohibition is difficult to enforce in practice particularly in small or closely-knit workplaces where the filing of a complaint is itself widely known, and in the context of social media where complainants and accused persons may have overlapping networks. Furthermore, the Act does not specify what constitutes a conflict of interest for ICC members, leaving open the possibility that members with personal or professional connections to either party may participate in inquiries without adequate safeguards for independence.

The composition requirements for ICCs particularly the requirement for an external member from a relevant NGO are widely violated in practice. External members are either not appointed at all, appointed as token nominal members who do not actively participate, or selected from organisations with close institutional ties to the employer, undermining the independence rationale (MSW Management Journal, 2024; POSH at Work, 2025). The three-year term for ICC members under Section 4(3), while designed to ensure continuity of experience, has in practice created confusion about renewal obligations, with many employers allowing ICC memberships to lapse without reconstitution (Nishith Desai Associates, 2023).

4. JUDICIAL TRENDS IN THE INTERPRETATION AND APPLICATION OF THE POSH ACT

4.1 The Supreme Court's Expanding Oversight Role

The most significant development in the judicial enforcement of the POSH Act in the decade since its enactment has been the Supreme Court's progressive assumption of an active supervisory role over the implementation of the statute a role that has moved well beyond the resolution of individual disputes to encompass systemic directives addressed to governments, employers, and institutional bodies.

The landmark intervention came in *Aureliano Fernandes v. State of Goa* [(2023) 2023 SCC OnLine SC 1483], where the Supreme Court, going beyond the specific facts before it, took suo motu cognizance of widespread non-compliance with POSH mandates. The Court noted with deep concern the absence of functional ICCs across vast swathes of the employment landscape and directed all State and Union Territory governments to conduct district-wise compliance audits within six weeks, ordering that compliance data be published on government websites (Bar and Bench, 2025). The Court emphatically stated that the POSH Act "cannot remain a mere formality on paper" and reiterated that every employer, institution, and public authority with ten or more employees must constitute a functional ICC with qualified and trained members including a mandatory external member (Bar and Bench, 2025). Consequent to this direction, in December 2024, the Court issued further comprehensive directions mandating the creation of SHE-Box portal access across all state and central government departments, enabling women to lodge complaints through a centralised online platform (No Means No, 2025).

In *Union of India v. Dilip Paul* [(2023) 2023 SCC OnLine SC 1423], the Supreme Court restored a penalty of withholding 50% of monthly pension that had been imposed on a retired officer found guilty of sexual harassment, overturning the Gauhati High Court's decision that had set aside the penalty. The Court emphasised that sexual harassment must be treated with institutional seriousness, that hearsay evidence with a credible nexus to the facts of the complaint is admissible in disciplinary proceedings, and that

reviewing courts should not lightly interfere with the factual findings of properly constituted inquiry authorities (SCC OnLine, 2025). This ruling has significant implications for the standard of judicial review applicable to ICC findings it endorses a restrained, deferential approach to factual determinations made by properly constituted ICCs, consistent with the broader principle of judicial non-interference in disciplinary proceedings established in *Vidya Akhava v. Union of India* [Writ Petition 796/2015] (Nishith Desai Associates, 2023).

The Supreme Court's most recent engagement with the POSH Act came in *Dr. Sohail Malik v. Union of India* [2025 SCC OnLine SC, decided 2025], where the Court expanded the interpretative scope of the Act to encompass cross-organisational harassment scenarios situations where the harasser and the complainant belong to different organisations but the harassing conduct occurs in the course of work-related interaction (POSH Compliance Updates 2026). This ruling directly addresses a lacuna in the Act, which is structured around an employer-employee relationship that does not neatly accommodate harassment by external vendors, clients, or consultants a situation increasingly common in the modern economy.

4.2 High Court Jurisprudence: Procedural Rigour and Natural Justice

High Courts across jurisdictions have played an equally significant role in elaborating the procedural standards applicable to ICC inquiries and in reviewing the legality of institutional responses to sexual harassment complaints.

The Madras High Court, in *R. Mohanakrishnan v. Deputy Inspector General of Police* (decided June 11, 2024), held that a complaint was not time-barred under Section 9 of the POSH Act because the complainant's continuing trauma constituted a continuing wrong that prevented the limitation period from running in the ordinary manner (SCC OnLine, 2025). This ruling represents a significant and progressive development in the interpretation of the limitation period, recognising that the psychological aftermath of sexual harassment can impair a complainant's capacity to file within the statutory window and that a rigid application of limitation rules would be inconsistent with the Act's remedial purpose.

Conversely, the Supreme Court in *X v. Nirmal Kanti Chakrabarti* [2025 SCC OnLine SC 1964] upheld a decision dismissing a complaint against the Vice-Chancellor of WBNUJS as time-barred under Section 9, notwithstanding the gravity of the allegations. While legally dismissing the appeal, the Court made a normatively significant observation directing that the order be included in the Vice-Chancellor's official resume, thereby ensuring a form of lasting institutional accountability even in the absence of a formal penalty (SCC OnLine, 2025). This creative use of judicial orders to achieve partial accountability where formal legal routes are closed deserves recognition as an emerging tool of gender justice.

The Kerala High Court's ruling in *X v. Kollam Bar Association* [(2026) 2026 SCC OnLine Ker 1199] addressed a fundamental institutional question: the Court held that the Kollam Bar Association did not qualify as an "employer" under the POSH Act and therefore lacked the authority to constitute an ICC under Section 4, rendering the ICC proceedings invalid (POSH Compliance Updates 2026). This ruling highlights a critical compliance risk in group entities, professional associations, and multi-branch structures where ICCs are sometimes centralised without careful alignment with statutory definitions of "employer" and "workplace" a structural vulnerability that can invalidate entire inquiry processes regardless of their procedural quality.

4.3 Inconsistencies in Adjudication and Remaining Challenges

Despite the progressive trajectory of judicial enforcement, several inconsistencies and challenges persist. First, there remains judicial uncertainty about the standard of proof applicable in ICC proceedings. While courts have generally held that the standard is preponderance of probabilities rather than proof beyond reasonable doubt (consistent with the quasi-civil nature of ICC inquiries), the manner in which this standard is applied in practice varies across ICCs and in judicial review, creating unpredictability in outcomes. Second, the principle of natural justice specifically the right of the accused to a fair hearing, access to materials relied upon, and opportunity to cross-examine witnesses has generated conflicting High Court decisions about how extensively these rights apply in ICC proceedings, given the Act's intent to provide a sensitive, victim-centred process. Third, the judicial tendency to scrutinise ICC proceedings for procedural irregularities, while essential to protecting accused persons' rights, can be weaponised by well-resourced respondents to delay or derail proceedings through preemptive writ petitions, an issue that requires legislative attention through providing for pre-inquiry stay bars analogous to those in service law (KPI IAS Academy, 2025).

The absence of any centralised data reporting mechanism for ICC outcomes at the national level means that there is no publicly available aggregate data on complaint filing rates, inquiry outcomes, penalties imposed, and compliance with recommendations a gap that fundamentally impairs evidence-based policy development and judicial monitoring. The Ministry of Corporate Affairs' amendment to the Companies (Accounts) Second Amendment Rules, 2025, which mandated detailed disclosures on sexual harassment complaints in board reports with effect from July 14, 2025, begins to address this gap for listed companies but leaves the vast majority of India's employment landscape small and medium enterprises, government bodies, and unorganised sector workers without equivalent accountability mechanisms (Bar and Bench, 2025).

5. CONCLUSION AND SUGGESTIONS

The preceding analysis yields a set of conclusions that are simultaneously a recognition of progress and an indictment of what remains undone. India's legal framework for addressing workplace sexual harassment has evolved from a total legislative vacuum in 1997 to a formally comprehensive statutory regime. The POSH Act's definitional breadth, its dual institutional architecture of ICCs and LCCs, its integration of preventive, prohibitive, and redressal obligations, and its grounding in constitutional guarantees of equality, dignity, and the right to work represent a normatively sophisticated legal response. The Supreme Court's increasingly active supervisory role directing compliance audits, mandating digital redressal portals, expanding the interpretative scope of the statute through decisions in *Aureliano Fernandes*, *Dilip Paul*, and *Dr. Sohail Malik* further reinforces the framework's institutional foundations. Yet the gap between legal design and lived reality remains vast and is not adequately accounted for by conventional accounts of implementation delays or resource constraints. It is, at its core, a gap that reflects unresolved structural power asymmetries between employers and workers, between formal and informal sector employees, between women in hierarchical institutions and their superiors, and between the normative aspirations of gender justice jurisprudence and the patriarchal social norms that govern institutional behaviour in practice.

The following suggestions are proposed to address these structural deficits comprehensively. First, Parliament should enact the POSH Amendment Bill, 2024 expeditiously, with the proposed extension of the limitation period to one year adopted as a minimum, complemented by a "discovery rule"

provision allowing the limitation clock to begin running not from the date of the incident but from the date the complainant reasonably first became aware that the conduct constituted sexual harassment a particularly important safeguard for victims of grooming, coercive control, and abuse of institutional authority.

Second, a dedicated Central POSH Monitoring Authority should be established under the POSH Act with powers to collect, audit, and publish annual compliance data from all employers covering ICC constitution and composition, complaints received, inquiry outcomes, and penalties imposed. This body should be empowered to impose escalating financial penalties for non-disclosure or non-compliance, and its annual report should be tabled before Parliament.

Third, the penalty framework under Section 26 currently capped at ₹50,000 for first-time violations, with licence cancellation for repeated violations requires substantial enhancement to create a credible deterrent for large employers for whom such penalties are economically trivial. The penalty should be restructured as a percentage of the employer's annual turnover, consistent with the approach adopted in data protection regulation, with minimum amounts calibrated to employer size.

Fourth, the LCC mechanism requires comprehensive reform and dedicated funding. Central and state governments must allocate ring-fenced budget lines for the constitution, staffing, training, and operation of Local Committees at every district and block level. LCC members should be required to undergo mandatory training on trauma-informed inquiry techniques, digital evidence handling, and intersectional gender analysis. A national helpline dedicated to POSH complaints from the unorganised sector should be established and publicised through the existing Mahila Shakti Kendra infrastructure.

Fifth, the POSH Act should be explicitly amended to cover gig workers, platform workers, and freelancers by adopting a functional definition of "worker" and "workplace" that encompasses non-standard contractual arrangements. The provision of SHE-Box access should be extended to gig workers through integration with platform employer databases, ensuring that digital complaint filing is available to those who may have no physical employer premises to approach.

Sixth, a mandatory digital evidence protocol developed jointly by the Ministry of Electronics and Information Technology and the Ministry of Women and Child Development should be incorporated into the POSH Rules, prescribing standards for the preservation, authentication, and assessment of electronic communications as evidence in ICC and LCC proceedings. This is particularly urgent given that a significant proportion of contemporary workplace harassment occurs through digital platforms.

Seventh, the removal of conciliation as a pre-inquiry option, proposed in the 2024 Amendment Bill, should be enacted as a priority, alongside the introduction of an explicit prohibition on non-disclosure agreements being used to settle sexual harassment complaints a practice that allows institutional complicity to remain hidden and perpetuates cultures of impunity.

Eighth, sustained investment in sensitisation for employers, ICC members, employees, and the general public is essential to address the cultural foundations of underreporting. Section 19's awareness obligations on employers should be operationalised through mandatory annual training requirements with minimum

standards set by regulation, and compliance with these training obligations should be audited as part of the proposed POSH Monitoring Authority's mandate.

The constitutional promise articulated in *Vishaka* nearly three decades ago that every working woman has the right to pursue her occupation in a safe environment free from sexual violation remains partially unrealised. The promise is not unrealisable: it requires only the political will to enforce an already enacted law with the seriousness that the dignity and safety of India's female workforce demand. As the Supreme Court observed in *Aureliano Fernandes v. State of Goa*, the POSH Act will fulfil its mandate only when all state and non-state actors enforce it proactively not as a compliance formality, but as a sincere institutional commitment to the constitutional values of equality and human dignity.

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