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BEYOND COMPLIANCE: AN ANALYSIS OF INDIA'S POSH ACT

~Princy S Das

“Safety should never be a priority, it should be a precondition.”

-Paul O'Neill

A safe workplace is the legal right of the people, not merely a matter of organisational culture. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, commonly known as the PoSH Act, is India's principal statutory framework for addressing sexual harassment at the workplace. Enacted 16 years after Supreme Court's landmark *Vishaka v. State of Rajasthan* judgment of 1997, the legislation transformed what had largely been treated as an organisational or social problem into a matter of legal accountability. The Act is built around three interconnected objectives: prevention, prohibition and redressal.

FROM VISHAKA GUIDELINES TO STATUTORY FRAMEWORK

In 1997, the Supreme Court issued the *Vishaka* guidelines in the landmark *Vishaka and Others v. State of Rajasthan* case in order to create binding standards for employers to prevent and redress workplace harassment in the absence of specific domestic legislation at the time. For the next 16 years, these guidelines served as the primary legal framework for workplace harassment until they were superseded and formalized by the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act or PoSH Act in 2013.¹

The POSH Act's significance therefore lies not simply in creating a mechanism for complaints, but in recognising that sexual harassment can prevent women from participating equally in the workplace. The Act defines sexual harassment as physical, written, verbal, or non-verbal unwelcome sexual conduct, including sexually coloured remarks, requests for sexual favours, and display of pornography. It captures both quid pro quo harassment and hostile work environments.

The definition of “workplace” is deliberately broad, covering all physical workplaces, remote work, off-site locations, and transit connected to employment. It applies widely to organised

¹ Garg, R. (2021) *Case behind the development of the POSH Act of 2013*, iPleaders. Available at: <https://blog.ipleaders.in/case-behind-development-posh-act-2013/> accessed 21 September 2026.

and unorganised sectors alike, including domestic workers, students, healthcare workers, and women travelling for work. In an era where workplace relationships increasingly operate beyond physical office, this is important.²

THE INTERNAL COMMITTEE: STRENGTH AND VULNERABILITY

One of the Act's central mechanisms is the Internal Committee (IC), earlier commonly called the Internal Complaints Committee (ICC). It is a formal, internal grievance structure for any workplace with ten or more employees. It must include a senior woman employee as the Presiding Officer, employee members with relevant experience or knowledge, and an external member associated with an NGO or an organisation committed to women's causes or a person familiar with issues relating to sexual harassment. The committee must also conduct inquiries according to natural-justice principles.³

This institutional design attempts to balance organisational familiarity with external independence. The Committee receives and redresses complaints, conducts inquiries and make recommendations to the employer. Where an organisation has fewer than ten employees, or where the complaint is against the employer, the legislation provides for a Local Committee at the district level.

Yet this structure also reveals one of the Act's central weaknesses: the effectiveness of the law depends heavily on the quality and independence of the institution implementing it. A committee may technically exist while remaining inadequately trained, inaccessible or excessively influenced by organisational hierarchies. The mere constitution of an IC, therefore, cannot be treated as equivalent to effective protection.

POSH: A LAW FOCUSED ON REDRESSAL- AND PREVENTION

The POSH Act goes beyond creating a complaint mechanism. It imposes a positive duty on employers, requiring them to ensure a workplace free of sexual harassment by conducting training and awareness programmes, implementing and publishing a harassment policy, displaying ICC details prominently, providing assistance during complaints, and ensuring overall safety. Employers must also treat sexual harassment as misconduct under service rules and incorporate punitive measures.⁴

This preventive dimension is particularly important. Sexual harassment cannot be effectively addressed if organisations wait until an incident occurs before responding. Compliance should therefore be understood as a continuing organisational responsibility rather than an annual administrative exercise.

² (23rd April 2013) *Gazette of India-notification-1.pdf*. Available at: <https://itdc.co.in/wp-content/uploads/2026/01/Gazette-Notification-1.pdf> accessed 21 September 2026.

³ *Internal Complaints Committee: Poshlaw: Poshatwork* (2026) *POSH at Work*. Available at: <https://poshatwork.com/internal-complaints-committee/> accessed 21 September 2026.

⁴ Manisha Suryakant Phatale, 11/09/2025 at 3:28 PM *et al.* (2026) *Employer duties & obligations under Posh Law, POSH at Work*. Available at: <https://poshatwork.com/obligation-of-the-employer/> accessed 21 September 2026.

The Ministry of Women and Child Development's PoSH Handbook similarly emphasises the three-part framework of "Prohibition, Prevention and Redress", describing the law as a means of securing women's right to workplace equality.

PROCEDURAL SAFEGUARDS: NECESSARY BUT NOT SUFFICIENT

The Act provides a relatively structured complaint process. A complaint should ordinarily be made in writing within three months of the incident, with provision for extension in appropriate circumstances. The Committee is expected to complete the inquiry within 90 days, communicate its findings within ten days, and an appeal may generally be made within 90 days.

Confidentiality is another important safeguard. The Act restricts the publication or disclosure of the identity of the complainant, respondent, witnesses and details of the proceedings. This is essential because fear of reputational harm or workplace retaliation can discourage women from reporting harassment.⁵

At the same time, the provision concerning false or malicious complaints requires careful application. The existence of an unsubstantiated complaint should not automatically be equated with a malicious one. If interpreted carelessly, such provisions could discourage genuine complainants from approaching the Committee in the first place. The emphasis must therefore remain on establishing whether there was deliberate fabrication rather than penalising a complainant merely because her allegation could not be proved.

THE MAJOR CHALLENGE: IMPLEMENTATION

Perhaps the most important criticism of the PoSH framework is the gap between legal compliance and substantive implementation. In *Aureliano Fernandes v. State of Goa* (2023), the Supreme Court identified deficiencies in the implementation of the POSH framework and issued directions concerning the constitution and functioning of Internal and Local Committees, training, awareness and monitoring. The Court subsequently continued to monitor compliance across States and Union Territories.

This intervention is significant because it demonstrates that the problem is not necessarily the absence of legislation. Rather, it is often the failure to translate statutory requirements into functioning institutional practices. An IC without trained members, an inaccessible Local Committee, inadequate awareness among employees, or an organisation that treats complaints as reputational threats rather than rights-based grievances can undermine the purpose of the law.⁶

The Act is also particularly limited to women as the protected category. While this reflects the specific historical and structural vulnerability that motivated the legislation, it also raises questions about how workplace sexual harassment involving men or persons of diverse gender

⁵ 'Handbook on inquiry procedure for internal committee and Local Committee under POSH Act'. National Commission of Women, India. Available at: <https://cdn.ncw.gov.in/wp-content/uploads/2026/07/PoshInquiryHandbook.pdf> accessed 21 September 2026.

⁶ Rashmi Pradeep, B.J. (2023) *Supreme Court's landmark ruling : Directions for effective implementation of the POSH Act, India Corporate Law*. Available at: <https://corporate.cyrilamarchandblogs.com/2023/06/supreme-courts-landmark-ruling-directions-for-effective-implementation-of-the-posh-act/> accessed 21 September 2026.

identities should be addressed. Organisations may therefore need broader internal anti-harassment policies even while complying with the statutory requirements of PoSH.⁷

TOWARDS A CULTURE OF SAFETY, NOT JUST COMPLIANCE

The PoSH Act has undoubtedly strengthened India's legal response to workplace sexual harassment by establishing clear institutional responsibilities and a formal redressal mechanism. Its greatest contribution, however, is conceptual: it recognises that freedom from sexual harassment is integral to equality, dignity and meaningful participation in working life.

Its limitations lie less in the absence of a legal framework than in the unevenness of its implementation. The Supreme Court's interventions demonstrate that legislation alone cannot create safe workplaces. Effective enforcement requires trained committees, genuinely independent external members, accessible complaint mechanisms, confidentiality, regular awareness programmes and meaningful accountability for employers.

The next stage of PoSH implementation must therefore move beyond the question, "Does the organisation have an ICC?" and ask a more substantive question: "Can an employee realistically approach it, trust its process and receive fair redressal?"

Ultimately, the success of PoSH should not be measured by the number of policies displayed on office noticeboards, but by whether workplaces become environments in which dignity, equality and safety are treated as fundamental conditions of work rather than merely statutory obligations.

⁷ Kapoor, K. (2012) '*Men too are victims of sexual harassment*', *Times of India*, 21 December. Available at: <https://timesofindia.indiatimes.com/life-style/relationships/love-sex/men-too-are-victims-of-sexual-harassment/articleshow/16336627.cms> accessed 21 September 2026.