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LONG ARTICLE - BRIDGING THE CHASM: AN ASSESSMENT OF IMPLEMENTATION GAPS, INSTITUTIONAL ACCOUNTABILITY, AND STATE RESPONSES UNDER INDIA'S POSH ACT

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ABSTRACT

Following the Supreme Court of India's Vishaka guidelines judgment of 1997, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act) became a landmark social legislation to ensure constitutional rights of women to equality, dignity, and safe working conditions. This paper attempts to trace the journey, efficiency, challenges, and loopholes of the Act, and suggest measures for its effective implementation in the future. The paper follows a case-by-case journey approach to illustrate these points. This paper is, therefore, a critical examination of the implementational deficit of the POSH Act.

It underlines the persistent shortcomings, widespread non-compliance with mandatory Internal Committees (ICs), systemic neglect of Local Committees (LCs) that cover the informal sector, inadequate training of committee members, and absence of uniform procedures. Data indicates troubling disparities: while large companies increasingly report cases, smaller firms and the informal sector remain black holes of compliance, perpetuating the "zero-case paradox." Fear of retaliation, entrenched cultural taboos, and low awareness further silence women, limiting the Act's effectiveness as a protective framework.

The Supreme Court's interventions, particularly in *Aureliano Fernandes v State of Goa*, have shifted enforcement from a complaint-driven to a state-monitored model, mandating compliance surveys, functional LCs, and digital integration via the SHe-Box portal. The paper concludes that bridging the chasm between law and practice requires a multi-pronged approach: legislative amendments to codify procedures and anti-retaliation protections, stronger penalties for

non-compliance, mandatory standardized training, and cultural change initiatives. Only through systemic accountability, proactive governance, and social transformation can the POSH Act fulfil its original vision of ensuring safe, inclusive, and equitable workplaces for all women in India.

Keywords – Zero case Paradox, She-Box, Vishaka Guidelines, POSH Act 2013, judicial activism

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INTRODUCTION: THE PROMISE AND PERIL OF THE POSH ACT

Genesis and Constitutional Mandate

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act) posits a seminal critical moment in Indian jurisprudence, listing women's right to a safe and dignified workplace. Instead of legislative foresight (the more obvious course), it originated out of the "Supreme Court's landmark judicial activist judgment in the *Vishaka & Ors. v. State of Rajasthan*, 1997"¹. The Vishaka guidelines that emerged out of this case served as the 'de facto' law/ framework for sexual harassment at the workplace for 16 long years. It was only in 2013 that the POSH Act, passed and gave this judicial mandate a legislative outlook, making these guidelines a binding legal framework.

Furthering the tenets of the Indian Constitution, this Act reasserted and categorically reinforced (for women) Article 14 and 15 of the Indian Constitution - the right to equality, Article 21 of the Indian Constitution - the right to life with dignity, and Article 19(g) of the Indian Constitution - the right to practice any profession or to carry on any occupation, trade or business. Additionally, it reasserts India's commitment to international conventions for the rights of women, viz., the ratification of CEDAW - Convention on the Elimination of All Forms of Discrimination Against Women - by India in 1993. Hence, the apt inference is that the POSH Act is not only a social legislation, but also critically upholds the constitutional guarantees for women and the international human rights commitments.

Thesis Statement: The Implementation Chasm

Since more than a decade has passed post the enactment of the POSH Act, it is timely to examine its efficacy. The initial purview suggests that there is a deep chasm between its forward-approached text and the inadequate and inconsistent implementation, primarily visible in the widespread institutional non-compliance nature, its half-hearted and only on paper enforcement in the states, and the evidently persistent socio-cultural barriers, making it almost taboo for women to report, thus keeping them devoid of redressal. The recent, forceful

¹ *Vishaka & Ors. v. State of Rajasthan & Ors.*, (1997) 6 S.C.C. 241 (India).

interventions by the Supreme Court in *Aureliano Fernandes v. State of Goa & Ors.* signify a critical inflection point.² This mandate has reignited a crucial national discourse, making way for active, measurable, and state-monitored enforcement of the POSH Act, instead of a lackadaisical, passive, on-paper compliance. The argument presented in this report is that the chasm can be exposed by the judiciary, it is the prerogative of the executive and legislature to bridge the gap by bringing about a systemic and programmed overhaul of fixing accountability, proactive responsiveness of the state, targeted efforts to disrupt the cultural and procedural hurdles which will eventually embolden women at the workplace to feel safe, which hitherto seems like a distant but achievable dream.

As mentioned earlier, this Act has its genesis in the judicial activism to, in fact, fill the legislative gap, and even now, the judiciary remains the key motivator behind its legal mobility. It is unfortunate that the Legislature and Executive have failed to create an effective and efficient mechanism to keep a check on the enforcement of the Act, and have only fulfilled the bare minimum responsibility of codifying the law. Resultant of this inactivity, the Supreme Court not only re-interpreted the law in the *Aureliano Fernandes* case, but had to intervene to micromanage its implementation with granular, time-bound directives.³ It is indicative of the lethargy of the Executive to work only when prodded by the courts.

Scope and Methodology

Comprehensively assessing the implementational gaps in the POSH Act, this report deconstructs the institutional framework of the Act and its enforcement as mandated by the Supreme Court. Furthermore, quantitative and qualitative data analysis is done via analyzing trends through available reports, resolutions, and the gaps in different sectors. In the process, a comparative analysis is presented of the state response to the judicial mandate. Implementational issues are

² *Supreme Court Mandates Six-Week Compliance Survey for PoSH Act*, DLA Piper GENIE (Aug. 27, 2025), <https://knowledge.dlapiper.com/dlapiperknowledge/globalemploymentlatestdevelopments/2025/supreme-court-mandates-six-week-compliance-survey-for-POSH-act>.

³ *From Rhetoric to Results: Ensuring Adequate Protection from Sexual Harassment in Workplaces under India's POSH Act*, JURIST (June 7, 2023), <https://www.jurist.org/commentary/2023/06/commentary-2023-06-jauhari-kapgate-workplace-sexual-harassment-in-dia/>

also dissected in terms of various obstacles, awareness deficits, procedural weakness, and structural/ institutional failures. Conclusively, the report presents workable recommendations by connecting systematic failures to the pragmatic safety issues of women at the workplace.

THE ARCHITECTURE OF PROTECTION: A REVIEW OF THE POSH ACT'S INSTITUTIONAL FRAMEWORK

Defining the Offense and the Workplace

The framework upon which the foundation of the POSH Act lies is systematically wide-arrayed and inclusive, broadening its purview. Defining 'sexual harassment', "Section 2(n) of the Act includes not only explicit physical acts but also a range of unwelcome behavior, whether explicit or implicit, including – physical contact and advances, a demand or request for sexual favours, making sexually-coloured remarks, showing pornography, and/ or any other unwelcome physical, verbal, or non-verbal conduct of sexual nature."⁴

Notably, the Act also addresses circumstantial harassment, where the unwelcome behavior creates a hostile work environment or involves an implicit or explicit threat or promise related to the woman's employment status (*quid pro quo*).⁵

Equally broad is the definition of "workplace" under Section 2(o). It extends far beyond the traditional office, encompassing 'any place visited by the employee arising out of or during the course of employment'. This includes employer-provided transportation, off-site events, and, critically in the contemporary context, remote and virtual work environments.⁶ These definitions ensure comprehensive safety for women in the workplace.

The Internal Committee (IC): The First Line of Redressal in the Formal Sector

⁴ *Sexual Harassment Act and Rules*, POSHatWork (Nov. 20, 2016), <https://poshatwork.com/sexual-harassment-act-rules/>.

⁵ *The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013*, No. 14 of 2013 (India), https://doe.gov.in/files/inline-documents/doe_Prevention_sexual_harassment.pdf (last visited Dec. 13, 2025).

⁶ *Key Provisions of the POSH Act and How to Comply*, Corrida Legal (June 2, 2024), <https://corridalegal.com/key-provisions-of-the-posh-act-and-how-to-comply/>

The Internal Committee (IC) is formed as an accessible internal grievance redressal body at the primary level for any workplace that has more than 10 employees (Section 4 of the POSH Act). It comprises “a Presiding Officer, who is a senior-level female employee of that workplace, employee members, of which at least two should be from amongst the employees, preferably committed to the women’s rights cause or experienced in social work or legal knowledge, and an external member who can either be from an NGO or association of women’s cause, or a person with familiar with issues relating to sexual harassment.”⁷

It has the “powers of a civil court to summon and examine persons under oath and require the discovery and production of documents.”⁸ It is mandated to conduct a “time-bound enquiry within 90 days, maintaining strict confidentiality, recommending interim relief measures to the employer (such as transfer of the complainant or respondent), and submitting an annual report to the employer and the District Officer detailing the number of cases filed and their disposal.”⁹

The provision of external member of the IC was aimed at acting as a safety valve against bias and ensuring impartiality of the inquiry process. But this safeguard has become a menace as there is non-compliance of the mandated composition noticed, along with negligible or inadequate training, and external members are not really independent but are mainly the company’s own legal counsels, thereby causing procedural inadequacy. This results in a breach of the concept of natural justice, a lack of procedural fairness, and a prevalent bias of privilege. Paradoxically, the protective mechanism in the process itself becomes the harbinger of implementational and institutional failure, delaying and sometimes denying justice altogether.

The Local Committee (LC): The Neglected Guardian of the Informal Sector

⁷ POSH Act 2013: Objectives, Rules & Key Provisions, The Legal School (India), <https://thelegalschool.in/blog/posh-act> (last visited Dec. 13, 2025).

⁸ Gargi A. Singh, Pulkit Raj & Deeksha Agarwal, *Addressing Workplace Harassment: The Role of POSH Committees*, Ignited Minds Journals, Vol. 20, No. 4 (2023), <https://ignited.in/index.php/jasrae/article/download/14547/28897/72207>

⁹ Supreme Court Mandates Six-Week Compliance Survey for PoSH Act, DLA Piper GENIE (Aug. 27, 2025), <https://knowledge.dlapiper.com/dlapiperknowledge/globalemploymentlatestdevelopments/2025/supreme-court-mandates-six-week-compliance-survey-for-PoSH-act>.

The POSH Act mandates a “Local Committee (LC) in each district, to be established by the District Officer.”¹⁰ It is the “grievance redressal body at the primary level for women working in those establishments that have fewer than 10 employees, for those in the unorganized sector, like domestic households, or when the complaint is against the employer themselves.”¹¹ Therefore, technically, LC guards almost 90% of the working women’s population in the country, which makes up a large demography that is vulnerable to exploitation.

Section 7 of the Act lays down a detailed composition of the Local Committee, with an eminent woman social worker as the chairperson, a woman working at block/ taluka level, representatives from NGOs, and the district officer for social welfare.¹² This varied composition of the LC aims at knitting the community closer together. The block, taluka, and tehsil level nodal officers are the first to receive complaints, acting as the primary point of contact, and these complaints are then forwarded to the LC. Therefore, the proactive role of the District Officer, who constitutes the LC and appoints the Nodal Officers, is the most crucial one.

Duties of the Employer: Beyond Mere Committee Formation

Under section 19 of the POSH Act, the employer bears various responsibilities, which are far beyond merely constituting an Internal Committee (IC). It is the employer’s statutory responsibility to ensure a safe working environment, formulate and widely disseminate a comprehensive, unequivocal anti-sexual harassment policy, and conduct regular awareness and sensitization programs regarding the provisions of the Act for all employees. It also provides for “necessary facilities and assistance to the IC or LC to conduct their inquiries, assist the aggrieved woman if she chooses to file a police complaint, treat sexual harassment as a misconduct under

¹⁰ THE SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013 https://doe.gov.in/files/inline-documents/doe_Prevention_sexual_harassment.pdf

¹¹ THE SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013 https://doe.gov.in/files/inline-documents/doe_Prevention_sexual_harassment.pdf

¹² THE SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013 https://doe.gov.in/files/inline-documents/doe_Prevention_sexual_harassment.pdf

the service rules and initiate action for such misconduct, and monitor the timely submission of reports by the IC and act upon its recommendations within 60 days of their receipt.”¹³

These mandates fix the employer’s responsibility to act as an active agent in preventing any untoward incidence of harassment at the workplace, spreading awareness to report it in case such a thing happens, and to ensure effective, hassle-free redressal.

THE JUDICIAL CATALYST: ANALYZING THE SUPREME COURT'S DIRECTIVES FOR SYSTEMIC ACCOUNTABILITY

The Aureliano Fernandes Case: From Individual Grievance to Systemic Review

The *Aureliano Fernandes v. State of Goa & Ors* case was about a petition that challenged the findings of an IC inquiry on grounds of ‘undue haste’ and “violation of the principles of natural justice, denying the petitioner their right to defend themselves.”¹⁴ In its recent hearing and judgment on this case, the Supreme Court also expanded its ambit to address the ‘disquieting’ and ‘sorry state of affairs’ regarding the “widespread non-compliance with the POSH Act across India”.¹⁵ This landmark judgment drastically shifted the case of individual procedural rights to systemically reviewing the implementation of POSH at the national level, making it a case of significant judicial intervention, addressing a decade-long executive lethargy and inertia.

Mandating a National Enforcement Framework

In May 2023 and December 2024, the Supreme Court, after coming across critical fallouts in the implementation of the POSH Act, issued a series of comprehensive and time-bound directives.

¹³ *POSH Act 2013: Objectives, Rules & Key Provisions*, The Legal School (India), <https://thelegalschool.in/blog/posh-act> (last visited Dec. 13, 2025).

¹⁴ *Supreme Court Mandates Six-Week Compliance Survey for PoSH Act*, DLA Piper GENIE (Aug. 27, 2025), <https://knowledge.dlapiper.com/dlapiperknowledge/globalemploymentlatestdevelopments/2025/supreme-court-mandates-six-week-compliance-survey-for-PoSH-act>.

¹⁵ *From Rhetoric to Results: Ensuring Adequate Protection from Sexual Harassment in Workplaces under India’s POSH Act*, JURIST (June 7, 2023), <https://www.jurist.org/commentary/2023/06/commentary-2023-06-jauhari-kapgate-workplace-sexual-harassment-in-dia/>.

They aimed to effectively create a national enforcement framework to be implemented by the states, of which the following are the key mandates¹⁶:

- **Appointment of Key Officers:** Governments of all States and Union Territories to formally appoint District Officers (typically the District Magistrate/Collector) in every district, tasked with designating Nodal Officers in every block, taluka, tehsil, and municipality, to serve as accessible points for receiving complaints, especially from the unorganized sector.¹⁷
- **Nationwide Compliance Surveys:** Mandatory, district-wise survey of all public and private organizations, with the primary objective to physically verify whether workplaces with 10 or more employees have constituted ICs (Section 4 of the POSH Act), to be completed within a strict timeframe.¹⁸
- **Activation of Local Committees:** Immediate establishment and working of functional LCs in each district to address the gap in the redressal mechanism for the informal sector.¹⁹
- **Integration with SHe-Box Portal:** The most crucial component of the Supreme Court's strategic mandate is to use technology to monitor progress. States were asked to ensure that all compliance data—including the details of constituted ICs, LCs, and appointed Nodal Officers—is "on-boarded" onto the Ministry of Child and Development online facility – the

¹⁶ *Supreme Court Intervenes: Directives Issued for Implementation of the POSH Act*, Manupatra Academy (India), <https://www.manupatracademy.com/assets/pdf/legalpost/supreme-court-intervenes-directives-issued-for-implementation-of-the-POSH-act.pdf> (last visited Dec. 13, 2025).

¹⁷ *Supreme Court Intervenes: Directives Issued for Implementation of the POSH Act*, Manupatra Academy (India), <https://www.manupatracademy.com/assets/pdf/legalpost/supreme-court-intervenes-directives-issued-for-implementation-of-the-POSH-act.pdf> (last visited Dec. 13, 2025).

¹⁸ *Supreme Court mandates six week compliance survey for PoSH Act*, DLA Piper GENIE (India), <https://knowledge.dlapiper.com/dlapiperknowledge/globalemploymentlatestdevelopments/2025/supreme-court-mandates-six-week-compliance-survey-for-PoSH-act> (last visited Dec. 13, 2025) (“The Supreme Court directed all organizations to complete compliance surveys under the PoSH Act within six weeks, emphasizing uniform adherence across states.”)

¹⁹ *Supreme Court Intervenes: Directives Issued for Implementation of the POSH Act*, Manupatra Academy (India), <https://www.manupatracademy.com/assets/pdf/legalpost/supreme-court-intervenes-directives-issued-for-implementation-of-the-POSH-act.pdf> (last visited Dec. 13, 2025).

Sexual Harassment electronic Box portal, also called the She-Box.²⁰ This would make available a centralised database to people, enhancing transparency.

What marks a glaring difference in this judgment/ directive of the Supreme Court is the fact that it moved away from the POSH Act's initial 'complaint-centric' redressal model to a 'state-monitored' enforcement model, away from being reactive to being proactive. It is now the responsibility of the state to look after non-compliance on its own, rather than waiting for an individual victim's complaint to take any kind of action. It ensures the principle of natural justice and shifts the burden away from the victim to prove the perpetrator's guilt, along with facing the trauma of harassment.

The Threat of Sanctions: Linking Compliance to Business Operations

Moving ahead of the nominal fine of ₹50,000 for non-compliance as the deterrent, the SC has furthermore elaborated provisions of the possibility of non-renewal of the entity's licence by the Labour Department in case of non-compliance, until full compliance is showcased. It directly affects the organization's operability and reputation and thus raises the POSH Act from being a mere HR formality to an actual corporate governance issue.

A NATIONAL AUDIT OF COMPLIANCE: DATA, DISPARITIES, AND THE "ZERO-CASE" PARADOX

The Rising Tide of Reported Cases

Data from the years following the COVID-19 pandemic revealed a significant number of sexual harassment complaints in the Indian corporate sphere. Analysis of the top 10 private companies by market capitalization shows a 79% rise in complaints over the five years from FY20 to FY24, increasing from 281 to 503 cases.²¹ Another analysis of a sample of 300 NSE-listed companies by the Centre for Economic Data and Analysis (CEDA) found that reported cases jumped by

²⁰ *Supreme Court Mandates Six-Week Compliance Survey for PoSH Act*, DLA Piper GENIE (Aug. 27, 2025), <https://knowledge.dlapiper.com/dlapiperknowledge/globalemploymentlatestdevelopments/2025/supreme-court-mandates-six-week-compliance-survey-for-PoSH-act>.

²¹ Sexual harassment complaints at India Inc rise by 79% in last 5 years, *HR News*, Economic Times (Dec. 10, 2024), <https://hr.economictimes.indiatimes.com/news/workplace-4-0/diversity-and-inclusion/sexual-harassment-complaints-at-india-inc-rise-by-79-in-last-5-years/116137786>. [ETHRWorld.com](https://www.ETHRWorld.com)

51.2% in a single year, from 767 in FY 2021-22 to 1,160 in FY 2022-23.²² However, this trend could also be a result of the growing awareness and reporting of more cases than before.

The following table provides a longitudinal view of these trends, illustrating the widening gap between complaints and resolutions.

Table 1: National POSH Act Compliance and Reporting Trends in a Sample of 300 NSE-Listed Companies (FY 2014 - FY 2023)

Financial Year	Total Complaints Reported	Total Cases Resolved	Cases Pending at Year-End	Resolution Rate (%)	No. of Companies Reporting at least 1 Case (out of 300)	Key Observations & Source Snippets
FY 2013-14	161	109	29	67.7%	18	Initial reporting post-Act enforcement ⁴⁷
FY 2014-15	465	406	(Data Unavailable)	87.3%	43	Sharp increase in reporting in the

²² 'A Decade of the POSH Act: What the Data Tells Us About How India Inc. Has Fared', Centre for Economic Data & Analysis (CEDA), Ashoka University (May 16, 2024), <https://ceda.ashoka.edu.in/a-decade-of-the-posh-act-what-the-data-tells-us-about-how-india-inc-has-fared/>.

						second year ⁴⁷
FY 2015-16	597	(Data Unavaila ble)	(Data Unavaila ble)	-	49	Consisten t growth in reported cases ⁴⁷
FY 2016-17	674	(Data Unavaila ble)	(Data Unavaila ble)	-	50	Reporting continues to rise steadily ⁴⁷
FY 2017-18	758	(Data Unavaila ble)	(Data Unavaila ble)	-	65	More companie s begin to report cases ⁴⁷
FY 2018-19	895	(Data Unavaila ble)	(Data Unavaila ble)	-	70	Continue d upward trend pre-pande mic ⁴⁷

FY 2019-20	961	(Data Unavaila ble)	(Data Unavaila ble)	-	72	Pre-pande mic peak in reported complaint s ⁴⁷
FY 2020-21	586	(Data Unavaila ble)	(Data Unavaila ble)	-	65	Significa nt dip in reporting during pandemic /WFH period ⁴⁷
FY 2021-22	767	(Data Unavaila ble)	(Data Unavaila ble)	-	77	Reporting resumes sharp upward trend post-pand emic ⁴⁷
FY 2022-23	1,160	(Data Unavaila ble)	202	-	81	Sharp 51.2% surge; resolution lags

						significantly ⁴⁷
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Note: Data on resolved cases for all years was not available in the provided materials, preventing a full calculation of the resolution rate trend. However, the available data points clearly indicate that complaint numbers are rising while the number of pending cases is also increasing, signifying a growing gap.

The "Zero-Case" Paradox and Compliance Disparities

Zero-case paradox means when the sample size is relatively small in the manner that a major chunk of the firms quote zero cases. For instance, though there has been an overall rise in complaints, the data is heavily dependent on a relatively small number of companies, viz, in FY 2022-23, the 1,160 cases reported in the CEDA sample came from just 81 of the 300 companies, meaning 219 firms reported zero cases.²³ Moreover, 27 out of India's top 100 companies reported no complaints at all that year, with 14 of them having never reported a single case since the Act's inception in 2013.²⁴

This is a false indication of perfectly safe workplaces; rather, it is an indication of a culture of silence and non-compliance. A report by the Martha Farrell Foundation noted that 31% of formal workplaces were found to be non-compliant with POSH requirements.²⁵ A more recent study found that 59% of organizations had not set up the mandated ICs.²⁶ Therefore, in such cases,

²³ 'A Decade of the POSH Act: What the Data Tells Us About How India Inc. Has Fared', Centre for Economic Data & Analysis (CEDA), Ashoka University (May 16, 2024), <https://ceda.ashoka.edu.in/a-decade-of-the-posh-act-what-the-data-tells-us-about-how-india-inc-has-fared/>.

²⁴ 'A Decade of the POSH Act: What the Data Tells Us About How India Inc. Has Fared', Centre for Economic Data & Analysis (CEDA), Ashoka University (May 16, 2024), <https://ceda.ashoka.edu.in/a-decade-of-the-posh-act-what-the-data-tells-us-about-how-india-inc-has-fared/>.

²⁵ After 10 Years Of POSH Act, Data Shows Increase In Reported Cases, But Many Loopholes Remain, *Feminism in India* (May 23, 2024), <https://feminisminindia.com/2024/05/23/after-10-years-of-posh-act-data-shows-increase-in-reported-cases-but-many-loopholes-remain/>.

²⁶ 'A Decade of the POSH Act: What the Data Tells Us About How India Inc. Has Fared', Centre for Economic Data & Analysis (CEDA), Ashoka University (May 16, 2024), <https://ceda.ashoka.edu.in/a-decade-of-the-posh-act-what-the-data-tells-us-about-how-india-inc-has-fared/>.

zero-cases do not mean perfect safety but are symptomatic of dysfunctional workplaces, with no reporting mechanism and a likely existence of a culture of threat and/ or unawareness.

Sectoral and Size-Based Disparities

There is also a stark difference on the basis of size and sector of work of a company. Approximately 98-100% of all reported cases in the CEDA sample came from "Large" companies (top 100 by market capitalization), while "Mid-range" and "Small" companies reported a negligible share, with small companies reporting zero cases in any year.²⁷ This translates to the conclusion that smaller companies are more complacent, not likely to be scrutinized, resulting in higher rates of non-compliance.

Sector-wise, industries in the Information Technology (IT) and Banking sector are more consistent in reporting the highest number of complaints. In FY24, TCS (110 complaints), HCL Technologies (87 complaints), and ICICI Bank (133 complaints) were among the leaders in reported cases.²⁸ This can mean a larger female workforce, better awareness, more functional reporting system. On the contrary, the informal sector of India, which employs about 95% of the female workforce, is an absolute black hole data-wise, and its primary reach-out point, the LCs are largely dysfunctional.

STATE RESPONSES TO THE ENFORCEMENT MANDATE: A COMPARATIVE ANALYSIS

Proactive Enforcement Models

After the mandate of the Supreme Court, certain states have adopted a more proactive approach and enforcement techniques such as –

²⁷ 'A Decade of the POSH Act: What the Data Tells Us About How India Inc. Has Fared', Centre for Economic Data & Analysis (CEDA), Ashoka University (May 16, 2024), <https://ceda.ashoka.edu.in/a-decade-of-the-posh-act-what-the-data-tells-us-about-how-india-inc-has-fared/>.

²⁸ Sexual harassment complaints at India Inc rise by 79% in last 5 years, *HR News, The Economic Times* (Dec. 10, 2024), <https://hr.economictimes.indiatimes.com/news/workplace-4-0/diversity-and-inclusion/sexual-harassment-complaints-at-india-inc-rise-by-79-in-last-5-years/116137786>.

- **Maharashtra:** The Maharashtra State Women's Commission has made periodic POSH audits mandatory for all workplaces. It has also been urged that these audits be as prioritized as the financial or fire audits. Additionally, there are surprise visits conducted to ensure compliance with the mandate, especially the fully functional Internal Committees, penalising with ₹50,000 for non-formation.
- **Karnataka:** The Karnataka government, taking cognizance of the Supreme Court mandate, has delegated the Labour Department with the task of ensuring IC compliance at workplaces with a strength of 10 or more employees. They submit their report to the District Administration, maintaining a state-wide record.

Compliance through Circulars and Digital Integration

- **Delhi:** Not only has the NCT of Delhi's Labour Department issued a directive reinforcing the organizations (with 10 or more employees) to constitute a fully functional IC, but it has also advised all public and private sector employers to register their organizations on the She-Box portal of the central government to facilitate online grievance redressal.
- **Tamil Nadu:** The Tamil Nadu Directorate of Medical and Rural Health Services, following the recommendations of NHRC, has issued a circular asking all the district joint directors to establish ICs in government hospitals, publicly display the committee details as well as the POSH guidelines.

The Patchwork of Implementation

Although a step in the positive direction, these actions of various states are detached from each other and nationally non-uniform. These are devoid of a centralised cohesive enforcement strategy and rather dependent on the state commissions and departments. It leaves the women at the workplace at the whims and fancies of the various state departments, causing confusion and ambiguity. A May 2025 status report submitted to the Supreme Court revealed that while most states had appointed District Officers and constituted LCs, in most jurisdictions, there was a lack of any comprehensive survey on the district level that covered private workplaces. As of that

report, “only the Andaman and Nicobar Islands had fully completed the survey for both government and private establishments.”²⁹

This yet again brings to the fore an over-dependence on judicial oversight. For example, notifications of states like Karnataka and Delhi explicitly refer to the Supreme Court’s mandate of the *Aureliano Fernandes* case as their primary trigger point of action. It brings this reactive tendency forward and a lack of internal monitoring mechanisms to solve a problem before it arises. It also means that women’s safety at the workplace is yet not a primary point of contention for state machinery or their administrative policy even now.

DECONSTRUCTING THE IMPLEMENTATION DEFICIT: A MULTI-FACTOR ANALYSIS OF PERSISTENT OBSTACLES

The Awareness Deficit: A Foundation of Failure

A 2023 collaborative survey of Stratfix Consulting and National Human Resource Development (NHRD) revealed that “only 8% of employees were aware of the POSH Act.”³⁰ This finding is corroborated by the NARI 2025 national survey, which found that nearly half of working women (53%) were unaware whether their employer even had a POSH policy.³¹ This evident ignorance is the key to most organizations’ non-compliance. Either the employers are unaware of their duty to form ICs, or the employees are oblivious to their right provided by the law.

The Culture of Silence: Fear of Retaliation and Institutional Distrust

²⁹ *SC Orders States, UTs to Complete POSH Act Compliance Survey in Six Weeks; Warns of Licence Action Against Non-Compliant Employers*, *The Law Advice* (Aug. 13, 2025), <https://www.thelawadvice.com/news/sc-orders-states-uts-to-complete-posh-act-compliance-survey-in-six-weeks-warns-of-licence-action-against-non-compliant-employers>. *The Law Advice*

³⁰ Only 8% Employees Aware of the PoSH Act, Reveals Survey, *HR News*, *ET HRWorld* (Apr. 11, 2024), <https://hr.economictimes.indiatimes.com/news/workplace-4-0/only-8-employees-aware-of-the-posh-act-reveals-survey/98193795>.

³¹ *Safe on Paper but Unsafe in Life: What NARI 2025 Reveals About Women’s Safety in Indian Cities*, *The Economic Times* (Aug. 29, 2025), <https://m.economictimes.com/news/new-updates/safe-on-paper-but-unsafe-in-life-what-nari-2025-reveals-about-india-cities/articleshow/123580019.cms>.

When unawareness is not the case, the societal taboo of bringing up the topic of harassment of any kind keeps the female employees at bay from standing up for their rights, and they refrain from reporting the complaints.

- **Fear of Retaliation:** It has been revealed through studies and surveys that women do not report owing to fear of dire consequences like demotion, societal pressure, job loss or damage to their career prospects. A 2022 report showed that 8 out of 10 women who report sexual harassment at the workplace face some form of retaliation.³² This builds a robust culture of putting up with silence, enduring harassment as a safer and more viable option than reporting it.
- **Lack of Faith in the System:** There is a deep-seated mistrust in the system wherein women fear that their complaints would not be taken seriously, they would be considered too demanding, or treated with suspicion, and if at all, the redressal will begin, it will be biased and prejudiced. This discourages women from taking up the path of reporting.

Procedural and Capacity Deficits of Redressal Bodies

When the complaints are finally filed, the ineffectiveness of the redressal bodies creates critical deficits in capacity and procedure.

- **Inadequate Training of IC Members:** It is the most critical point of failure, highlighting a lack of sensitivity, sensibility, and training regarding basic understanding of the legal aspect of the Act. A FICCI survey found that 40% of responding companies had not trained their IC members.³³ This lack of training leads directly to procedurally flawed inquiries, resulting in decisions that are frequently and successfully challenged in court, thereby delaying or denying justice.³⁴

³² How Retaliation Affects Reporting Sexual Harassment at Workplace?, *Ungender* (Aug. 15, 2024), <https://www.ungender.in/retaliation-and-sexual-harassment-at-workplace/>.

³³ *Fostering Safe Workplaces: Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013*, FICCI-EY Report (Nov. 2015), https://www.cquel.com/posh/wp-content/uploads/2016/11/FICCI_report_nov_2015.pdf.

³⁴ *POSH Act – Implementational Challenges*, *India Corporate Law* (Dec. 7, 2022), <https://corporate.cyrilamarchandblogs.com/2022/12/posh-act-implementational-challenges/>.

- **Procedural Ambiguities:** The POSH Act and its associated Rules lack detailed, codified procedures for conducting inquiries. Key aspects, such as the right to cross-examination, the standard of proof ("preponderance of probabilities" vs. "beyond a reasonable doubt"), rules for handling electronic evidence, and whether an IC's decision must be unanimous or by majority, are not explicitly defined.³⁵ This ambiguity creates significant legal uncertainty, making IC decisions vulnerable to judicial review and contributing to protracted litigation.

Structural Failures: The Invisibility of the Informal Sector

A near-total dormancy of the Local Committee (LC) framework is the most significant structural failure of the POSH Act's implementation.

- **The Dormant Local Committee (LC) Framework:** Research, particularly by the Martha Farrell Foundation, has exposed the systemic failure of LCs. An examination of RTI applications' data revealed that a majority of India's districts did not share data on their LCs, suggesting they are non-existent or non-functional.³⁶ Where they do exist, members are often unaware of their roles and responsibilities, and there is a severe lack of funding, awareness campaigns, and political will to make them operational.³⁷ This is exacerbated by broader challenges in rural local governance, including a lack of financial autonomy, inadequate capacity, and political interference.³⁸
- **Exclusion of the Majority:** 95% of the working women, employed in the domestic household or other informal sector, are anyway out of the ambit of the POSH Act in totality. For them, the law to protect their dignity at work is an unrealized dream.

³⁵ Lack of Effective Implementation of PoSH Act: An Analysis of the Procedural Setbacks, *CCJA-RMLNLU Blog* (July 25, 2020), <https://ccjarmnlulu.wordpress.com/2020/07/25/lack-of-effective-implementation-of-posh-act-an-analysis-of-the-procedural-setbacks/>.

³⁶ *The Grey Area of PoSH: Understanding Hidden Workplace Harassment*, *Changeincontent* (June 2, 2025), <https://www.changeincontent.com/the-grey-area-of-posh/>.

³⁷ *POSH Policy Drafting, Review & Compliance Support*, DigiLawyer, <https://digilawyer.ai/consultation/posh-compliance>.

³⁸ *Status of Local Rural Governance in India: Emerging Structural Fault Lines and Remedies*, *Journal of Political Science* (Vol. 7, No. 4), <https://www.journalofpoliticalscience.com/uploads/archives/7-4-26-323.pdf>.

These deficits need to be seen in tandem with each other and not as standalone issues. Firstly, there is a lack of awareness. When complaints are filed, there exists a fear of judgment and bias; if that is overseen by a woman, then the IC is inadequately trained, making the entire process a sham! This delayed, denied, and unjust system of redressal has flaws and loopholes at every nook and corner, which need extreme willpower and prioritization to be implemented.

CONCLUSION AND RECOMMENDATIONS FOR A ROBUST ENFORCEMENT REGIME

Summary of Findings: A System in Need of Overhaul

The POSH Act, even after a decade of its implementation on paper, has failed to keep its promise of creating a safe working environment for women at the workplace. Systemic failure, implementational challenges, cultural silence and taboo, procedural weakness inside the redressal bodies, and a near-collapsing situation of the LCs framework are major challenges.

Whereas the directives of the Supreme Court have acted as a catalyst, proper bridging of the implementational gaps is necessary to ensure the safety of women both in the formal sector as well as informal sector.

The gap between the law on paper and its practice on the ground is vast, leaving millions of women without effective recourse and undermining the Act's core objective.

Recommendations for Strengthening Institutional Accountability

A multi-faceted approach focusing on legislative reform, stronger penalties, and mandatory capacity building is essential to bridge this deep chasm of implementation gap.

- **Legislative Amendments:** The POSH Act must be amended to include:
 - **Codified Procedural Guidelines:** Introduce a step-by-step, clear procedure of enquiry that ensures rights of both parties, with transparency, and has a definitive procedure of what could be the proofs, their handling, decision-making, etc.

- **Strengthened Anti-Retaliation Provisions:** Incorporate a specific and robust anti-retaliation clause, with stringent penalties for any punitive action taken against complainants or witnesses.
- **Gender-Neutral Application:** The ambit of the Act needs to protect all genders, address same-gender harassment, protect non-binary individuals as well, and align with the basic premise of natural justice and equality.
- **Strengthening Penalties:** Decision should be taken on whether the penalty of up to ₹50,000 for non-compliance is a workable deterrent or not. Various penalizing provisions should be discussed and laid down in clear terms, ensuring that non-compliance is considered a serious offence.
- **Mandatory, Standardized Training:** The Central government, with NCW and other authorities, should codify a certified accreditation and training module for all IC and LC members, treating it as a serious business.

Eventually, legal and administrative reforms alone are insufficient. The true success of the POSH Act will be measured by its ability to catalyze a cultural shift away from silence and complacency to zero tolerance, respect, and psychological safety within Indian workplaces.

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