

**INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES**
[ISSN 2581-5369]

Volume 9 | Issue 5

2026

© 2026 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

This article is brought to you for free and open access by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of **any suggestions or complaints**, kindly contact support@vidhiaagaz.com.

To submit your Manuscript for Publication in the **International Journal of Law Management & Humanities**, kindly email your Manuscript to submission@ijlmh.com.

Sexual Harassment at the Workplace in India: A Critical Analysis of the POSH Act, 2013, Judicial Developments and Institutional Accountability

GIRIJA DEVI T*  AND MOHD. LIYAKHAT ALI** 

ABSTRACT

Sexual harassment at the workplace is a serious violation of equality, dignity, personal liberty and the right to pursue employment in a safe environment. In India, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, commonly known as the POSH Act, transformed the constitutional principles developed in Vishaka v. State of Rajasthan into a statutory framework for prevention, prohibition and redressal. The legislation establishes institutional mechanisms, particularly Internal Committees and Local Committees, prescribes complaint and inquiry procedures, imposes duties upon employers, and provides safeguards concerning confidentiality, interim relief and remedies. This paper critically examines workplace sexual harassment from constitutional, statutory, procedural and institutional perspectives. It traces the development of the legal framework from Vishaka and subsequent judicial decisions to the enactment of the POSH Act. Particular attention is given to the statutory definition of sexual harassment, the meaning of workplace, the constitution and functioning of Internal Committees, complaint procedures, inquiry standards, employer responsibilities, confidentiality, victim protection and available remedies. The study also considers the judicial developments in Medha Kotwal Lele v. Union of India and Aureliano Fernandes v. State of Goa, which emphasised effective implementation and institutional compliance. The research adopts a doctrinal and analytical methodology based on constitutional provisions, legislation, judicial decisions, statutory rules and official materials. It argues that the effectiveness of the POSH framework depends not merely upon constituting committees, but upon their independence, competence, accessibility, procedural fairness and institutional accountability. The paper proposes stronger training, transparent committee functioning, secure complaint mechanisms, timely inquiries, protection against retaliation, periodic audits and meaningful enforcement, so that the statutory promise of a safe and dignified workplace becomes an effective reality for women across Indian workplaces.

* Author is a Student at Aurora Deemed to be University, Bhongir, Telangana, India. ORCID: <https://orcid.org/0009-0009-2639-2392>

** Author is a Student at Aurora Deemed to be University, Bhongir, Telangana, India. ORCID: <https://orcid.org/0009-0004-3057-2058>

Keywords: Sexual harassment, POSH Act, workplace dignity, Internal Committee, Local Committee, Vishaka, women's rights, natural justice, employer accountability

I. INTRODUCTION

Sexual harassment at the workplace is not merely an issue of inappropriate behaviour; it is a legal and constitutional question concerning equality, dignity, autonomy and access to employment on fair terms. A woman who enters a workplace is entitled to perform her professional role without being subjected to unwelcome conduct of a sexual nature, threats linked to employment, hostile working conditions or retaliation for refusing such conduct.

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (the POSH Act) adopts a preventive, prohibitory and remedial structure. It defines sexual harassment, identifies circumstances in which conduct may amount to harassment, expands the concept of workplace beyond a conventional office, and creates institutional mechanisms for receiving and deciding complaints. Employers covered by the Act are required to constitute an Internal Committee, while the statutory framework provides for Local Committees for establishments and situations falling outside the ordinary Internal Committee structure.¹

The contemporary importance of the POSH framework lies in implementation. Merely constituting an Internal Committee does not establish compliance if members are inadequately trained, complainants cannot access the mechanism, inquiries are delayed, confidentiality is compromised or employers fail to implement lawful recommendations. The Supreme Court's later decisions, particularly *Medha Kotwal Lele v. Union of India* and *Aureliano Fernandes v. State of Goa*, emphasise that the statutory framework requires active institutional compliance.²

This paper examines workplace sexual harassment through nine interconnected parts. Part II sets out the literature review, methodology and analytical framework. Part III analyses the constitutional and statutory foundation of the POSH regime. Part IV examines the institutional architecture of Internal and Local Committees and its implementation. Part V considers complaint, inquiry, interim relief, confidentiality and evidentiary issues. Part VI evaluates judicial developments and the institutional role of courts and employers. Part VII considers constitutional rights, procedural fairness and workplace justice. Part VIII offers a critical assessment and recommendations, and Part IX concludes.

¹ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, No. 14 of 2013, INDIA CODE (2013) [hereinafter POSH Act].

² *Medha Kotwal Lele v. Union of India*, (2013) 1 SCC 297; *Aureliano Fernandes v. State of Goa*, (2024) 1 SCC 632.

II. LITERATURE REVIEW, METHODOLOGY AND ANALYTICAL FRAMEWORK

The literature concerning workplace sexual harassment in India draws from constitutional law, labour and service law, feminist legal scholarship, human-rights discourse and institutional governance. Constitutional scholarship focuses on equality, dignity and the right to work in conditions free from discrimination and harassment. Labour-law analysis examines the employer's duty to maintain a safe workplace and the procedural implications of disciplinary action. Feminist legal scholarship has highlighted the structural dimensions of harassment, including unequal power relationships, retaliation and barriers to reporting.

A. Conceptualising workplace sexual harassment

Sexual harassment under the POSH Act is defined through specified unwelcome acts or behaviour of a sexual nature. The statutory formulation includes physical contact and advances, a demand or request for sexual favours, sexually coloured remarks, showing pornography, and any other unwelcome physical, verbal or non-verbal conduct of a sexual nature.³

B. Nature and evolution of the legal framework

The legal framework developed in stages. Before the POSH Act, *Vishaka* supplied judicially enforceable guidelines based on constitutional rights and international commitments. The decision recognised that existing legal remedies were insufficient to address the specific problem of workplace sexual harassment and therefore prescribed preventive and remedial obligations for employers. *Medha Kotwal Lele* later addressed implementation deficiencies and reinforced the need for effective compliance with the *Vishaka* framework. Parliament subsequently enacted the POSH Act in 2013, establishing a detailed statutory mechanism.⁴

C. Research methodology

The study adopts a doctrinal, qualitative and analytical methodology. Primary materials include the Constitution of India, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013, and relevant Supreme Court decisions. Official materials issued by government authorities and the Supreme Court are considered in order to understand institutional implementation. Secondary materials include scholarly commentary and legal literature on gender equality, workplace dignity, labour regulation and organisational accountability.

³ See POSH Act § 2(n) (definition of sexual harassment).

⁴ *Vishaka v. State of Rajasthan*, (1997) 6 SCC 241; *Medha Kotwal Lele*, *supra* note 2; POSH Act, *supra* note 1.

D. Scope and limitations

The paper focuses on sexual harassment of women in workplaces governed by the POSH Act and on the prevention, prohibition and redressal mechanisms created by that legislation. It examines Internal Committees, Local Committees, employer duties, complaint procedures, inquiries, confidentiality, remedies and judicial supervision. It does not undertake an empirical survey of reported complaints across industries or states, nor does it attempt to measure the prevalence of harassment statistically.

E. Analytical framework

The analysis proceeds through five questions: whether the law clearly defines prohibited conduct; whether affected women can access an independent and competent complaint mechanism; whether inquiry procedures provide procedural fairness and reliable fact-finding; whether employers effectively implement their statutory duties; and whether judicial and institutional oversight can correct failures. The study treats prevention and redressal as interconnected. A complaint mechanism cannot be effective if women do not know that it exists, cannot trust its independence or fear retaliation.

III. CONSTITUTIONAL AND STATUTORY FRAMEWORK GOVERNING WORKPLACE SEXUAL HARASSMENT

The POSH Act operates within a constitutional framework in which workplace sexual harassment is linked to equality, dignity and occupational freedom. The statutory scheme must therefore be understood not merely as an employment policy but as legislation giving concrete effect to constitutional values. Its design reflects the proposition that women cannot meaningfully enjoy equality in employment where access to work is conditioned by exposure to sexual conduct, retaliation or a hostile environment.

A. Constitutional foundation

Articles 14 and 15 establish guarantees of equality and protection against discrimination, while Article 19(1)(g) protects the freedom to practise any profession or to carry on any occupation, trade or business, subject to constitutionally permissible restrictions. Article 21 has been interpreted to protect life and personal liberty in a manner encompassing dignity and the conditions necessary for meaningful participation in social and professional life.⁵

⁵ INDIA CONST. arts. 14, 15, 19(1)(g), 21; *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1 (dignity).

B. The POSH Act, 2013

The POSH Act is formally titled the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. Its statutory purpose is to protect women against sexual harassment at the workplace and to provide for the prevention and redressal of complaints of sexual harassment. Section 3 prohibits sexual harassment and identifies circumstances connected with employment that may amount to harassment.⁶

C. Definition of workplace and aggrieved woman

The Act adopts an intentionally broad concept of workplace. It includes government and private organisations, hospitals, educational institutions, sports institutions, places visited during employment and certain employer-provided transportation, in addition to other places covered by the statutory definition. An aggrieved woman may be of any age and need not necessarily be an employee in the conventional sense contemplated by a narrow employer-employee relationship.⁷

D. Internal Committee and Local Committee

The Internal Committee is the principal institutional mechanism for workplaces to which the statutory requirement of constitution applies. The Presiding Officer must ordinarily be a woman employed at a senior level, and the committee must include employee members with relevant commitment, experience or legal knowledge, together with an external member drawn from a non-governmental organisation or association committed to the cause of women, or a person familiar with the issues relating to sexual harassment. At least one-half of the total members nominated must be women.⁸

E. Employer duties and preventive obligations

The employer's role extends beyond constituting a committee. The Act requires employers to provide a safe working environment and to display the penal consequences of sexual harassment and the order constituting the Internal Committee. Employers must organise awareness programmes for employees and orientation programmes for committee members, assist the committee in conducting inquiries, provide the facilities required for an inquiry, and support the implementation of recommendations. These obligations indicate that prevention is a continuing organisational function.⁹

⁶ POSH Act pmb., § 3.

⁷ POSH Act §§ 2(a), 2(o) (definitions of aggrieved woman and workplace).

⁸ POSH Act §§ 4, 6, 7 (Internal Committee and Local Committee).

⁹ POSH Act § 19 (duties of employer).

F. Interaction with other laws and remedies

The POSH mechanism does not exclude other legal remedies. Conduct constituting sexual harassment may also attract provisions of criminal law, service rules, employment contracts or other civil and disciplinary mechanisms, depending upon the facts. The POSH inquiry serves a specialised statutory purpose, particularly in determining whether workplace misconduct occurred and what remedial action should follow. Where conduct may constitute a criminal offence, the statutory framework also contemplates appropriate assistance and interaction with law-enforcement mechanisms.¹⁰

IV. INSTITUTIONAL ARCHITECTURE AND IMPLEMENTATION OF THE POSH ACT

The institutional design of the POSH Act reflects a recognition that workplace harassment cannot be addressed effectively through general litigation alone. A complaint usually arises within an existing employment hierarchy, where the respondent may be a supervisor, colleague, employer or person exercising professional influence. The law therefore creates specialised bodies capable of receiving complaints and conducting inquiries within a defined statutory framework. At the same time, the institutional location of the committee creates risks.

A. Composition, tenure and competence of Internal Committees

The statutory composition requirements are intended to ensure representation, gender sensitivity and an external perspective. The Presiding Officer is ordinarily a senior woman employee, while employee members should preferably have demonstrated commitment to the cause of women, experience in social work or legal knowledge. The external member is intended to provide specialised understanding that may not exist within the organisation. These requirements are meaningful only when appointments are based on competence rather than convenience.¹¹

B. Accessibility and confidentiality

A complaint mechanism is ineffective if a woman does not know where to complain or believes that the complaint will become workplace gossip. The Act imposes confidentiality obligations concerning the complaint, the identities of the parties and witnesses, the inquiry proceedings and the recommendations. Confidentiality protects dignity and reduces the risk of retaliation,

¹⁰ POSH Act §§ 19(g)–(h), 28; Bharatiya Nyaya Sanhita, No. 45 of 2023, INDIA CODE (2023), §§ 74–79 (offences against women, including sexual harassment under § 75, which replaced Indian Penal Code § 354A with effect from July 1, 2024). Sections 11(1) and 19(g)–(h) of the POSH Act still refer to the Indian Penal Code, 1860, which the Bharatiya Nyaya Sanhita repealed.

¹¹ POSH Act § 4(2)–(3) (composition and tenure of the Internal Committee); *see also id.* § 7 (Local Committee).

but it does not mean that a respondent must be denied the information necessary to defend himself.¹²

C. Workplace power relations and retaliation

Workplace harassment often occurs within unequal power relationships. A supervisor may influence assignments, performance evaluations, promotions or continued employment, while a complainant may fear professional isolation after reporting misconduct. The possibility of retaliation can therefore suppress legitimate complaints even where the formal procedure is accessible. Employers should adopt clear anti-retaliation policies and treat interference with the complaint process seriously.¹³

D. Training, awareness and organisational culture

Prevention requires more than an annual email announcing the existence of the POSH policy. Employees should understand what conduct is prohibited, how complaints can be made, what confidentiality means, and what consequences may follow proven misconduct. Supervisory personnel require additional training because they frequently control workplace assignments and may receive complaints informally before a formal complaint is made. Committee members require specialised training in inquiry procedure and the assessment of evidence.¹⁴

E. Digital workplaces and remote harassment

The growth of remote work and digital communication has expanded the contexts in which workplace interactions occur. Emails, messaging platforms, video conferences, professional networking applications and employer-managed digital systems may become relevant when conduct is connected with employment. The statutory definition of workplace is sufficiently broad to accommodate work-related environments beyond a traditional office, but institutional policies should expressly address digital conduct. Screenshots, messages, call records and platform logs may also become evidence in an inquiry.¹⁵

F. Institutional compliance and accountability

The Supreme Court's decision in *Aureliano Fernandes* demonstrates the continuing judicial concern with implementation. The Court directed governments and institutions to verify the

¹² POSH Act § 16 (prohibition of publication or making known contents of complaint and related information); Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013, G.S.R. 769(E) (Dec. 9, 2013), r. 7(2) [hereinafter POSH Rules] (copy of the complaint to be sent to the respondent).

¹³ See *Vishaka*, *supra* note 4; *Medha Kotwal Lele*, *supra* note 2.

¹⁴ POSH Act § 19(c) (awareness and orientation programmes).

¹⁵ POSH Act § 2(o) (broad definition of workplace); see also *Anvar P.V. v. P.K. Basheer*, (2014) 10 SCC 473 (electronic evidence principles under Indian Evidence Act, 1872, § 65B, now Bharatiya Sakshya Adhiniyam, No. 47 of 2023, INDIA CODE (2023), § 63).

constitution and composition of Internal and Local Committees and to make relevant information, including contact details and complaint procedures, readily available. This approach recognises that a statutory committee that exists only on paper does not provide meaningful protection.¹⁶

V. COMPLAINT, INQUIRY AND EVIDENTIARY PROCEDURE

The credibility of the POSH regime depends heavily on the fairness and quality of the inquiry process. A complaint of sexual harassment may involve events occurring in private, conflicting accounts, digital communications and workplace relationships that cannot be understood through a single piece of evidence. The committee must therefore undertake a structured fact-finding exercise while preserving confidentiality and the respondent's opportunity to answer the allegations.

A. Filing of complaint and preliminary process

Section 9 provides the statutory basis for a written complaint by the aggrieved woman within three months of the incident, or of the last incident in a series, subject to the committee's power to extend that period by up to a further three months in appropriate circumstances. The Act and the Rules also recognise situations in which assistance may be necessary for making a complaint, and situations in which another person may complain on the woman's behalf. Institutions should ensure that technical inability to draft a complaint does not become an unnecessary barrier to access.¹⁷

B. Conciliation and interim measures

The Act permits conciliation at the request of the aggrieved woman before commencement of the inquiry, subject to the statutory restriction that no monetary settlement may be made the basis of conciliation. Conciliation should therefore not become a mechanism through which an employer pressures a complainant to withdraw a legitimate complaint. During the pendency of an inquiry, the committee may, on a written request by the aggrieved woman, recommend interim measures such as the transfer of either party or leave of up to three months, which help to protect the complainant and preserve the integrity of the process.¹⁸

C. Inquiry, natural justice and evidence

The committee must provide the respondent with an opportunity to respond to the allegations and should assess relevant evidence from both sides. Natural justice requires a fair hearing, the

¹⁶ Aureliano Fernandes, *supra* note 2.

¹⁷ POSH Act § 9; POSH Rules, *supra* note 12, r. 6.

¹⁸ POSH Act §§ 10, 12 (conciliation and interim relief).

absence of predetermined bias and an opportunity to address material relied upon for the decision. Evidence may include emails, messages, photographs, recordings, workplace documents, witness testimony, attendance records and other relevant material.¹⁹

D. Confidentiality, privacy and record management

Confidentiality is central to the POSH process because disclosure of identities and allegations can itself cause reputational and professional harm. Section 16 restricts the publication or making known of the contents of a complaint, the identities of the parties and witnesses, information relating to conciliation or inquiry proceedings, recommendations and action taken, subject to the statutory scheme. Committees should maintain secure records and limit access to authorised persons. Digital storage requires additional safeguards, including access controls, password protection and protection against unauthorised forwarding.²⁰

E. Inquiry report and implementation

After the inquiry, the committee prepares its findings and recommendations in accordance with the statutory procedure. Where allegations are proved, the Act provides for recommendations concerning action under the applicable service rules or other measures contemplated by the legislation. Where allegations are not proved, the complaint should not result in adverse action merely because it was made. The employer has statutory responsibilities concerning the implementation of recommendations and reporting.²¹

F. False complaints and procedural balance

The POSH Act contains a specific provision concerning punishment for false or malicious complaints and false evidence, but the provision should not be interpreted as creating a penalty for every complaint that is ultimately unproved. A complaint may fail because evidence is insufficient, witnesses are unavailable or the committee cannot establish the allegation on the applicable standard. Malice requires a stronger factual basis than mere non-substantiation.²²

VI. JUDICIAL DEVELOPMENTS AND INSTITUTIONAL OVERSIGHT

Judicial decisions have played a central role in the development and implementation of workplace sexual-harassment law in India. *Vishaka* supplied the foundational guidelines; *Medha Kotwal Lele* addressed implementation; and *Aureliano Fernandes* examined compliance

¹⁹ POSH Act § 11; POSH Rules, *supra* note 12, r. 7(4) (inquiry to be made “in accordance with the principles of natural justice”).

²⁰ POSH Act § 16.

²¹ POSH Act § 13 (inquiry report, recommendations and action); *id.* § 14 (mere inability to substantiate a complaint need not attract action against the complainant); *id.* §§ 21–22 (annual reports).

²² POSH Act § 14 (false or malicious complaint and false evidence).

with the statutory framework after the POSH Act. Other decisions have addressed the meaning of dignity, sexual harassment, disciplinary proceedings and the relationship between workplace misconduct and criminal law. Judicial supervision is particularly important because institutional mechanisms can become ineffective when employers treat them as formalities.

A. *Vishaka* and the constitutionalisation of workplace safety

In *Vishaka v. State of Rajasthan*, the Supreme Court held that sexual harassment at the workplace implicates fundamental rights and laid down guidelines to protect working women until legislation was enacted. The judgment connected workplace safety with Articles 14, 15, 19(1)(g) and 21 and recognised the relevance of international conventions in interpreting constitutional guarantees. The guidelines required employers and institutions to establish preventive and remedial mechanisms, including a complaints mechanism with appropriate participation.²³

B. *Medha Kotwal Lele* and implementation

Medha Kotwal Lele v. Union of India addressed continuing deficiencies in the implementation of the *Vishaka* guidelines. The Court emphasised that compliance had to be substantive and that mechanisms for complaints and redressal needed to function effectively. The case is important because it demonstrates the difference between the existence of a legal rule and its implementation in workplaces.²⁴

C. *Aureliano Fernandes* and statutory compliance

In *Aureliano Fernandes v. State of Goa*, the Supreme Court issued directions designed to improve compliance with the POSH Act. The Court directed the Union and State authorities to undertake a time-bound exercise to verify whether Internal Committees, Local Committees and related bodies had been constituted in accordance with law. It further emphasised that information concerning committee composition, contact details and complaint procedures should be readily available and kept updated.²⁵

D. Judicial review, natural justice and employment discipline

POSH inquiries frequently intersect with service rules and disciplinary proceedings. Judicial review may therefore arise where a party alleges denial of natural justice, procedural irregularity, bias, jurisdictional error or failure to consider relevant evidence. Courts must

²³ *Vishaka*, *supra* note 4.

²⁴ *Medha Kotwal Lele*, *supra* note 2.

²⁵ *Aureliano Fernandes*, *supra* note 2.

balance the need to protect complainants with the principle that adverse employment consequences should follow a fair process.²⁶

E. Role of employers, District Officers and human-resource systems

The statutory framework distributes responsibilities among employers, Internal Committees, Local Committees and designated public authorities. Employers must create conditions in which the committee can function without improper interference, while District Officers have responsibilities connected with the Local Committee mechanism. Human-resource departments can support compliance by maintaining policies, training records and secure reporting channels, but they should not improperly control the adjudicatory function of the committee.²⁷

F. Judicial oversight as a continuing safeguard

The trajectory from *Vishaka* to *Aureliano Fernandes* shows that judicial oversight remains relevant even after statutory enactment. Courts can require institutions to implement statutory duties, correct systemic deficiencies and protect access to remedies. However, judicial directions cannot substitute for routine organisational compliance. The durable solution lies in making committee functioning, awareness, reporting and oversight part of ordinary institutional governance.²⁸

VII. CONSTITUTIONAL RIGHTS, PROCEDURAL FAIRNESS AND WORKPLACE JUSTICE

The POSH framework must reconcile two sets of legitimate interests. The first is the right of women to equality, dignity, privacy, occupational freedom and a workplace free from sexual harassment. The second is the respondent's right to fair procedure, reputation and an opportunity to contest allegations. These interests are not mutually exclusive. A process that disregards fairness can undermine legitimate complaints, while a process that disregards the complainant's safety and dignity can make statutory protection meaningless.

A. Article 14, equality and non-arbitrariness

Article 14 requires equality before the law and the equal protection of the laws, and has developed into a broader prohibition against arbitrary State action. Workplace sexual harassment can produce substantive inequality because women may be denied equal

²⁶ See POSH Act §§ 11, 18; POSH Rules, *supra* note 12, r. 7(4); *Aureliano Fernandes*, *supra* note 2 (quashing a dismissal because the inquiry by a university's standing committee on sexual harassment, held before the POSH Act came into force, breached the principles of natural justice, and remanding the matter to that committee).

²⁷ POSH Act §§ 4, 6, 19, 20 (employer, Local Committee and District Officer responsibilities).

²⁸ *Vishaka*, *supra* note 4; *Medha Kotwal Lele*, *supra* note 2; *Aureliano Fernandes*, *supra* note 2.

participation in professional life through intimidation, retaliation or discriminatory treatment. The POSH framework addresses this structural problem by creating a specialised mechanism rather than requiring every affected woman to pursue general remedies independently.²⁹

B. Article 21, dignity and personal autonomy

Article 21 protects life and personal liberty and has been interpreted to include dignity and decisional autonomy. Workplace sexual harassment can interfere with these interests by subjecting a woman to unwanted sexual conduct and by making continued employment psychologically or professionally unsafe. The right to dignity is therefore central to the preventive purpose of the POSH Act. Privacy is also relevant because complaint proceedings involve intimate information, personal communications and professional relationships.³⁰

C. Article 19(1)(g) and the right to work in a safe environment

Article 19(1)(g) protects the freedom to practise any profession or to carry on any occupation, trade or business, subject to constitutional restrictions. The right does not guarantee a particular job or workplace, but it supports the broader principle that participation in professional life should not be undermined by unlawful discrimination or harassment. *Vishaka* connected workplace sexual harassment with the constitutional right to carry on an occupation.³¹

D. Procedural fairness and natural justice

Natural justice is important in POSH proceedings because findings may affect employment, reputation and professional relationships. The respondent should receive adequate notice of the allegations and a meaningful opportunity to respond. The complainant should be able to present relevant evidence and should not be subjected to unnecessary intimidation or humiliating questioning. Committee members should avoid conflicts of interest and should assess evidence objectively.³²

E. Relationship between POSH proceedings and criminal law

Some acts alleged as workplace sexual harassment may also constitute offences under the general criminal law, now principally the Bharatiya Nyaya Sanhita, 2023, which replaced the Indian Penal Code, 1860 with effect from 1 July 2024. The POSH mechanism and criminal proceedings may therefore coexist, although their purposes and procedures differ. The committee's inquiry concerns workplace misconduct within the statutory framework, whereas

²⁹ INDIA CONST. art. 14; *Vishaka*, *supra* note 4.

³⁰ INDIA CONST. art. 21; *Puttaswamy*, *supra* note 5.

³¹ INDIA CONST. art. 19(1)(g); *Vishaka*, *supra* note 4.

³² See *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248 (procedural fairness); POSH Act § 11.

a criminal prosecution determines criminal liability according to the applicable penal and procedural law.³³

F. Remedies, appeals and judicial review

The POSH Act provides a statutory structure for recommendations and appeals. Remedies may include action under service rules, compensation in appropriate circumstances, and measures intended to prevent recurrence. The affected woman may also have access to other legal remedies where the facts support them. Judicial review provides an additional safeguard against jurisdictional or procedural error. A mature system therefore does not measure justice solely by whether a complaint is upheld.³⁴

VIII. CRITICAL ASSESSMENT AND RECOMMENDATIONS

The POSH Act represents a substantial development in Indian workplace law because it combines prevention, prohibition and redressal within a specialised statutory structure. Nevertheless, legal protection can weaken at the implementation stage. Common institutional risks include committees constituted without adequate training, uncertainty about jurisdiction, lack of awareness among employees, conflicts of interest, delays, inadequate confidentiality and weak implementation of recommendations. The solution is not necessarily to replace the statutory framework but to strengthen its institutional capacity and accountability.

A. Principal findings

The first finding is that the statutory definitions of sexual harassment and workplace are sufficiently broad to address many contemporary employment situations, including work-related spaces beyond a conventional office. Secondly, the Internal Committee is central to the regime, which makes the competence and independence of its members decisive. Thirdly, confidentiality and anti-retaliation measures are essential because fear of professional consequences can deter reporting.

B. Strengthening Internal Committee independence

Employers should ensure that Internal Committee members are selected on the basis of statutory eligibility, competence and credibility. Committee members should receive periodic training on the POSH Act and Rules, natural justice, evidence, confidentiality, digital communications and trauma-sensitive interaction. Organisations should avoid appointing individuals whose professional interests create a direct conflict with a complaint. The external member should be

³³ POSH Act §§ 19(g)–(h), 28; Bharatiya Nyaya Sanhita, *supra* note 10, §§ 74–79 (where conduct attracts criminal liability).

³⁴ POSH Act §§ 13, 15, 18 (recommendations, action, compensation and appeal).

genuinely independent and should have relevant experience rather than functioning as a nominal statutory appointment.

C. Secure and accessible complaint mechanisms

Every covered workplace should clearly display and digitally publish the names and contact details of the members of its Internal Committee and explain how a complaint can be submitted. Secure electronic complaint channels can improve access for employees working remotely or across multiple locations, but they should be supported by authentication, confidentiality controls and reliable record preservation. Employees should also be informed about the Local Committee mechanism where applicable.

D. Standardised training and awareness

Awareness programmes should be periodic, role-specific and documented. Employees should learn the statutory definition of sexual harassment, examples of prohibited conduct, reporting channels, confidentiality requirements and anti-retaliation principles. Managers should receive additional training because they may be the first institutional recipients of complaints and may control workplace conditions. Committee members should undergo more intensive procedural training. Organisations should retain records of training and periodically assess whether employees actually understand the complaint mechanism.

E. Strengthening documentation, audit and oversight

Institutions should maintain secure records of committee constitution, member training, awareness programmes, complaints received, inquiries completed and implementation of recommendations, subject to statutory confidentiality. Periodic compliance audits can verify whether committees are functional rather than merely constituted. Where the law requires annual reporting, organisations should provide accurate information to the competent authority. Aggregate institutional reporting can also help identify systemic weaknesses without publicly disclosing identities or sensitive facts.

F. Protection against retaliation and conflict of interest

Employers should expressly prohibit retaliation against complainants, respondents, witnesses and committee members who participate lawfully in proceedings. Allegations involving senior executives, owners or influential employees require particular attention because ordinary reporting lines may be compromised. In such circumstances, organisations should activate the legally appropriate alternative or external mechanism and ensure that committee members can

function without interference. Interim measures should be assessed individually and should not become disguised punishment.³⁵

G. Digital evidence and privacy safeguards

Because workplace communication increasingly occurs through digital systems, institutions should adopt protocols for preserving relevant messages, emails, recordings and other electronic material. The collection should remain proportionate and connected to the complaint. Committees should avoid unnecessary examination of unrelated private information and should secure digital records against unauthorised disclosure. Where authenticity or manipulation is disputed, appropriate technical assistance may be required. Digital evidence should supplement rather than replace contextual assessment.³⁶

H. Proposed rights-sensitive accountability model

An effective POSH model can be organised into seven stages: prevention through awareness and safe workplace policies; accessible complaint registration; impartial committee constitution; fair and confidential inquiry; timely and reasoned recommendations; implementation and appeal; and periodic institutional audit. Each stage should generate sufficient documentation for lawful review while limiting unnecessary disclosure of personal information. The model should also integrate employer responsibility with statutory oversight.

IX. CONCLUSION

Workplace sexual harassment is fundamentally a question of equality, dignity and access to professional life without unlawful interference. India's legal framework has evolved from the constitutional intervention in *Vishaka* to the detailed statutory structure established by the POSH Act, 2013. The Act defines prohibited conduct, establishes Internal and Local Committees, prescribes complaint and inquiry procedures, imposes preventive duties upon employers and creates a framework for remedies and oversight.

The principal challenge is therefore institutional. A committee that is improperly constituted, inaccessible, inadequately trained or influenced by management cannot provide meaningful protection. Similarly, a complaint process that ignores confidentiality or natural justice may produce further harm and undermine confidence in the law. Effective POSH compliance requires trained committee members, clear complaint channels, protection against retaliation, secure records, timely inquiries and implementation of recommendations.

³⁵ POSH Act §§ 12, 19; *Vishaka*, *supra* note 4.

³⁶ See *Anvar P.V.*, *supra* note 15; *Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal*, (2020) 7 SCC 1.

The constitutional foundation of the POSH regime provides an enduring guide. Articles 14, 15, 19(1)(g) and 21 support a legal order in which women can participate in professional and public life with equality and dignity. The POSH Act gives institutional content to those principles.

Ultimately, prevention and accountability must operate together. Awareness without an accessible complaint mechanism is insufficient; a complaint mechanism without independence is unreliable; an inquiry without procedural fairness is vulnerable; and a finding without implementation is ineffective. The future of workplace sexual-harassment regulation therefore lies in continuous institutional compliance, professional training, secure documentation, privacy protection, independent oversight and judicial supervision where required.
