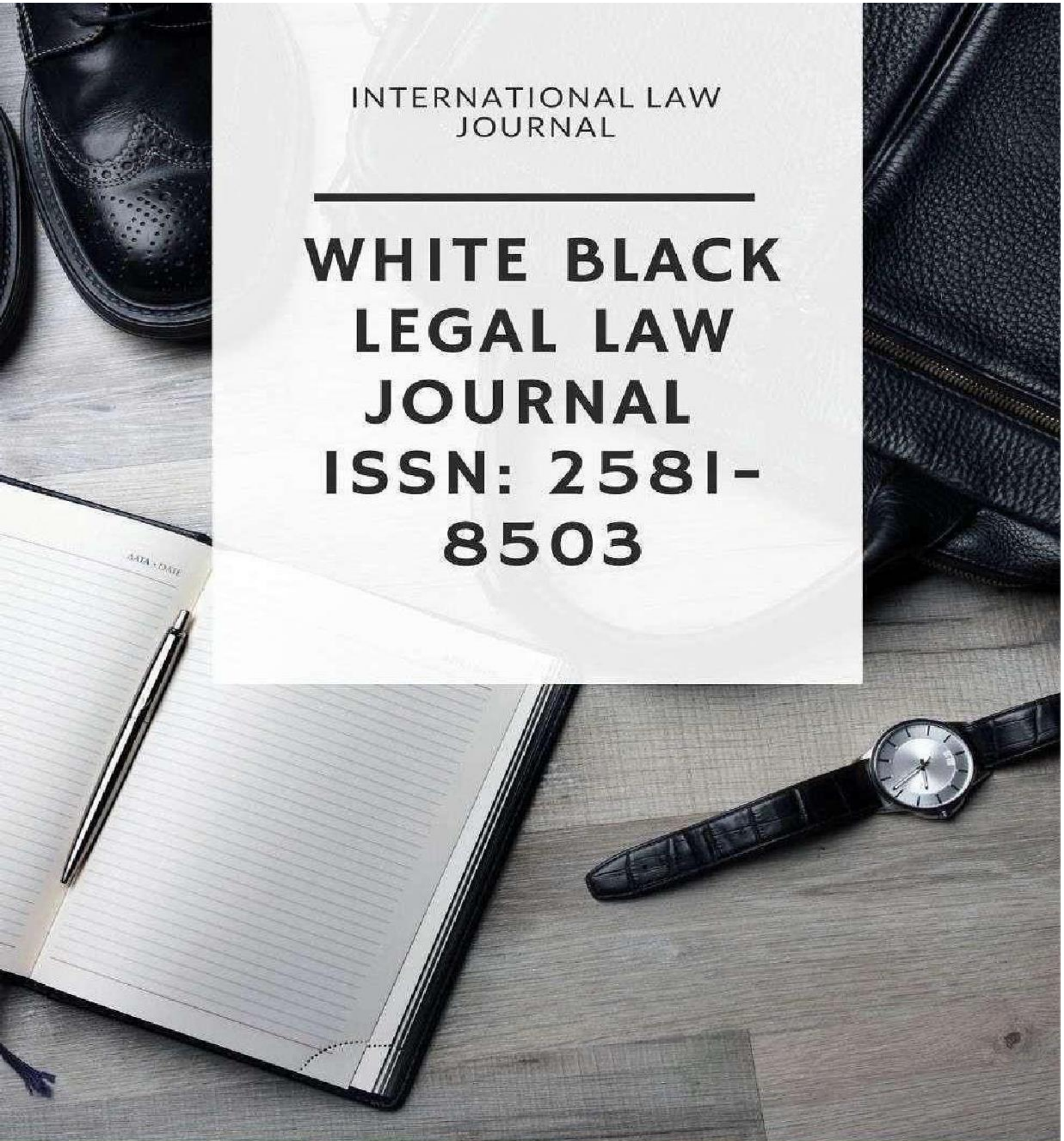




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A STUDY ON WORKPLACE SEXUAL HARASSMENT UNDER THE POSH ACT, 2013”

AUTHORED BY - RAHUL M

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CHAPTER I – INTRODUCTION

1.1 Background of the Study

A safe workplace is an important part of a person's right to work with dignity. Employment provides economic security and professional opportunities, but it should also provide an environment where individuals are able to perform their duties without fear, humiliation or unwanted conduct. Workplace sexual harassment affects this basic expectation of safety and may have consequences for a woman's dignity, equality and continued participation in employment.¹

Sexual harassment at the workplace may take different forms. It can include unwelcome physical contact, demands or requests for sexual favours, sexually coloured remarks, showing sexually explicit material and other unwelcome physical, verbal or non-verbal conduct of a sexual nature. The seriousness of such conduct does not depend only upon the physical act involved. Its effect on the dignity and working environment of the woman concerned is also an important consideration.²

The legal development relating to workplace sexual harassment in India has an important judicial foundation. Before the enactment of specific legislation, the Supreme Court in *Vishaka v. State of Rajasthan* recognised workplace sexual harassment as an issue involving the fundamental rights of women. The Court relied upon constitutional guarantees of equality, non-discrimination, freedom and life with dignity and laid down guidelines for prevention and redressal of sexual harassment at the workplace.³

The Vishaka guidelines represented an important development because, at that time, India did not have a specific legislation dealing comprehensively with sexual harassment at the workplace. The Court therefore created a framework which could be followed by employers and institutions until appropriate legislation was enacted. The later enactment of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 converted this judicial framework into a statutory system.⁴

The POSH Act, 2013 provides a legal framework for the prevention, prohibition and redressal of sexual harassment of women at the workplace. It provides for mechanisms such as the Internal Committee and Local Committee and establishes procedures for receiving and examining complaints. It also places duties upon employers to create awareness and provide an environment in which complaints can be addressed appropriately.

The existence of a statutory mechanism, however, does not automatically ensure that every woman can make effective use of it. A woman may not be aware of her rights, may not know

whom to approach, or may hesitate to complain because of fear of professional consequences, social pressure or the position of the person against whom the complaint is made. The effectiveness of the POSH framework therefore depends not only upon the wording of the legislation but also upon its practical implementation.⁵

The issue of implementation was already visible during the period of the Vishaka guidelines. In *Medha Kotwal Lele v. Union of India*, the Supreme Court noted that even years after the Vishaka judgment, many women continued to face difficulties in securing protection at workplaces. The Court's intervention demonstrates that the existence of legal directions must be accompanied by functioning institutional mechanisms.

The practical accessibility of protection also becomes important in relation to women working in the unorganised sector. The POSH Act provides for Local Committees in situations where an Internal Committee is not constituted or where the establishment falls within the circumstances specified by the Act. This mechanism is particularly relevant when examining whether statutory protection can reach women who may not have access to a formal workplace complaint structure.⁶

Therefore, the present study does not examine the POSH Act merely as a statutory framework. It seeks to examine how far the protection created by the law can be accessed and implemented in actual workplace situations. Particular attention is given to legal awareness, accessibility of complaint mechanisms, institutional compliance and the protection of women working in the unorganised sector.

1.2 Significance of the Study

Workplace sexual harassment is significant not only because it affects individual women but also because it can influence the overall character of a workplace. A workplace cannot be considered genuinely equal when women are required to tolerate unwanted sexual conduct in order to continue their employment or professional activities. Protection against such conduct is therefore connected with equality, dignity and meaningful participation in working life.

The significance of the present study lies in examining the practical operation of the legal protection created by the POSH Act, 2013. The Act establishes a structured system for receiving complaints and conducting inquiries, while also imposing responsibilities upon employers. These provisions are important only when employees are aware of them and the institutions responsible for implementing them function effectively.⁷

Legal awareness is therefore an important part of workplace protection. Knowledge of the law can help women identify conduct that may amount to sexual harassment and understand the

available complaint mechanism. Awareness about the Internal Committee, Local Committee and complaint procedure can make the statutory remedy more accessible. At the same time, awareness alone cannot guarantee protection if the relevant institutional mechanism is absent, inaccessible or ineffective.

Institutional compliance is another important concern. The Supreme Court's decisions concerning implementation of the Vishaka guidelines demonstrate that legal protection requires functioning mechanisms at the institutional level. The Court has repeatedly emphasised the need for proper implementation of workplace sexual-harassment safeguards.⁸

The study is also significant from the perspective of women working outside conventional formal workplaces. The POSH Act recognises the need for a Local Committee in specified circumstances, thereby providing a mechanism where an Internal Committee may not be available. Examining the accessibility of this mechanism is important for understanding whether statutory protection extends effectively to women in less formal employment settings. Thus, the study is significant because it moves beyond a simple examination of what the POSH Act provides. It considers whether the legal protection can actually be understood, accessed and implemented. The study therefore seeks to examine the difference between protection available under law and protection experienced in practice.

1.3 Review of Literature

Books and Legal Literature

1. Flavia Agnes – Law and Gender Inequality: The Politics of Women's Rights in India
The work of Flavia Agnes examines women's rights through the relationship between law, gender and social conditions. It is relevant to the present study because legal protection cannot always be understood independently from the social and institutional conditions in which women exercise their rights. This perspective supports the present study's focus on the practical implementation of legal protection.

2. Ratna Kapur and Brenda Cossman – Subversive Sites: Feminist Engagements with Law in India

The authors examine the relationship between law and women's position within Indian society. Their work is useful for understanding that formal legal recognition does not necessarily eliminate the social conditions that affect women's ability to exercise their rights. This supports the present study's approach of examining both the legal framework and its practical operation.

Judicial Literature

3. Vishaka v. State of Rajasthan

The judgment is the foundation of the legal development relating to workplace sexual harassment in India. The Supreme Court recognised sexual harassment at the workplace as affecting constitutional rights and laid down guidelines for prevention and redressal. The decision is directly relevant to the historical development of the POSH framework.⁹

4. Apparel Export Promotion Council v. A.K. Chopra

The judgment strengthened the judicial understanding that workplace sexual harassment must be treated seriously and that women's dignity and equality at the workplace require protection. The decision is relevant to the development of judicial protection before the enactment of the POSH Act.¹⁰

5. Medha Kotwal Lele v. Union of India

This case is particularly relevant to the implementation dimension of workplace sexual-harassment protection. The Supreme Court examined the implementation of the Vishaka guidelines and emphasised the importance of effective complaint mechanisms. The decision therefore supports the present study's concern regarding the difference between legal protection and practical implementation.¹¹

Statutory Literature

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

The POSH Act is the principal statutory source for this study. It establishes the legal framework for prevention, prohibition and redressal of workplace sexual harassment and contains provisions relating to complaint mechanisms, Internal Committees, Local Committees, inquiry, employer responsibilities, confidentiality and penalties.¹²

Research Focus

The existing literature provides substantial discussion of the development of workplace sexual-harassment law, the Vishaka guidelines and the statutory provisions of the POSH Act. However, the present study gives greater attention to the practical side of the legal framework. It examines whether women are able to understand and access the available mechanisms and whether institutions comply with their responsibilities.

The study therefore focuses particularly on awareness, accessibility, institutional compliance and the protection gap affecting women in the unorganised sector. These aspects are brought together to examine whether statutory protection under the POSH Act is effectively translated into workplace protection.

1.4 Research Gap

Existing studies have examined gender stereotyping and gender representation in traditional, social and digital media. However, comparatively less attention has been given to the role of digital algorithms in repeatedly distributing and amplifying gender-stereotypical content. Therefore, this study focuses on the relationship between gender stereotyping and algorithmic content distribution in digital media, along with its social, legal and regulatory dimensions.¹³

1.5 Research Objectives

1. To examine the constitutional and legal framework relating to the prevention and redressal of workplace sexual harassment under the POSH Act, 2013.
2. To analyse the effectiveness and accessibility of the complaint and institutional mechanisms established under the POSH framework.
3. To examine the gap between statutory protection and practical implementation, with particular focus on awareness, institutional compliance and protection of women in the unorganised sector.

1.6 Research Questions

1. What constitutional and legal protections are available to women against workplace sexual harassment under the POSH framework?
2. How effective and accessible are the complaint and institutional mechanisms established under the POSH Act, 2013?
3. What factors contribute to the gap between statutory protection and practical implementation, particularly in relation to awareness, institutional compliance and women working in the unorganised sector?

1.7 Research Methodology

The present study follows a doctrinal research methodology. The study is based on the systematic examination and analysis of existing legal materials relating to workplace sexual harassment and the protection available to women under Indian law.

The primary sources include the Constitution of India, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, relevant rules and judicial decisions. The secondary sources include standard law books, research articles, academic journals, government materials and other relevant legal literature.¹⁴

The study analyses these materials to understand the development of legal protection against

workplace sexual harassment, the institutional mechanisms established under the POSH Act and the practical challenges that may affect their accessibility and implementation. Particular attention is given to the relationship between statutory protection and practical protection, which forms the central focus of the research.

1.8 Limitations of the Study

The study has certain limitations:

1. The study mainly focuses on workplace sexual harassment and its legal and institutional framework in India.
2. The study primarily examines the POSH Act, 2013 and does not provide an exhaustive analysis of every law relating to workplace discrimination or gender-based violence.
3. The study follows a doctrinal methodology and therefore mainly depends upon statutes, judicial decisions, books, articles, reports and other available legal materials.
4. The experiences of women may differ according to their workplace, employment conditions, economic position, level of awareness and access to institutional support. Such differences cannot be completely represented through a doctrinal study.
5. The study does not examine every individual workplace or every category of employment in detail.
6. Changes in legislation, judicial interpretation, rules and institutional practices may affect the legal position considered in the study.

1.9 Scheme of the Study

Chapter I – Introduction explains the background and significance of the study and presents the review of literature, research gap, research objectives, research questions, methodology and limitations. It establishes the central focus of the study on the relationship between statutory protection and practical implementation.

Chapter II – Concept and Legal Framework of Workplace Sexual Harassment explains the meaning and forms of workplace sexual harassment and examines its relationship with equality, dignity and a safe working environment. It also discusses the constitutional and international framework, the development of the Vishaka Guidelines and the major provisions of the POSH Act, 2013.

Chapter III – Institutional and Procedural Mechanisms under the POSH Act examines the Internal Committee and Local Committee and discusses the complaint and inquiry mechanisms provided under the Act. It also considers employer responsibilities, confidentiality, awareness

and the accessibility of institutional mechanisms.

Chapter IV – Challenges and Judicial Approach Towards Workplace Sexual Harassment examines the practical challenges affecting implementation of the POSH framework, including lack of awareness, difficulties in reporting, institutional barriers, procedural concerns and the protection gap affecting women in the unorganised sector. It also analyses important judicial decisions relating to workplace sexual harassment.

Chapter V – Findings, Suggestions and Conclusion presents the major findings of the study and examines the gap between statutory protection and practical implementation. It provides suggestions for strengthening awareness, institutional compliance, accessibility of complaint mechanisms and protection of women in the unorganised sector before concluding the study.

CHAPTER II – CONCEPT AND LEGAL FRAMEWORK OF WORKPLACE SEXUAL HARASSMENT

This chapter explains the meaning and nature of workplace sexual harassment and the need for its prevention. It discusses the constitutional principles of equality, non-discrimination and dignity that support protection against sexual harassment. The chapter also traces the development of legal protection from the Vishaka guidelines to the enactment of the Sexual Harassment of Women at Workplace Act, 2013. Further, it examines the major provisions of the POSH Act relating to the Internal Committee, Local Committee, complaint procedure, employer responsibilities and protection of the complainant.

2.1 Meaning and Concept of Workplace Sexual Harassment

2.1.1 Meaning of Sexual Harassment

Sexual harassment refers to unwelcome behaviour of a sexual nature which causes discomfort, humiliation, intimidation or creates an unpleasant environment for the person subjected to it. It may take different forms and need not always involve physical contact. Unwelcome advances, demands or requests for sexual favours, sexually coloured remarks, showing sexually explicit material and other unwelcome physical, verbal or non-verbal conduct may fall within the concept of sexual harassment.

The important aspect is that the conduct is unwelcome. A workplace should not become an environment where a woman has to tolerate inappropriate behaviour in order to continue her employment or maintain professional relationships. The POSH Act therefore provides a specific legal framework for preventing and addressing sexual harassment of women at the

workplace.¹⁵

2.1.2 Meaning of Workplace

The concept of workplace under the POSH Act is wider than an ordinary office or establishment. It includes government and private organisations, hospitals, educational institutions, sports institutions, workplaces in the private sector and other places connected with employment. The definition also covers places visited by an employee during the course of employment.

This wider understanding is important because work is not always performed within a fixed office building. Employees may travel for meetings, training, official programmes or other work-related activities. Therefore, protection against sexual harassment should extend to situations connected with employment and not be restricted only to the physical premises of an organisation.¹⁶

2.1.3 Forms of Workplace Sexual Harassment

Workplace sexual harassment may occur through physical, verbal or non-verbal conduct. Physical conduct may include unwelcome physical contact or advances. Verbal conduct may include sexually coloured remarks, inappropriate comments or requests for sexual favours. Non-verbal conduct may include displaying sexually explicit material or sending inappropriate messages or images.

Sexual harassment can also arise when employment-related benefits or disadvantages are connected with sexual conduct. For example, a person may be promised favourable treatment in employment in return for sexual cooperation or may face threats regarding employment for refusing such conduct. The law therefore recognises that harassment may affect both the dignity of the woman and her position at the workplace.¹⁷

2.1.4 Gender, Dignity and Safe Working Environment

Workplace sexual harassment is closely connected with the principles of equality and dignity. A woman should be able to perform her work without being subjected to conduct that humiliates or intimidates her because of her gender.

A safe working environment is not limited to physical safety. It also includes an environment where employees can work without fear of sexual harassment, discrimination or retaliation. The Supreme Court in *Vishaka v. State of Rajasthan* recognised sexual harassment at the workplace as a violation of women's fundamental rights and connected workplace protection with equality, life and liberty.¹⁸

2.1.5 Impact of Workplace Sexual Harassment

The effects of workplace sexual harassment may extend beyond the particular incident. A

woman may experience fear, embarrassment, loss of confidence or difficulty in continuing her employment. In some situations, the fear of professional consequences may discourage a woman from reporting the conduct.

The impact can also affect the workplace as a whole. If complaints are ignored or treated casually, other employees may lose confidence in the complaint mechanism. Therefore, prevention of sexual harassment is important not only for protecting an individual complainant but also for maintaining a respectful and professional working environment.

2.2 Importance of Prevention of Workplace Sexual Harassment

2.2.1 Right to a Safe Working Environment

Every woman should have the opportunity to work in an environment where her safety and dignity are respected. Workplace safety cannot be understood only in terms of protection from physical accidents. It also includes protection from harassment and conduct that makes the workplace hostile or unsafe.

The POSH framework places prevention alongside prohibition and redressal. This indicates that the law is intended not merely to deal with complaints after harassment occurs but also to encourage workplaces to take preventive measures.¹⁹

2.2.2 Equality and Non-Discrimination

Sexual harassment can affect a woman's ability to participate equally in employment. If a woman has to face unwanted sexual conduct, threats or an uncomfortable working atmosphere, her professional participation may be affected.

The principle of equality requires that women should be able to pursue employment without being placed at a disadvantage because of their gender. The constitutional guarantee of equality therefore provides an important basis for understanding workplace protection against sexual harassment.

2.2.3 Protection of Dignity and Personal Liberty

Dignity is an important part of the constitutional understanding of life and personal liberty. Workplace sexual harassment can interfere with a woman's sense of personal autonomy and dignity.

The Supreme Court's jurisprudence has treated sexual harassment as more than an ordinary workplace disagreement. In Vishaka, the Court linked protection against workplace sexual harassment with fundamental rights guaranteed by the Constitution.²⁰

2.2.4 Importance of Prevention and Awareness

Prevention is possible only when employees know what constitutes sexual harassment and

understand the available complaint mechanism. An employee who does not know the law may not recognise that particular conduct can be legally addressed.

The POSH Act therefore places duties on employers to organise awareness programmes and provide information regarding the rights and procedures available under the Act. Awareness also helps employees understand the importance of respectful workplace behaviour.²¹

2.2.5 Need for Effective Workplace Protection

The existence of a law does not by itself guarantee protection. A woman should be able to make a complaint, obtain a fair inquiry and receive appropriate relief without unnecessary fear or pressure.

The Supreme Court's decisions after Vishaka repeatedly addressed the need for proper implementation of workplace sexual-harassment safeguards. This demonstrates that effective protection depends not only on the legal framework but also on the functioning of institutions responsible for implementing it.²²

2.3 Constitutional and International Framework

2.3.1 Article 14 – Equality Before Law

Article 14 guarantees equality before the law and equal protection of the laws. In the context of workplace sexual harassment, this principle supports the requirement that women should receive equal protection and should not be subjected to unequal treatment because of gender. Sexual harassment can create an unequal working environment where a woman may be unable to participate in employment on the same terms as others. The constitutional principle of equality therefore forms one of the foundations for legal protection against such conduct.²³

2.3.2 Article 15 – Prohibition of Discrimination

Article 15 prohibits discrimination on specified grounds, including sex. It also permits the State to make special provisions for women and children.

The provision is relevant to workplace sexual harassment because gender-based harassment can affect women's equal participation in public and professional life. Legal measures specifically designed to protect women from workplace sexual harassment can therefore be understood within the broader constitutional commitment to gender equality.²⁴

2.3.3 Article 19(1)(g) – Right to Practise a Profession

Article 19(1)(g) protects the right of citizens to practise any profession or to carry on any occupation, trade or business, subject to constitutional restrictions.

The right to work or pursue a profession has little practical value if women are forced to tolerate harassment as a condition of remaining employed. Protection against workplace sexual

harassment therefore supports the ability of women to participate in professional life without being subjected to such conduct.²⁵

2.3.4 Article 21 – Right to Life and Dignity

Article 21 protects life and personal liberty. Judicial interpretation has expanded the meaning of life to include dignity and other conditions necessary for meaningful human existence.

In Vishaka, the Supreme Court connected protection against workplace sexual harassment with Articles 14, 15 and 21. The judgment treated workplace sexual harassment as an issue involving fundamental rights rather than merely an internal employment dispute.²⁶

2.3.5 International Standards and CEDAW

International human rights standards recognise sexual harassment as an issue connected with discrimination and equality in employment. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) requires States to take appropriate measures to eliminate discrimination against women.

CEDAW's Committee has specifically recognised workplace sexual harassment as a form of gender-specific conduct that can affect equality in employment and create a hostile working environment.²⁷

2.4 Historical Evolution of Legal Protection

2.4.1 Legal Position Before Vishaka

Before the Vishaka judgment, India did not have a specific legislation dealing comprehensively with sexual harassment of women at the workplace. Existing criminal and employment laws could address certain forms of misconduct, but there was no dedicated statutory mechanism specifically designed to prevent and redress workplace sexual harassment.

This created a legal and institutional gap for women facing harassment in professional environments. The absence of a specific framework also made it necessary for the judiciary to examine the issue from the perspective of constitutional rights.

2.4.2 Vishaka Guidelines

In Vishaka v. State of Rajasthan, the Supreme Court addressed the absence of specific legislation on workplace sexual harassment. The Court formulated guidelines that required employers and institutions to take preventive and remedial measures.

The judgment was significant because it connected workplace sexual harassment with constitutional rights and provided a framework that could operate until legislation was enacted.

The Vishaka guidelines consequently became the principal legal framework for workplace sexual-harassment complaints before the POSH Act came into force.²⁸

2.4.3 Development of Judicial Protection

The development of workplace protection did not end with the Vishaka judgment. Subsequent cases examined whether the guidelines were being properly implemented.

In *Medha Kotwal Lele v. Union of India*, the Supreme Court considered continuing difficulties in implementation and emphasised the need for effective complaint mechanisms. The case shows that judicial protection developed from recognising the right to requiring institutions to put the prescribed safeguards into practice.²⁹

2.4.4 Enactment of the POSH Act, 2013

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act was enacted in 2013. The Act provided a statutory framework for prevention, prohibition and redressal of sexual harassment of women at workplaces.

The Act gave legal recognition to institutional mechanisms such as the Internal Committee and Local Committee and prescribed procedures for making and dealing with complaints. It therefore transformed the earlier judicial guidelines into a detailed statutory framework.³⁰

2.4.5 Changing Approach Towards Workplace Safety

The legal approach to workplace sexual harassment has gradually moved from simply addressing individual incidents towards creating a preventive and institutional system. The present framework places responsibilities on employers, provides complaint mechanisms and requires awareness measures.

The change is important because workplace safety cannot depend only on action after an incident occurs. Prevention, awareness, institutional accountability and accessible complaint mechanisms are equally important parts of effective protection.

2.5 Sexual Harassment of Women at Workplace Act, 2013

2.5.1 Objective and Scope of the POSH Act

The POSH Act was enacted with three connected objectives: prevention of sexual harassment, prohibition of such conduct and provision of a mechanism for redressal. The Act applies to women who are subjected to sexual harassment in connection with a workplace covered by the legislation.

Its approach is therefore broader than punishment alone. It requires workplaces to establish preventive measures and institutional mechanisms through which complaints can be addressed.³¹

2.5.2 Definition of Sexual Harassment

Section 2(n) of the Act provides the statutory definition of sexual harassment. It includes

unwelcome acts or behaviour such as physical contact and advances, demand or request for sexual favours, sexually coloured remarks, showing pornography and other unwelcome physical, verbal or non-verbal conduct of a sexual nature.

Section 3 further identifies circumstances which may amount to sexual harassment, including implied or explicit promises or threats relating to employment and conduct that creates an intimidating or hostile work environment.³²

2.5.3 Aggrieved Woman and Workplace

The Act defines an “aggrieved woman” broadly so that protection is not restricted only to women holding permanent employment. The statutory framework covers women connected with a workplace in different capacities.

Similarly, the definition of workplace is broad and includes different establishments and places connected with employment. This approach recognises that sexual harassment can occur in different working situations and not only within a conventional office environment.³³

2.5.4 Internal Committee

The Internal Committee is one of the central institutional mechanisms under the Act. The employer is required to constitute the committee in the manner prescribed by the legislation where the statutory conditions are satisfied.

The committee receives complaints, conducts inquiry according to the prescribed procedure and makes recommendations after considering the complaint and the response of the parties. Its functioning is therefore important to the practical effectiveness of the Act.³⁴

2.5.5 Local Committee

The Local Committee provides a complaint mechanism for situations in which an Internal Committee is not available, including complaints from women working in establishments covered by the statutory conditions relating to the Local Committee.

This mechanism is particularly relevant to women working in smaller establishments and parts of the unorganised sector where an Internal Committee may not exist. The effectiveness of this protection, however, depends upon whether women know about the Local Committee and can practically approach it.³⁵

2.5.6 Duties and Responsibilities of the Employer

The employer has several responsibilities under the POSH Act. These include providing a safe working environment, displaying information relating to sexual harassment and the consequences of such conduct, organising awareness programmes and supporting the functioning of the Internal Committee.

The employer must also assist the committee in conducting an inquiry and take action

according to the recommendations made under the Act. Therefore, the employer has a continuing responsibility for implementation and cannot treat the POSH mechanism merely as a formal requirement.³⁶

2.5.7 Complaint and Inquiry Mechanism

A woman who alleges sexual harassment may submit a written complaint to the appropriate committee within the period prescribed by the Act, subject to the statutory provisions concerning extension of time.

After receiving the complaint, the committee follows the procedure prescribed under the Act. Conciliation may be undertaken at the request of the aggrieved woman, subject to the statutory restrictions. If the matter proceeds to inquiry, the committee must provide an opportunity to the concerned parties to be heard and then reach its findings in accordance with the Act.³⁷

2.5.8 Confidentiality, Protection and Penalties

Confidentiality is an important part of the complaint process. The identity of the woman, the respondent and the details of the proceedings are protected under the Act from public disclosure.

The Act also provides consequences for non-compliance and requires employers and responsible persons to follow the statutory requirements. Confidentiality is particularly important because fear of exposure or workplace consequences may discourage women from reporting harassment. A complaint mechanism can function effectively only when the complainant can approach it with reasonable confidence in the protection of sensitive information.³⁸

This chapter shows that workplace sexual harassment is not merely an individual workplace misconduct issue. It is connected with equality, dignity, professional participation and the right to a safe working environment. The legal position developed significantly through Vishaka and subsequent judicial decisions and was later given statutory form through the POSH Act, 2013. The Act provides a structured mechanism through the Internal Committee, Local Committee, complaint procedure and employer duties. However, the existence of these provisions alone does not establish that protection is effective in practice. This distinction between statutory protection and practical implementation forms the basis for the analysis in the following chapters.

CHAPTER III – INSTITUTIONAL AND PROCEDURAL MECHANISMS

UNDER THE POSH ACT

This chapter examines the institutional and procedural mechanisms established under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. The effectiveness of the legal protection against workplace sexual harassment depends not only upon the existence of statutory provisions but also upon the functioning of the authorities responsible for receiving complaints, conducting inquiries and providing appropriate remedies. The chapter therefore discusses the Internal Committee, Local Committee, complaint and inquiry procedure, duties of employers, confidentiality and the practical accessibility of the mechanism. Particular attention is given to the implementation of these mechanisms and their relevance to women working in the unorganised sector.

3.1 Internal Committee and Its Role

The Internal Committee is one of the principal institutional mechanisms created under the POSH Act for dealing with complaints of sexual harassment within the workplace. Its role is not limited to receiving complaints. It is also connected with conducting inquiries, maintaining a fair procedure, assisting in prevention and creating confidence among employees that complaints can be addressed within the workplace. The effectiveness of the Internal Committee therefore depends upon both its proper constitution and its ability to function independently and fairly.³⁹

3.1.1 Constitution of the Internal Committee

Every employer is required to constitute an Internal Committee at the workplace in accordance with the requirements of the POSH Act. The Committee consists of a Presiding Officer who must be a woman employed at a senior level in the organisation. It also includes other members from among employees who have an understanding of social work or experience in areas relating to law or social issues. The Committee must also include an external member who has relevant experience in dealing with issues relating to sexual harassment or is familiar with such matters. At least half of the members of the Committee must be women.⁴⁰

The manner in which the Committee is constituted is important because the members are expected to deal with complaints involving sensitive personal and professional circumstances. A Committee that is properly constituted can provide a structured forum for addressing complaints, whereas an improperly constituted Committee may weaken the confidence of employees in the complaint mechanism. The composition of the Committee is therefore an

important part of the statutory protection provided to women at the workplace.⁴¹

3.1.2 Functions and Responsibilities

The main responsibility of the Internal Committee is to receive and examine complaints of sexual harassment and conduct an inquiry in accordance with the procedure prescribed by law. During the inquiry, the Committee has to provide an opportunity to the concerned parties to present their case and consider the material placed before it. After completing the inquiry, the Committee prepares its findings and makes recommendations in accordance with the Act.⁴²

The Committee also has a preventive role. It can contribute to creating awareness among employees regarding workplace sexual harassment and the available complaint mechanism. Proper record keeping, communication of relevant information and cooperation with the employer are also important for the effective functioning of the Committee. The Committee should therefore be understood as an institutional mechanism for both prevention and redressal rather than merely as a body that acts after a complaint is filed.⁴³

3.1.3 Role of the Presiding Officer and Members

The Presiding Officer has an important responsibility in ensuring that the Committee functions in an organised and fair manner. Since workplace sexual harassment complaints may involve differences in status, authority and professional relationships, the Presiding Officer and other members must handle the proceedings with care and sensitivity. They are expected to maintain confidentiality and provide both parties with a reasonable opportunity to participate in the inquiry.

The external member also has an important role because an individual from outside the organisation can bring an independent perspective to the proceedings. All members should understand the legal requirements of the POSH framework and should be capable of dealing with complaints without allowing personal or organisational interests to influence their approach. Proper training of Committee members is therefore important for maintaining the quality and credibility of the inquiry process.

3.1.4 Importance of an Independent and Effective Committee

The existence of an Internal Committee on paper does not by itself establish an effective workplace protection system. Employees must have confidence that the Committee will listen to complaints fairly and that approaching it will not result in unnecessary exposure or disadvantage. Independence, confidentiality, proper training and institutional support are therefore essential for the Committee to function effectively.

An effective Internal Committee can reduce the distance between the legal right to protection and the actual ability of a woman to seek a remedy. On the other hand, an inactive or poorly

functioning Committee may discourage reporting and weaken the purpose of the legislation. The effectiveness of the Committee is therefore closely connected with the research gap of this study, particularly the issue of institutional compliance and practical accessibility.⁴⁴

3.2 Local Committee and Its Role

The POSH Act recognises that an Internal Committee cannot be available in every workplace. Smaller establishments may not have the required number of employees to constitute such a Committee, and there may also be situations where the complaint is against the employer. To address these circumstances, the Act provides for the establishment of a Local Committee at the district level. The Local Committee is particularly important in extending the protection of the Act beyond larger and formally organised workplaces.⁴⁵

3.2.1 Constitution of the Local Committee

The Local Committee is constituted by the District Officer for receiving and addressing complaints of sexual harassment in situations covered by the Act. Its composition includes a Chairperson who is a woman committed to the cause of women, a woman nominated from among women working in the block, taluka or tehsil or ward or municipality in the district, two members from non-governmental organisations or associations committed to the cause of women or familiar with issues relating to sexual harassment, and an officer concerned with social welfare or women and child development.

The composition is intended to provide the Committee with knowledge and experience relating to women's issues and social concerns. This is particularly relevant because women approaching the Local Committee may not have access to the same institutional support available in larger organisations.⁴⁶

3.2.2 Role in Cases Where Internal Committee is Not Available

The Local Committee has an important role where a workplace has fewer than ten workers and therefore does not have an Internal Committee. It also has jurisdiction where the complaint is against the employer himself or herself. In such situations, the Local Committee provides an alternative institutional mechanism through which a woman can seek redressal.⁴⁷

This mechanism is significant because the absence of an Internal Committee should not result in the absence of a remedy. The purpose of the Local Committee is to ensure that statutory protection is available even when the organisational structure of the workplace does not permit the establishment of an Internal Committee.

3.2.3 Protection of Women in the Unorganised Sector

Women working in the unorganised sector may face particular difficulties in accessing formal

workplace complaint mechanisms. Their employment may be temporary, informal or less structured, and in some cases there may be no separate human resources department or Internal Committee. Domestic workers are also specifically recognised within the statutory framework. The Local Committee becomes particularly important in this context because it can provide an institutional route outside the immediate workplace. However, the existence of such a mechanism is meaningful only when women know about it and can identify the appropriate authority. Thus, protection of women in the unorganised sector requires not only a legal mechanism but also effective awareness and accessibility.⁴⁸

3.2.4 Accessibility of the Local Committee

The practical usefulness of the Local Committee depends upon whether women are able to identify, approach and communicate with it. A statutory body may exist at the district level, but a woman may still face difficulty if she does not know where the Committee functions, whom to contact or how to submit a complaint.

Accessibility therefore has both an institutional and an informational dimension. The authorities responsible for implementing the Act have an important role in ensuring that information about the Local Committee reaches women who may require its assistance. This becomes especially relevant in relation to women working in smaller establishments and the unorganised sector.

3.3 Complaint and Inquiry Procedure

The complaint and inquiry procedure under the POSH Act is intended to provide a formal mechanism through which allegations of workplace sexual harassment can be examined. The procedure begins with the submission of a complaint and may involve conciliation, inquiry, interim measures, findings and recommendations. The statutory procedure attempts to balance the need for a fair inquiry with the need to protect the complainant during the process.

3.3.1 Filing of Complaint

A woman who alleges that she has been subjected to sexual harassment at the workplace may make a written complaint to the Internal Committee or, where applicable, to the Local Committee. The complaint is ordinarily required to be made within three months from the date of the incident. Where there are a series of incidents, the period is calculated from the date of the last incident. The Committee may extend the period by a further three months where it is satisfied that circumstances prevented the woman from making the complaint within the original period.⁴⁹

The requirement of a written complaint provides a formal starting point for the proceedings. At

the same time, the law recognises that a woman may face circumstances that prevent her from immediately approaching the Committee. The provision allowing extension of time is therefore relevant to practical access to the complaint mechanism.

3.3.2 Conciliation

Before beginning an inquiry, the Internal Committee or Local Committee may take steps for conciliation when requested by the aggrieved woman. The purpose of conciliation is to provide an alternative means of resolving the matter when the complainant chooses that route. However, the Act specifically states that monetary settlement cannot be made the basis of such conciliation.⁵⁰

Conciliation must not be treated as a compulsory step for every complaint. The statutory framework places the choice with the aggrieved woman. This is important because the decision to pursue conciliation may depend upon the circumstances of the complaint and the interests of the woman concerned.

3.3.3 Inquiry by the Internal Committee

Where conciliation does not take place or does not result in a settlement acceptable under the Act, the Committee proceeds with the inquiry. The inquiry must follow the applicable service rules or the prescribed procedure. Both the complainant and the respondent must be given an opportunity to be heard and to present relevant material in support of their respective positions.⁵¹

The Committee is required to complete the inquiry within ninety days. After completion, the findings are prepared and communicated in accordance with the statutory procedure. A fair inquiry is important because the Committee must examine the allegations carefully rather than treating the complaint as automatically established or automatically false.

3.3.4 Interim Relief

The Act also recognises the need to protect the aggrieved woman while the inquiry is pending. On a written request from the woman, the Committee may recommend measures such as transfer of the woman or the respondent, granting leave to the woman for a specified period or providing other appropriate relief as permitted by the Act.⁵²

Interim relief is important because continuing to work in the same environment during an inquiry may cause additional stress or difficulty. The purpose of such measures is not to prejudge the complaint but to provide protection during the pendency of the proceedings.

3.3.5 Findings and Recommendations

After completing the inquiry, the Committee prepares a report containing its findings. Where the allegation is not proved, the Committee may recommend that no action is required against

the respondent. Where the allegation is proved, the Committee may recommend appropriate action in accordance with the applicable service rules and the provisions of the Act.⁵³

The employer or District Officer is required to act upon the recommendations within sixty days of receiving them. This requirement is important because an inquiry would have limited practical value if the findings of the Committee were not followed by appropriate institutional action.

3.3.6 Appeal and Available Remedies

The POSH Act provides a right of appeal against recommendations or orders falling within the scope of the Act. The appeal is required to be made within ninety days from the date of the relevant order or recommendation.⁵⁴

The availability of an appeal provides an additional procedural safeguard. It allows a person affected by the decision to challenge it before the appropriate appellate authority. The complaint mechanism therefore does not end simply with the Committee's findings; the law also provides a further legal remedy in appropriate cases.

3.4 Duties of Employers and Workplace Authorities

The POSH Act places several responsibilities upon employers because prevention of sexual harassment cannot be achieved only through a complaint mechanism. Employers have a continuing responsibility to create a safe working environment, provide information about the law, support the functioning of the Internal Committee and take appropriate steps when a complaint is made.⁵⁵

3.4.1 Prevention of Sexual Harassment

Prevention is an important part of the statutory framework. Employers are required to provide a safe working environment and take necessary steps to prevent sexual harassment. This includes creating an environment in which employees understand that sexual harassment is prohibited and that complaints can be raised through the prescribed mechanism.⁵⁶

Prevention is more effective when it forms part of the regular functioning of the workplace rather than being considered only after an incident occurs. A workplace should therefore treat the prevention of sexual harassment as an ongoing institutional responsibility.

3.4.2 Awareness and Training Programmes

Awareness programmes are important because employees cannot make effective use of a complaint mechanism unless they know about its existence and understand the basic procedure. The POSH Rules require employers to conduct orientation programmes and seminars for Internal Committee members and awareness programmes for employees. The Rules also

provide for capacity-building and skill-building programmes for Committee members.⁵⁷

Regular training can help employees understand what constitutes sexual harassment, whom they can approach and what protections are available during the complaint process. It can also improve the ability of Committee members to deal with complaints in a legally appropriate and sensitive manner.

3.4.3 Display and Communication of Legal Information

The employer is required to display at a conspicuous place in the workplace the penal consequences of sexual harassment and the order constituting the Internal Committee, including the names and contact details of its members.⁵⁸

This requirement has practical importance because information about the Committee should be easily available to employees. Merely constituting a Committee without communicating its existence may make the statutory mechanism difficult to use. Clear display of information can therefore improve awareness and accessibility.

3.4.4 Employer's Responsibility for Compliance

The employer must provide the Internal Committee with the necessary facilities for dealing with complaints. The employer is also required to assist in securing the attendance of the respondent and witnesses, make relevant information available to the Committee and provide other necessary assistance for conducting an inquiry.⁵⁹

These responsibilities show that the Internal Committee cannot function effectively without institutional cooperation. Employer compliance is therefore a central factor in determining whether the statutory mechanism operates in practice.

3.4.5 Protection Against Retaliation and Victimization

A woman may hesitate to make a complaint if she believes that doing so could affect her employment, professional relationships or position at the workplace. The POSH Act provides protective measures during the inquiry, including interim relief on the request of the aggrieved woman. The employer's duties to provide a safe environment and support the statutory process are also relevant to maintaining confidence in the complaint mechanism.⁶⁰

Protection against adverse treatment is therefore important for encouraging women to use the mechanism available to them. A complaint system can become ineffective if employees believe that approaching it may result in professional disadvantage or an unsafe working environment.

3.5 Confidentiality and Protection of the Complainant

Confidentiality is an important part of the POSH complaint mechanism because workplace sexual harassment complaints often contain sensitive personal information. The law restricts

the publication or communication of information relating to the complaint and inquiry proceedings. This protection is intended to prevent unnecessary exposure of the complainant, respondent and witnesses during the proceedings.²⁶

3.5.1 Confidentiality of Proceedings

The POSH Act prohibits the publication or communication to the public, press and media of the contents of a complaint, the identity and addresses of the aggrieved woman, respondent and witnesses, information relating to conciliation and inquiry proceedings, and recommendations of the Committee.⁶¹

Confidentiality is particularly important in workplace cases because the parties may continue to have professional relationships with other employees. Unnecessary disclosure of information can affect reputation, privacy and the willingness of women to approach the complaint mechanism.

3.5.2 Protection of Privacy

Privacy is closely connected with confidentiality. A complaint of sexual harassment may involve personal communications, workplace relationships and other sensitive circumstances. Protecting such information can reduce the possibility of unnecessary discussion or circulation of the allegations within the workplace.

The statutory restrictions on disclosure are therefore not merely procedural requirements. They are intended to protect the dignity and privacy of persons involved in the proceedings and to create conditions in which complaints can be examined without unnecessary public exposure.⁶²

3.5.3 Protection During the Inquiry Process

Protection should continue throughout the inquiry process. The law permits the Committee to recommend interim measures when requested by the aggrieved woman. Such measures may help reduce direct interaction between the parties or address circumstances that may affect the complainant during the pendency of the inquiry.

The inquiry should also be conducted in a manner that gives both parties an opportunity to be heard. Protection of the complainant should therefore be balanced with fairness to all persons involved in the proceedings.

3.5.4 Importance of a Safe Complaint Environment

A woman is more likely to use a complaint mechanism when she believes that her complaint will be handled with confidentiality, fairness and sensitivity. If employees fear that their personal information will be disclosed or that their complaint will become a subject of workplace discussion, they may hesitate to report harassment.

For this reason, a safe complaint environment is an essential part of practical accessibility. The

effectiveness of the POSH mechanism depends not only on whether a Committee exists but also on whether women feel able to approach it without unnecessary fear or exposure.

3.6 Practical Accessibility of the POSH Mechanism

The existence of a statutory complaint mechanism does not automatically mean that every woman can effectively use it. Practical accessibility depends upon awareness, availability of information, functioning of the Internal Committee, accessibility of the Local Committee and institutional cooperation. These factors determine whether the protection provided by the POSH Act can be converted into an actual remedy.⁶³

3.6.1 Awareness of Complaint Mechanisms

Awareness is the first practical step in using the POSH mechanism. Women should know that workplace sexual harassment is prohibited and should have basic information about whom to approach when an incident occurs. They should also be aware of the Internal Committee or Local Committee applicable to their workplace.

The POSH Rules place emphasis on awareness programmes and orientation. Employers are expected to conduct employee awareness programmes and communicate information relating to the Internal Committee. Awareness should therefore be treated as a continuing workplace responsibility rather than a one-time activity.

3.6.2 Accessibility of Internal Committees

An Internal Committee may formally exist but still remain difficult to approach if employees do not know its members or contact details. The Act and Rules recognise the importance of communicating information about the Committee to employees.

Practical accessibility also depends upon the attitude of Committee members. Employees should be able to approach the Committee without unnecessary procedural confusion. A Committee that is legally constituted but practically inaccessible cannot fully achieve the purpose for which it was created.⁶⁴

3.6.3 Accessibility for Women in the Unorganised Sector

Women in the unorganised sector may face greater difficulty because their workplaces may not have formal administrative structures. In such situations, the Local Committee becomes particularly important. The statutory framework is intended to provide a mechanism for women working in establishments where an Internal Committee is not available and in other circumstances specified by the Act.⁶⁵

However, accessibility cannot be measured only by the existence of a Local Committee. Women also need information about where the Committee is located, how it can be approached

and what procedure must be followed. This is one of the areas in which the difference between statutory protection and practical protection becomes visible.

3.6.4 Institutional Compliance and Implementation

Institutional compliance is necessary for the POSH mechanism to function effectively. Employers are required to constitute the Internal Committee, provide necessary facilities, conduct awareness programmes, display relevant information and assist in inquiries. The Committee also has reporting responsibilities under the Act.⁶⁶

The annual reporting mechanism can provide an institutional basis for assessing whether complaints are being received and disposed of, whether cases remain pending and whether awareness programmes are being conducted. The Rules specifically require annual reports to include information regarding complaints received, complaints disposed of, cases pending for more than ninety days, awareness programmes and action taken.

3.6.5 Gap Between Legal Mechanism and Practical Accessibility

The POSH Act establishes a detailed framework for prevention and redressal of workplace sexual harassment. However, the practical value of the framework depends upon whether women know about the mechanism, can approach the appropriate authority and receive a proper institutional response.

The central issue is therefore not simply whether a legal mechanism exists, but whether it can actually be used by the women for whom it was created. Lack of awareness, ineffective Internal Committees, limited accessibility of Local Committees and inadequate institutional compliance can create a gap between statutory protection and practical protection.

This issue directly connects with the research gap identified in the present study. The POSH Act provides a formal structure for protection, but the effectiveness of that structure must also be considered from the perspective of awareness, accessibility, institutional compliance and the particular difficulties faced by women in the unorganised sector. The next chapter therefore examines the major practical challenges in reporting and implementation and analyses the judicial approach towards workplace sexual harassment.

This chapter has examined the institutional and procedural framework established under the POSH Act for preventing and addressing workplace sexual harassment. The Internal Committee and Local Committee provide the principal institutional mechanisms, while the complaint and inquiry provisions establish a structured process for addressing allegations. The Act also places significant responsibilities upon employers relating to prevention, awareness, institutional support and compliance. Confidentiality and interim protection further seek to create a safer environment for women who approach the mechanism. However, the practical

effectiveness of these provisions depends upon awareness, accessibility and proper implementation. The following chapter examines the challenges that may arise in reporting and implementation, with particular attention to institutional barriers, procedural difficulties, the unorganised sector and the judicial approach towards workplace sexual harassment

CHAPTER IV – CHALLENGES AND JUDICIAL APPROACH

TOWARDS WORKPLACE SEXUAL HARASSMENT

This chapter examines the practical challenges that affect the effective implementation of the legal protection against workplace sexual harassment. The POSH Act has created a structured mechanism for prevention, complaint and redressal, but the existence of these provisions does not by itself ensure that every woman can use them effectively. Lack of awareness, fear of reporting, institutional weaknesses, procedural difficulties and limited accessibility may affect the actual use of the statutory mechanism. The chapter also examines the difficulties faced by women in the unorganised sector and the role played by the judiciary in strengthening protection against workplace sexual harassment. Finally, it considers the gap between the protection provided by law and its implementation in actual workplace situations.

4.1 Lack of Awareness and Reporting

Awareness is an important factor in determining whether a woman is able to use the protection available under the POSH Act. A woman may experience conduct that amounts to sexual harassment but may not know that the law provides a specific complaint mechanism. Even when she is aware that the conduct is legally unacceptable, she may not know whom to approach or what procedure should be followed. The issue of reporting is therefore closely connected with legal awareness and practical accessibility.

4.1.1 Lack of Awareness about the POSH Act

The POSH Act provides a specific legal framework for prevention and redressal of workplace sexual harassment. However, the existence of legislation does not necessarily mean that every employee is familiar with its provisions. Employees may have only a general understanding that sexual harassment is prohibited without knowing about the Internal Committee, Local Committee, complaint procedure or available protections.

Lack of awareness can prevent a woman from recognising the available legal remedy at the appropriate time. This becomes more significant where employees work in small establishments or informal working environments where legal information may not be

regularly communicated. Awareness of the law should therefore include practical information about the authorities to be approached and the procedure to be followed.

4.1.2 Fear of Reporting Sexual Harassment

Reporting sexual harassment may be difficult for a woman because the person complained against may be a senior employee, supervisor or person exercising authority over her. She may fear that making a complaint could affect her professional relationships or future opportunities at the workplace.

In some situations, the woman may also be concerned about being questioned about her conduct or being blamed for the incident. Such concerns can discourage reporting even when a formal complaint mechanism is available. As a result, the number of complaints received by an institution may not always reflect the actual extent of workplace sexual harassment.

4.1.3 Fear of Retaliation and Workplace Consequences

A woman who makes a complaint may be concerned about possible adverse consequences in the workplace. These may include strained professional relationships, isolation from colleagues, loss of opportunities or pressure to withdraw the complaint. The possibility of such consequences can become a strong reason for remaining silent.

The POSH framework recognises the need to protect the complainant during the inquiry process and provides for interim measures in appropriate circumstances. However, practical protection also depends upon the attitude of the employer and the functioning of the Internal Committee. A complaint mechanism will have limited effectiveness if employees believe that reporting harassment may place their employment or professional position at risk.

4.1.4 Effect of Lack of Awareness on Legal Protection

Lack of awareness creates a difference between the protection available under law and the protection that can actually be used. A woman who does not know about the complaint mechanism may not approach the Internal Committee or Local Committee even when she has a legal right to do so.

Awareness is therefore the first link between statutory protection and practical protection. If this link is weak, the remaining institutional and procedural mechanisms may also remain underused. The effectiveness of the POSH Act must consequently be considered not only by examining its provisions but also by asking whether women are sufficiently informed about those provisions.

4.1.5 Need for Effective Awareness Mechanisms

Awareness programmes should provide simple and practical information rather than merely informing employees that a law exists. Employees should know what constitutes sexual

harassment, whom they can approach, how a complaint may be made and what protections are available during the proceedings.

The POSH Rules specifically recognise the importance of awareness and orientation programmes. Regular programmes can also help employees understand that workplace sexual harassment is an institutional concern rather than a private issue that must be tolerated. Effective awareness can therefore improve both reporting and confidence in the complaint mechanism.⁶⁷

4.2 Institutional and Organisational Barriers

The effectiveness of the POSH framework largely depends upon the institutions responsible for implementing it. An Internal Committee may be formally constituted, but its practical effectiveness depends upon the competence of its members, independence of its functioning, support from the employer and confidence of employees. Institutional weaknesses can therefore prevent the statutory mechanism from providing meaningful protection.

4.2.1 Ineffective Functioning of Internal Committees

The Internal Committee is intended to provide a formal institutional mechanism for dealing with workplace sexual harassment. However, merely constituting a Committee does not ensure that it will function effectively. Problems may arise where members are not properly trained, meetings are not conducted appropriately or employees are unaware of how to approach the Committee.

An ineffective Committee can discourage complaints and reduce confidence in the POSH mechanism. It may also result in procedural mistakes that affect the fairness of the inquiry. The proper functioning of the Internal Committee is therefore an important part of effective implementation.

4.2.2 Lack of Proper Training

Members of an Internal Committee deal with sensitive complaints that require an understanding of both the legal procedure and the circumstances of workplace harassment. Without proper training, members may find it difficult to conduct inquiries in a consistent and sensitive manner.

Training should cover the statutory procedure, confidentiality, principles of fairness, handling of evidence and the responsibilities of Committee members. It should also help members understand the importance of maintaining neutrality while ensuring that the complainant is not placed under unnecessary pressure.

4.2.3 Institutional Pressure and Conflict of Interest

In a workplace, members of the Internal Committee may themselves be employees of the organisation. This can create difficulties when the complaint involves senior management or persons having authority over Committee members. Even where there is no actual interference, the perception of organisational pressure may affect the confidence of the complainant.

The presence of an external member is significant in this context because it can introduce an independent perspective into the Committee. Independence is particularly important where the interests of the organisation and the interests of the complainant appear to conflict.

4.2.4 Employer Non-Compliance

Employer compliance is essential to the functioning of the POSH framework. Employers have responsibilities relating to the constitution of the Internal Committee, awareness programmes, display of information, provision of facilities and assistance during inquiries.

Failure to comply with these responsibilities can weaken the entire complaint mechanism. If the employer does not provide adequate support, the Internal Committee may not have the necessary institutional conditions to perform its functions effectively. Employer accountability is therefore directly connected with the practical effectiveness of the Act.

4.2.5 Effect of Institutional Response on Effective Protection

The response of the workplace institution can influence whether a woman feels protected after making a complaint. A prompt and sensitive response can strengthen confidence in the system, while an indifferent or delayed response may discourage the complainant from continuing with the proceedings.

Institutional response is therefore not merely an administrative matter. It forms the connection between the legal protection provided by the POSH Act and the actual experience of the woman seeking protection. This is particularly relevant to the present study because the research focuses on the gap between statutory protection and practical implementation.⁶⁸

4.3 Procedural Challenges

The POSH Act provides a structured procedure for filing complaints and conducting inquiries. However, formal procedures may still create difficulties for individuals who are unfamiliar with legal processes. The practical effectiveness of the complaint mechanism depends upon whether the procedure can be understood and followed without unnecessary difficulty.

4.3.1 Difficulties in Making a Complaint

The first practical challenge may arise when a woman decides to make a complaint. She may be uncertain about whom to approach, how to prepare the complaint or what information should

be included. This uncertainty can become greater where there is no clear communication about the functioning of the Internal Committee.

The Act permits a written complaint to be made to the Internal Committee or Local Committee, as applicable. The provision relating to the time period for making a complaint also recognises certain circumstances in which the period may be extended. The availability of these provisions is important, but employees must also be aware of them for the provisions to have practical value.⁶⁹

4.3.2 Challenges During Inquiry

An inquiry into workplace sexual harassment requires careful consideration of the allegations, the response of the respondent and the available material. The Committee must provide the concerned parties with an opportunity to be heard while maintaining confidentiality and procedural fairness.

For the complainant, participating in an inquiry may itself be difficult because the proceedings may involve discussing personal experiences before an institutional body. The Committee must therefore conduct the process with sensitivity without compromising the fairness of the inquiry.

4.3.3 Delay in Complaint Resolution

Delay can reduce the practical value of a complaint mechanism. A prolonged inquiry may increase stress for the complainant and may also affect the working relationship between the parties. The POSH Act prescribes a period for completion of the inquiry, and the employer or District Officer is required to act upon the recommendations within the period specified by law. Timely resolution is therefore an important part of effective protection. A procedure may be legally available but still become difficult to use if complaints remain unresolved for an unreasonable period.

4.3.4 Confidentiality and Privacy Concerns

Workplace sexual harassment complaints involve sensitive information relating to the complainant, respondent and witnesses. Fear that such information may become known among colleagues can discourage women from making complaints.

The POSH Act places restrictions on the publication or communication of information relating to complaints and inquiry proceedings. However, maintaining confidentiality in practice also requires responsible conduct by Committee members, employers and others who may have access to the information.

4.3.5 Need for Fair and Accessible Procedures

A fair procedure should not become unnecessarily complicated for the person seeking protection. The complainant should receive clear information about the process and should be

able to understand the stages through which the complaint will proceed.

Accessibility also requires a balance between protecting the complainant and ensuring fairness to the respondent. A credible complaint mechanism must therefore be sensitive, confidential, timely and procedurally fair. These qualities help convert the statutory procedure into a meaningful remedy.

4.4 Challenges Faced by Women in the Unorganised Sector

The unorganised sector presents a particular challenge for implementation of the POSH framework. Women working in informal or less structured employment arrangements may not have access to the same workplace institutions available in larger establishments. The Local Committee is therefore especially important for extending statutory protection beyond workplaces where an Internal Committee can be constituted.

4.4.1 Nature of Employment in the Unorganised Sector

Employment in the unorganised sector may involve smaller establishments, informal working arrangements and limited organisational structures. In such workplaces, there may be no separate human resources department or Internal Committee through which a complaint can be made.

The absence of formal workplace structures can make it more difficult for women to understand their rights and identify the appropriate authority. The legal framework therefore needs to be supported by accessible institutional mechanisms outside the immediate workplace.

4.4.2 Limited Awareness of Legal Protection

Women working in the unorganised sector may have limited access to information about workplace laws and complaint mechanisms. The problem is not necessarily the absence of legal protection; rather, the difficulty may lie in knowing that such protection exists and understanding how it can be used.

Awareness programmes that are limited to formally organised workplaces may not adequately reach women in informal employment. Legal awareness must therefore extend beyond the conventional workplace environment if the protection under the POSH Act is to reach its intended beneficiaries.

4.4.3 Accessibility of the Local Committee

The Local Committee serves an important function where an Internal Committee is not available. It provides an institutional route for women working in establishments covered by the relevant provisions of the Act.⁷⁰

However, the effectiveness of the Local Committee depends upon practical accessibility.

Women should know where the Committee is located, how a complaint can be submitted and what assistance is available. If this information is not easily accessible, the statutory existence of the Local Committee may not result in effective use of the remedy.

4.4.4 Practical Difficulties in Reporting

Women in informal employment may be concerned about losing their employment, income or workplace support if they report harassment. Where the employment relationship is less secure, the perceived consequences of reporting may be particularly serious.

The woman may also lack colleagues or workplace representatives who can guide her through the complaint process. These factors can make reporting more difficult even when the law provides a formal mechanism.

4.4.5 Protection Gap in the Unorganised Sector

The unorganised sector demonstrates the difference between legal availability and practical accessibility particularly clearly. The POSH Act recognises the need for a Local Committee, but the existence of such a mechanism alone does not guarantee that women will be able to use it.

The protection gap may therefore arise from several connected factors, including limited awareness, difficulty in identifying the appropriate authority, fear of employment consequences and lack of institutional support. Strengthening the Local Committee mechanism and improving awareness are consequently important for reducing this gap.

4.5 Judicial Approach Towards Workplace Sexual Harassment

The judiciary has played an important role in developing the legal protection available to women against workplace sexual harassment. Before the enactment of the POSH Act, the Supreme Court addressed the absence of a specific statutory framework through constitutional interpretation in *Vishaka v. State of Rajasthan*. Subsequent decisions continued to examine the implementation of workplace safeguards and the responsibility of institutions. The judicial approach therefore forms an important part of understanding the development of the present legal framework.

4.5.1 Role of the Judiciary in Protecting Women

The judiciary has contributed to the development of workplace protection by interpreting constitutional rights in the context of women's safety, equality and dignity. Courts have intervened particularly where existing legal mechanisms were insufficient to provide an effective remedy.

The significance of judicial intervention can be seen in *Vishaka*, where the Supreme Court

recognised workplace sexual harassment as a violation of fundamental rights and laid down guidelines in the absence of specific legislation. This demonstrates how judicial decisions can respond to legal gaps while providing immediate protection.⁷¹

4.5.2 Judicial Interpretation of Equality and Dignity

Workplace sexual harassment has been considered by the judiciary in relation to constitutional guarantees of equality and dignity. Articles 14, 15 and 21 provide an important constitutional basis for protecting women against discriminatory and degrading treatment.

In Vishaka, the Supreme Court connected protection against workplace sexual harassment with the fundamental rights to equality and life and liberty. The decision therefore established that workplace safety is not merely an organisational concern but also has a constitutional dimension.⁷²

4.5.3 Judicial Protection of Safe Working Conditions

The judiciary has recognised that women cannot meaningfully exercise their rights to equality and employment if they are exposed to sexual harassment in the workplace. In Apparel Export Promotion Council v. A.K. Chopra, the Supreme Court emphasised the seriousness of sexual harassment and upheld the disciplinary consequences arising from such conduct.⁷³

The case is significant because it reinforced the principle that workplace sexual harassment should be treated seriously and that employers and institutions have a responsibility to maintain an environment in which women can work with dignity.

4.5.4 Judicial Approach Towards Implementation of the POSH Framework

Judicial attention has not been limited to recognising the right against workplace sexual harassment. The courts have also focused on whether the safeguards created for women are actually implemented.

In Medha Kotwal Lele v. Union of India, the Supreme Court considered the implementation of the Vishaka guidelines and emphasised the need for effective compliance by institutions. The decision is particularly relevant to the present research because it illustrates the difference between having a legal framework and ensuring that institutions actually follow it.

More recently, in Aureliano Fernandes v. State of Goa, the Supreme Court emphasised the importance of proper implementation of the statutory framework and issued directions concerning awareness, constitution and functioning of Internal Committees. The decision strengthens the view that effective protection requires institutional compliance in addition to the existence of legislation. The Supreme Court's own gender-sensitisation resources list Aureliano Fernandes along with the major workplace sexual-harassment cases.⁷⁴

4.6 Important Case Laws

The development of workplace sexual harassment law in India cannot be understood without examining the major judicial decisions that shaped the legal framework. The following cases are particularly relevant because they demonstrate different stages in the development of protection, from judicial recognition of the problem to the enforcement and implementation of institutional safeguards.

4.6.1 Vishaka v. State of Rajasthan

Vishaka v. State of Rajasthan is the foundational decision in the development of Indian law relating to workplace sexual harassment. At the time of the judgment, India did not have a specific legislation comprehensively dealing with sexual harassment at the workplace. The Supreme Court considered the issue in the context of fundamental rights guaranteed under the Constitution.⁷⁵

The Court recognised that sexual harassment at the workplace affects the fundamental rights of women to equality, life and dignity. In the absence of specific legislation, the Court laid down the Vishaka Guidelines for prevention and redressal of workplace sexual harassment. These guidelines required employers and institutions to create mechanisms for receiving complaints and to take preventive measures.

The decision became the foundation for subsequent legal developments and continued to operate until Parliament enacted the POSH Act in 2013. Its importance lies not only in creating immediate safeguards but also in establishing workplace safety as a constitutional concern. The Supreme Court continues to identify Vishaka as a leading workplace sexual-harassment decision.

4.6.2 Apparel Export Promotion Council v. A.K. Chopra

In Apparel Export Promotion Council v. A.K. Chopra, the Supreme Court considered disciplinary action arising from allegations of sexual harassment in the workplace. The Court treated the conduct seriously and emphasised the need to protect the dignity of women in the workplace.¹⁴

The judgment is important because it reinforced the principle that workplace sexual harassment cannot be treated as ordinary misconduct without considering its effect on the dignity and safety of women employees. It also strengthened the responsibility of institutions to maintain a work environment free from such conduct.

The case therefore contributed to the development of a judicial approach in which workplace sexual harassment is viewed not merely as an individual dispute but as conduct capable of affecting the broader right of women to work with dignity.

4.6.3 Medha Kotwal Lele v. Union of India

Medha Kotwal Lele v. Union of India is significant from the perspective of implementation. The case concerned the continued failure to properly implement the safeguards laid down in Vishaka. The Supreme Court considered the need for effective compliance by State authorities and institutions.⁷⁶

The significance of this case for the present study is particularly strong. It demonstrates that judicially recognised rights and institutional mechanisms may not produce effective protection unless the responsible authorities actually implement them. The case therefore supports the central research concern regarding the gap between legal protection and practical implementation.

4.6.4 Other Relevant Judicial Developments

Another important decision is Aureliano Fernandes v. State of Goa, where the Supreme Court considered issues concerning the implementation of the POSH Act. The Court emphasised the need for proper awareness and functioning of Internal Committees and highlighted the continuing importance of institutional compliance⁷⁷.

The significance of this later judicial development is that it shows that implementation concerns did not end with the enactment of the POSH Act. Even after statutory protection became available, the courts continued to examine whether institutions were actually complying with their responsibilities. This reinforces the need to study the practical effectiveness of the POSH framework rather than examining the statutory provisions alone.

The Supreme Court's official workplace sexual-harassment resources specifically identify Vishaka, Apparel Export Promotion Council, Medha Kotwal Lele and Aureliano Fernandes among the relevant judgments.

4.7 Gap Between Statutory Protection and Practical Implementation

The preceding discussion shows that India has developed a detailed legal framework for preventing and addressing workplace sexual harassment. The POSH Act provides institutional mechanisms, complaint procedures, employer responsibilities and safeguards for women. However, the practical effectiveness of these provisions depends upon whether they are properly communicated, accessible and implemented within workplaces.

4.7.1 Difference Between Legal Protection and Actual Workplace Protection

Statutory protection refers to the rights and remedies recognised by law. Actual workplace protection, however, depends upon whether those rights can be used by a woman when she faces harassment.

For example, the law may require an employer to constitute an Internal Committee, but the existence of the Committee alone does not guarantee that the Committee is accessible or effective. Similarly, a complaint procedure may exist, but a woman may not use it if she does not know about it or fears adverse workplace consequences.

This demonstrates that legal protection and practical protection are related but not identical. The effectiveness of the POSH Act should therefore be assessed by considering how the statutory mechanism operates in actual workplace conditions.

4.7.2 Awareness and Reporting Gap

One of the important gaps is the difference between the availability of the complaint mechanism and the willingness or ability of women to report harassment. Lack of awareness can prevent a woman from identifying the appropriate authority, while fear and social or professional consequences can discourage her from making a complaint.

Awareness programmes can reduce this gap by providing employees with clear information about their rights and available remedies. However, awareness should be accompanied by a workplace environment in which women can report complaints without fear of disadvantage.

4.7.3 Institutional Compliance Gap

The POSH Act places several duties upon employers and provides for Internal and Local Committees. However, implementation may be affected when Committees are not properly constituted, members are not adequately trained or employers fail to provide necessary institutional support.

The judicial history of workplace sexual harassment also demonstrates the importance of implementation. The concerns examined in *Medha Kotwal Lele* and the later directions in *Aureliano Fernandes* show that statutory and judicial safeguards require active compliance by institutions.⁷⁸

4.7.4 Accessibility Gap in the Unorganised Sector

The unorganised sector presents an additional implementation challenge. The Local Committee provides a statutory mechanism for situations where an Internal Committee is not available, but practical access to that mechanism may still be difficult.

Women may not know about the Local Committee, may be uncertain about how to approach it or may fear the consequences of reporting harassment. These difficulties can reduce the practical value of the protection intended for women outside formally organised workplaces.

4.7.5 Need to Bridge the Gap Between Law and Practice

The main issue identified in this chapter is not the complete absence of legal protection. Instead, the concern is the difference between the protection recognised by law and the protection

experienced by women in practice.

Bridging this gap requires a combination of measures. Employees must be made aware of their rights and complaint mechanisms. Internal Committees must be properly constituted, trained and supported. Employers must comply with their statutory responsibilities. Local Committees must be accessible to women who cannot approach an Internal Committee. Complaints must be dealt with through fair and timely procedures, while confidentiality and protection of the complainant must be maintained.

The judicial approach also shows that courts can strengthen the implementation of legal safeguards when institutional mechanisms fail. However, judicial intervention cannot replace regular institutional compliance. The long-term effectiveness of the POSH framework depends upon the combined functioning of law, employers, Internal Committees, Local Committees and awareness mechanisms.

The present study therefore finds that the central challenge is not merely the existence of a legal framework, but the ability of that framework to provide accessible and effective protection in actual workplace situations. This directly connects with the research gap identified in Chapter I, particularly the focus on awareness, institutional compliance, accessibility and protection of women in the unorganised sector.

This chapter examined the major challenges affecting the implementation of workplace sexual-harassment protection in India. The discussion shows that lack of awareness, fear of reporting, institutional weaknesses, procedural difficulties and limited accessibility can affect the practical use of the POSH mechanism. The challenges faced by women in the unorganised sector are particularly important because the absence of a formal Internal Committee may make access to the statutory mechanism more difficult. The judicial decisions discussed in this chapter demonstrate the important role of the Supreme Court in developing and strengthening workplace protection, beginning with Vishaka and continuing through later decisions concerned with implementation. The overall analysis establishes that the existence of statutory protection alone is insufficient; effective protection requires awareness, accessible institutions, proper compliance and responsive implementation. The next chapter presents the major findings of the study, suggestions for strengthening the POSH framework and the conclusion.

CHAPTER V – FINDINGS, SUGGESTIONS AND CONCLUSION

This chapter brings together the major observations made in the earlier chapters regarding workplace sexual harassment and the implementation of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. The study has examined the legal framework, institutional mechanisms, complaint procedure, employer responsibilities, practical barriers and judicial developments. The findings show that the POSH Act provides an important statutory framework, but the effectiveness of the law depends largely on awareness, accessibility, proper functioning of Internal Committees and Local Committees, and effective institutional compliance. The chapter also suggests measures to reduce the gap between statutory protection and protection actually available to women at the workplace. This approach follows the reference publication's method of connecting the findings and suggestions directly with the research gap identified in the study.⁷⁹

5.1 Major Findings of the Study

The present study finds that India has developed a significant legal framework for preventing and addressing sexual harassment of women at the workplace. The constitutional principles of equality, non-discrimination and dignity provide the foundation for such protection, while the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 provides a specific statutory mechanism for prevention, prohibition and redressal of workplace sexual harassment.

The study also finds that the existence of legislation alone cannot ensure a completely safe working environment. The practical effectiveness of the law depends on whether women are aware of their rights and whether they know where and how a complaint can be made. Awareness must extend beyond knowing that sexual harassment is prohibited. Employees should also know about the Internal Committee, Local Committee, complaint procedure, confidentiality and the protection available during the inquiry.⁸⁰

Another important finding is that the functioning of institutional mechanisms has a direct effect on the practical value of the POSH Act. An Internal Committee may be formally constituted, but its effectiveness depends upon the knowledge, independence, sensitivity and procedural fairness of its members. Similarly, the Local Committee has particular importance for women working in establishments where an Internal Committee is not available.

The study further finds that procedural accessibility is an important part of effective protection. A complaint mechanism should not merely exist in law; it should be understandable and

approachable for the woman who needs to use it. Complicated procedures, lack of information, delay, fear of workplace consequences and concerns regarding confidentiality can discourage reporting.⁸¹

The position of women working in the unorganised sector requires particular attention. The statutory framework recognises the role of the Local Committee where an Internal Committee is not available. However, the practical usefulness of this mechanism depends upon awareness about its existence and the ability of women to identify and approach the appropriate authority. The study also finds that judicial decisions have played an important role in developing and strengthening protection against workplace sexual harassment. From the guidelines issued in *Vishaka v. State of Rajasthan* to later decisions concerning implementation of the POSH framework, judicial intervention has helped to connect constitutional rights with workplace protection.⁸²

Overall, the major finding is that the principal challenge is not simply the absence of legal protection. The more important issue is the difference between protection provided by law and protection experienced in practice. Awareness, accessibility, institutional functioning, employer compliance and effective remedies collectively determine whether the statutory protection becomes meaningful for women.

5.2 Gap Between Statutory Protection and Practical Implementation

The study identifies a clear gap between the protection created by the POSH Act and the protection that may actually be available to women in their workplaces. The Act establishes a structured mechanism for complaint and redressal, but the effectiveness of that mechanism depends on its implementation at the workplace level.

The first part of this gap relates to awareness. A woman may have a statutory right to make a complaint but may not know about the Internal Committee, Local Committee or the procedure prescribed under the law. In such circumstances, the existence of a legal remedy does not automatically result in access to that remedy.

The second part relates to institutional compliance. The Internal Committee must not function merely as a formal requirement. Its members should understand their responsibilities and should be able to conduct proceedings fairly and confidentially. Employers also have continuing duties relating to prevention, awareness, assistance and compliance.⁸³

The third part concerns accessibility. Women working in smaller establishments or the unorganised sector may not have the same access to institutional mechanisms as employees in large and organised workplaces. Although the Local Committee is intended to address

situations where an Internal Committee is not available, awareness and practical accessibility remain important issues.⁸⁴

The study therefore finds that the implementation gap is created by several connected factors rather than by one single deficiency. A woman may be aware of the law but may not know whom to approach. An Internal Committee may exist but may not function effectively. A complaint may be made but may be affected by delay or lack of institutional support. These situations demonstrate why statutory protection and practical protection should be examined together.⁸⁵

The central research gap of the present study is therefore supported by the findings: the effectiveness of the POSH Act cannot be assessed only by examining its provisions; it must also be considered in terms of awareness, accessibility, institutional compliance and practical protection.

5.3 Effectiveness of Complaint and Institutional Mechanisms

The complaint and institutional mechanisms established under the POSH Act are important because they provide women with a workplace-based mechanism for addressing sexual harassment. The Internal Committee is particularly significant because it is expected to provide an accessible forum within the workplace itself.

The effectiveness of the Internal Committee depends on more than its formal constitution. Members should understand the nature of sexual harassment, the applicable procedure, the importance of confidentiality and the need for a fair inquiry. The presence of an external member also contributes to the broader objective of maintaining an independent and balanced process.

The complaint procedure under the Act provides a structured process beginning with the complaint and extending to inquiry, findings and recommendations. Interim measures are also available in appropriate circumstances. These provisions show that the law attempts to protect the complainant not only at the final stage but also during the proceedings.⁸⁶

However, the effectiveness of these mechanisms may be reduced where employees are unaware of them, where committees are inactive, or where women fear negative workplace consequences. A mechanism cannot be considered fully effective merely because it exists on paper. Its real value lies in whether an employee can approach it without unnecessary fear or difficulty and receive a fair and timely response.

The Local Committee is equally important in extending the reach of the law beyond establishments having an Internal Committee. Its role becomes particularly significant for

women working in the unorganised sector. For this mechanism to achieve its purpose, women must know about its availability and must be able to identify the appropriate authority.⁸⁷

Therefore, the study finds that the POSH complaint mechanism is legally structured and significant, but its practical effectiveness depends upon awareness, accessibility, independence, confidentiality, timely inquiry and institutional support.

5.4 Suggestions for Improving the Implementation of the POSH Act

Based on the findings of the study, improving the implementation of the POSH Act requires attention not only to legal compliance but also to the practical conditions under which women use the protection available to them. The following suggestions are made to strengthen awareness, institutional mechanisms, complaint procedures and protection in different categories of workplaces.

5.4.1 Increase Legal Awareness

Legal awareness should be treated as a continuing workplace responsibility rather than as a one-time formal programme. Employees should be informed in simple language about what constitutes sexual harassment, whom they can approach, how a complaint can be made and what protections are available during the proceedings.

Awareness programmes should also clearly explain the difference between the Internal Committee and Local Committee. This is particularly important for women working in establishments where an Internal Committee may not be available. Information regarding complaint mechanisms should be made easily visible and accessible to employees.⁸⁸

Awareness should also be extended to managers, supervisors and persons occupying positions of authority because effective prevention requires responsible conduct throughout the organisation.

5.4.2 Strengthen Internal Committees

Internal Committees should function as active institutional mechanisms rather than merely satisfying a statutory requirement. Members should receive appropriate training regarding the law, inquiry procedure, confidentiality, evidence and sensitive handling of complaints.

Employers should provide the Committee with adequate facilities and institutional support to conduct its functions independently. Committee members should also understand that their role requires fairness towards all parties while maintaining the dignity and confidentiality of the proceedings.⁸⁹

Regular review of the functioning of Internal Committees can help identify practical difficulties and improve institutional compliance.

5.4.3 Improve Accessibility of Complaint Mechanisms

The complaint mechanism should be made easy to understand and approach. Employees should not have to depend upon informal sources to discover how a complaint can be made.

Details regarding the Internal Committee, its members and the available complaint mechanism should be communicated clearly. In establishments where the Local Committee is relevant, information regarding the appropriate authority should also be made accessible.⁹⁰

Accessibility also requires sensitivity. A woman should be able to seek information or assistance without feeling that doing so will automatically expose her complaint to unnecessary persons.

5.4.4 Ensure Timely and Fair Inquiry

Complaints should be dealt with without unnecessary delay while ensuring fairness to both the complainant and the respondent. A speedy process should not mean a careless process. The parties should receive a reasonable opportunity to present their respective positions and relevant material.⁹¹

Committee members should avoid unnecessary adjournments and should maintain proper records of the proceedings. The statutory time limits should be followed as far as possible, and recommendations should be communicated and implemented in accordance with law.⁹²

A timely and fair procedure can increase confidence in the complaint mechanism and reduce the possibility of a complainant withdrawing because of prolonged proceedings.

5.4.5 Strengthen Employer Accountability

Employers have an important role in converting the statutory requirements of the POSH Act into actual workplace practices. Compliance should include proper constitution of the Internal Committee, awareness programmes, display of relevant information, assistance during inquiry and implementation of recommendations.⁹³

Employer responsibility should not begin only after a complaint is received. Prevention requires a workplace culture in which inappropriate conduct is not ignored and employees are aware that complaints will be treated seriously.⁹⁴

Regular compliance review can help employers identify weaknesses in their existing mechanisms and take corrective measures before they develop into larger institutional problems.

5.4.6 Improve Protection in the Unorganised Sector

Women working in the unorganised sector require greater attention because they may not have access to a formal workplace structure or an Internal Committee. The Local Committee therefore becomes an important part of extending statutory protection to such women.

Information about the Local Committee should reach women at the local level through accessible awareness programmes. The process of identifying the appropriate authority should also be made simple so that a woman does not have to depend upon multiple intermediaries before making a complaint.⁹⁵

Special attention should be given to women who may fear loss of employment or income if they report harassment. Practical protection should be strengthened so that the absence of a formal organisational structure does not result in the absence of meaningful legal protection.

5.4.7 Promote Gender-Sensitive Workplace Practices

Prevention of sexual harassment requires more than the existence of a complaint mechanism. Workplaces should encourage professional conduct based on equality, dignity and respect.⁹⁶

Gender-sensitive workplace practices should include appropriate training, respectful communication, responsible behaviour by persons in authority and a clear institutional approach towards inappropriate conduct. Employees should understand that prevention is a collective responsibility and not merely the responsibility of the Internal Committee.⁹⁷

A workplace culture that promotes equality and dignity can reduce the possibility of harassment being normalised or ignored.

5.5 Strengthening Awareness and Institutional Compliance

The findings of the study show that awareness and institutional compliance cannot be treated as two completely separate issues. Awareness enables employees to understand and use their rights, while institutional compliance ensures that the mechanism is available when those rights are exercised.

A workplace may conduct an awareness programme but still fail to provide an effective Internal Committee. Similarly, an organisation may have a properly constituted Committee but employees may not know that it exists or how to approach it. Effective implementation therefore requires both sides to function together.⁹⁸

The POSH framework should be implemented as a continuing institutional process. Regular awareness programmes, appropriate training of Committee members, proper communication of complaint mechanisms and periodic review of compliance can improve the practical functioning of the law.

The judiciary has also emphasised the importance of actual implementation rather than merely the existence of formal mechanisms. Judicial intervention, particularly in Vishaka, Medha Kotwal Lele and Aureliano Fernandes, demonstrates the continuing importance of institutional compliance in achieving the objectives of workplace sexual harassment law.

5.6 Improving Practical Protection and Accessibility

The central concern identified in this study is the difference between the protection created by law and the protection that women are able to use in their actual working environment. Improving practical protection therefore requires a coordinated approach rather than relying upon a single measure.⁹⁹

First, women should have clear information regarding their rights and available complaint mechanisms. Second, Internal Committees should be properly constituted, trained and supported. Third, complaint procedures should remain accessible, confidential and reasonably timely. Fourth, employers should be made accountable for fulfilling their statutory responsibilities. Finally, the Local Committee mechanism should be strengthened so that women outside formal organisational structures are not excluded from effective protection.¹⁰⁰

Practical accessibility also requires attention to the confidence of the complainant. If women believe that reporting will result in humiliation, professional disadvantage or lack of institutional support, the existence of a statutory remedy may have limited practical value. A safe complaint environment is therefore an important part of effective implementation.¹⁰¹

The study consequently finds that strengthening the POSH framework should focus on making the existing protection usable, rather than concentrating only on creating additional legal provisions. Better awareness, stronger institutions, accessible procedures and responsible implementation can together reduce the gap between statutory protection and workplace reality.

5.7 Conclusion

The present study examined the legal and practical dimensions of workplace sexual harassment under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. The study began by examining the constitutional principles of equality, dignity and safe working conditions and traced the development of legal protection from Vishaka v. State of Rajasthan to the enactment of the POSH Act.¹⁰²

The study further examined the institutional and procedural mechanisms created by the Act, including the Internal Committee, Local Committee, complaint procedure, inquiry process, interim protection, confidentiality and employer responsibilities. These mechanisms provide an important legal structure for preventing and addressing workplace sexual harassment.

At the same time, the study finds that statutory protection does not by itself guarantee effective protection in practice. Lack of awareness, ineffective institutional functioning, fear of reporting, procedural difficulties, delay and limited accessibility may prevent women from fully using the rights available to them. These concerns become particularly significant for

women working in the unorganised sector, where formal workplace structures may be limited¹⁰³.

The judicial decisions discussed in the study demonstrate that the protection of women against workplace sexual harassment is closely connected with constitutional values of equality and dignity. Vishaka established the foundational framework, while later decisions such as Medha Kotwal Lele and Aureliano Fernandes highlighted the importance of implementation and institutional compliance.¹⁰⁴

The study therefore concludes that the effectiveness of the POSH Act should not be measured only by the existence of legal provisions or formally constituted committees. Its real effectiveness depends upon whether women are aware of their rights, able to access the complaint mechanism, treated fairly during the inquiry and provided meaningful institutional protection.¹⁰⁵

The central finding of the study is that there remains a gap between statutory protection and practical workplace protection. Bridging this gap requires continuous awareness, properly functioning Internal Committees, accessible Local Committees, timely and fair procedures, stronger employer accountability and gender-sensitive workplace practices. The POSH Act provides the necessary legal foundation, but its objectives can be fully achieved only when the statutory framework is effectively implemented at the ground level.

The study concludes that the POSH Act, 2013 provides an important legal framework for protecting women from workplace sexual harassment. However, effective protection depends on proper awareness, accessible complaint mechanisms, functioning Internal Committees and responsible implementation. The study identifies a gap between statutory protection and practical protection, particularly for women in the unorganised sector. Strengthening awareness, institutional compliance and accessibility can help make the legal protection more effective in practice.

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¹ Constitution of India arts. 14, 15, 19(1)(g), 21

² The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, No. 14 of 2013, § 2(n), India Code (2013).

³ Vishaka v. State of Rajasthan, (1997) 6 SCC 241. The Supreme Court continues to identify the case as a leading judgment concerning workplace sexual harassment.

⁴ The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, No. 14 of 2013, India Code (2013).

⁵ Medha Kotwal Lele v. Union of India, (2013) 1 SCC 297; see also Supreme Court of India, Gender Sensitization and Internal Complaints Committee materials.

⁶ The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, No. 14 of 2013, 6–7, India Code (2013).

⁷ Apparel Export Promotion Council v. A.K. Chopra, (1999) 1 SCC 759. The Supreme Court has recognised workplace sexual harassment as implicating fundamental rights relating to gender equality and life and liberty.

⁸ Medha Kotwal Lele v. Union of India, (2013) 1 SCC 297.

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- 73 Apparel Export Promotion Council v. A.K. Chopra, (1999) 1 SCC 759.
- 74 Medha Kotwal Lele v. Union of India, (2013) 1 SCC 297.
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