

Effectiveness Of Internal Committees Under The Sexual Harassment Of Women At Workplace Act 2013: A Legal And Organizational Analysis



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Introduction

The Sexual Harassment of Women at Workplace Act 2013 (hereinafter as POSH Act) was enacted as a response to the Vishaka Guidelines laid down by the Supreme Court of India in 1997¹. It recognizes sexual harassment as a violation of a woman's fundamental right to equality under Articles 14, 15, and 21 of the Indian Constitution. The POSH Act marked a watershed moment by institutionalising the Internal Committee as the primary redressal body within every workplace employing more than ten people. However, a decade into its implementation, a disjuncture persists between the legislative framework and organizational adherence. This paper begins by contextualizing the legal and policy foundations of Internal Committee (hereinafter as ICs) and then presents a structured evaluation of their performance through legal, procedural, and organizational metrics.

1. Legislative and Structural Overview of ICs under POSH

The Internal Committee, established under the POSH Act, is a statutorily mandated quasi-judicial body tasked with both preventive and redressal functions to combat workplace sexual harassment. Its formation, composition, powers, and functions are explicitly detailed under Sections 4 to 11 of the POSH Act, ensuring that all workplaces with ten or more employees are compliant with this fundamental safeguard.

Composition of the Internal Committee

As per Section 4 of the POSH Act, the IC must be constituted in a manner that reflects gender sensitivity, diversity of expertise, and impartiality. It must comprise:²

- A Presiding Officer: A senior-level woman employee who can bring both authority and a gender-sensitive perspective to the deliberations.

- Two or more members from within the organization, preferably with legal, social work, or gender justice experience, thus ensuring the availability of diverse and relevant perspectives during the handling of complaints.
- One external member: This person must be affiliated with an NGO or be well-versed in issues relating to sexual harassment, ensuring independence and external oversight within the process.

This structural requirement aims to maintain a balanced committee capable of fair and informed decision-making while also building credibility and trust among employees.

2. Implementation Challenges and Compliance Gaps

I. Organizational Non-Compliance A study by the Ministry of Women and Child Development (MWCD) found that only 65% of registered companies had constituted ICs, and out of these, less than 30% were compliant with the mandated composition.³ In SMEs and start-ups, many ICs exist only on paper, with little awareness among employees. Several organizations also fail to file their Annual Report on POSH compliance, a legal requirement under Rule 14 of the POSH Rules, 2013.

II. Procedural Deficiencies and Bias Numerous high-profile cases reveal that ICs often act under pressure from senior management. In some instances, the external member is either complicit or not qualified to handle sensitive inquiries. Procedural lapses such as lack of a preliminary inquiry, improper record maintenance, and delay in action compromise justice. Victims often withdraw complaints midway due to fear of retaliation or lack of faith in the process.⁴

III. Lack of Capacity Building Training programs are either one-off or superficial. The Ministry of Corporate Affairs recommends IC training as part of

¹ *Vishaka v State of Rajasthan* (1997) 6 SCC 241 (SC).

² *The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013*, s 4.

³ Ministry of Women and Child Development, *Annual Report on Implementation of the Sexual Harassment of Women at Workplace Act* (2020).

⁴ *Rupan Deol Bajaj v KPS Gill* (1996) 4 SCC 194; also refer to various media and tribunal-reported cases compiled in PRS Legislative Research, *Review of Implementation of the POSH Act* (2021).

CSR initiatives, yet no compulsory, standardized curriculum exists. Many members are unaware of the basic principles of natural justice, leading to re-victimization of complainants.

3. Sector-wise Assessment

- I. Government and Public Enterprises Public sector units (PSUs) demonstrate better compliance, largely due to monitoring by departmental heads and audit authorities. However, the redressal process is often bureaucratic, leading to delays and procedural opacity.
- II. Corporate Sector While multinational companies (MNCs) tend to have formal POSH policies, smaller firms lack clarity and initiative. Several ICs in private firms are seen as rubber stamps, influenced by Human Resources or top management. Many employees are unaware of the IC or fear professional repercussions for approaching it.
- III. Academia and Educational Institutions The UGC Regulations, 2015, require all universities to establish ICs and submit annual reports. Despite this, compliance is uneven. Research by the Centre for Law and Policy Research (CLPR) found that less than 50% of central universities had uploaded POSH compliance reports. Students often face hostility, procedural ignorance, or patriarchal attitudes from committee members.

4. Informal Sector and Gig Economy The POSH Act excludes the informal sector, where over 90% of India's female workforce is employed. Although some state governments have attempted to create Local Committees (LCs), their coverage is minimal. Gig workers, such as delivery agents and ride-share drivers, face unique vulnerabilities with no redressal mechanism under the POSH Act.

5. Jurisprudential Evolution

There is a series of supreme court judgments which have helped evolve and study various aspects related to sexual harassment at workplace its lacuna and hurdles in implementation.

- I. The Supreme Court in *Vishaka v. State of Rajasthan* (1997) laid the groundwork for the POSH Act, recognizing sexual harassment as a violation of fundamental rights.⁵ The Vishaka Guidelines served as interim law until the POSH Act was enacted in 2013.
- II. In *Rupan Deol Bajaj v. K.P.S. Gill* (1995) case has demonstrated that institutional apathy and societal stigma associated with harassment complaints and it

led to the inclusion of high-profile offenders in POSH discourse.⁶

- III. The Supreme Court in *Medha Kotwal Lele v. Union of India* (2013)⁷ reiterated the need for proactive institutional mechanisms and held that non-compliance with Vishaka Guidelines amounted to a violation of Article 21.
- IV. Recent Trends Judgments like *Saurabh Kumar Mallick v. Comptroller and Auditor General* have emphasized procedural fairness and upheld the need for transparency and integrity in IC proceedings.⁸ The Courts have increasingly scrutinized IC actions, especially where inquiries are found biased or procedurally deficient.

6. Capacity Building and Best Practices

- I. Capacity building is essential to the proper functioning of Internal Committees under the POSH Act. The National Commission for Women, in association with industry bodies such as Federation of Indian Chambers of Commerce and Industry (FICCI) and Confederation of Indian Industry (CII) has developed detailed training resources that aim to standardize and strengthen the implementation of the Act across various sectors. These modules typically include training on gender sensitivity and recognizing unconscious bias. They also provide legal compliance checklists to ensure organizations follow the necessary procedures under the Act, such as forming a valid committee, documenting complaints properly, maintaining confidentiality, and submitting annual reports. In addition, there are sessions that focus on trauma-informed interviewing techniques and procedural fairness to help committee members handle complaints with empathy and neutrality.
- II. In practice, however, very few organizations apply these tools in a structured and sustained manner. While some large firms have started integrating e-learning modules into their compliance frameworks, and a few rely on third-party trainers to preserve neutrality, the broader landscape shows a significant gap in implementation. Many small and medium-sized enterprises either delay training initiatives or approach them merely as formalities to meet legal requirements. Moreover, there is often a lack of follow-up or refresher training, resulting in the erosion of knowledge and effectiveness over time.⁹
- III. A growing trend is the use of digital grievance redressal systems, particularly in technology-driven

⁵ Supra note 1

⁶ *Rupan Deol Bajaj v KPS Gill* (1995) 6 SCC 194 (SC).

⁷ *Medha Kotwal Lele v Union of India* (2013) 1 SCC 297 (SC).

⁸ *Saurabh Kumar Mallick v Comptroller and Auditor General of India* (2008) 151 DLT 739 (Delhi HC).

⁹ Ministry of Women and Child Development, *Annual Report on the Implementation of the POSH Act* (2020) <https://wcd.nic.in> accessed 4 June 2025.

firms.¹⁰ These systems offer online portals for complaint submission, track the status of inquiries, and often include built-in dashboards to monitor compliance and resolution timelines. Some organizations have also integrated internal training platforms that record participation and progress, allowing for better oversight of who has undergone training and when. In a few cases, artificial intelligence tools are being piloted to detect patterns in harassment complaints and identify systemic risks within departments or locations.

IV. Despite these innovations, several challenges persist. Many institutions, especially in the public sector or in smaller towns, lack dedicated budgets for training or consider it a low-priority item. The cultural resistance to gender sensitization programs often results in passive participation or outright disregard for the content. Furthermore, a lack of localized materials in regional languages restricts the reach and relevance of these programs. Many ICs are either unaware of the availability of external resources or are reluctant to seek external help due to perceived reputational risks.

V. To address these issues, organizations should commit to regular and mandatory training for IC members, employees, and senior leadership. These training sessions should be documented and reviewed annually. There must also be an emphasis on contextualizing the content to reflect regional realities and workplace dynamics. Use of local languages and culturally appropriate examples can significantly improve engagement and understanding. Regular audits, either internal or third-party, can help track compliance, identify gaps, and improve accountability. Leadership engagement is equally vital, as proactive endorsement by senior management can shift organizational culture and normalize conversations around gender and workplace safety.¹¹

7. Policy suggestion:

- To strengthen the implementation and impact of the POSH Act, several policy-level interventions are necessary. A major recommendation is the creation of a National POSH Registry under the Ministry of Women and Child Development. This central registry would serve as a monitoring and compliance platform where organizations across sectors are required to register details of their Internal Committees, including composition, training records, and annual reports. This initiative would bring

much-needed transparency and accountability to IC functioning, enabling both central and state governments to assess compliance and intervene in cases of non-adherence.

- Another critical reform is the standardization of IC training and the introduction of mandatory certification for committee members. At present, training modules vary widely in quality, duration, and relevance. A centralized, accredited framework for IC training should be introduced, with periodic renewal of certification to ensure continued competence. This would help maintain a minimum standard of inquiry and redressal procedures across all organizations, regardless of size or sector.

- In the corporate governance domain, POSH compliance should be formally incorporated into statutory annual disclosures. Much like environmental, social, and governance (ESG) reporting, companies should be mandated to report on the constitution of ICs, number of complaints received, time taken for resolution, actions taken, and awareness activities conducted.¹² This disclosure would not only improve public accountability but also integrate gender justice into the corporate governance framework.

- The current scope of the POSH Act is largely limited to the formal sector, leaving a vast number of informal and gig economy workers unprotected.¹³ With the growing dominance of platform-based employment and contract labor, the Act should be amended to ensure that these categories of workers are explicitly covered. Sector-specific guidelines may be developed to address the unique vulnerabilities of domestic workers, construction laborers, delivery agents, and freelance professionals who currently fall outside traditional employer-employee structures.

- To improve grievance redressal and strengthen procedural safeguards, state-level appellate bodies should be established for the review of decisions made by Internal Committees. These bodies would function as quasi-judicial forums, allowing aggrieved parties to appeal decisions without resorting to the civil court system, which can be time-consuming and

¹⁰ FICCI & Ernst & Young, *Strengthening Implementation of the POSH Act through Technology* (2021).

¹¹ Ministry of Corporate Affairs, *Handbook on CSR and POSH Compliance* (2019) <https://mca.gov.in> accessed 4 June 2025.

¹² Ministry of Corporate Affairs, *Handbook on Corporate Social Responsibility and POSH Compliance* (2019) <https://mca.gov.in> accessed 4 June 2025.

¹³ PRS Legislative Research, *Review of Implementation of the POSH Act, 2013* (2021) <https://prsindia.org> accessed 4 June 2025.

costly.¹⁴ The appellate mechanism would also serve as a check on the integrity and impartiality of IC decisions.

- Finally, there is a need to formally involve civil society organizations and NGOs in both awareness generation and support mechanisms. By incentivizing partnerships between institutions and these entities, the government can create a decentralized support network for victims. These organizations can assist in conducting workshops, supporting complainants during inquiry processes, providing counseling services, and disseminating information in rural and underrepresented areas.¹⁵ A public-private model that encourages community participation would significantly enhance the outreach and effectiveness of the POSH framework.

- In sum, the POSH Act requires a more structured, monitored, and inclusive policy framework to meet the evolving needs of workplaces and the diverse workforce in India. These suggestions aim not only to plug existing legal and procedural gaps but also to embed a culture of accountability, safety, and gender sensitivity at the systemic level.

8. Conclusion

The Internal Committee system remains a cornerstone of India's anti-harassment framework, yet it struggles under the weight of poor enforcement, organizational inertia, and social stigma. Legislative refinement, procedural overhaul, and capacity-building along with keeping various higher courts' judgments, are urgently needed to ensure that ICs function as impartial, effective, and trusted mechanisms. Empowering ICs is not just a statutory requirement—it is a moral imperative to uphold workplace dignity and equality. Effective IC will help in the economic upliftment of women in India.

¹⁴ *Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013*, s 11 read with s 18 (absence of statutory appellate forum at state level – proposed).

¹⁵ FICCI, *Enabling Gender-Inclusive Workplaces: The Role of NGOs in POSH Awareness* (2021).