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# The Gaps in Workplace Conduct Beyond POSH — Why Compliance Theatre Fails Women

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# The Gaps in Workplace Conduct Beyond POSH — Why Compliance Theatre Fails Women

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## EDITORIAL SUMMARY

*Business Standard*, April 21, 2026 — Over a decade since the **Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act)**, India’s workplaces remain structurally unsafe for women — not because the law is absent, but because organisations prioritise **compliance theatre** over genuine culture change. Internal Complaints Committees (ICCs) are often stacked with loyalists, inquiry procedures are opaque, and complainants face professional retaliation that no law effectively deters. The editorial argues for mandatory external oversight of ICCs, stronger whistleblower protection for harassment complainants, and extension of POSH protections to informal and gig workers currently excluded from the Act’s scope.

## THE POSH ACT — A DECADE IN REVIEW

### Background

The **POSH Act, 2013** is the legislative outcome of the **Vishaka Guidelines** issued by the Supreme Court in **Vishaka v. State of Rajasthan (1997)** — one of India’s landmark judgments on workplace rights. The Vishaka case arose from the gang-rape of Bhanwari Devi, a social worker in Rajasthan, highlighting the state’s failure to protect women from workplace-related sexual violence.

## Key Provisions of the POSH Act

PROVISION	DETAIL
<b>Applicability</b>	All workplaces with 10+ employees; government and private sector
<b>Internal Complaints Committee (ICC)</b>	Mandatory in every organisation; 50%+ women members; presiding officer must be a senior woman employee
<b>Local Complaints Committee (LCC)</b>	For informal workers and organisations with <10 employees; constituted by District Officer
<b>Complaint window</b>	3 months from incident (extendable)
<b>Inquiry timeline</b>	Complete within 90 days
<b>Penalty for non-compliance</b>	Fine up to ₹50,000; cancellation of licence
<b>Definition of sexual harassment</b>	Physical contact, demand for sexual favours, sexually coloured remarks, showing pornography, any other unwelcome conduct of a sexual nature

## WHAT'S NOT WORKING

### 1. ICC Capture

ICCs are constituted by the employer — creating a structural conflict of interest when the accused is a senior figure:

- Presiding officers may be **professionally dependent** on the accused or their patrons
- External member requirement (from an NGO or legal background) is routinely met on paper through tokenistic appointments
- **Inquiry reports** favour the accused in a significant proportion of contested cases, based on NHRC and civil society data

### 2. Underreporting — The Tip of the Iceberg

Annual reports filed by companies and government bodies show:

- **SEBI-listed companies** are required to disclose POSH complaints in annual reports — data shows extremely low complaint rates relative to workforce size
- Most women do not report because they fear:
  - **Retaliation** — transfers, poor performance reviews, being frozen out

- **Social stigma** — victim-blaming cultures
- **Futility** — belief that ICCs will side with the organisation
- **Lack of confidentiality** — identity of complainant often becomes known

### 3. Informal and Gig Workers — The Excluded Majority

The POSH Act's **LCC (Local Complaints Committee)** is meant to cover informal workers — but:

- LCCs are poorly constituted in most districts
- **Gig workers** (Zomato, Swiggy, Ola, Urban Company delivery and service workers) occupy a legal grey zone — they are not “employees” under most definitions
- **Domestic workers** — one of the most harassment-vulnerable categories — have almost no effective POSH protection
- **Agricultural workers** — similarly excluded in practice

India's informal economy employs ~90% of the workforce — yet POSH's effective protection reaches primarily the formal, urban, corporate sector.

### 4. The Workplace Definition Gap

Post-COVID, the workplace has expanded:

- **Work-from-home** — harassment now occurs via digital means (WhatsApp messages, video calls)
- **Co-working spaces** — unclear which employer's ICC applies
- **Client sites** — employees deputed to client premises fall in jurisdictional gaps
- The Act's definition of “workplace” does not fully address these scenarios

## WHAT BEYOND-POSH FRAMEWORKS LOOK LIKE

### 1. Independent External Oversight

The editorial recommends:

- **Third-party ICC oversight** — mandatory involvement of an independent external auditor for all ICC proceedings involving senior management
- **Annual POSH audits** — by a government-notified agency (Labour Department or NCW) for organisations above a threshold size
- **ICC composition review** — external member must be approved by the National Commission for Women (NCW), not self-selected by the employer

## 2. Anti-Retaliation Protection

India lacks a comprehensive **whistleblower protection law** applicable to POSH complainants:

- The **Whistle Blowers Protection Act, 2014** covers public servants; not applicable to private sector POSH complaints
- Amendment needed: POSH Act to include **specific anti-retaliation provisions** — prohibition of adverse employment action post-complaint, with reversal of burden of proof

## 3. Expanding POSH to Gig Workers

The **Code on Social Security, 2020** (one of the four Labour Codes) recognises gig and platform workers and mandates a social security fund. This opens a pathway to extend POSH-equivalent protections to gig workers through:

- Platform-constituted ICCs with external oversight
- Government-maintained LCCs for gig worker complaints
- Aggregator platforms mandated to display ICC contact details to workers

## 4. Digital Harassment Definition

The POSH Act's definition of harassment should be amended to explicitly cover:

- **Unsolicited digital messages** of a sexual nature (WhatsApp, Teams, email)
- **Stalking via GPS or digital surveillance** in employment contexts
- **AI-generated content** used to harass or coerce

## THE ORGANISATIONAL CULTURE PROBLEM

The editorial's core argument is that **culture change cannot be mandated by law** but must be incentivised through:

- 1 **Leadership accountability** — board-level oversight of POSH compliance; MD/CEO liable for systemic failures
- 2 **Pay equity transparency** — companies that pay women equitably tend to have better workplace safety cultures
- 3 **Training quality** — current mandatory POSH training is often a one-hour annual checkbox; meaningful training requires ongoing, scenario-based engagement
- 4 **Safe reporting channels** — anonymous reporting to external hotlines (not internal ICC) as a first step

## NATIONAL COMMISSION FOR WOMEN (NCW) — THE OVERSIGHT BODY

The **NCW (National Commission for Women)** — established under the **National Commission for Women Act, 1990** — is the statutory body for women’s rights:

- Can receive and investigate POSH complaints
- Can recommend action to government
- Limited enforcement powers — acts largely through recommendation and investigation
- **Strengthening NCW’s POSH enforcement authority** is a key reform demand

## UPSC RELEVANCE

PAPER	ANGLE
GS2 — Governance	POSH Act 2013, ICC, LCC, NCW, whistleblower protection
GS2 — Social Justice	Workplace rights, gender equity, informal workers
GS4 — Ethics	Workplace ethics, organisational integrity, duty of care
GS3 — Economy	Gig economy, Labour Codes, Code on Social Security 2020
Mains Keywords	POSH Act 2013, Vishaka Guidelines, ICC, LCC, NCW, gig workers, Code on Social Security 2020, workplace harassment, anti-retaliation

## KEY FACTS

- **POSH Act, 2013:** Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act
- **Vishaka v. State of Rajasthan (1997):** Supreme Court guidelines that preceded POSH Act; arose from Bhanwari Devi case
- **ICC:** Internal Complaints Committee — mandatory for all organisations with 10+ employees; 50%+ women members
- **LCC:** Local Complaints Committee — for informal workers and small organisations; constituted by District Officer
- **Complaint window:** 3 months from incident (extendable)

- **SEBI requirement:** Listed companies must disclose POSH complaints in annual reports
- **NCW:** National Commission for Women — established under NCW Act, 1990
- **Whistle Blowers Protection Act, 2014:** Covers public servants only — gap for private sector POSH complainants
- **Code on Social Security, 2020:** One of four Labour Codes; recognises gig/platform workers — opens POSH extension pathway
- **Gig workers in India:** ~7.7 million (2020-21, NITI Aayog estimate); projected 24 million by 2030
- **LCC gap:** Most districts have poorly constituted or non-functional LCCs — informal worker protection largely absent


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