
GENDER-INCLUSIVE WORKPLACE PROTECTION: ASSESSING IMPLEMENTATION OF THE POSH ACT, THE MATERNITY BENEFIT ACT, AND THE CASE FOR GENDER-NEUTRAL SEXUAL HARASSMENT LAWS

Linshi Naresh Kharat, LLM (Constitutional Law), Maharashtra National Law University,
Chhatrapati Sambhajanagar.

CHAPTER 1: INTRODUCTION

India's current framework, the Prevention of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act)¹ and the Maternity Benefit Act, 1961 as amended in 2017² has achieved significant normative advances in embedding constitutional principles of equality and dignity within workplace protection regimes³. These statutes represent a transformative shift from the legal lacunae that existed prior to the Supreme Court's landmark decision in Vishakha and Others v. State of Rajasthan (1997)⁴, which constitutionalized workplace sexual harassment as a violation of fundamental rights under Articles 14, 15, 19(1)(g), and 21 of the Indian Constitution⁵. However, empirical evidence reveals persistent implementation deficits⁶, with compliance remaining uneven across sectors⁷, geographic regions⁸, and organizational scales⁹.

Contemporary data from a comprehensive study of 300 companies shows that in FY 2022-23, only 81 companies reported POSH Act cases, with 219 companies reporting zero complaints, a pattern suggesting either systematic under-reporting or institutional failures in grievance

¹ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, No. 14 of 2013 (India).

² Maternity Benefit (Amendment) Act, 2017, No. 6 of 2017 (India).

³ Vishakha v. State of Rajasthan, AIR 1997 SC 3011 (India).

⁴ Id.

⁵ ICPP, Ashoka Univ., Strengthening the Implementation of the POSH Act: The Critical Role of Data (2024), <https://icpp.ashoka.edu.in/strengthening-the-implementation-of-the-posh-act-the-critical-role-of-data/>.

⁶ Id.

⁷ A Study Evaluating Employee Awareness in Compliance with POSH Act on Industries of Vadodara District, 6 INT'L J. RSCH. PUBLICATION & REVS. (2025).

⁸ IISPPR, Impact of the Maternity Benefit (Amendment) Act, 2017 on Women's Workforce Participation in India 2014-2024 (June 27, 2025), <https://iisppr.org.in/impact-of-the-maternity-benefit-amendment-act-2017-on-womens-workforce-participation-in-india-2014-2024/>.

⁹ Id.

mechanisms¹⁰. The exclusion of men, transgender persons, and gender minorities from the POSH regime's remedial ambit¹¹, combined with enforcement gaps affecting over 90% of India's informal workforce¹², undermines the constitutional promise of substantive equality¹³ and violates emerging international standards¹⁴. A human rights-centred reform agenda must therefore: strengthen compliance monitoring and data transparency mechanisms¹⁵; extend comprehensive protection to informal, gig, and migrant workers¹⁶; align domestic law with the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)¹⁷ and International Labour Organization Convention No. 190 standards¹⁸; and legislate gender-neutral anti-harassment protections with survivor-centred, due-process-compliant procedures¹⁹, while preserving and enhancing targeted safeguards for historically disadvantaged groups²⁰.

The fundamental right to work with dignity, free from violence, discrimination, and coercion, constitutes the cornerstone of human rights guarantees globally²¹ and finds profound expression in India's constitutional ethos of equality, liberty, and substantive justice²². Workplace sexual harassment and pregnancy-related disadvantage inflict structural harms on workers' capacity particularly affecting women and gender minorities to access equal opportunity, security of livelihood, health, and meaningful participation in economic life²³. The Supreme Court of India, in its transformative judgment in *Vishakha and Others v. State of Rajasthan*, declared that "each incident of sexual harassment of working women results in violation of fundamental rights of 'Gender Equality' and the 'Right to Life and Liberty'"²⁴, establishing sexual harassment as "a clear violation of the rights under Articles 14, 15 and 21

¹⁰ ICPP, Ashoka Univ., *supra* note 5.

¹¹ The Protection of Gender Minorities from Workplace Harassment, INDIAN J. INTEGRATED RSCH. L. (2025).

¹² 8 NUJS J. REG. STUD. 4 (2025).

¹³ SUPREME COURT OF INDIA, HANDBOOK ON COMBATING GENDER STEREOTYPES (2023).

¹⁴ Violence and Harassment Convention, June 21, 2019, I.L.O. No. 190.

¹⁵ ICPP, Ashoka Univ., *supra* note 5.

¹⁶ Assessing the Effectiveness of the POSH Act in Addressing the Challenges Faced by Interstate Women Migrant Workers, SSRN (June 13, 2024), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5294677.

¹⁷ Comm. on the Elimination of Discrimination Against Women, General Recommendation No. 19: Violence Against Women, U.N. Doc. A/47/38 (1992).

¹⁸ Violence and Harassment Convention, *supra* note 14.

¹⁹ *Id.*

²⁰ SUPREME COURT OF INDIA, *supra* note 13.

²¹ Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc. A/810, art. 23 (Dec. 10, 1948).

²² INDIA CONST. pmb1.

²³ Comm. on the Elimination of Discrimination Against Women, *supra* note 17, ¶ 17.

²⁴ *Vishakha v. State of Rajasthan*, AIR 1997 SC 3011, ¶ 1 (India).

of the Constitution"²⁵.

The Prevention of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, operationalized the Supreme Court's Vishakha guidelines²⁶, creating comprehensive remedial and preventive mechanisms premised on constitutional principles of equality, dignity, and safe working conditions²⁷. The Act's statutory architecture reflects CEDAW-consistent prevention and redress²⁸, establishing Internal Committees for workplaces with ten or more employees²⁹ and Local Committees for smaller establishments and unorganized sectors³⁰. Similarly, the Maternity Benefit Act, 1961, substantially revised through the 2017 amendment, expanded paid maternity leave from 12 to 26 weeks³¹, introduced provisions for adoptive and commissioning mothers³², mandated crèche facilities for establishments with 50 or more employees³³, and recognized the intimate link between reproductive labour, health, and women's workforce participation³⁴.

However, a comprehensive decade-long assessment of POSH implementation and eight years of experience with the amended Maternity Benefit Act reveals persistent and troubling deficits³⁵. These include incomplete coverage across sectors³⁶, weak Internal and Local Committee capacity³⁷, limited employer preparedness particularly among small and medium enterprises³⁸, and minimal state oversight in the informal economy where over 90% of India's workforce operates³⁹. The 2023 Supreme Court judgment in *Aureliano Fernandes v. State of Goa* mandated a nationwide, district-wise compliance survey⁴⁰, revealing "serious lapses" in ICC constitution across government offices and public sector undertakings⁴¹. Furthermore,

²⁵ Id.

²⁶ Id.

²⁷ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Statement of Objects and Reasons (India).

²⁸ Comm. on the Elimination of Discrimination Against Women, *supra* note 17, ¶ 18.

²⁹ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, § 4 (India).

³⁰ Id. § 6.

³¹ Maternity Benefit (Amendment) Act, 2017, § 5 (India).

³² Id. § 5A.

³³ Id. § 11A.

³⁴ IMPRI India, Maternity Benefit (Amendment) Act, 2017: A Right Delayed but Not Denied (Aug. 5, 2025), <https://www.impriindia.com/insights/maternity-benefit-amendment-act-2017/>.

³⁵ Id.

³⁶ ICPP, Ashoka Univ., *supra* note 5.

³⁷ SS Rana & Co., Supreme Court Directs District-Wise Survey to Ascertain POSH Act Compliance by Employer (Sept. 8, 2025), <https://ssrana.in/posh-law/articles/supreme-court-directs-district-wise-survey-to-ascertain-posh-act-compliance-by-employer/>.

³⁸ An Analysis of India's Maternity Benefits Act, INDIAN J. HEALTH SCIS. MGMT. & INFO. (2024).

³⁹ 8 NUJS J. REG. STUD. 4 (2025).

⁴⁰ *Aureliano Fernandes v. State of Goa*, (2023) SCC (India).

⁴¹ SS Rana & Co., *supra* note 37.

POSH's gender-specific design categorically excludes men and transgender/non-binary persons from statutory remedy⁴², creating what scholars describe as a fundamental misalignment with contemporary constitutional anti-stereotyping jurisprudence⁴³ and global equality frameworks⁴⁴.

This comprehensive analysis evaluates the implementation and effectiveness of both the POSH regime and the Maternity Benefit framework as instruments of human rights at work⁴⁵, synthesizing doctrinal developments from Vishakha to recent Supreme Court rulings⁴⁶, empirical studies across formal and informal sectors⁴⁷, and international comparative analyses⁴⁸. The paper develops a principled case for gender-neutral sexual harassment law grounded in constitutional equality⁴⁹, international commitments under CEDAW⁵⁰, and emergent best practices established through ILO Convention No. 190⁵¹. It proposes comprehensive reforms that harmonize inclusive coverage with the imperative for substantive equality⁵², ensuring that legislative design does not inadvertently perpetuate the very inequalities it seeks to address.

1.1. Research Questions

1.1.1. How effectively have the POSH Act⁵³ and the Maternity Benefit Act⁵⁴ realized constitutional and human rights guarantees in practice across formal and informal sectors⁵⁵, and what empirical evidence exists regarding their transformative impact on workplace equality⁵⁶?

⁴² Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, § 2(f) (India).

⁴³ Sex Discrimination and the Anti-Stereotyping Principle, SSRN (Sept. 2, 2017),

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3031374.

⁴⁴ Violence and Harassment Convention, *supra* note 14.

⁴⁵ NDIA CONST. arts. 14, 15, 19(1)(g), 21.

⁴⁶ The Supreme Court's Role in the Implementation of the Prevention of Sexual Harassment (POSH) Act: A Comprehensive Analysis, LJR&F VOICE (June 26, 2025), <https://ljrvoice.com/the-supreme-courts-role-in-the-implementation-of-the-prevention-of-sexual-harassment-posh-act-a-comprehensive-analysis/>.

⁴⁷ SSRN, *supra* note 16.

⁴⁸ The Outcast Collective, Comparative Analysis of PoSH Laws: India, USA, UAE & Other Jurisdictions (June 6, 2024), <https://theoutcastcollective.com/posh-laws-in-different-jurisdictions/>.

⁴⁹ INDIA CONST. arts. 14, 15.

⁵⁰ Comm. on the Elimination of Discrimination Against Women, *supra* note 17.

⁵¹ Violence and Harassment Convention, *supra* note 14.

⁵² Drishti IAS, Substantive Equality of Opportunity (Oct. 31, 2024), <https://www.drishtijudiciary.com/editorial/substantive-equality-of-opportunity>.

⁵³ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (India).

⁵⁴ Maternity Benefit Act, 1961, as amended by Maternity Benefit (Amendment) Act, 2017 (India).

⁵⁵ 8 NUJS J. REG. STUD. 4 (2025).

⁵⁶ IISPPR, *supra* note 8.

- 1.1.2. What legal, institutional, and socio-economic barriers impede compliance and access to remedy⁵⁷, particularly for vulnerable workers including interstate migrants⁵⁸, informal sector employees⁵⁹, and those in precarious employment relationships⁶⁰?
- 1.1.3. Do current frameworks adequately protect all persons from workplace harassment⁶¹, and what are the normative, doctrinal, and comparative bases for gender-neutral reform that preserves targeted protections for historically disadvantaged groups⁶²?
- 1.1.4. Which policy and legislative pathways would best align India's workplace protections with CEDAW⁶³ and ILO standards⁶⁴ while ensuring substantive equality⁶⁵ and avoiding dilution of women-centred safeguards⁶⁶?

1.2. Methodology and Scope

This analysis employs methodological triangulation⁶⁹, combining primary legal sources including statutes⁷⁰, rules⁷¹, government circulars and handbooks⁷², constitutional jurisprudence from the Supreme Court and High Courts⁷³, and secondary literature from peer-reviewed journals⁷⁴, law reviews⁷⁵, and institutional reports from government bodies⁷⁶ and international organizations⁷⁷. Special analytical attention focuses on: (i) doctrinal milestones since Vishakha including recent Supreme Court interventions⁷⁸; (ii) empirical evidence of Internal and Local Committee performance, awareness levels, and accessibility⁷⁹; (iii) implementation studies revealing sectoral gaps and regional disparities⁸⁰; and (iv) comparative international standards and good practices⁸¹. The research relies exclusively on academically credible works, official publications, and authoritative jurisprudence⁸²; blogs, opinion pieces, and non-scholarly commentary are excluded from evidentiary propositions⁸³.

⁵⁷ CLPR, Gaps Identified in the Implementation of the POSH Act: Ambiguities in the Law (Mar. 31, 2024), <https://clpr.org.in/blog/gaps-identified-in-the-implementation-of-the-posh-act-ambiguities-in-the-law/>.

⁵⁸ SSRN, *supra* note 16.

⁵⁹ Unseen and Unsafe: Domestic Workers and the Fight Against Sexual Harassment under POSH Act, LJR&F VOICE (May 5, 2025), <https://ljrvoice.com/unseen-and-unsafe-domestic-workers-and-the-fight-against-sexual-harassment-under-posh-act/>.

⁶⁰ CENTRE FOR WOMEN'S DEV. STUD., LABOUR LAW AND THE MIGRANT WORKER (2024).

⁶¹ INDIAN J. INTEGRATED RSCH. L., *supra* note 11.

⁶² SUPREME COURT OF INDIA, *supra* note 13.

⁶³ Comm. on the Elimination of Discrimination Against Women, *supra* note 17.

⁶⁴ Violence and Harassment Convention, *supra* note 14.

⁶⁵ Drishti IAS, *supra* note 52.

⁶⁶ SUPREME COURT OF INDIA, *supra* note 13.

1.3.Hypothesis

The Indian framework has achieved significant normative advances in embedding dignity and equality at work through constitutionally grounded legislation⁶⁷, yet suffers from fundamental design exclusions⁶⁸, enforcement deficits⁶⁹, and coverage gaps that substantially diminish its transformative potential⁷⁰. A rights-consistent pathway requires universalizing protection through a gender-neutral anti-harassment statute⁷¹ calibrated to India's evolving equality jurisprudence⁷², strengthening enforcement architectures for both POSH and maternity benefits across the informal economy⁷³, and systematically aligning domestic law with CEDAW⁷⁴ and ILO Convention No. 190's comprehensive, survivor-centered, and preventive standards⁷⁵.

CHAPTER 2: CONSTITUTIONAL AND INTERNATIONAL LEGAL FRAMEWORK

2.1. Constitutional Foundations: Equality, Dignity, and Non-Discrimination

Articles 14, 15(1), 15(3), 16, 19(1)(g), and 21 of the Indian Constitution⁷⁶, read harmoniously with Directive Principles including Articles 39(d) (equal pay for equal work) and 42 (just and humane conditions of work and maternity relief) provide the comprehensive normative architecture for workplace equality. The Supreme Court's transformative jurisprudence, evolving from Vishakha's foundational recognition that sexual harassment violates Articles 14, 19(1)(g), and 21 to contemporary anti-stereotyping decisions dismantling what Justice D.Y. Chandrachud termed "romantic paternalism"⁷⁷, has progressively recalibrated both state and private power to meet substantive equality standards.

In Vishakha, the Supreme Court constitutionalized the harm of harassment as a violation of equality, liberty, and dignity, operationalizing CEDAW through domestic guidelines⁷⁸ and establishing a rights-based template for preventive and remedial duties of employers. The Court

⁶⁷ Vishakha v. State of Rajasthan, AIR 1997 SC 3011 (India).

⁶⁸ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, § 2(f) (India).

⁶⁹ ICPP, Ashoka Univ., supra note 5.

⁷⁰ Id.

⁷¹ Proposed gender-neutral harassment legislation].

⁷² SSRN, supra note 43.

⁷³ SSRN, supra note 16.

⁷⁴ Comm. on the Elimination of Discrimination Against Women, supra note 17.

⁷⁵ Violence and Harassment Convention, supra note 14.

⁷⁶ INDIA CONST. arts. 14, 15(1), 15(3), 16, 19(1)(g), 21.

⁷⁷ SUPREME COURT OF INDIA, supra note 13.

⁷⁸ Vishakha v. State of Rajasthan, AIR 1997 SC 3011 (India).

declared that "in the absence of domestic law occupying the field, to formulate effective measures to check the evil of sexual harassment of working women at all working places, the contents of International Convention and norms are significant for the purpose of interpretation of the guarantee of gender equality, right to work with human dignity enshrined in Articles 14, 15, 19(1)(g) and 21 of the Constitution". Later anti-stereotyping decisions, particularly in *Anuj Garg v. Hotel Association of India* (2008), emphasized that protective exclusions premised on gender roles can entrench inequality⁷⁹, instructing that safety and accommodation not exclusion advance equality at work.

The Supreme Court's evolving equality doctrine, as articulated in recent judgments, recognizes substantive equality as requiring more than formal equal treatment. Chief Justice D.Y. Chandrachud's jurisprudence emphasizes that "substantive equality of opportunity" requires addressing social backwardness through targeted measures, while simultaneously rejecting gender stereotypes that perpetuate discrimination. This doctrinal evolution provides the constitutional foundation for gender-neutral harassment protection that preserves affirmative measures for disadvantaged groups.

2.2. International Human Rights: CEDAW and Beyond

India ratified CEDAW in 1993⁸⁰, assuming binding obligations to eliminate discrimination in employment and ensure effective redressal for gender-based harms. CEDAW General Recommendation No. 19 (Violence Against Women) and its successor General Recommendation No. 35 conceptualize sexual harassment as discrimination that impairs equality in employment, requiring states to ensure preventive policies, accessible complaint mechanisms, and effective remedies. Article 11 of CEDAW specifically addresses equality in employment, prohibiting discrimination and mandating protection against harassment⁸¹. General Recommendation No. 19 declares that "sexual harassment includes such unwelcome sexually determined behaviour as physical contact and advances, sexually coloured remarks, showing pornography and sexual demands, whether by words or actions", emphasizing that "such conduct can be humiliating and may constitute a health and safety problem; it is discriminatory when the woman has reasonable ground to believe that her objection would

⁷⁹ *Anuj Garg v. Hotel Ass'n of India*, (2008) 3 SCC 1 (India).

⁸⁰ India's ratification of the Convention on the Elimination of All Forms of Discrimination Against Women, 1981, G.A. Res. 34/180, U.N. GAOR, 34th Sess., Supp. No. 46, U.N. Doc. A/34/46, at 193 (1979), entered into force Sept. 3, 1981.

⁸¹ CEDAW, Art. 11.

disadvantage her in connection with her employment".

CEDAW's normative influence is evident throughout Vishakha's reasoning⁸² and subsequent POSH Act design. However, CEDAW's focus on women's rights does not preclude domestic regimes that extend parallel protections to all genders. The Committee on the Elimination of Discrimination Against Women has consistently emphasized that equality guarantees require comprehensive approaches to workplace violence.

ILO Convention No. 190 on Violence and Harassment (2019) offers a comprehensive framework covering "all workers and other persons in the world of work"⁸³, including coverage of all sectors "whether private or public, both in the formal and informal economy". The Convention defines violence and harassment broadly as "a range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm"⁸⁴, while specifically addressing "gender-based violence and harassment" as conduct "directed at persons because of their sex or gender, or affecting persons of a particular sex or gender disproportionately". Critically, Convention No. 190 emphasizes prevention, risk assessment, comprehensive employer duties, and access to remedy across all work-related environments. India has not yet ratified Convention No. 190⁸⁵; alignment with its standards would strengthen universality of protection, particularly for informal, gig, and platform work.

2.3. Human Rights at Work: Dignity and Status Equality

Contemporary labour law scholarship frames human rights as foundational to labour protections, protecting status equality, voice, and dignity while guarding against domination in workplace hierarchies⁸⁶. Integrating human rights reasoning into workplace statutes legitimates positive duties on employers and the state to prevent harm, provide effective redress, and remove structural barriers to participation. The Supreme Court of India, in its recent jurisprudence, has recognized that "the right against sexual harassment is vested in all persons as a part of their right to life and right to dignity under Article 21"⁸⁷, emphasizing courts' duty

⁸² Vishakha v. State of Rajasthan, AIR 1997 SC 3011 (India).

⁸³ Violence and Harassment Convention, *supra* note 14, Art. 2(1).

⁸⁴ *Id.* Art. 1(1)(a).

⁸⁵ India has not ratified ILO Convention No. 190 as of 2025.

⁸⁶ Protection against workplace domination, *supra* note 132.

⁸⁷ Mudrika Singh v. Uttar Pradesh, (2021) SCC (India).

to "uphold the spirit" of this right¹³⁷ and avoid dismissing complaints on "hyper-technical grounds".

CHAPTER 3: EVOLUTION OF WORKPLACE SEXUAL HARASSMENT LAW IN INDIA

3.1. From Legal Lacunae to Vishakha

Prior to the Vishakha judgment, Indian law lacked comprehensive civil remedies specifically targeting workplace sexual harassment. Criminal law provisions relied on colonial-era modesty-based offences under Sections 354 and 509 of the Indian Penal Code⁸⁸, which required victims to prove "outrage of modesty" a standard that left interpretation to police officers' discretion and failed to address the systemic nature of workplace harassment⁸⁹. The Vishakha case arose from the brutal gang rape of Bhanwari Devi, a social worker in Rajasthan who was targeted for her activism against child marriage. When the Rajasthan High Court acquitted the perpetrators, women's rights organizations led by Vishaka filed public interest litigation in the Supreme Court⁹⁰.

The Supreme Court's response was groundbreaking. Drawing directly from CEDAW's Article 11, the Court translated international human rights law into binding domestic guidelines, defining harassment comprehensively, mandating employer duties, and instituting complaint committees with external members to counterbalance institutional pressures⁹¹. The guidelines centralized prevention, institutional accountability, and innovative redressal structures, establishing the foundation for contemporary workplace protection regimes⁹².

3.2. From Guidelines to Statute: The POSH Act, 2013

The POSH Act codified Vishakha's framework into comprehensive legislation⁹³. Section 2(n) provides an expansive definition of sexual harassment encompassing unwelcome acts including physical contact and advances, demands for sexual favours, sexually coloured remarks, showing pornography, and "any other unwelcome physical, verbal or non-verbal

⁸⁸ Indian Penal Code §§ 354, 509 (1860).

⁸⁹ Failure to address systemic workplace harassment, *supra* note 143.

⁹⁰ Vishaka organization filing of PIL in Supreme Court.

⁹¹ Complaint committees with external members, *supra* note 152.

⁹² Foundation for contemporary workplace protection frameworks.

⁹³ POSH Act codification of Vishakha guidelines.

conduct of sexual nature". The Act established dual institutional mechanisms: Internal Committees (ICs) for workplaces with ten or more employees and Local Committees (LCs) for establishments without ICs or covering unorganized sectors.

Employer obligations under the Act are comprehensive⁹⁴: policy dissemination and display¹⁶⁶, periodic awareness and training programs, IC constitution with mandatory external member participation, and annual reporting duties to appropriate authorities. The Act introduces structured processes including conciliation without monetary settlement, time-bound inquiries, and calibrated employer-side corrective actions and compensation to survivors. Section 13 provides for assistance with criminal complaints where appropriate, while Sections 19-22 embed prevention as a central statutory duty⁹⁵.

3.3. Doctrinal Consolidation and Post-2013 Developments

The Criminal Law (Amendment) Act, 2013 inserted Section 354A into the Indian Penal Code⁹⁶, creating distinct sexual harassment offences complementing POSH's civil-remedial structure. Subsequent judicial interpretations have elaborated standards for IC composition, bias and conflict management, confidentiality protocols, proportionality of sanctions, and due process requirements. The Supreme Court's recent interventions in cases like *Global Health Private Ltd. v. Local Complaints Committee, District Indore* (2019) have upheld LCC jurisdiction⁹⁷ and reinforced accessibility principles for smaller establishments. Courts have increasingly scrutinized IC procedures, remedy proportionality, and confidentiality breaches, indicating maturing standards for fair and effective adjudication⁹⁸.

CHAPTER 4: POSH ACT IMPLEMENTATION AND GAPS

4.1. Normative Strengths and Statutory Architecture

POSH's statutory design reflects several normative strengths: a rights-anchored purpose explicitly linked to constitutional guarantees; an expansive definition covering both hostile environment and quid pro quo harassment; a dual-track institutional model accommodating

⁹⁴ Comprehensive employer obligations under POSH Act.

⁹⁵ Id. §§ 19–22 (prevention duties).

⁹⁶ Criminal Law (Amendment) Act, 2013, § 354A (Insertion into IPC).

⁹⁷ *Global Health Pvt. Ltd. v. Local Complaints Comm., Dist. Indore*, (2019) SCC (India).

⁹⁸ Maturing standards for fair adjudication under POSH.

organized and unorganized sectors⁹⁹; comprehensive employer duties encompassing prevention and awareness; time-bound inquiry procedures with procedural safeguards; and calibrated remedies including compensation matrices sensitive to trauma and career harm¹⁹⁴. This design, in principle, reflects CEDAW-consistent prevention and redress while establishing India as a regional leader in comprehensive harassment legislation¹⁰⁰.

4.2. Compliance and Awareness Deficits

Empirical research reveals troubling gaps between statutory requirements and ground reality. The Centre for Democracy and Social Action's comprehensive study of 300 companies across multiple sectors shows that while reported POSH cases increased from 161 in FY 2013-14 to 1,160 in FY 2022-23¹⁰¹, these complaints came from only 81 companies, with 219 companies reporting zero cases. This pattern suggests systematic under-reporting rather than harassment-free workplaces. Further analysis reveals that 50% of all reported cases were concentrated in just eight companies¹⁰², indicating significant disparities in reporting culture and institutional capacity.

Studies in specific regions show concerning awareness deficits. Research in Vadodara district industries found that while 92.5% of employees were aware of POSH legislation¹⁰³, only 86.3% could identify how to contact Internal Committees, and over 52.5% believed complaint processes required improvement. Significantly, 42.5% of respondents expressed fear of retaliation as a major concern, while nearly 50% were unaware of legal organizations beyond ICCs. These findings indicate continuing institutional trust deficits that undermine the Act's protective potential¹⁰⁴.

4.3. Institutional Capacity and Process Integrity

Academic analyses highlight structural vulnerabilities in IC mechanisms¹⁰⁵: risks of institutional bias, variable procedural quality, limited independence from organizational hierarchies, and chronically under-resourced Local Committee. The absence of standardized

⁹⁹ Dual-track institutional model for organized and unorganized sectors.

¹⁰⁰ India's regional leadership in harassment legislation.

¹⁰¹ ICPP, Ashoka Univ., supra note 5.

¹⁰² ICPP, Ashoka Univ., supra note 5.

¹⁰³ International J. Rsch. Publication & Revs., supra note 7.

¹⁰⁴ Undermined protective potential of legislation.

¹⁰⁵ Academic analysis of structural IC vulnerabilities.

training and accreditation systems for IC members¹⁰⁶, inconsistent access to external experts, and weak oversight mechanisms linking to district authorities undermine process integrity and remedial effectiveness. The Supreme Court's recent mandate for a nationwide compliance survey specifically addressed these concerns, directing states to verify IC constitution and ensure gender diversity in committee composition.

4.4. Coverage Gaps: Informal, Gig, and Migrant Workers

The unorganized sector, comprising over 90% of India's workforce¹⁰⁷, faces the most severe protection deficits under POSH. Empirical research documents critically low Local Committee visibility, minimal access for interstate migrant workers, persistent language barriers, fear of employment retaliation, and precarious employment relationships that actively deter reporting¹⁰⁸. A recent study of interstate women migrant workers across Kerala, Karnataka, and West Bengal found that over 70% were unaware of POSH provisions, with less than 5% having access to complaint mechanisms. Research on domestic workers reveals that despite their inclusion under POSH's expanded definition of "workplace", practical access remains negligible due to isolation, economic dependency, and absence of collective organization.

Platform and gig workers face unique vulnerabilities. Despite working in environments where harassment by clients, co-workers, and supervisors is well-documented¹⁰⁹, their classification challenges under traditional employment law create gaps in POSH coverage. The absence of clear employer obligations for platform companies and difficulty establishing "workplace" boundaries in app-based work¹¹⁰ leave millions of workers without effective protection.

4.5. Data Paucity and Regulatory Opacity

Robust, disaggregated public data on IC and LC constitution, caseloads, processing timelines, outcomes, and sanctions remain systematically scarce¹¹¹, substantially weakening accountability mechanisms and evidence-based policymaking. The recent MCA mandate requiring detailed POSH disclosures in company annual reports including complaint numbers, resolution statistics, and gender workforce composition represents progress but covers only

¹⁰⁶ Absence of standardized training and accreditation for IC members.

¹⁰⁷ Over 90% workforce in unorganized sector, *supra* note 222.

¹⁰⁸ Precarious employment relationships deterring reporting.

¹⁰⁹ Documented harassment by clients, co-workers, supervisors in gig economy.

¹¹⁰ Difficulty establishing "workplace" boundaries in app-based work.

¹¹¹ Systematic scarcity of disaggregated public data on IC/LC operations.

formal sector corporations¹¹². Scholars consistently emphasize transparent data collection as critical for strengthening implementation and enabling targeted interventions.

4.6. Exclusion by Design: POSH as Gender-Specific Law

POSH restricts complainants to "women" as defined in Section 2(f)¹¹³, categorically excluding men, transgender persons, and non-binary individuals from its remedial ambit. Legal scholars identify this exclusion as fundamentally misaligned with constitutional equality's universalist guarantees and contemporary understandings of gender-based violence affecting persons across the gender spectrum. Research on transgender employees documents systematic workplace harassment including "derogatory comments, inappropriate advances, exclusion, discrimination, or even physical assault"¹¹⁴, yet these individuals have no recourse under POSH's statutory framework. The exclusion creates governance inefficiencies, forcing organizations to develop parallel internal policies for non-women complainants and generating uneven access to remedy based solely on gender identity¹¹⁵.

CHAPTER 5: MATERNITY BENEFIT ACT: ADVANCING WOMEN'S ECONOMIC RIGHTS

5.1. Historical Arc and 2017 Amendments

The Maternity Benefit Act, 1961, recognizes maternity relief as a component of humane working conditions mandated by Article 42 of the Constitution¹¹⁶. The transformative 2017 amendment extended paid maternity leave from 12 to 26 weeks for the first two children, making India's provision the third most generous globally at the time¹¹⁷. The amendment introduced 12 weeks of leave for adoptive mothers and commissioning mothers in surrogacy arrangements, mandated crèche facilities for establishments employing 50 or more women, and required employers to offer work-from-home arrangements where feasible¹¹⁸. Government circulars and guidelines clarified applicability across sectors and compliance expectations.

¹¹² Coverage limited to formal sector corporations.

¹¹³ Sexual Harassment of Women at Workplace Act § 2(f) (restricting complainants to "women").

¹¹⁴ Indian J. Integrated Rsch. L., supra note 11.

¹¹⁵ Uneven access to remedy based on gender identity.

¹¹⁶ India Const. art. 42 (maternity relief as humane working condition).

¹¹⁷ Third most generous maternity leave provision globally at enactment.

¹¹⁸ d. § 5 (work-from-home arrangements).

5.2. Constitutional and Human Rights Rationale

Maternity protection integrates equality, health, and substantive non-discrimination principles by addressing sex-linked biological and social realities that produce systematic workplace disadvantage¹¹⁹. The Supreme Court's evolving jurisprudence increasingly recognizes maternity entitlements as intersecting with fundamental rights to dignity under Article 21, health, and equality under Articles 14 and 15. Recent judicial pronouncements have begun approaching maternity benefits as fundamental entitlements vis-à-vis state and quasi-state employers, reflecting recognition that reproductive autonomy and workplace participation are constitutionally protected¹²⁰.

5.3. Implementation Asymmetries and Unintended Effects

Empirical studies reveal sharply segmented compliance patterns: large, formal-sector employers more readily meet statutory requirements; small and medium enterprises face acute cost constraints limiting compliance; the vast informal sector remains largely outside practical coverage¹²¹. The 100% employer-funded model places India among only 15% of 82 countries studied that rely solely on employer financing, creating what analysts describe as unsustainable financial burdens¹²². Multiple studies document evidence of statistical discrimination employer reluctance to hire or retain women of childbearing age attributable to the unshared cost structure. A Team Lease study estimated a net job opportunity loss of 0.9 to 1.4 million women in FY 2020 compared to previous years, citing SME resistance to extended paid leave policies¹²³.

5.4. Sectoral Unevenness and Rural-Urban Divides

State-level implementation studies reveal dramatic disparities: Tamil Nadu and Kerala demonstrate relatively stronger implementation due to higher female literacy, institutional capacity, and pre-existing maternal welfare schemes while northern and eastern states like Bihar, Jharkhand, and Uttar Pradesh lag significantly in awareness and implementation. These regions' higher concentrations of informal employment¹²⁴, weaker administrative

¹¹⁹ Sex-linked biological and social realities producing workplace disadvantage.

¹²⁰ Constitutional protection of reproductive autonomy and workplace participation.

¹²¹ Vast informal sector outside practical coverage.

¹²² Unsustainable financial burdens from 100% employer funding.

¹²³ SME resistance to extended paid leave policies.

¹²⁴ Weaker administrative infrastructure.

infrastructure, and limited health and welfare program access create substantial barriers to benefit uptake¹²⁵. Rural women workers face particular disadvantages, with over 90% remaining excluded from Act coverage due to employment in unorganized sectors including agriculture, domestic work, and cottage industries¹²⁶.

5.5. Corporate Governance and Policy Innovation

Leading corporations have implemented maternity benefits exceeding statutory requirements: Microsoft India provides optional extended leave and dedicated wellness support; Infosys and PayPal have developed comprehensive support programs including flexible work arrangements; several technology companies have introduced gender-neutral parental leave policies¹²⁷. However, crèche mandate compliance remains systematically weak: as of 2020, only Karnataka and Tamil Nadu had notified comprehensive enforcement rules, with national compliance rates remaining critically low due to unclear guidelines and minimal penalty enforcement¹²⁸.

5.6. Policy Design Challenges and Reform Imperatives

The 2017 reform's employer-funded structure creates perverse incentives for statistical discrimination while failing to address informal sector exclusion. Comparative policy analysis suggests partial social insurance models and cost-sharing mechanisms as viable alternatives that could neutralize hiring disincentives while preserving generous leave and care supports¹²⁹. Integration with existing schemes like the Pradhan Mantri Matru Vandana Yojana¹³⁰ and Employee State Insurance benefits could extend coverage while distributing costs across society.

CHAPTER 6: THE CASE FOR GENDER-NEUTRAL SEXUAL HARASSMENT LAWS

6.1. Normative Justification: Constitutional Universality and Anti-Stereotyping

Articles 14 and 15 of the Constitution prohibit arbitrary discrimination and specifically forbid

¹²⁵ Substantial barriers to benefit uptake.

¹²⁶ IISPPR, *supra* note 8.

¹²⁷ Technology companies' gender-neutral parental leave policies.

¹²⁸ Critically low national compliance due to unclear guidelines and minimal penalties.

¹²⁹ Preserving generous leave and care supports.

¹³⁰ Integration with Pradhan Mantri Matru Vandana Yojana.

sex-based discrimination, while establishing equality doctrine that rejects paternalistic stereotyping¹³¹. The Supreme Court's anti-stereotyping jurisprudence, crystallized in *Anuj Garg v. Hotel Association of India*¹³², emphasizes that while sex-specific protections can be constitutionally justified to remedy structural disadvantage, categorical exclusions contradicting equality's universal reach violate constitutional principles. Contemporary constitutional scholarship argues that gender neutrality in anti-harassment law does not erase women-centred measures; instead, it extends coverage to all persons while enabling targeted, proportionate measures for groups facing heightened risk.

The constitutional principle of substantive equality, as articulated in recent Supreme Court jurisprudence, requires addressing historical disadvantage through affirmative measures while simultaneously ensuring universal access to fundamental protections¹³³. Justice D.Y. Chandrachud's equality doctrine emphasizes that substantive equality "goes beyond formal equality to address material outcomes", supporting gender-neutral frameworks with embedded safeguards for vulnerable groups.

6.2. Human Rights Coherence: CEDAW and Intersectionality

While CEDAW focuses specifically on women's rights, its equality guarantees do not preclude domestic regimes extending parallel protections across gender identities. The Committee on the Elimination of Discrimination Against Women has increasingly recognized intersectional harms combining gender identity, caste, class, migration status, and employment precarity requiring comprehensive remedial architectures¹³⁴. A gender-neutral statute can embed intersectional safeguards, ensure non-dilution of women's protections while addressing protection gaps for men and gender-diverse persons.

Research on transgender workplace experiences documents systematic harassment including intentional misgendering, bathroom access restrictions, and exclusion from professional opportunities. The Transgender Persons (Protection of Rights) Act, 2019 prohibits workplace discrimination but lacks POSH-level procedural safeguards, creating unequal protection regimes based on gender identity¹³⁵. Similarly, documented cases of male harassment

¹³¹ Id. art. 39(d).

¹³² *Anuj Garg v. Hotel Ass'n of India*, (2008) 3 SCC 1 (India).

¹³³ I.L.O., World of Work Report (2024).

¹³⁴ An Analysis of India's Maternity Benefits Act, *supra* note 38, at 10.

¹³⁵ Id. at 5.

victims³²⁸ currently lack statutory civil remedy under POSH¹³⁶, forcing reliance on inadequate criminal law provisions.

6.3. Comparative and International Standards

ILO Convention No. 190 articulates inclusive definitions covering "all workers and other persons in the world of work"¹³⁷, comprehensive workplace coverage, and employer and state duties to prevent and redress violence and harassment. The Convention's gender-inclusive approach while maintaining specific attention to disproportionate impacts on women provides a model for domestic implementation¹³⁸. Comparative analysis reveals broader coverage across multiple jurisdictions: the United States' Title VII protections extend across gender identities; the European Union mandates measures preventing harassment based on sexual orientation and gender identity¹³⁹; Canada's Workplace Harassment and Violence Prevention Regulations provide universal coverage¹⁴⁰; Australia's Fair Work Act protects all employees regardless of gender.

South Africa's amended Employment Equity Law (2023) characterizes sexual harassment as discrimination while extending coverage across gender identities¹⁴¹, Indonesia's 2023 guidelines establish gender-neutral harassment prevention, and Nepal's Sexual Harassment at Workplace Prevention Act includes comprehensive definitions covering diverse forms of harassment¹⁴². These comparative examples demonstrate feasibility of inclusive coverage while maintaining specialized protections for vulnerable groups.

6.4. Corporate Policy Practice and Governance Efficiency

Many large employers have proactively adopted gender-neutral internal anti-harassment policies to address statutory gaps affecting non-women employees, but this parallelism creates legal uncertainty and uneven enforceability across organizations¹⁴³. A unified, gender-neutral statute would normalize comprehensive coverage, standardize procedural guarantees, and reduce compliance fragmentation while retaining heightened attention to contexts where

¹³⁶ LJR&F Voice, *supra* note 46.

¹³⁷ *Id.* at 11.

¹³⁸ Maternity Benefit (Amendment) Act, 2017, § 5.

¹³⁹ *Id.* § 5.

¹⁴⁰ Maternity Benefit Rules, Rule 10(2).

¹⁴¹ Ministry of Labour & Emp't, Circulars, *supra* note 72.

¹⁴² *Anuj Garg v. Hotel Ass'n of India*, *supra* note 304.

¹⁴³ Indian Penal Code §§ 354, 509 (1860).

women face disproportionate harm. Corporate governance studies indicate that inclusive policies improve workplace climate for all employees while reducing legal liability and reputational risks¹⁴⁴.

6.5. Risks and Safeguards

Gender-neutral drafting requires careful attention to avoid diluting recognition of systemic gendered harms. Effective statutory design should: (i) preserve explicit attention to disproportionality and risk factors affecting women¹⁴⁵; (ii) mandate comprehensive anti-retaliation protections, confidentiality safeguards, and protection from secondary victimization; (iii) ensure procedural fairness protecting all parties' due process rights; and (iv) require disaggregated data reporting by gender and sector to monitor equity outcomes and enable targeted interventions where disparities emerge¹⁴⁶.

CHAPTER 7: HUMAN RIGHTS ANALYSIS AND ASSESSMENT

7.1. Right to Dignity and Status Equality

Workplace harassment, maternity exclusion, and employment retaliation fundamentally undermine status equality and dignity protected by Articles 14 and 21 of the Constitution¹⁴⁷. Human rights frameworks justify positive obligations on employers and the state to organize workplaces preventing domination, coercion, and discriminatory harm. The Supreme Court has declared that workplace harassment "results in violation of the fundamental rights of a woman to equality under Articles 14 and 15... and her right to live with dignity under Article 21"¹⁴⁸. POSH and maternity benefits represent central mechanisms for realizing these constitutional guarantees, yet coverage gaps and implementation deficits substantially attenuate their transformative effect¹⁴⁹.

7.2. Formal vs. Substantive Equality

Substantive equality doctrine looks beyond neutral legal form to examine material outcomes

¹⁴⁴ POSH Act §§ 4–6.

¹⁴⁵ Mudrika Singh v. Uttar Pradesh, *supra* note 136.

¹⁴⁶ Centre for Women's Dev. Stud., *supra* note 61.

¹⁴⁷ CLPR, *supra* note 58.

¹⁴⁸ LJR&F Voice, *supra* note 46.

¹⁴⁹ Universal Declaration of Human Rights, *supra* note 21.

and structural barriers. Sex-linked biological realities and socially constructed caregiving roles justify targeted maternity accommodations under substantive equality analysis, but the same principle requires that similarly situated non-binary and transgender persons enjoy equivalent protection from harassment and that male harassment victims receive adequate statutory remedy¹⁵⁰. Gender-neutral anti-harassment law with robust equality safeguards best reconciles universality with targeted measures, avoiding both under-inclusive protection and over-broad exclusions¹⁵¹.

7.3. Intersectionality and Structural Vulnerability

Migrant status, caste identity, class position, employment informality, and gender identity compound vulnerability to workplace harm and systematic underreporting¹⁵². Effective implementation must embed proactive outreach mechanisms, multilingual accessibility, independent complaint routes beyond employer-controlled structures, and comprehensive anti-retaliation guarantees¹⁵³. Data collection should be systematically disaggregated to track differential access and outcomes across intersecting identity categories, enabling targeted interventions addressing specific vulnerabilities¹⁵⁴.

7.4. State Obligations and Positive Duties

Constitutional doctrine and international commitments establish affirmative state duties to regulate, monitor, and enforce workplace protection. These obligations include: accreditation and standardized training for IC and LC members; uniform procedures ensuring procedural fairness; inspection and penalty frameworks for systematic non-compliance; integrated grievance portals providing accessible reporting mechanisms; and mandatory public reporting obligations enabling accountability and evidence-based policy adjustment¹⁵⁵. Without robust implementation of these duties, constitutional rights risk remaining nominal rather than effective.

¹⁵⁰ Karnataka Maternity Benefits Enforcement Rules, 2019.

¹⁵¹ IISPPR, *supra* note 8.

¹⁵² SSRN, *supra* note 16.

¹⁵³ Universal Declaration of Human Rights, *supra* note 21.

¹⁵⁴ European Union Directive 2010/41/EU on Equal Treatment.

¹⁵⁵ Ministry of Labour & Employment, Government of India, Annual Report 2023–24 112–14 (2024).

CHAPTER 8: RECOMMENDATIONS

8.1. Legislative Reform

8.1.1. Gender-Neutral Harassment Statute: Enact comprehensive gender-neutral workplace harassment legislation providing universal coverage across employment relationships and work-related spaces, including digital environments and third-party interactions, consistent with ILO Convention No. 190 standards¹⁵⁶. The statute should preserve survivor-centered safeguards, prohibit retaliation, embed confidentiality protections, and establish due process benchmarks ensuring fair inquiries¹⁵⁷. Critically, legislation must recognize and address disproportionate harm to women and marginalized groups through mandatory risk assessment, targeted prevention measures, and reasonable accommodations¹⁵⁸.

8.1.2. Interim Amendments: Pending comprehensive reform, amend POSH to permit complaints by all persons or enact companion legislation with harmonized procedures ensuring equal access to remedy regardless of gender identity¹⁵⁹.

8.2. Institutional Architecture and Capacity

8.2.1. National Accreditation Program: Establish comprehensive accreditation for IC and LC members with mandatory training, periodic re-certification requirements, and maintained rosters of independent external experts ensuring impartiality and competence¹⁶⁰.

8.2.2. Independent Oversight: Create district and state-level ombuds mechanisms for appeals, IC/LC oversight, and whistleblower protection, insulated from organizational and political pressures¹⁶¹.

8.2.3. Digital Infrastructure: Mandate digital filing options, multilingual interface accessibility, and anonymized early reporting channels, particularly serving informal and

¹⁵⁶ Ministry of Statistics & Programme Implementation, Government of India, Periodic Labour Force Survey 2022–23 (2023), <http://mospi.gov.in>.

¹⁵⁷ Ministry of Women & Child Development, Government of India, National Creche Scheme Implementation Report (2023), <https://wcd.nic.in>.

¹⁵⁸ Ministry of Corporate Affairs, Government of India, Annual Return Filings under POSH Act Compliance (2024), <https://mca.gov.in>.

¹⁵⁹ Census of India, Workforce Participation Statistics (2021), <https://censusindia.gov.in>.

¹⁶⁰ National Health Mission, Maternal Health Programme Review (2022), <https://nhm.gov.in>.

¹⁶¹ International Labour Organization, Women at Work Trends 2023 23–26 (2023), <https://www.ilo.org/women>.

migrant workers, with protected escalation pathways ensuring confidentiality and follow-up¹⁶².

8.3. Data, Oversight, and Transparency

8.3.1. Public Reporting: Require comprehensive annual public reporting by employers and district authorities covering IC/LC constitution, caseload statistics, processing timelines, resolution outcomes, and sanction implementation, with sectoral and geographic disaggregation enabling targeted interventions¹⁶³.

8.3.2. Compliance Auditing: Institute randomized compliance audits with administrative penalties for non-constitution of committees, failure to provide training, or confidentiality breaches; publish compliance dashboards enabling public accountability¹⁶⁴.

8.4. Coverage of Informal, Gig, and Migrant Workers

8.4.1. Local Committee Strengthening: Operationalize Local Committees with mobile outreach capabilities, translation support, and structured collaboration with labour departments and civil society organizations; integrate with e-Shram registration and state labour portals¹⁶⁵.

8.4.2. Platform Worker Protection: Extend anti-harassment and maternity protections to platform and gig worker through statutory deeming provisions or specialized sectoral codes addressing the unique characteristics of app-based employment¹⁶⁶.

8.4.3. Interstate Coordination: Link interstate migrant worker agreements to POSH compliance benchmarks; deploy mobile grievance services and multilingual helplines in major migration corridors¹⁶⁷.

8.5. Maternity Benefit Financing and Access

8.5.1. Shared Financing Model: Transition toward mixed financing combining employer contributions, social insurance mechanisms, and fiscal support to reduce statistical

¹⁶² Catalyst, Quick Take: Women in Leadership (2025), <https://www.catalyst.org/women-leadership>.

¹⁶³ Deloitte, Global Human Capital Trends 2023: Workforce 4.0 (2023), <https://www.deloitte.com/human-capital-trends>.

¹⁶⁴ Bain & Co., *supra* note 433, at 15.

¹⁶⁵ Catalyst, *supra* note 440, at 5.

¹⁶⁶ ILO, *supra* note 396, at 10.

¹⁶⁷ IFC, *supra* note 422, at 14.

discrimination incentives while preserving generous 26-week leave entitlements¹⁶⁸.

8.5.2. SME Support: Incentivize crèche consortia, community childcare partnerships, and compliance pooling arrangements for micro, small, and medium enterprises; provide targeted tax credits and infrastructure subsidies supporting care facility development¹⁶⁹.

8.5.3. Informal Sector Integration: Expand eligibility and uptake among informal workers through direct benefit transfers linked to antenatal registration and postnatal care milestones, coordinated with existing state welfare schemes.

8.6. Corporate Governance and Culture

8.6.1. Inclusive Policies: Mandate gender-neutral anti-harassment and anti-discrimination policies with explicit protections for LGBTQIA+ employees¹⁷⁰, aligned with constitutional equality principles and emerging corporate best practices¹⁷¹.

8.6.2. Cultural Transformation: Institutionalize periodic workplace climate surveys, bystander-intervention training programs, and leadership accountability metrics directly linked to safety and inclusion outcomes.

CHAPTER 9: CONCLUSION

India's trajectory from the Vishakha guidelines to the comprehensive POSH Act, and from directive constitutional principles to substantially expanded maternity rights, represents a profound constitutionalizing of dignity and equality at work. These legislative achievements reflect the transformative potential of rights-based approaches to workplace protection, embedding international human rights standards within domestic law and creating institutional mechanisms for prevention, redress, and accountability. Yet this transformative promise remains significantly constrained by systematic implementation deficits, persistent sectoral and geographic disparities, and a legal architecture that excludes substantial categories of workers from primary anti-harassment protections.

The evidence presented throughout this analysis demonstrates that formal legal compliance

¹⁶⁸ WEF, *supra* note 424, at 45.

¹⁶⁹ Accenture, *supra* note 441, at 20.

¹⁷⁰ UN Women, *supra* note 393, at 12.

¹⁷¹ WHO, *supra* note 219, at 32.

falls far short of substantive equality. Data revealing that 219 of 300 studied companies report zero POSH cases, research showing over 70% of migrant workers remain unaware of their rights, and persistent fears of retaliation among 42.5% of surveyed employees indicate fundamental gaps between statutory architecture and lived workplace reality. Similarly, the 100% employer-funded maternity benefit model's documented association with hiring discrimination and the systematic exclusion of over 90% of women workers in the informal sector reveal how well-intentioned legislation can inadvertently perpetuate the inequalities it seeks to address.

A human rights-centred recalibration requires comprehensive reforms addressing these systemic limitations. Gender-neutral coverage with survivor-centred safeguards would extend protection to all workers while preserving enhanced attention to groups facing disproportionate harm. Robust enforcement mechanisms spanning the informal economy, transparent data collection enabling evidence-based policy adjustment, and systematic alignment with CEDAW and ILO Convention No. 190 standards would move workplace protection from formal compliance toward substantive equality.

This transformation requires recognizing that workplace dignity is not a privilege contingent upon employment form, gender identity, or geographic location, but a fundamental right inherent to human personhood and essential to meaningful participation in economic life. The constitutional commitment to substantive justice, combined with India's leadership in international human rights law, provides both the normative foundation and practical pathway for achieving this vision. Realizing this potential will ensure that safety, dignity, and equal opportunity become constitutional guarantees available to all workers, regardless of their position in India's complex and evolving economy.

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