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**"DOMESTIC VIOLENCE AND WORKPLACE HARASSMENT LAWS:  
LEGAL PROTECTION FOR WOMEN IN INDIA"**

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**ABSTRACT**

This research paper examines the legal framework protecting women from domestic violence and workplace harassment in India focusing on the Protection of Women from Domestic Violence Act 2005 (PWDVA) and the Sexual Harassment of Women at Workplace (Prevention Prohibition and Redressal) Act 2013 (POSH Act). These landmark legislations represent India's commitment to fulfilling its constitutional guarantees and international obligations under instruments such as CEDAW. The paper analyzes the substantive provisions institutional mechanisms and remedial frameworks established by both statutes while critically evaluating implementation challenges including enforcement gaps infrastructural limitations and cultural barriers. Recent developments including the SHE-Box portal enhanced corporate disclosure requirements and judicial oversight through cases like Aureliano Fernandes are examined as evolving responses to implementation deficits. The paper argues that while India has constructed a comprehensive legal architecture the effectiveness of protection ultimately depends on bridging the gap between legislative intent and ground-level implementation through strengthened institutional capacity technological integration and sustained cultural transformation.

**KEYWORDS:** Domestic Violence, Workplace Harassment, PWDVA 2005, POSH Act 2013, SHE-Box, Women's Rights, India.

## 1. INTRODUCTION

The quest for gender justice in India has witnessed significant legal evolution since independence with the constitutional framework providing the foundational principles of equality and non-discrimination. Articles 14 and 21 of the Constitution guarantee equality before law and prohibit discrimination on grounds of sex and ensure the right to life and personal liberty interpreted expansively by courts to include the right to live with dignity. Despite these constitutional promises Indian women have historically faced systemic violence and discrimination in both private and public spheres necessitating specialized legislative interventions.

The private sphere of the family traditionally considered beyond the reach of law and the public sphere of the workplace where women increasingly participate in economic activity emerged as two critical arenas requiring legal reform. The Protection of Women from Domestic Violence Act 2005 (PWDVA) and the Sexual Harassment of Women at Workplace (Prevention Prohibition and Redressal) Act 2013 (POSH Act) represent landmark legislative responses to these challenges<sup>1</sup>. Together they embody a comprehensive approach to women's safety that transcends the artificial public-private divide recognizing that women's right to security and dignity extends from their homes to their workplaces.

This paper undertakes a doctrinal analysis of these two statutes examining their legislative history substantive provisions institutional mechanisms and implementation challenges. It argues that while India has constructed a robust legal architecture the effectiveness of legal protection depends critically on addressing implementation deficits through technological innovation enhanced accountability mechanisms and sustained cultural change. The paper is structured in five parts: following this introduction Part II examines the constitutional and international law foundations; Part III analyzes the PWDVA 2005; Part IV examines the POSH Act 2013; Part V evaluates implementation challenges and recent developments; and Part VI offers concluding observations.

## 2. Constitutional and International Law Foundations

### 2.1 Constitutional Mandate for Women's Protection

The Indian Constitution provides the foundational framework for women's rights through a combination of fundamental rights and directive principles. Article 14 guarantees equality before law and equal protection of laws forming the bedrock of non-discrimination. Article

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<sup>1</sup>Protection of Women from Domestic Violence Act 2005 (No. 43 of 2005). Available at: CommonLII.org and SooperKanoon

15(1) specifically prohibits discrimination on grounds of religion, race, caste, sex or place of birth while Article 15(3) empowers the state to make special provisions for women and children. The constitutional basis for affirmative action and protective legislation<sup>2</sup>.

Article 21 guaranteeing the right to life and personal liberty has been expansively interpreted by the Supreme Court to include the right to live with human dignity, the right to livelihood and the right to a harassment-free environment. This interpretative evolution has been crucial in recognizing that violence against women, whether in the home or workplace, constitutes a violation of fundamental rights<sup>3</sup>.

The directive principles further reinforce this framework. Article 39(d) mandates equal pay for equal work for both men and women while Article 42 requires the state to make provision for securing just and humane conditions of work and maternity relief. Though not directly enforceable, these principles guide legislative and policy interventions.

## 2.2 International Obligations

India's domestic legislation is significantly influenced by international human rights instruments, particularly the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) which India ratified in 1993. CEDAW Article 11 obligates states to ensure women's equal rights at work, including protection from harassment, while General Recommendation No. 19 explicitly recognizes gender-based violence as a form of discrimination.<sup>4</sup>

The Preamble to the POSH Act explicitly acknowledges this international law foundation, stating that "the protection against sexual harassment and the right to work with dignity are universally recognized human rights by international conventions and instruments such as Convention on the Elimination of all Forms of Discrimination against Women". This explicit incorporation of international law into domestic legislation demonstrates India's commitment to harmonizing its legal framework with global standards.

The International Covenant on Civil and Political Rights (ICCPR), particularly Articles 2 and 26, further reinforces the obligation to provide effective legal remedies for rights violations. These international obligations create accountability mechanisms at the domestic level and provide interpretive guidance for courts and legislators.

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<sup>2</sup>Vishakha v. State of Rajasthan (1997) 6 SCC 241; [1997] INSC 665 (13 August 1997)

<sup>3</sup>Ministry of Women and Child Development. "Safeguarding Women at Work: An Overview of SH Act 2013 and SH-Box Portal." Press Information Bureau February 12 2026

<sup>4</sup>Albertina Almeida "Gender Based Legal Violations: Failure to Meet Due Diligence Standards," Herald Goa March 22 2024

### 3. The Protection of Women from Domestic Violence Act 2005

#### 3.1 Legislative Background and Objectives

The Protection of Women from Domestic Violence Act 2005 (PWDVA) represents a paradigm shift in India's response to domestic violence. Enacted on September 13, 2005 and enforced from October 26, 2006, the Act provides "for more effective protection of the rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family". Unlike previous criminal law interventions such as Section 498A of the Indian Penal Code (addressing cruelty by husband or relatives), the PWDVA adopts a civil law approach with access to criminal remedies focusing on protection, relief, and rehabilitation rather than purely punitive measures.

The Act's significance lies in its recognition that domestic violence extends beyond physical abuse to encompass sexual, emotional, verbal, and economic abuse. It also acknowledges that women require comprehensive remedies including protection orders, residence rights, monetary relief, and custody orders, remedies that previous legal frameworks provided piecemeal if at all.

#### 3.2 Definition of Domestic Violence: A Comprehensive Approach

Section 3 of the PWDVA defines domestic violence expansively to include physical, sexual, verbal, emotional, and economic abuse. This comprehensive definition represents a significant advancement over previous legal understandings that narrowly focused on physical harm.

**Physical abuse** includes "any act or conduct which is of such a nature as to cause bodily pain, harm, danger to life, limb, or health or impair the health or development of the aggrieved person"<sup>5</sup>. This encompasses assault, criminal intimidation, and criminal force, recognizing that physical violence takes multiple forms.

**Sexual abuse** includes "any conduct of a sexual nature that abuses, humiliates, degrades, or otherwise violates the dignity of woman". This provision acknowledges that sexual violence within marriage and domestic relationships, previously considered private matters, constitutes legally actionable abuse.

**Verbal and emotional abuse** includes insults, ridicule, humiliation, name-calling, and "insults or ridicule specially with regard to not having a child or a male child". This recognition of emotional and psychological harm addresses the non-physical dimensions of abuse that can be equally devastating.

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<sup>5</sup>Protection of Women from Domestic Violence Act 2005 Chapter III. SooperKanoon and CommonLII

**Economic abuse** includes deprivation of economic or financial resources disposal of household effects or assets and prohibition or restriction of access to resources or facilities including the shared household. This provision acknowledges that economic control is a form of violence that traps women in abusive relationships.

The Act's definition operates through an effects-based approach: any act omission or conduct that harms injures or endangers the health safety life limb or well-being of the aggrieved person constitutes domestic violence. Explanation II clarifies that "the overall facts and circumstances of the case shall be taken into consideration" requiring a holistic assessment rather than mechanical application.

### 3.3 Scope and Coverage

The PWDVA extends to the whole of India except the State of Jammu and Kashmir (as originally enacted) and applies to all women who are or have been in a domestic relationship with the respondent. The definition of "domestic relationship" is deliberately broad encompassing "relationship between two persons who live or have at any point of time lived together in a shared household when they are related by consanguinity marriage or through a relationship in the nature of marriage adoption or are family members living together as a joint family".

This expansive definition protects women in various family configurations including those in relationships "in the nature of marriage" a provision that has generated significant judicial interpretation regarding its application to live-in relationships. The Act also protects sisters mothers daughters and other female family members recognizing that domestic violence is not confined to marital relationships.

The "shared household" concept is central to the Act's protective scheme. It includes any household where the aggrieved person lives or has lived in a domestic relationship whether owned or tenanted by the respondent or jointly held and "includes such a household which may belong to the joint family of which the respondent is a member irrespective of whether the respondent or the aggrieved person has any right title or interest in the shared household". This provision ensures that women cannot be rendered homeless merely because they lack property rights.

### 3.4 Institutional Mechanisms

The PWDVA establishes a multi-layered institutional framework for implementing its provisions. **Protection Officers** appointed by state governments under Section 8 serve as

crucial functionaries connecting aggrieved women with the legal system. They are responsible for assisting the Magistrate making domestic incident reports ensuring legal aid facilitating medical examination and performing other prescribed duties. Section 8(2) mandates that Protection Officers "as far as possible be women" recognizing the importance of gender-sensitive implementation.

**Service providers** registered under Section 10 complement the work of Protection Officers by providing legal aid counselling and shelter home services. The Act empowers service providers to record domestic incident reports and forward them to the Magistrate creating multiple access points for aggrieved women.

**Magistrates** exercise judicial functions under the Act with jurisdiction vested in Judicial Magistrates of the first class or Metropolitan Magistrates. Section 12(4) requires the Magistrate to fix the first hearing date "not ordinarily be beyond three days from the date of receipt of the application," and Section 12(5) mandates disposal of applications "within a period of sixty days from the date of its first hearing". These time-bound provisions recognize the urgency of protection in domestic violence cases.

The Act also imposes duties on **police officers** **shelter homes** and **medical facilities**. Section 5 requires police officers to inform aggrieved persons of their rights including the right to file complaints under Section 498A IPC. Section 6 mandates shelter homes to provide shelter upon request while Section 7 requires medical facilities to provide medical aid. These provisions create a coordinated community response involving multiple stakeholders.

### 3.5 Remedies and Reliefs

The PWDVA provides a comprehensive range of civil remedies designed to provide immediate protection and long-term relief. **Protection orders** under Section 18 prohibit the respondent from committing further acts of violence centering the aggrieved person's workplace or school attempting to communicate with her or alienating assets. Violation of protection orders constitutes a cognizable and non-bailable offense under Section 31.

**Residence orders** under Section 19 protect women's right to reside in the shared household prohibiting respondents from evicting them or entering specified portions of the household<sup>[1]</sup>. These orders recognize that housing security is fundamental to women's ability to escape violent relationships.

**Monetary relief** under Section 20 covers expenses incurred and losses suffered due to domestic violence including loss of earnings medical expenses and damages for loss of

property. Section 22 provides for **compensation and damages** for mental torture and emotional distress.

**Custody orders** under Section 21 address temporary custody of children with the proviso that "the Magistrate shall endeavor to avoid the child meeting the respondent" in cases involving continuing violence. The Act prioritizes children's safety while recognizing the complexities of family relationships.

The application process under Section 12 allows the aggrieved person Protection Officer or any other person on her behalf to seek multiple reliefs simultaneously. Section 12(2) clarifies that relief under the Act is without prejudice to the right to institute civil suits for compensation with amounts paid under the Act to be set off against any subsequent decree.

### **3.6 The Shared Household Controversy and Judicial Interpretation**

The concept of "shared household" has generated significant judicial interpretation particularly regarding the rights of women in live-in relationships. Section 2(s) defines shared household broadly but ambiguously leading to conflicting interpretations. The Supreme Court in *S.R. Batra v. Taruna Batra* (2007) adopted a restrictive interpretation holding that a shared household must belong to or be taken on rent by the husband or be jointly owned by the parties.

This restrictive approach was significantly modified by subsequent decisions. The Supreme Court in *Vimlaben Ajitbhai Patel v. Vatslaben Ashokbhai Patel* (2008) emphasized that the definition of shared household includes joint family property. More recently courts have recognized that the PWDVA's protective purpose requires a liberal interpretation that prevents women from being rendered homeless.

The inclusion of relationships "in the nature of marriage" has also generated judicial discussion. While the Act does not define this phrase courts have developed criteria for determining when live-in relationships qualify for protection including the duration of the relationship shared household domestic arrangements and the existence of a *de facto* relationship.

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

### **4.1 From Vishakha Guidelines to Legislative Enactment**

The POSH Act 2013 has its origins in judicial innovation. In *Vishakha v. State of Rajasthan* (1997) the Supreme Court responded to the brutal gang rape of a social worker by

laying down guidelines for preventing sexual harassment at workplace. These guidelines binding under Article 141 of the Constitution filled the legislative vacuum until Parliament enacted comprehensive legislation.

The Vishakha judgment recognized sexual harassment as a violation of fundamental rights under Articles 14<sup>15</sup> and 21 and drew upon CEDAW to formulate workplace protections. The guidelines required employers to constitute complaints committees develop prevention policies and create awareness about sexual harassment. For over a decade these guidelines provided the primary framework for addressing workplace harassment.

The Sexual Harassment of Women at Workplace (Prevention Prohibition and Redressal) Act 2013 (Act No. 14 of 2013) received Presidential assent on April 22 2013 and was notified on December 9 2013<sup>6</sup>. The Act transforms the Vishakha guidelines into statutory law while expanding protections and creating more robust institutional mechanisms. Its objectives include prevention prohibition and redressal of sexual harassment with particular emphasis on creating safe working environments.

#### 4.2 Definitions and Scope

The Act defines **sexual harassment** under Section 2(n) to include unwelcome acts or behavior such as physical contact and advances demand or request for sexual favors sexually colored remarks showing pornography and "any other unwelcome physical verbal or non-verbal conduct of sexual nature". This definition encompasses both physical and non-physical conduct recognizing that harassment operates through multiple modalities.

Section 3(2) elaborates circumstances that may constitute sexual harassment including implied or explicit promises of preferential treatment threats of detrimental treatment threats about employment status interference with work creating an intimidating or hostile environment and humiliating treatment likely to affect health or safety. This provision recognizes that harassment often operates through conditioning employment benefits on sexual favors or creating hostile work environments.

The definition of **workplace** under Section 2(o) is deliberately expansive covering government establishments private sector organizations hospitals sports institutes and "any place visited by the employee arising out of or during the course of employment including transportation provided by the employer". Most significantly the definition includes "a dwelling place or a house," bringing domestic workers within the Act's protection. This

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<sup>6</sup>Sexual Harassment of Women at Workplace (Prevention Prohibition and Redressal) Act 2013 Complete Act Sooper Kanoon and ILO NATLEX

inclusion recognizes that domestic workers predominantly women face particular vulnerability to sexual harassment in isolated settings.

The Act protects all **aggrieved women** defined under Section 2(a) as "a woman of any age whether employed or not who alleges to have been subjected to any act of sexual harassment". This extends protection beyond regular employees to include contract workers, probationers, trainees, apprentices and even visitors to the workplace. For domestic workers, the definition specifically includes those employed in dwelling places or houses.

#### **4.3 Institutional Framework: Internal and Local Committees**

The Act establishes a dual committee structure for receiving and inquiring into complaints. **Internal Committees (ICs)** must be constituted by every workplace employing ten or more employees under Section 4. The IC must consist of: a Presiding Officer who is a woman employed at a senior level; at least two members from amongst employees "preferably committed to the cause of women or who have had experience in social work or have legal knowledge"; and one member from a non-governmental organization or association committed to women's causes. At least half of the members must be women.

The IC's term is specified by the employer not exceeding three years. Section 4(5) provides for removal of members who contravene confidentiality provisions, are convicted of offenses, face pending disciplinary proceedings, or abuse their positions<sup>[2]</sup>.

**Local Committees (LCs)** are constituted under Section 6 by the District Officer for every district. These committees receive complaints from establishments where ICs have not been constituted (workplaces with fewer than ten employees) and complaints against the employer themselves. The LC consists of a Chairperson nominated from amongst eminent women in social work, one member from amongst women working in local administration, and two members from amongst NGOs committed to women's causes or practicing lawyers<sup>[2]</sup>.

Section 6(2) requires District Officers to designate nodal officers in every block, taluka, tehsil, and ward to receive complaints and forward them to the LC within seven days. This decentralized structure aims to reach women in rural and remote areas.

#### **4.4 Complaint and Inquiry Procedure**

The Act establishes a time-bound complaint procedure designed for accessibility and confidentiality. Section 9 requires complaints to be filed within three months of the incident or in cases of continuing harassment within three months of the last incident. The Magistrate may extend this period by another three months for valid reasons.

Complaints must be submitted in writing but Section 9(2) requires the IC or LC to "render all reasonable assistance to the woman for making the complaint in writing" if she is unable to do so. Complainants may submit six written copies along with supporting documents and witness names.

Upon receipt the IC or LC may at the complainant's request take steps to conciliate between the parties before commencing inquiry. Section 10(2) prohibits monetary settlement as a basis for conciliation and if conciliation is unsuccessful the committee proceeds with inquiry.

The inquiry process under Section 11 must be completed within ninety days. Principles of natural justice apply with both parties given opportunity to present their cases. The committee has powers similar to civil courts for summoning witnesses and requiring document production. Section 11(4) requires the committee to complete the inquiry and provide a report within ten days of completion.

Significant procedural protections apply during inquiry. Section 11(5) prohibits cross-examination of the complainant by the respondent requiring that questions be put in writing and read out in the respondent's absence. Section 16 mandates confidentiality regarding complainants' identities prohibiting disclosure of names addresses or identifying details.

If the allegations are proven the IC or LC recommends action against the respondent under Section 13. Recommendations may include written apology censure withholding of promotions suspension termination or requiring the respondent to undergo counseling<sup>[10]</sup>. The committee also recommends compensation to the complainant based on mental trauma career prospects medical expenses and other factors.

If allegations are not proven Section 14(1) requires the committee to recommend that no action be taken. However Section 14(2) permits action against the complainant if the committee finds that the complaint was malicious or knowingly false or that forged documents were submitted<sup>[2]</sup>. Significantly "the mere inability to prove the complaint or provide adequate proof need not attract action against the complainant".

#### **4.5 Employer Duties and Penalties**

The Act imposes proactive duties on employers beyond merely responding to complaints. Section 19 requires employers to provide a safe working environment display penal consequences of sexual harassment organize workshops and awareness programs facilitate the IC's work provide assistance to complainants and initiate action against respondents under service rules<sup>[2]</sup><sup>[10]</sup>.

Section 22 requires employers to include information on POSH compliance in annual reports including the number of complaints filed and disposed of. This transparency requirement enables monitoring of workplace compliance.

Penalties for non-compliance are significant. Section 26 provides that employers failing to constitute ICs failing to take action under the Act contravening other provisions face fines up to Rs.50,000 for first violations. Repeat violations attract double the fine plus possible cancellation or non-renewal of business licenses.

The Companies (Accounts) Second Amendment Rules 2025 effective July 14 2025 significantly enhanced disclosure requirements. Companies must now include in Board Reports: the number of sexual harassment complaints received resolved and pending over 90 days; workforce gender composition (female male and transgender employees); and affirmation of Maternity Benefit Act compliance<sup>7</sup>. These enhanced disclosures aim to increase transparency and stakeholder visibility into compliance practices.

## 5. Implementation Challenges and Recent Developments

### 5.1 Enforcement Gaps and Compliance Deficits

Despite comprehensive legislative frameworks implementation remains the critical challenge for both states. Under the PWDVA the appointment and training of Protection Officers has been inconsistent across states with many officers lacking awareness of their statutory duties. The institutional machinery of service providers shelter homes and medical facilities remains underdeveloped in many regions limiting women's access to support services.

For the POSH Act compliance with IC constitution requirements has been uneven particularly among smaller organizations. The Supreme Court in *Aureliano Fernandes v. State of Goa and Ors.* (Civil Appeal No. 2482 of 2014) commented on "serious lacunae in the enforcement of the Act reflecting poorly on the State functionaries public authorities private organisations and institutions"<sup>8</sup>. The Court issued directions to central and state authorities to take proactive steps for enforcement at the grassroots level<sup>[8]</sup>.

Data from the SHe-Box portal reveals concerning patterns of underutilization. Between 2017 and 2019 only 513 complaints were filed. By July 2022 the portal had recorded only 1,349 complaints total averaging fewer than 245 per year in a country with millions of women in the workforce. States like Andaman & Nicobar Islands Lakshadweep Nagaland and Mizoram

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<sup>7</sup>Companies (Accounts) Second Amendment Rules 2025 Ministry of Corporate Affairs effective 14 July 2025

<sup>8</sup>*Aureliano Fernandes v. State of Goa and Ors.* Civil Appeal No. 2482 of 2014 Supreme Court of India (decided 12 May 2023)

recorded zero complaints since the portal's inception. While this may reflect underreporting rather than absence of harassment it suggests the complaint mechanism is not reaching women effectively.

### **5.2 The SHe-Box Portal: Promise and Limitations**

The Sexual Harassment electronic-Box (SHe-Box) initially launched in July 2017 and revamped on August 29 2024 represents the government's primary digital initiative for POSH Act implementation. The portal offers a centralized platform for women to file complaints online which are automatically routed to the relevant IC or LC. Features include real-time complaint tracking multi-lingual support (though currently limited to Hindi and English) and confidentiality protections.

The revamped portal addresses some earlier limitations by requiring workplaces to upload details of IC members annual reports and records of awareness programs. Nodal officers monitor compliance and maintain accurate information. The portal creates a national database enabling better oversight of implementation.

However significant limitations persist. Portal engagement remains low with accessibility barriers for rural women lacking smartphones internet connectivity or digital literacy. This digital divide contradicts CEDAW's General Recommendation No. 19 requiring accessible services for rural and isolated communities. Many women face linguistic barriers as the portal's resources are primarily available only in Hindi and English making it inaccessible to many women who speak regional languages contradicting CEDAW General Recommendation No. 33's mandate to eliminate linguistic barriers to justice.

Structural flaws also undermine utility. IC and LC registration on SHe-Box remains voluntary relying on nodal officers to upload committee details a process that is neither mandatory nor uniformly followed. Unregistered committees cause delays as officers must first initiate registration. The absence of clear mechanisms to address committee inaction creates accountability gaps.

### **5.3 Judicial Oversight and Directions**

The Supreme Court has played an active role in monitoring POSH Act implementation. In the *Aureliano Fernandes* case the Court issued comprehensive directions to central and state governments union territories statutory bodies universities hospitals and legal services authorities to ensure enforcement at the grassroots level. The Amicus Curiae appointed in the case continues monitoring compliance through affidavits submitted by authorities.

Following these directions multiple state governments and regulatory bodies have issued notifications mandating POSH Act compliance including registration on the SHe-Box portal<sup>9</sup>. The portal now functions as a compliance marker embedded within a legally enforceable regime. Organizations failing to register cannot receive complaints through the portal creating practical incentives for compliance.

The Supreme Court has now ordered all States and Union Territories to conduct a district-wise survey within six weeks to verify compliance by employers with the POSH Act. The Labour Commissioners at the district level and Chief Labour Officers at the State level must provide a list of registered establishments to the respective District Officer who must transmit such data to the Chief Secretaries for submission to the Supreme Court. Physical verification of compliance will focus primarily on whether ICs have been constituted as per requirements. Non-compliant entities risk serious consequences including possible refusal of licence renewals by the Labour Department until full compliance is demonstrated<sup>10</sup>.

#### **5.4 Enhanced Disclosure Requirements**

The Companies (Accounts) Second Amendment Rules 2025 represent a significant advancement in accountability mechanisms. Previously companies only needed to include a brief affirmation of IC constitution in Board Reports. The amended rules require detailed disclosures: number of complaints received number resolved number pending over 90 days and workforce gender composition<sup>11</sup>.

Non-compliance consequences are substantial. Under the POSH Act failure to report required data can result in fines from Rs.50,000 to Rs.1,00,000 with repeated violations potentially leading to license cancellation. Under Section 134(8) of the Companies Act companies and officers face penalties up to Rs.3,00,000 and Rs.50,000 respectively for failing disclosure obligations.

These enhanced requirements significantly increase transparency and stakeholder visibility into a company's compliance practices potentially influencing investor confidence and public perception. Organizations must now ensure ICs are properly constituted accessible independent and effective in handling complaints. By embedding POSH

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<sup>9</sup>Vishakha v. State of Rajasthan(1997) 6 SCC 241; [1997] INSC 665 (13 August 1997)

<sup>10</sup>Supreme Court mandates six week compliance survey for PoSH Act DLA Piper GENIE August 27 2025

<sup>11</sup>Companies (Accounts) Second Amendment Rules 2025 Ministry of Corporate Affairs effective 14 July 2025

compliance into the Companies (Accounts) Rules the MCA has elevated workplace sexual harassment to a matter of corporate governance and public accountability.

### **5.5 Intersection with Criminal Law**

Both statutes intersect with criminal law provisions creating overlapping remedies for complainants. The PWDVA explicitly preserves rights to file complaints under Section 498A IPC (cruelty by husband or relatives) while the POSH Act preserves rights under Section 509 IPC (word gesture or act intended to insult modesty of a woman).

The Bharatiya Nyaya Sanhita (BNS) 2023 replacing the Indian Penal Code continues these protections. Section 85 BNS addresses cruelty by husbands or relatives with imprisonment up to three years and fine. Section 78 BNS defines stalking with penalties up to three years for first conviction and five years for subsequent convictions. Section 69 BNS criminalizes sexual intercourse under deceitful means including false promises of marriage with punishment up to ten years.

The Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023 provides procedural protections for women complainants. Section 179 BNSS prohibits compelling women to appear at police stations for questioning requiring statements be recorded at their residence. Section 180 BNSS requires that women's statements in sexual offense cases be recorded only by women police officers with audio-video electronic means for accuracy.

### **5.6 Cultural Barriers and Awareness Deficits**

Beyond legal and institutional challenges cultural barriers significantly impede effective implementation. Domestic violence remains stigmatized with women facing pressure to maintain family harmony and avoid bringing "shame" upon their families. Reporting mechanisms require women to overcome not only institutional hurdles but also deeply internalized cultural norms.

Similarly workplace harassment reporting faces barriers of fear, shame and professional consequences. Many women hesitate to report due to fear of retaliation, job loss or damage to career prospects. Research indicates that many women experience workplace harassment but hesitate to report it due to fear of retaliation or job loss. The low complaint numbers on SHE-Box likely reflect these cultural barriers as much as institutional limitations.

Awareness deficits compound these cultural barriers. Many women remain unaware of their legal rights and the remedies available. Section 5 of the PWDVA requires police officers to inform aggrieved women of their rights but this duty is inconsistently performed.

Similarly employer duties under Section 19 of the POSH Act to organize awareness programs are unevenly implemented.

The obligation of due diligence requires that States parties must adopt and implement diverse measures to tackle gender based violence against women committed by non State actors including having laws institutions and a system in place to address such violence and ensuring that they function effectively in practice and are supported by all State agents and bodies who diligently enforce the laws. When the State fails to take all necessary measures to prevent protect from and rehabilitate those who have suffered gender based violence against women in cases in which its authorities are aware or should be aware of the risk of such violence it is in effect emboldening the perpetrators of gender based violence.

## 6. CONCLUSION

The Protection of Women from Domestic Violence Act 2005 and the Sexual Harassment of Women at Workplace (Prevention Prohibition and Redressal) Act 2013 represent landmark legislative achievements in India's journey toward gender justice. Together they establish comprehensive legal frameworks addressing violence against women across the private sphere of the family and the public sphere of the workplace. Their expansive definitions robust institutional mechanisms and comprehensive remedial schemes reflect sophisticated understanding of the multiple dimensions of violence against women.

The PWDVA's recognition of physical sexual verbal emotional and economic abuse coupled with remedies including protection orders residence rights and monetary relief provides a holistic response to domestic violence. Its institutional framework of Protection Officers service providers and magistrats supported by duties imposed on police shelter homes and medical facilities envisions a coordinated community response. The broad definitions of domestic relationship and shared household extend protection to diverse family configurations.

The POSH Act's transformation of the Vishakha guidelines into statutory law creates binding obligations on all employers while expanding protections to all women regardless of employment status. Its dual committee structure time-bound procedures and confidentiality protections provide accessible grievance redressal mechanisms. The expansive definition of workplace including dwelling places extends protection to vulnerable domestic workers previously excluded from legal frameworks.

Yet implementation remains the critical challenge. Inconsistent appointment and training of Protection Officers uneven constitution of Internal Committees slow utilization of complaint

mechanisms and persistent cultural barriers limit the effectiveness of both statutes. The SHE-Box portal despite its promise as a centralized digital platform faces accessibility barriers for rural women and structural limitations including voluntary committee registration and language constraints.

Recent developments offer reasons for cautious optimism. The enhanced corporate disclosure requirements under the Companies (Accounts) Second Amendment Rules 2025 increase transparency and accountability. The Supreme Court's active monitoring in *Aureliano Fernandes* and subsequent compliance directions create judicial pressure for implementation. The revamped SHE-Box portal with its real-time tracking and national database provides infrastructure for improved oversight. These developments suggest movement toward bridging the gap between legislative intent and ground-level implementation.

The way forward requires sustained attention to multiple fronts. Strengthening institutional capacity through adequate resources and training for Protection Officers and committee members is essential. Expanding technological infrastructure while maintaining offline alternatives ensures accessibility for all women. Mandatory registration requirements with clear consequences for non-compliance would address accountability gaps. Expanding language options on digital platforms would break linguistic barriers. Sustained awareness programs addressing cultural barriers and informing women of their rights are fundamental.

Ultimately the effectiveness of legal protection for women in India depends not merely on legislative frameworks but on their transformation into lived reality. The PWDVA and POSH Act provide the architecture; implementation determines whether that architecture becomes shelter. As India's female labour force participation continues to rise the imperative of effective implementation grows more urgent. Women's economic empowerment fundamental to inclusive growth requires safe environments in both homes and workplaces. The law has provided the foundation; the work of building upon it continues.

## 7. SUGGESTIONS

India has established important laws such as the Protection of Women from Domestic Violence Act and the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act to protect women, but stronger implementation is needed. First, awareness must be increased so women understand their rights and available remedies. Government and organizations should conduct regular awareness and gender-sensitization programs.

Second, access to justice should be improved by strengthening legal aid services and setting up fast-track courts to ensure timely resolution of cases. Authorities like the National Commission for Women should actively monitor compliance and address complaints efficiently.

Third, workplaces must strictly follow legal requirements by forming Internal Complaints Committees and ensuring safe environments, including in the informal sector. Additionally, support services such as shelters, counseling, and medical aid should be expanded to assist victims holistically.

Finally, technology should be used for online reporting and tracking cases, while maintaining confidentiality. Regular review of laws is also essential to address emerging issues like cyber harassment. Overall, a combined effort of legal enforcement, awareness, and social change is necessary to ensure real protection and empowerment of women in India.

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