



Sexual Harassment of Women at Workplace

(Prevention, Prohibition and Redressal)

Act 2013

September 23rd 2019, MCRHRDI, Hyderabad

CONSTITUTIONAL PROVISIONS:

Article 14: Right to Equality

Article 15 (1): Right to not be discriminated against.

Article 15(3): Positive discrimination in favour of women and children.

Article 16: Equality in employment and non-discrimination.

Article 19(1)(g): Freedom of profession.

Article 19(1)(d): Freedom of movement.

Article 21: Right to life. (includes the right to live with human dignity, right to privacy and personal liberty)



The Journey of the Act

- ▶ Rupan Deol Bajaj (1988) [Video](#)
- ▶ Bhanvari Devi, the one who dared the powerful (1992)
- ▶ Vishakha and others Vs Government of Rajasthan
- ▶ Vishakha Guidelines (1997)
- ▶ Sexual Harassment (Prevention, Prohibition and Redressal) Act 2013

Definition of Sexual Harassment

Section 2(n): “Sexual harassment” includes any one or more of the following **unwelcome** acts or behaviour (whether directly or by implication) namely:-

- physical contact or advances; or
- a demand or request for sexual favours; or
- making sexually coloured remarks; or
- showing pornography; or
- any other unwelcome physical, verbal or non-verbal conduct of a sexual nature;

including but not limited to, loaded comments, jokes, letters, phone calls emails, sms, twitter or any other form of internet or electronic communication, gestures, lurid stares, spreading rumours, physical contact, stalking, sounds or display of a derogatory nature, deprecatory or denigrating remarks or conduct based on gender identity and directed towards women.

Definition of Sexual Harassment

Section 3: The **following circumstances** if present with any of the acts or behavior will also amount to sexual harassment:

- Implied or explicit promise of preferential treatment in employment/CAREER; or
- Implied or explicit threat of detrimental treatment in employment; or
- Implied or explicit threat about present /future employment status; or


It is SH when it has the purpose or effect of:

- Interfering with or interferes with a woman's work, or performance,
- Creating an intimidating, hostile or offensive work environment
- Humiliating treatment likely to affect health and safety



Workplace (Sec 2(O))

- ▶ Any department, organization, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the appropriate Government or the local authority or a Government company or a corporation or a cooperative society
- ▶ Any private sector organisation or a private venture, undertaking, enterprise, institution, establishment, society, trust, non governmental organization, unit or service provider carrying on commercial , professional, vocational, educational, entertainment, industrial, health services or financial activities including production, supply, sale, distribution or service



Workplace (Sec 2 (O))

- ▶ Hospital or nursing homes
- ▶ Any sports institute, stadium, sports complex or competition or games venue, whether residential or not used for training, sports or other activities relating to it
- ▶ Any place visited by the employee arising out of or during the course of employment including transportation provided by the employer for undertaking such journey
- ▶ A dwelling or a house



Complaints Committee/s

- ▶ Internal Complaints Committee
- ▶ Local Complaints Committee



Internal Complaints Committee

No	Member	Eligibility
1.	Chairperson	Women working at senior level as employee; if not available then nominated from other office/units/department/ workplace of the same employer
2.	2 Members (minimum)	From amongst employees committed to the cause of women/ having legal knowledge/experience in social work
3.	Member	From amongst NGO/associations committed to the cause of women or a person familiar with the issue of Sexual Harassment

Local Complaints Committee

No	Member	Eligibility
1.	Chairperson	Nominated from amongst the eminent women in the field of social work and committed to the cause of women
2.	Member	Nominated from amongst the women working in the block, taluka or tehsil or ward or municipality in the district
3.	2 Members	Nominated from amongst such NGO/associations/persons committed to the cause of women or familiar with the issues relating to sexual harassment, provided that: <ul style="list-style-type: none">•At least one must be a woman•At least one must have a background of law
4.	Ex Officio member	The concerned officer dealing with social welfare or women and child development in the district



➤ Dipti Pradhan's Fight for Justice

Reliefs during pendency of Inquiry

The ICC at the written request of the aggrieved woman may recommend to the employer to-

(a) restrain the respondent from reporting on the work performance of the aggrieved woman or writing her confidential report, and assign the same to another officer;

- ↓ **Transfer aggrieved woman** to different office, on written request.
- ↓ **Restraint Order against Respondent** who attempts to contact, intimidate or exert pressure on aggrieved woman.
- ↓ **Additional leave of 3 months to aggrieved woman.**
- ↓ Restrain respondent from sabotaging future employment prospects of aggrieved woman.
- ↓ Any other relief deemed fit to be promptly implemented by the employer.



Penalties


The ICC shall recommend to the employer to take any action including

- written apology
- warning
- reprimand or censure
- undergoing a counselling session
- carrying out community service
- withholding of promotion
- withholding of pay rise and increments
- terminating the respondent from service



Checklist for the enquiry committee

- ▶ Review the written complaints and response to complaints
- ▶ Review the applicable policy, the Act/Rules
- ▶ Develop a plan
- ▶ Meet with the complainant
- ▶ Meet with the respondent
- ▶ Meet with the witnesses
- ▶ Record statements and have them dated and signed
- ▶ Review and adapt the plan, as needed
- ▶ Proceed with further interviews, as needed
- ▶ Analyze all the facts to develop reasoning
- ▶ Arrive at the findings
- ▶ Give recommendations
- ▶ Prepare the report
- ▶ Submit the file to the organization or District Officer for implementation of the recommendations and for safe keeping.



Sexual harassment is a subjective experience.

- ▶ In 2010, the High Court of Delhi endorsed the view that sexual harassment is a subjective experience and for that reason held “We therefore prefer to analyze harassment from the [complainant’s] perspective. A complete understanding of the [complainant’s] view requires... an analysis of the different perspectives of men and women. Conduct that many men consider unobjectionable may offend many women... Men tend to view some forms of sexual harassment as “harmless social interactions to which only overly-sensitive women would object. The characteristically male view depicts sexual harassment as comparatively harmless amusement. ... Men, who are rarely victims of sexual assault, may view sexual conduct in a vacuum without a full appreciation of the social setting or the underlying threat of violence that a woman may perceive.”
- ▶ *Dr. Punita K. Sodhi v. Union of India & Ors.* W.P. (C) 367/2009 & CMS 828, 11426/2009 On 9 September, 2010, in the High Court of Delhi



A quick recap





▶ Consent is everything! [video](#)



Thank you.