

# Preventing Sexual Harassment of Women at Workplace

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# **Introduction to Sexual Harassment**

# Learning Objectives

- Upon completing this session, participants will be able to:
  - Define sexual harassment
  - List the specific forms of Sexual Harassment
  - Explain the types of sexual harassment
  - Cite various examples of Sexual Harassment

**Introduction to Sexual Harassment**  
*Understanding Concepts*

# What constitutes Sexual Harassment?

- Conduct of a sexual nature in the workplace
- Includes any unwelcome:
  - Sexual advances
  - Requests for sexual favors
  - Verbal and physical conduct of a sexual nature
  - Display of sexually explicit or suggestive materials

that is severe or pervasive and affects the working conditions or creates a hostile work environment.

# When is a conduct unwelcome?



- A Conduct is unwelcome when an employee does not solicit or invite it and when the employee regards the conduct as undesirable or offensive.
- Since sexual attraction is a normal factor in employee interactions, the distinction between advances that are invited, uninvited-but-welcome, offensive-but-tolerated and flatly rejected may be difficult to discern. This distinction is important because conduct is unlawful when it is unwelcome.
- It is important to note that harassment is in the eye of the beholder". What might be acceptable to one worker might be offensive and unwelcome to another.

**What are the specific forms of Sexual Harassment?**

# Verbal

- Comments about clothing,
  - personal behavior, or
  - a person's body;
  - sexual or sex-based jokes;
  - requesting sexual favors or
  - repeatedly asking a person out;
  - Obscene phone calls;
  - sexual innuendoes;
  - telling rumors about a person's personal or sexual life;
  - threatening a person



# Written


- Written material that is sexual in nature -
- Includes sexually explicit letters, emails, notes, or graffiti.
- Eg: A male co-worker forwarding improper e-mail messages consisting of off-color and racial jokes, pornography, and other potentially actionable content to female co-workers and subordinates.  
**This is written harassment**

# Visual

- Presence of sexual visual material or pornographic material such as
  - posters,
  - cartoons,
  - drawings,
  - calendars,
  - pinups, pictures,
  - Computer programs of sexual nature;

# Physical

- Includes unwanted physical contact of a sexual nature, for example -
  - grabbing,
  - patting,
  - pinching one's body,
  - stroking,
  - groping,
  - brushing up against someone, and
  - unwanted hugs or kisses.
  - Rape or attempted rape and so on.



We have to have the courage  
to tell people when their  
behavior or the way they talk  
makes us uncomfortable.


 #28DaystoDiva

Photo Julija...!

# How can I tell if it is really sexual harassment?



- **It's probably sexual harassment if the person:**
- Often makes sexual comments, jokes, or insults
- Constantly stares at your body
- Keeps pressuring you for dates
- Regularly sends you unwelcome or offensive sexual messages
- Frequently brushes against you
- Continues the unwelcome behavior even after you have told him/her to stop

# What isn't Sexual Harassment?

- The stray remark - Makes an isolated sexual comment, joke, insult or put-down
- Asks for a date and accepts it when you say "No"
- Glances at you as you walk past
- Accidentally bumps into you
- Consensual relationships

# Who can commit Sexual Harassment?

- **Any employee** can commit sexual harassment, including superiors, subordinates to supervisors, and co-workers. As such, unlawful sexual harassment can travel up, down, and sideways in any organization.
- **Clients** or **customers** of an employer can also commit actual harassment against the employer's employees.
- Males can commit sexual harassment against females *or* other males and females can commit sexual harassment against males *or* other females.
- The discrimination must be based on sex in order to be actionable; the conduct, however, need not be motivated by sexual desire.
- Thus, the sexual orientation of the parties is irrelevant; so long as the conduct is because of the victim's sex, the harassing conduct is prohibited.

# Who can experience Sexual Harassment?

- An employee may experience sexual harassment as an intended or direct target.
- Employees that are denied advancements or favors as a result of another employee's submission to a supervisor's sexual demands may also be victims of sexual harassment.



# Types of Sexual Harassment

- By nature, sexual harassment falls into two categories:
  - quid pro quo sexual harassment and
  - hostile environment sexual harassment.

# Quid pro quo sexual harassment

- Quid Pro quo means ‘Something for Something’
- Submission to sexual conduct is made either explicitly or implicitly a term or condition of employment
- Submission to or rejection of sexual conduct is used as a basis for employment decisions
- Eg. One party forces the other party to offer sex in return for recruitment, promotion or salary raise within the first party's powers, and threatens to demote, cut the salary or even fire the second party if rejected

# Hostile Work Environment

When one party interferes with the work performance of the victim in an unreasonable manner, or intentionally leaves the victim in an intimidated or hostile work environment, or exposes the victim to a rude, lewd and uncomfortable work environment, it constitutes a hostile environment sexual harassment.

**Hostile work environment** is a less clear yet more pervasive form of sexual harassment. It commonly involves conditions of work or behaviour towards a female worker, which make it unbearable for her to be there. While the worker is never promised or denied anything in this context, unwelcome sexual harassment occurs simply because she is a woman.



# Effects of Sexual Harassment

Sexual harassment causes a range of ill effects like:

- Self-blame and guilt;
- Insomnia or other sleep disturbances;
- Depression;
- Anxiety, fear, decreased interest in work;
- Restlessness, uncertainty about future;
- Physical or emotional withdrawal from friends, family and co-workers and so on.



**How to prove sexual harassment is the biggest difficulty faced by the victims, so they hide their experience and quit their job.”**

ZHANG JIANGZHOU  
JUDGE WITH BEIJING HAIDIAN  
DISTRICT PEOPLE'S COURT

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90% of  
workplace  
harassment is  
never officially  
reported.

Source: Workplace Conflict: Facts and  
Figures, Mediate.com.

# Reasons why Sexual harassment may not be Reported

- Sexual harassment may not be reported because the person:
- **Is unaware** of grievance procedures
- **Feels disempowered** and concerned that nothing will happen if they complain
- **Fears** reprisals and victimisation
- **Is concerned** about lack of proof and being believed
- **May lack confidence** and feel powerless
- **Doesn't wish** to draw attention to themselves and be labelled
- **Doesn't wish to be seen** as a trouble-maker
- **Thinks it is too much trouble** to make a complaint

# Reasons why Sexual harassment may not be Reported

- **Doesn't have** the time
- **Feels shame**, guilt or embarrassment
- **Thinks it's part of the job** and the organisation's culture
- **Can't confront the person** who is sexually harassing them
- **Can't confront their supervisor** who may be responsible for the harassment or is friends of the person harassing
- Where the harasser is an employer or a person in management, employees are even less likely to complain since that person may have the power to influence their employment options.
- If the behaviour continues it may become too difficult for the employee to stay and resignation may result.

# Measures to prevent Sexual Harassment at Workplace

- **Prevention**
- **Anti-Harassment Policy**
- **Employee Responsibility**
- **Investigating Allegations of Sexual Harassment**
- **Pre-Counseling**
- **Set a Good Example**
- **Immediate Attention to Complaints**
- **Filing a Police Complaint**
- **Unlawful for Employers to Retaliate**



# Employee Responsibilities in preventing Sexual Harassment

- Employees should commit to do the following:
  - **Understand** Organization policy on SH
  - **Observe** potential sexual-harassment behaviors or incidents at work;
  - **Examine** your behaviors, gestures, and comments
  - **Confront** the sexual harasser immediately
  - **Resolve** - develop your personal resolution strategy;
  - **Support** someone who is being harassed

## **Appropriate Actions to be taken by employees in the event of SH**

- **Show stern resentment**
- **Speak out**
- **Keep Records**
- **Report the Complaint**
- **Say no to situations one fears of bringing in the risk**
- **Get oneself medically checked**
- **Complain to social organization**
- **Report to the police**
- **File a complaint with a women commission**

**A**  
**Respectful**  
**Workplace**

# Why Respectful Behavior?

- No one wants to work in an environment where he or she feels harassed and uncomfortable.
- Respectful behavior facilitates more productive employees.
- Disrespectful, harassing behavior can cost the perpetrator their job.
- Harassment lawsuits usually have personal legal & financial consequences for the harasser.

## **Session -2**

# **Sexual Harassment of Women at Workplace Act, 2013 – An Overview**

# Learning Objectives

- Upon completing this session, participants will be able to:
  - Specify the need for the Act
  - List the circumstances considered as Sexual Harassment
  - Explain the role and functioning of ICC and LCC
  - Describe the procedure for filing a complaint and steps in the complaint process
  - State the consequences for non compliance
  - Describe the duties and obligations of Employer

**Sexual Harassment Act**  
*Prevention, Prohibition & Redressal*

# Indian Law on Sexual Harassment

**The  
Constitution  
of India**

**1997:  
Vishaka vs.  
State of  
Rajasthan**

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

**The Indian  
Penal  
Code, 1860**



# The Vishaka Judgement

- **Supreme Court acknowledged that:**
  - Sexual harassment is a **human rights** violation
  - Sexual harassment is a violation of the constitutionally guaranteed **fundamental rights**:
    - Articles 14 and 15: Right to equality
    - Article 21: Right to life - to live with dignity
    - Article 19(1)(g) - Right to practice any profession/trade/occupation/business, i.e., a right to a safe environment free from harassment
  - There is a need for guidelines to fill the legislative vacuum

# Vishaka Guidelines

- The guidelines to prevent Sexual Harassment at workplace were first laid down by the Supreme Court in **Vishaka & Others Vs. State of Rajasthan** AIR (1997) SC 311;
- Duties of the employer or other responsible persons in work place and other institutions were laid down;
- Sexual Harassment was defined;
- Preventive steps to be taken by the employers were provided;
- Mechanism for filing complaints and constitution of Complaints Committee were prescribed;
- Necessity of awareness program for the employees was pointed out.

# How other countries treat SH?

- **US:** Civil Rights Act of 1964 (Title VII ) - Equal Employment Opportunity Commission.
- **UK:** The Sex Discrimination Act 1975 : Amended in 2008.
- **Australia:** Sex Discrimination Act 1984 - Australian Human Rights Commission.
- **Japan:** The Male-Female Equal Opportunity law - Amended in 1999
- **China:** The Protection of Rights and Interest of Women - law amended in 2005



# Why an Act to safeguard against SH?

## RELEASE BY PIB

- Sexual Harassment at workplace is a violation of women's right to gender equality, life and liberty. It creates an insecure and hostile work environment, which discourages women's participation in work, thereby adversely affecting their economic empowerment and the goal of inclusive growth. However, there is no domestic law to address this issue except a few provisions of the Indian Penal Code and the Supreme Court Guidelines in the case of *Vishaka vs. State of Rajasthan*. The increasing work participation rate of women has made it imperative that a comprehensive legislation focusing on prevention of sexual harassment as well as providing a redressal mechanism be enacted.

# Timeline

- The Bill was first introduced by women and child development minister Krishna Tirath in 2007.
- Approved by the Union Cabinet in January 2010.
- Tabled in Lok Sabha in December 2010.
- Referred to the Parliamentary Standing Committee on Human Resources Development.
- The committee's report was published on 30 November 2011.
- In May 2012, the Union Cabinet approved an amendment to include domestic workers.
- The amended Bill was passed by the Lok Sabha on 3 September 2012.
- The Bill was passed by Rajya Sabha on 26 February 2013.
- President gave assent and the Act has been published in the Gazette of India, on 23rd April 2013 as Act No. 14 of 2013.



# Overview of the provisions

# Preamble

- **An Act to provide protection against SH of women at workplace and for prevention and redressal of complaints of SH and for matters connected therewith;**
- SH results in violation of fundamental rights of a woman under Articles 14, 15 and 21 and right to practice any profession or to carry any occupation, trade or business which includes a right to a safe environment free from SH;
- These rights are universally recognised human rights by international conventions and instruments such as Convention on the Elimination of all Forms of Discrimination against Women – ratified by the Govt. of India on June 25, 1993;
- To make provisions for giving effect to the said Convention for protection of women against SH at workplace.

# Objectives of the Act

- This Act has been framed with a view to:
  - Promote a workplace based on equality & respect.
  - Provide a safe and congenial work environment.
  - Awareness & sensitization about sexual harassment at the workplace.
  - Prevent sexual harassment.
  - Provide formal and informal mechanism for redressal in case of complaint of sexual harassment at the workplace.
  - Define the implications and outcome of sexual harassment.
  - Ensure protection against retaliation to complainants, witnesses, committee members and
  - other employees involved in prevention and complaint resolution.

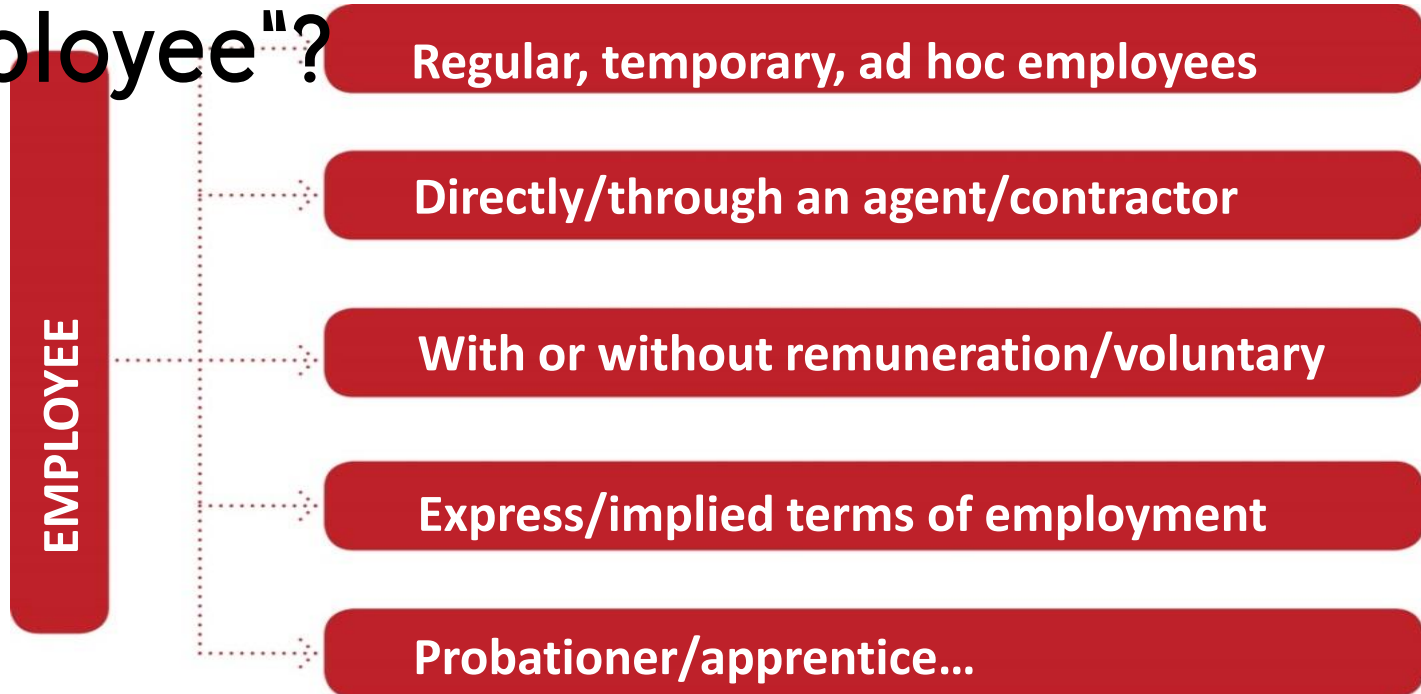


# Scope of the Act

- The Act applies to all **women** in all workplaces.
- Section 2(f) defines an employee as a woman "employed at a workplace for any work on regular, temporary, ad hoc or daily wage basis, either directly or through an agent, including a contractor, with or, without the knowledge of the principal employer, whether for remuneration or not, or working on a voluntary basis or otherwise, whether the terms of employment are express or implied and includes a co-worker, a contract worker, probationer, trainee, apprentice or called by any other such name."

# Relevant Definitions

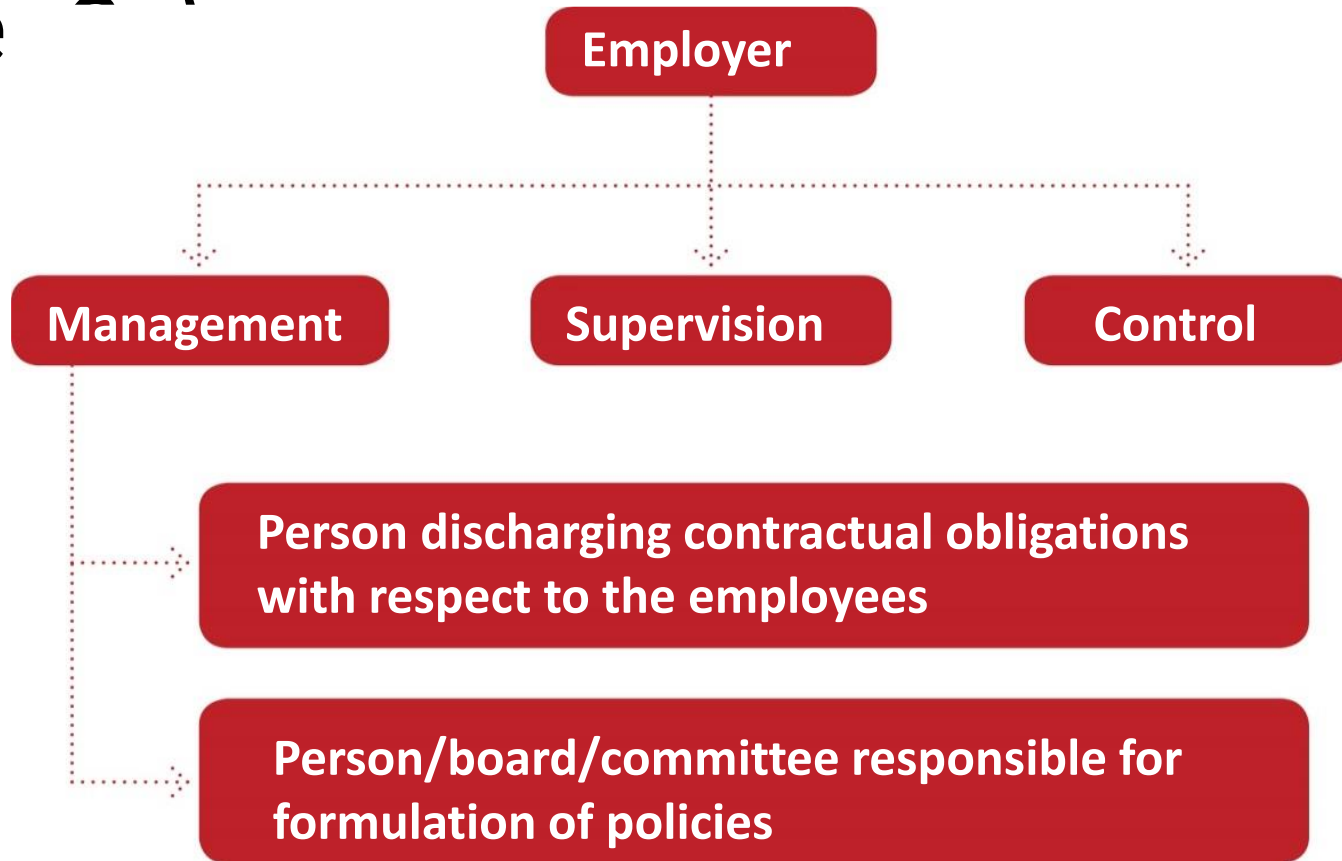
Who is an  
"Employee"?



' A person employed at the workplace for any work on regular, temporary, ad-hoc, daily wage basis, either directly or through an agent, including a contractor, with or without the knowledge of the principal employer, whether or not for remuneration or working on the voluntary basis or otherwise, whether the terms of employment are express or implied and includes a co-worker, a contract worker, probationer, trainee, apprentice or called by any other such name.

# Who is the "Employer"?

(See ...)



' In relation to any department , organisation, undertaking, establishment, enterprise, institution, office, branch or unit of the appropriate Government or a local authority in the above ' If not specified, any person responsible for management, supervision or control of the workplace.

# The "Workplace"



Any place where working relationship and/or employer-employee relationship between the company and the person exists. This includes our premises including transit houses & guest houses) and any place visited by the employee arising out of or during the course of employment including transportation provided by the employer for undertaking such a journey.

# The extended "workplace" ...



Any place visited by the  
employee arising out of;  
or during course of;  
employment, including  
transportation provided  
by employer.



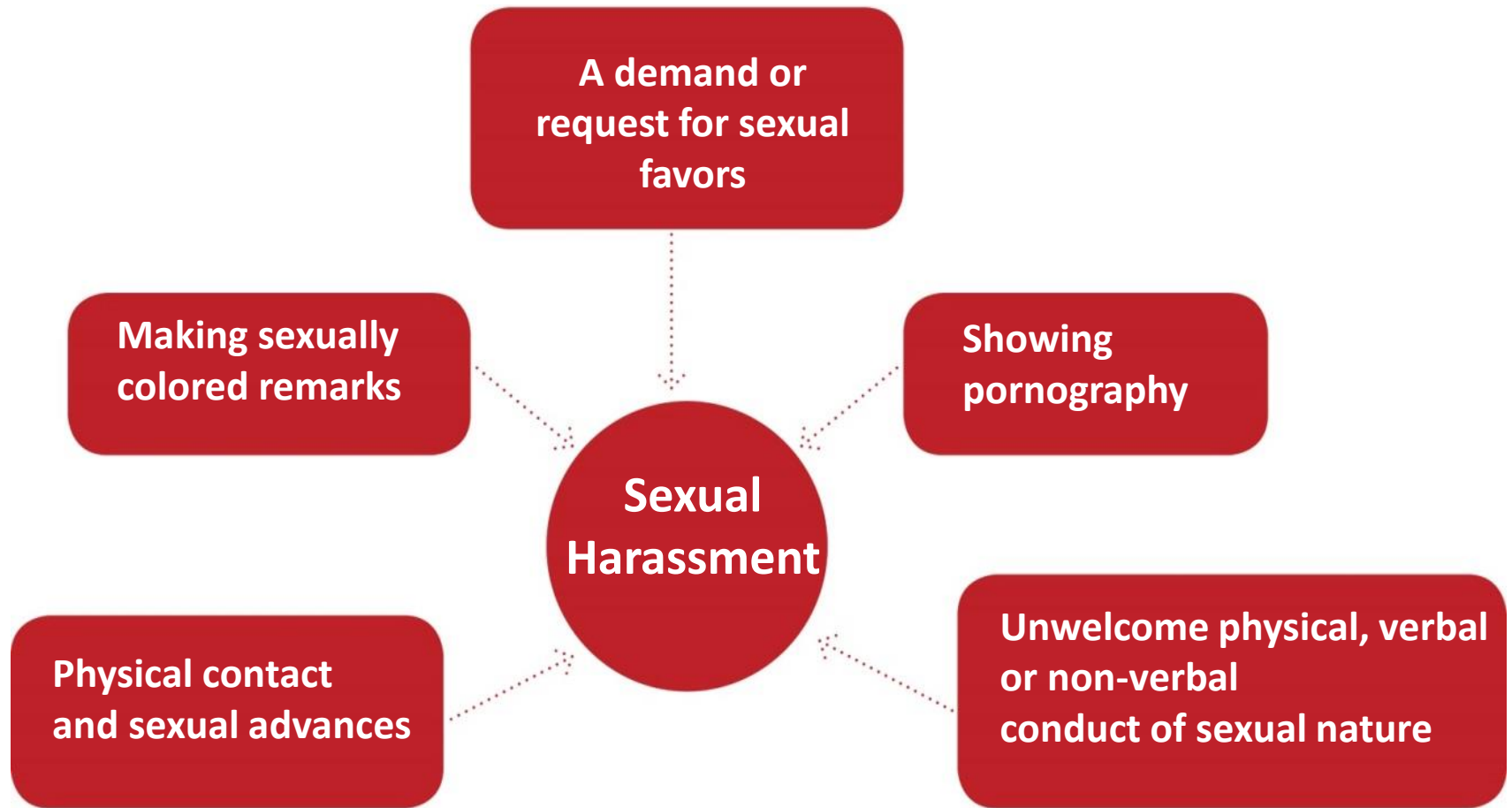
## **Aggrieved Woman:**

In relation to workplace, a woman of any age whether employed or not, who alleges to have been subjected to any act of sexual harassment by the Respondent.

## **Respondent:**

Against whom the aggrieved woman has made a complaint

# “Sexual Harassment” under the new law (Sec.2n)



# Circumstances Considered as Sexual Harassment (Sec.3)

- ' No woman shall be subjected to sexual harassment at workplace '
- ' The following circumstances, among other circumstances, if it occurs or is present in relation to or connected with any act or behaviour of sexual harassment may amount to sexual harassment
  - Implied or explicit promise of preferential treatment in her employment
  - Implied or explicit threat or detrimental treatment in her employment
  - Implied or explicit threat about her present or future employment status
  - Interference with her work or creating an intimidating or offensive or hostile work environment for her or
  - Humiliating treatment likely to affect her health or safety.

# Constitution of Internal Complaints Committee (Sec.4)

- Mandatory for establishments employing 10 or more employees
- ICC to be appointed by an order in writing
- At least  $\frac{1}{2}$  of the membership of the ICC to be women
- ICC to prepare and submit an annual report to the employer and the District Officer



# Membership of Internal Complaints Committee



**Note: Provided that one-half of the total members must be women.**

# Internal Complaints Committee

- Presiding officer and every member shall hold office for a period not exceeding 3 years;
- Members appointed from NGOs or associations shall be paid such fees or allowances as may be prescribed
- The Presiding officer or the member shall be removed and replaced if there is any contravention of Section 16 or convicted for an offence or pending enquiry or found guilty in any disciplinary proceedings or pending disciplinary proceedings or abused the position as to render the continuance in office prejudicial to public interest.

# Local Complaints Committee (Sec.5)

- To be set up in every district
- LCC is the grievance redressal body with respect to:
  - organizations having less than 10 employees
  - organizations that have not set up an ICC

# Local Complaints Committee

- Appropriate Government may notify a district or additional district magistrate or collector or deputy collector as a District Officer (D.O.) for every District.
- Every D.O. to constitute LCC if establishments have less than 10 workers or if the complaint is against the employer himself.
- D.O. to designate one nodal officer in every block, taluka, tehsil in rural or tribal area and ward or municipality in the urban area to receive complaints and forward the same to LCC within 7 days.

# Local Complaints Committee

## Local Complaints Committee

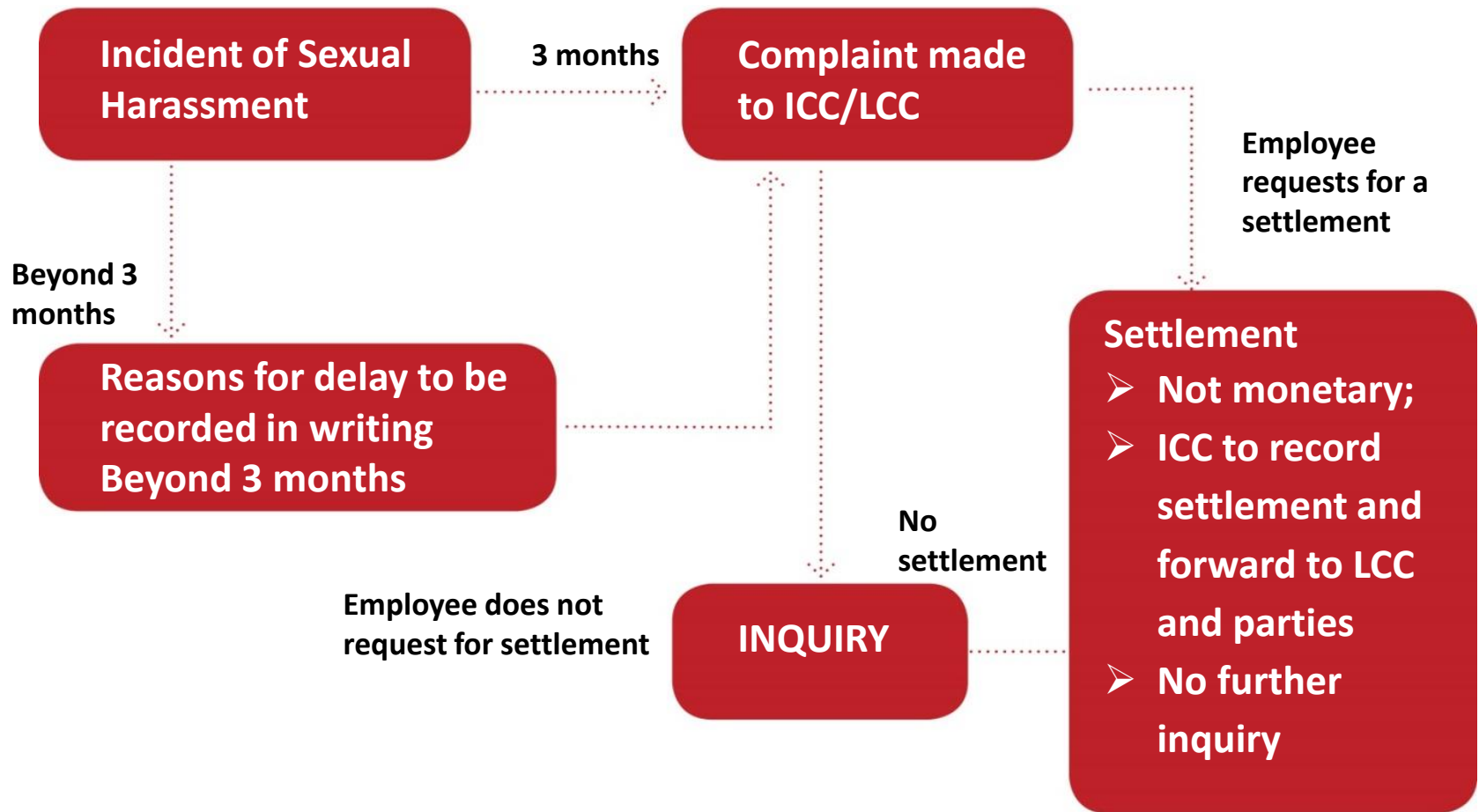
Chairperson to be nominated from amongst eminent women in the field of social work and committed to the cause of women

One member to be nominated from amongst the women working in block, taluka, tehsil or ward or municipality in the district;

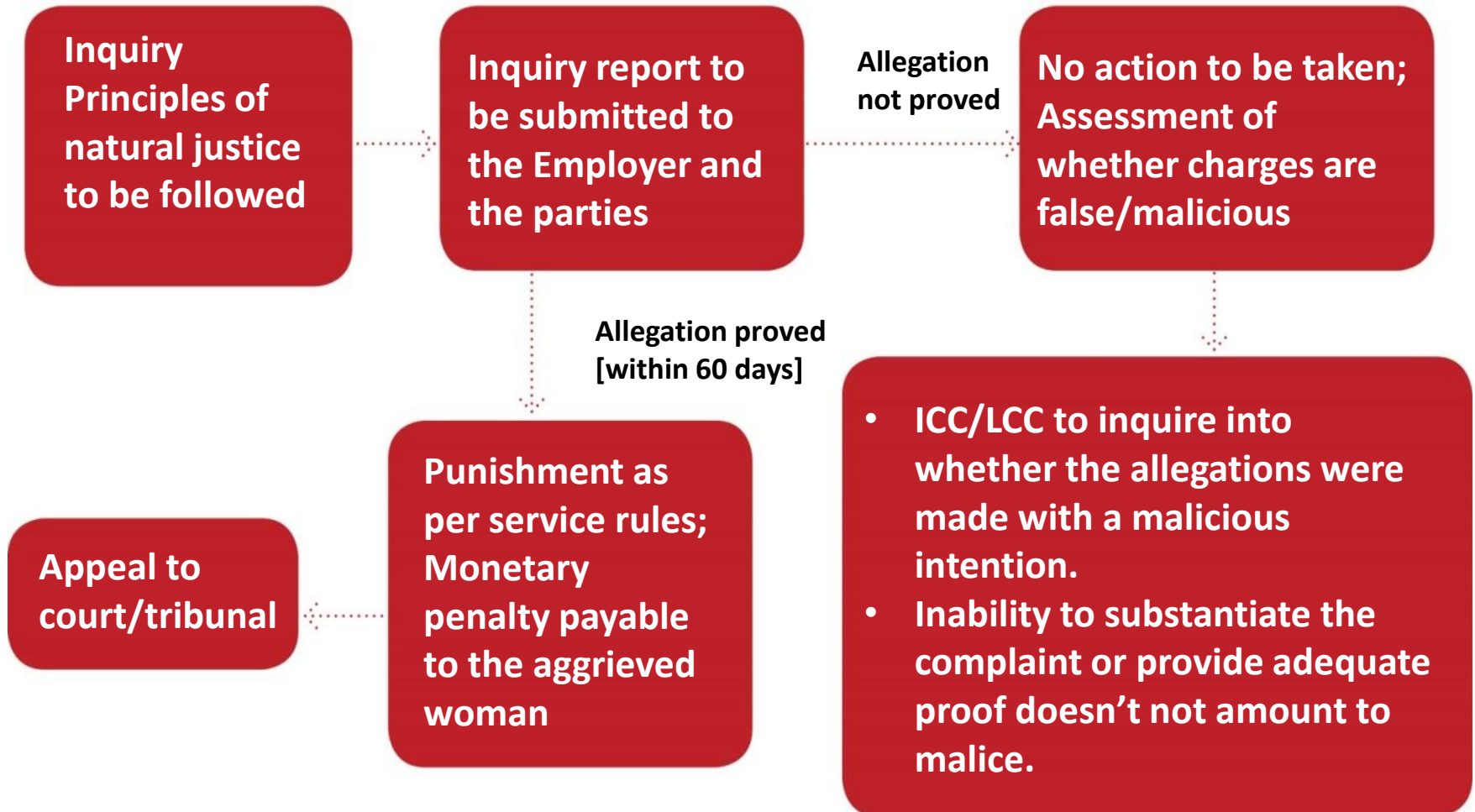
Two members, of whom atleast one shall be a woman, to be nominated from amongst NGOs or associations committed to the cause of women or a person familiar with issues relating to SH – one member should have a background in law or legal knowledge (preferably)

Concerned officer dealing with social welfare or women and child development shall be a member *ex-officio*

# Grievance Redressal Process



# Grievance Redressal Process



# Procedure for Filing a Complaint (Sec.9)

- Aggrieved woman to make a complaint in writing within 3 months to the ICC or LCC;
- Legal heir or such other prescribed person may also file a complaint;
- ICC or LCC, at the request of the aggrieved woman, to take steps to settle the matter through conciliation;
- No monetary settlement shall be made as a basis of conciliation;
- ICC or LCC shall record the settlement and forward it to the employer or the D.O. to take action;
- ICC or LCC to provide copies of settlement to aggrieved woman and Respondent and no further inquiry shall be conducted.



# Inquiry

- **Interim Relief (Sec.12)**
- During the pendency of an Inquiry, ICC or LCC may recommend to –
  - Transfer the aggrieved woman or the Respondent to any other workplace; or
  - Grant leave to the aggrieved woman upto a period of 3 months; or
  - Grant such other relief to the aggrieved woman as may be prescribed.
- Leave granted shall be in addition to the leave otherwise entitled;
- ICC or LCC to provide a report of its findings within 10 days from the date of completion of inquiry and such report may be made available to the concerned parties.
- **Employer or the D.O. to act upon the recommendation within 60 days of its receipt by him.**
- All inquiries must be completed **within 90 days.**
- For the purposes of making an inquiry, the ICC shall has similar powers as a civil court – it can summon and enforce attendance of any person, examine him on oath, order production of documents, etc.

# Inquiry (Sec.13)

- Where the allegation against the Respondent has been proved, ICC or LCC shall recommend to the employer or the D.O. –
  - To take action for SH as a misconduct in accordance with service rules or as may be prescribed;
  - To deduct, notwithstanding anything in the service rules applicable to the Respondent, from his salary or wages such sum as it may consider appropriate to be paid;
  - If the employer is unable to make any deduction, it may direct the Respondent to pay such amount to the aggrieved woman;
  - If the Respondent fails to pay the sum, the ICC or LCC may forward the order for recovery of the sum as an arrear of land revenue to the concerned D.O.

# False or malicious complaint (Section 14)

- If the allegation against the Respondent is malicious or
- The complaint has been made knowing that the complaint is false or
- The aggrieved woman or any other person making the complaint has produced any forged or misleading documents;
  - ICC or LCC to recommend the employer to take action against the woman or person making the false complaint in accordance with the provisions of the service rules or where no such rules exists, in such manner as may be prescribed.
  - A mere inability to substantiate a complaint or provide adequate proof need not attract action against the complainant;
  - Malicious intent shall be established only after an inquiry is conducted.

# Determination of compensation (Sec.15)

- ICC or LCC shall have regard to –
  - The mental trauma, pain, suffering and emotional distress caused to the aggrieved woman;
  - The loss in the career opportunity due to the incident in sexual harassment;
  - Medical expenses incurred by the victim for physical or psychiatric treatment;
  - Income and financial status of the Respondent;
  - Feasibility of such payment in lump sum or in instalment.



# PROHIBITION OF PUBLICATION OR MAKING KNOWN THE CONTENTS OF COMPLAINT AND INQUIRY PROCEEDINGS

## (Sec.16)

- Notwithstanding anything contained in the Right to information Act, 2005, following can not be communicated or made known to public, press or media
  - Identity and address of the aggrieved woman, respondent or witnesses
  - Any information relating to conciliation and inquiry proceedings, recommendations of the internal committee
  - Action taken by the employer

There is a penalty for the person entrusted with the duty to handle or deal with the complaint, inquiry, recommendations or actions for the publication or making known the contents of complaint and inquiry proceedings.

# Key Obligations of the Employer (Sec.19)

- Every employer shall –
  - Provide a safe working environment at the workplace;
  - Display at any conspicuous place in the workplace, the penal consequences of sexual harassment and the order constituting the ICC;
  - Organise workshops and awareness programs at regular intervals for sensitising the employees regarding the provisions of the Act and orientation programmes for members of the ICC;
  - Provide necessary facilities to the ICC or LCC for dealing with the complaint and conducting an enquiry;
  - Assist in securing the attendance of the Respondent and witnesses;
  - Make such information available to the ICC or LCC;

# Key Obligations of the Employer

- Every employer shall –
  - Provide assistance to the woman if she chooses to file a complaint under the IPC or any other law for the time being in force;
  - Cause to initiate action, under the IPC or any other law, against the perpetrator;
  - Treat SH as a misconduct under the service rules and initiate action for such misconduct;
  - Monitor the timely submission of reports by the ICC.

# Penalty (Sec.26)



- Where the employer fails to –
  - Constitute an ICC; or
  - Take action based on recommendation of ICC or
  - To include the details in the annual report,
  - **Shall be punishable with a fine of Rs. 50,000.**
- If the employer is previously convicted of an offence and commits the same offence, the employer shall be liable to –
  - **Twice the punishment, which might have been imposed on first conviction;**
  - **Cancellation of license or withdrawal or non-renewal or approval or cancellation of the registration, as the case may be, by the Government or local authority required for carrying on his business or activity.**
  - **All offences under the statute are non-cognizable**



# Important Points to be noted

- Gender equality includes protection from sexual harassment and right to work with dignity as per our constitution.
- Extra hazard for a working woman compared her male colleague is clear violation of the fundamental rights of Gender Equality' & Right to Life and Liberty.
- Safe working environment is fundamental right of working woman.
- In no way working women may be discriminated at workplace against male employees.
- Working with full dignity is the fundamental right of working women.
- The right to work as an inalienable right of all working women
- The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction (pregnancy, maternity & nursing etc) is fundamental right of working women

# Some of the well-known Cases

- **Bhanwari Devi Case**

- In 1992 Bhanwari Devi, a social worker in Rajasthan was brutally gang raped by a number of upper class men, because she had tried to stop a child marriage. Bhanwari Devi was determined to get justice and lodged a case against the offenders. However, the accused was acquitted by a trial court. This appalling injustice, together with the fighting spirit of Bhanwari Devi, inspired several women's groups and NGOs to file a petition in the Supreme Court under the collective platform of Vishakha.

Source: [http://www.seasonsindia.com/education/woes\\_sea.htm](http://www.seasonsindia.com/education/woes_sea.htm)

- **Shehnaz Mudbhatkal case**
- Sexual harassment at the workplace, as an issue, captured the collective consciousness of working women, following the Shehnaz Mudbhatkal case.
- Shehnaz worked as a hostess for Saudi Arabian airlines. She was subjected to sexual harassment by her boss in 1985, and dismissed when she complained to higher authorities. But Shehnaz would not give in. Filing suit, she fought for 11 years and won her case in 1996 when the Bombay labour court judged it to have been a case of unfair dismissal under the Industrial Disputes Act. It ordered her re-instatement with full back payment, perks and promotions. Sadly, the airlines appealed to Bombay High Court, which granted a stay.

Source: [http://www.seasonsindia.com/education/woes\\_sea.htm](http://www.seasonsindia.com/education/woes_sea.htm)

- **Sailaja Suman Case**

- In 1994, Doordarshan (Hyderabad) producer Sailaja Suman took director P L Chawla to court on charges of defamation, criminal intimidation and trying to outrage her modesty. She filed two separate cases in the metropolitan magistrate's court. Unfortunately, Suman was transferred to Lucknow.

- **Nutan Sharma case**

- Nutan Sharma a steno in the Union Ministry of Railways, was transferred, following her complaint that R P Sharma, secretary to the Chief Operating Manager, molested her.

- **Alisha Chinai Case**

- Alisha Chinai's suit against music composer Anu Malik, demanding Rs. 26,60,000 as damages for sexual harassment, met with a similar fate. Malik filed a Rs. 2 crore defamation suit.

- **Rupan Deol Bajaj Case**

- The most well-known instance of a sexually harassed woman taking the help of the law to teach the harasser a lesson is that of Rupan Deol Bajaj. Bajaj was slapped on the bottom by the then DGP of Punjab, K P S Gill. Accusing him of indecent behaviour, Bajaj fought an 8-year legal battle. The hard work paid off. Gill was convicted and sentenced to three months RI.

- **Tarun Tejpal Case**

- Tarun Tejpal, Editor of Tehelka was accused by a woman journalist colleague of sexual assault. Tejpal was charged under all the seven sections for which he has been booked: 354 [molestation], 354-A [sexual harassment and outraging the modesty of a woman], 341 [wrongful restraint], 342 [wrongful confinement], 376 [rape] and 376(2)(f) [rape by a person in a position of control or dominance over a woman] of the IPC; and 376(2)(k) [rape by a relative or guardian or a person in a position of trust or authority, and rape by a person in a fiduciary position] of the Criminal Law (Amendment) Act.
- Tejpal has been accused by a former junior colleague of assaulting her in a lift at the Grand Hyatt hotel, Bambolim, on two occasions on November 7 and 8, 2013, during the Thinkfest event.
- Investigators said this was the first time that charges had been brought anywhere in the country under the new section 376(2)(k).

Source: <http://www.canindia.com/2014/02/tehelka-case-tarun-tejpal-accuses-go-a-police-of-acting-under-political-bosses/#>

If you have any questions or need any help,  
please call!

***Thank You***



# Indian Penal Code Provision

- **Section 509** - Word, gesture or act intended to insult the modesty of a woman
- **Offence:**
  - utterance of any word,
  - making any sound or gesture
  - exhibiting any object
- With an intention to intrude upon the privacy of such woman
- **Punishment:** Simple imprisonment up to 3 years + fine
- **Nature of offence:** Cognizable



# Amendments to Indian Penal Code Provisions

- **Section 354 A:** Sexual harassment and punishment for sexual harassment
- **Offence:**
  - physical contact and advances involving unwelcome and explicit sexual overtures; or
  - a demand or request for sexual favours; or
  - showing pornography against the will of a woman; or
  - making sexually coloured remarks
- **Punishment:** Commission of an offence under (i), (ii) or (iii) punishable with rigorous imprisonment for a term of up to 3 years and/or fine; commission of offence under (iv) punishable with imprisonment for a term up to one year and/or fine
- **Nature of offence:** Cognizable

# Contd..

- **354B (Act with intent to disrobe a woman)**
- **Punishment**
- Imprisonment not less than three years but which may extend to seven years and with fine.
- **What is included**
- Assaults or uses criminal force to any woman or abets such act with the intention of disrobing or compelling her to be naked.

# Contd..



- **Section 354C (Voyeurism)**
- **Punishment**
- In case of first conviction, imprisonment not less than one year, but which may extend to three years, and shall also be liable to fine, and be punished on a second or subsequent conviction, with imprisonment of either description for a term which shall not be less than three years, but which may extend to seven years, and shall also be liable to fine.
- **What is included**
- Watching or capturing a woman in “private act”, which includes an act of watching carried out in a place which, in the circumstances, would reasonably be expected to provide privacy, and where the victim's genitals, buttocks or breasts are exposed or covered only in underwear; or the victim is using a lavatory; or the person is doing a sexual act that is not of a kind ordinarily done in public.

# Contd..



- **Section 354D (Stalking)**
- **Punishment**
- Maximum imprisonment of 3 years and/or fine. Five years in case of subsequent convictions.
- **What is included**
- Anybody who follows a woman and contact, or attempts to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman
- Or Monitors the use by a woman of the internet, email or any other form of electronic communication.

# Contd..

- **Section 370,370A of IPC  
(trafficking of person for exploitation)**
- **Punishment**
- 3-5 years imprisonment and/or fine
- **What is included**
- If a person (a) recruits, (b) transports, (c) harbours, (d) transfers, or (e) receives, a person, by using threats, or force, or coercion, or abduction, or fraud, or deception, or by abuse of power, or inducement for exploitation including prostitution, slavery, forced organ removal, etc. will be punished with imprisonment ranging from at least 7 years to life imprisonment.



# Contd..



- **Section 375 of IPC**
- **Punishment**
- At least 7 years jail and maximum life imprisonment with/without fine. In aggravated cases minimum 10 years rigorous imprisonment which can extend to life.
- **What is included**
- Even touching private parts will constitute sexual assault including having sex ( with lack of physical resistance).

# Contd..

- **Section 376A of IPC**
- **Punishment**
- Minimum 20 years rigorous imprisonment which can extend to life with compensation to victim.
- **What is included**
- if a person committing the offence of sexual assault, "inflicts an injury which causes the death of the person or causes the person to be in a persistent vegetative state.

# Contd..

- **Section 376C**
- **Punishment**
- Rigorous imprisonment of term between 5-10 years and/or fine
- **What is included**
- Whoever abuses a woman using his position of authority (or fiduciary relationship) to induce or seduce any woman in his charge or present in the premises to have sexual intercourse.



# Some of the well-known Cases

- **Bhanwari Devi Case**

- In 1992 Bhanwari Devi, a social worker in Rajasthan was brutally gang raped by a number of upper class men, because she had tried to stop a child marriage. Bhanwari Devi was determined to get justice and lodged a case against the offenders. However, the accused was acquitted by a trial court. This appalling injustice, together with the fighting spirit of Bhanwari Devi, inspired several women's groups and NGOs to file a petition in the Supreme Court under the collective platform of Vishakha.

Source: [http://www.seasonsindia.com/education/woes\\_sea.htm](http://www.seasonsindia.com/education/woes_sea.htm)

- **Shehnaz Mudbhatkal case**
- Sexual harassment at the workplace, as an issue, captured the collective consciousness of working women, following the Shehnaz Mudbhatkal case.
- Shehnaz worked as a hostess for Saudi Arabian airlines. She was subjected to sexual harassment by her boss in 1985, and dismissed when she complained to higher authorities. But Shehnaz would not give in. Filing suit, she fought for 11 years and won her case in 1996 when the Bombay labour court judged it to have been a case of unfair dismissal under the Industrial Disputes Act. It ordered her re-instatement with full back payment, perks and promotions. Sadly, the airlines appealed to Bombay High Court, which granted a stay.

Source: [http://www.seasonsindia.com/education/woes\\_sea.htm](http://www.seasonsindia.com/education/woes_sea.htm)

- **Sailaja Suman Case**

- In 1994, Doordarshan (Hyderabad) producer Sailaja Suman took director P L Chawla to court on charges of defamation, criminal intimidation and trying to outrage her modesty. She filed two separate cases in the metropolitan magistrate's court. Unfortunately, Suman was transferred to Lucknow.

- **Nutan Sharma case**

- Nutan Sharma a steno in the Union Ministry of Railways, was transferred, following her complaint that R P Sharma, secretary to the Chief Operating Manager, molested her.

- **Alisha Chinai Case**

- Alisha Chinai's suit against music composer Anu Malik, demanding Rs. 26,60,000 as damages for sexual harassment, met with a similar fate. Malik filed a Rs. 2 crore defamation suit.

- **Rupan Deol Bajaj Case**

- The most well-known instance of a sexually harassed woman taking the help of the law to teach the harasser a lesson is that of Rupan Deol Bajaj. Bajaj was slapped on the bottom by the then DGP of Punjab, K P S Gill. Accusing him of indecent behaviour, Bajaj fought an 8-year legal battle. The hard work paid off. Gill was convicted and sentenced to three months RI.

- **Tarun Tejpal Case**

- Tarun Tejpal, Editor of Tehelka was accused by a woman journalist colleague of sexual assault. Tejpal was charged under all the seven sections for which he has been booked: 354 [molestation], 354-A [sexual harassment and outraging the modesty of a woman], 341 [wrongful restraint], 342 [wrongful confinement], 376 [rape] and 376(2)(f) [rape by a person in a position of control or dominance over a woman] of the IPC; and 376(2)(k) [rape by a relative or guardian or a person in a position of trust or authority, and rape by a person in a fiduciary position] of the Criminal Law (Amendment) Act.
- Tejpal has been accused by a former junior colleague of assaulting her in a lift at the Grand Hyatt hotel, Bambolim, on two occasions on November 7 and 8, 2013, during the Thinkfest event.
- Investigators said this was the first time that charges had been brought anywhere in the country under the new section 376(2)(k).

Source: <http://www.canindia.com/2014/02/tehelka-case-tarun-tejpal-accuses-go-a-police-of-acting-under-political-bosses/#>