

# PREVENTION OF SEXUAL HARASSMENT

## At The Workplace

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# SEXUAL HARASSMENT IS NOT...

- A “women’s thing”
- A passing fad
- Something to joke about
- Something to be ignored
- A cause for paranoia and fear
- It’s a legal requirement to prevent, prohibit and address this issue at “Workplace”





## Bhanwari Devi

Indian Dalit Woman  
Village Bhatari, Rajasthan

Winner of “**Neerja Bhanot Memorial Award**” for her "extraordinary courage, conviction and commitment

### HER STORY

“Bhanwari Devi continues to be ostracized by her village. She lives on the outskirts of the village Bhatari, just 55 kms from Jaipur, with her husband who’s supported her fight throughout. She now runs a self help group with other women from her community and works with an NGO to support her family.”



# VISHAKHA GUIDELINES

SUPREME COURT OF INDIA JUDGEMENT 1997

(REF: VISHAKHA AND ORS. V STATE OF RAJASTHAN)

*“In the absence of enacted law to provide for the effective enforcement of the basic human right of gender equality and guarantee against sexual harassment and abuse, we lay down the guidelines and norms specified hereinafter for due observance at all work places or other institutions, until a legislation is enacted for this purpose. ...and it is further emphasised that this would be treated as the law declared by this Court under Art. 141 of the Constitution.”*

The judgment of August 1997 provided the basic definitions of Sexual Harassment at the workplace and provided guidelines to deal with it. It is seen as a significant legal victory for women's groups in India

Established that **“Sexual Harassment violates a woman’s right in the workplace and is thus not just a matter of personal injury”**



# ADVENT OF LAW

By adopting the Vishakha Guidelines and recommendations of Justice Verma Committee, the Parliament enacted **the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act in 2013** read with **The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013**  
(effective Dec 2013)

This statute supersedes the Vishakha Guidelines for prevention of sexual harassment introduced by the Supreme Court of India.

The Statute extends to the “Whole of India”

It is only for the protection of “Women at Workplace”



# PREAMBLE

**An Act to provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith or incidental thereto.**



# Sexual Harassment



## AGGRIEVED WOMAN

- In relation to a workplace, a women, of any age whether\_
  - Regular employee
  - Temporary employee
  - Adhoc
  - Daily wages or not , who alleges to have been subjected to any act of Sexual harassment by the respondent





# SEXUAL HARRASSMENT

**Sexual harassment** is bullying or coercion of a sexual nature, or the unwelcome or inappropriate promise of rewards in exchange for sexual favors. In most modern legal contexts, sexual harassment is illegal.

Sexual harassment is gross violation of women's right to equality and dignity



# SEXUAL HARASSMENT

## (SEC 2(N) OF THE ACT)

Sexual Harassment includes any one or more of the following unwelcome acts or behavior (whether directly or by implication) namely :

- physical contact and advances; or
- a demand or request for sexual favour; or
- sexually colored remarks; or
- showing pornography; or
- other offensive or derogatory pictures, cartoons; or
- any other unwelcome physical, verbal or non-verbal conduct of sexual nature.



# SEXUAL ADVANCES



Making sexual advances or demanding sexual favours



## UNSAVOURY REMARKS



## JOKES CAUSING OR LIKELY TO CAUSE AWKWARDNESS OR EMBARRASSMENT



Cracking jokes which cause awkwardness or embarrassment



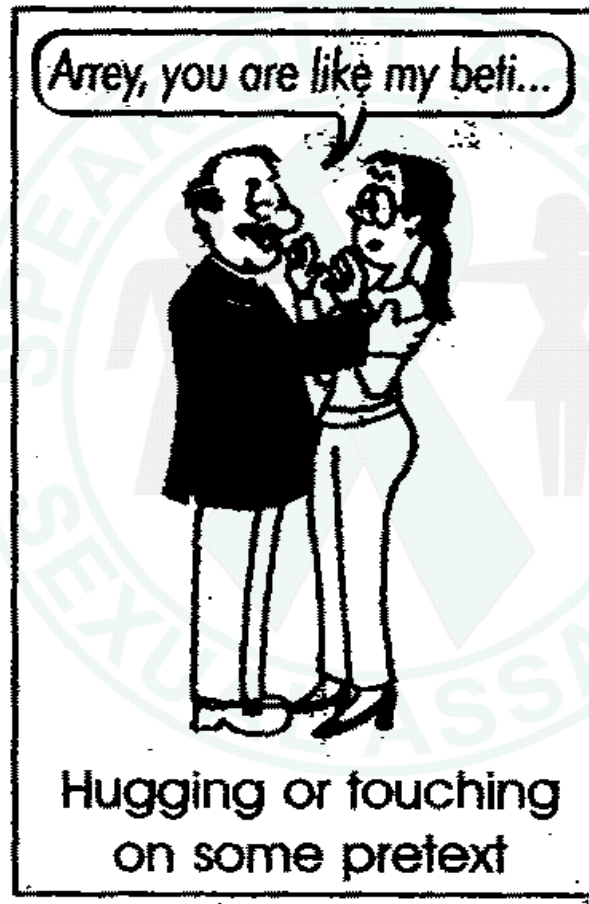
## UNWELCOME SEXUAL OVERTONES IN ANY MANNER



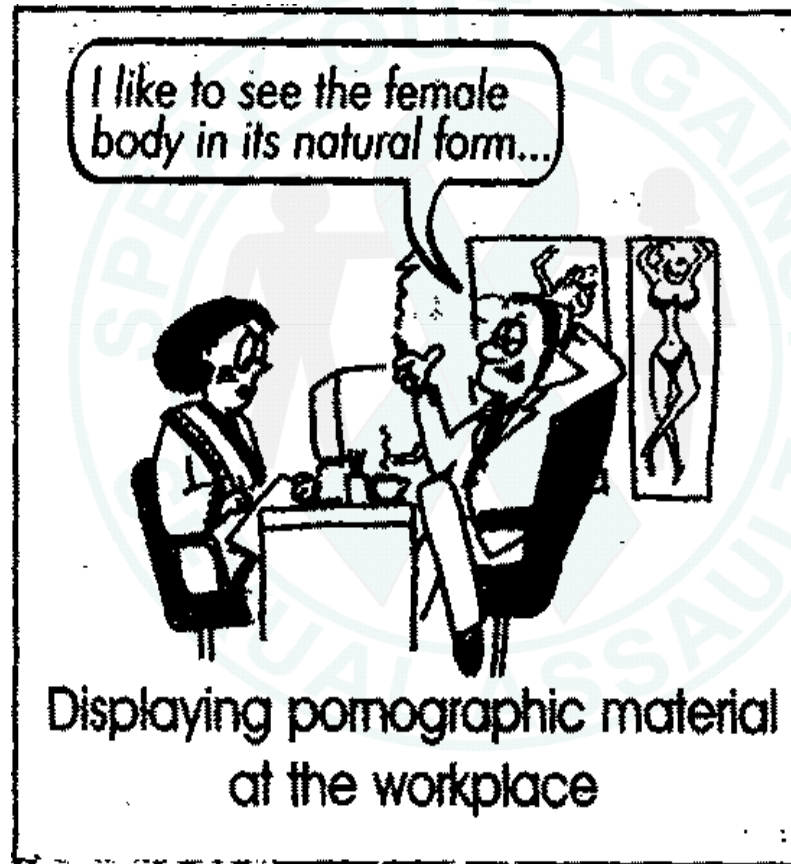
Making obscene  
gestures or using  
indecent language



TOUCHING OR BRUSHING AGAINST ANY PART OF THE BODY AND THE LIKE



DISPLAYING PORNOGRAPHIC OR OTHER OFFENSIVE OR DEROGATORY PICTURES, CARTOONS, PAMPHLETS OR SAYINGS





# FORCIBLE PHYSICAL TOUCH OR MOLESTATION



**Molestation**



PHYSICAL CONFINEMENT AGAINST ONE'S WILL AND ANY OTHER ACT LIKELY TO VIOLATE ONE'S PRIVACY



Standing too close and trying to touch or feel



## ABUSE OF AUTHORITY OR POWER



Threatening adverse consequences on raising objections or resisting advances



# WORKPLACE SEXUAL HARASSMENT

typically involves acts of which the victim has *reasonable apprehension* that they are

- **Humiliating**
- **Unsafe**
- **Unhealthy**
- **Discriminatory**
- **Career limiting**
- **Otherwise causing adverse circumstances**



## FEW PROVISIONS OF THE IPC

- **354. Assault or criminal force to woman with intent to outrage her modesty.**

Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both



## SEXUAL HARRASSMENT UNDER SEC 354 A OF THE INDIAN PENAL CODE

Physical contact and advances involving unwelcome and explicit sexual overtures or

- A demand of request for sexual favours or
- Showing pornography against the will of a woman or
- Making sexually coloured remarks

Imprisonment for upto 5 years or fine or both



# INTERNAL COMPLAINTS COMMITTEE (CONSTITUTED THROUGH A WRITTEN ORDER)

**50% shall always be women**

Chairman	Women Working at senior level as employee;
2 members	From amongst the employees committed to the cause of women/ having legal knowledge/experience in social work
Member	From amongst NGO/ associations committed to the cause of women or a person familiar with the issue of sexual harassment

If a offices are located at different palces, each place needs to have an ICC



# LOCAL COMPLAINTS COMMITTEE (CONSTITUTED BY DISTRICT OFFICER)

**50% shall always be women**

Chairman	Eminent Women in the field of social work and committed to the cause of women
Member	Nominated from among the women working in the block, tehsil or ward
2 members	From amongst the employees committed to the cause of women/ having legal knowledge/experience in social work
Ex Offio Member	The concerned officer dealing with social welfare of women and child developmen n the district





# DUTIES OF EMPLOYER

Every employer shall--

- (a) Provide a safe working environment at the workplace which shall include safety from the persons coming into contact at the workplace;
- (a) Display at any conspicuous place in the workplace, the penal consequences of sexual harassments: and the order constituting, the Internal Committee under this law;
- (b) Organize workshops and awareness programmes at regular intervals for sensitizing the employees with the provisions of the Act and orientation programmes for the members of the Internal Committee in the manner as may be prescribed;
- (c) Provide necessary facilities to the Internal Committee or the Local Committee, as the case may be, for dealing with the complaint and conducting an inquiry;



# DUTIES OF EMPLOYER

- (d) Provide assistance to the woman if she so chooses to file a complaint in relation to the offence under the Indian Penal Code(45 of 1860) or any other law for the time being in force;
- (e) Treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct;
- (f) Monitor the timely submission of reports by the Internal Committee



## IT IS THE EMPLOYER'S RESPONSIBILITY TO...

**prevent or deter** the committing of any act of Sexual Harassment by means of

- Creation of appropriate working conditions
- Ensuring female employees are not treated as sex objects
- Ensuring that no male employee *or third party* will outrage or insult the modesty of a female colleague
- Ensuring that no male employee *or third party* will make any type of sexual advances to female colleagues
- Establishment of a Complaints Committee

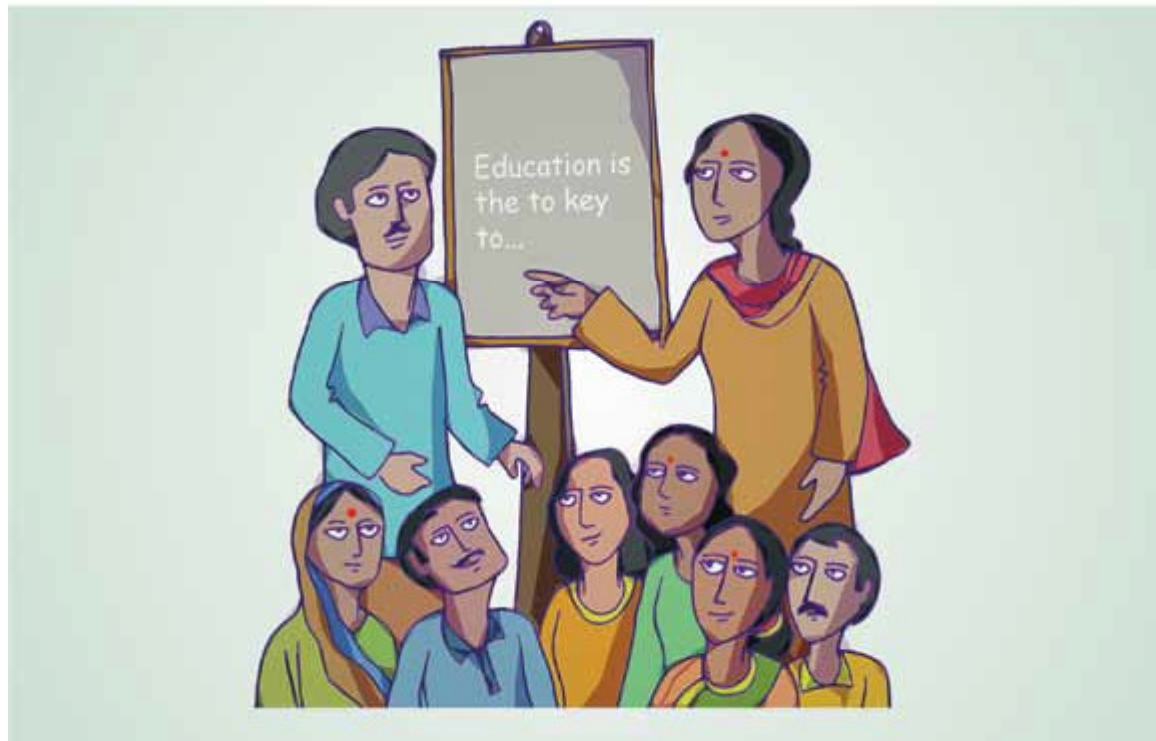


# COMPLAINT COMMITTEE SHOULD

- I. Be thoroughly prepared
- II. Know the Act, Policy and/or relevant Service Rules
- III. Gather and record all relevant information
- IV. Determine the main issues in the complaint
- V. Prepare relevant interview questions
- VI. Conduct necessary interviews
- VII. Ensure parties are made aware of the process and their rights/responsibilities within it
- VIII. Analyse information gathered
- IX. Prepare the report with findings/recommendations
- X. Maintain Confidentiality



# EDUCATION AND AWARENESS IS THE KEY



# POLICY

- Employer shall create a policy which
  - Prohibits sexual harassment at workplace
  - Provides a detailed framework for the redressal of complaint
- Policy to be Communicated



# COMMUNICATION

- Carry out awareness and orientation for all employees
- Create forums for dialogue
- Ensure capacity and skill building for the Complaints Committee
- Widely publicize the names and contact details of members of Complaints Committee



# THE COMPLAINT MECHANISM

- Any aggrieved woman may make, in writing, a complaint of sexual harassment at workplace to the Complaints Committee, within a period of three months from the date of incident and in case of a series of incidents, within a period of three months from the date of last incident.
- The time limit may be extended for another three months if the CC is satisfied with the reasons for non non-filing
- If woman is unable to make a complaint in writing, CC to provide assistance



## WHO CAN MAKE THE COMPLAINT

- The woman herself
- In case of mental incapacity
  - Her relative
  - Friend
  - Special educator
  - Qualified psychiatrist/ psychologist
  - Guardian under whom she is receiving care
  - Any person who has information about incident with written consent of any of the above



# WHO CAN MAKE THE COMPLAINT

- In case of Physical incapacity
  - Her relative
  - Friend
  - Co-worker
  - Officer of the National / State commission for women
  - Any person who has information about incident with the written consent of woman
- In case of death any person who has information about incident with the written consent of legal heir
- In any other case, by any person Any person who has information about incident with the written consent of woman
- is unable to make complaint due to death or physically or mentally incapacity, her legal heir or a person authorised by her may make the complaint

# THE COMPLAINT

- The complaint (six copies) by the aggrieved person should contain all the material and relevant details concerning the alleged sexual harassment which includes
  - the name of contravener
  - the complainant
  - Date
  - Time
  - Location
  - Working Relationship between parties
  - Names and addresses of witnesses, if any



# THE COMPLAINT MECHANISM

- On receiving such a complaint, the chairperson will inform other members of Committee at the earliest possible and Committee will take further steps in the matter as required. The first meeting is to be held immediately within reasonable time but not later than 07 working days of receiving the written complaint of the Aggrieved .
- The ICC shall investigate the Complaint and submit its Report containing the findings/ recommendations along with relevant documents
- In conducting inquiry, a minimum of three members of CC including chairperson to be present



# UPON RECEIPT OF COMPLAINT

- Review the Complaint to ensure
  - It has all the information
  - The conduct of respondent was towards complainant and
  - is improper and may form SH at Workplace
  - The incident occurred in workplace or at any location/any event related to work
- Send complaint to Respondent within seven days of receipt to respond within 10 days
- Meet up with complainant for any settlement/conciliation



# CONCILIATION



# INQUIRY

- Initiate enquiry
- Interview the Complainant, Respondent, Witnesses
- Listing of the Events
- Fact Finding
- Confidentiality and Impartiality is the key



## INQUIRY PROCESS

- Follow the Principles of natural Justice
- Order Ex-parte or terminate the proceedings if the complainant or Respondent fail to be present for three consecutive hearings
- Legal Practitioners are not permitted
- Confidentiality to be maintained



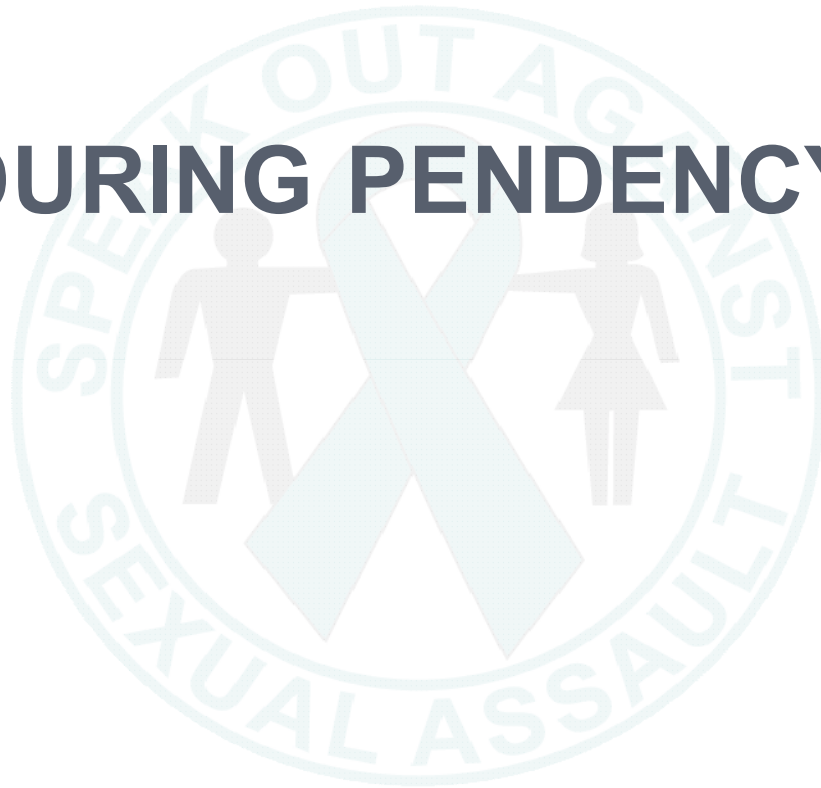


## INTERIM MEASURE

- To prevent ongoing SH at the written request of the woman or event otherwise, CC may recommend
  - Restrain the respondent from
    - reporting on work performance of the Aggrieved woman
    - Writing her Confidential Report, appraisal
    - Supervising her academic activities
  - Transfer the Complainant or Respondent
  - Place Complainant or Respondent on Leave



# **ACTION DURING PENDENCY OF INQUIRY**



4/30/2024    Monika Mehndiratta Gupta



# RECOMMENDATIONS

- In case allegations are Proven
  - Service Rules to be followed as for “misconduct”
  - Disciplinary Actions like Written Apology; Warning;
  - With-holding of promotion
  - With-holding of pay increase or increments
  - Counselling Sessions
  - Community Service
  - Termination from services
  - Financial Damages



# False or malicious complaint



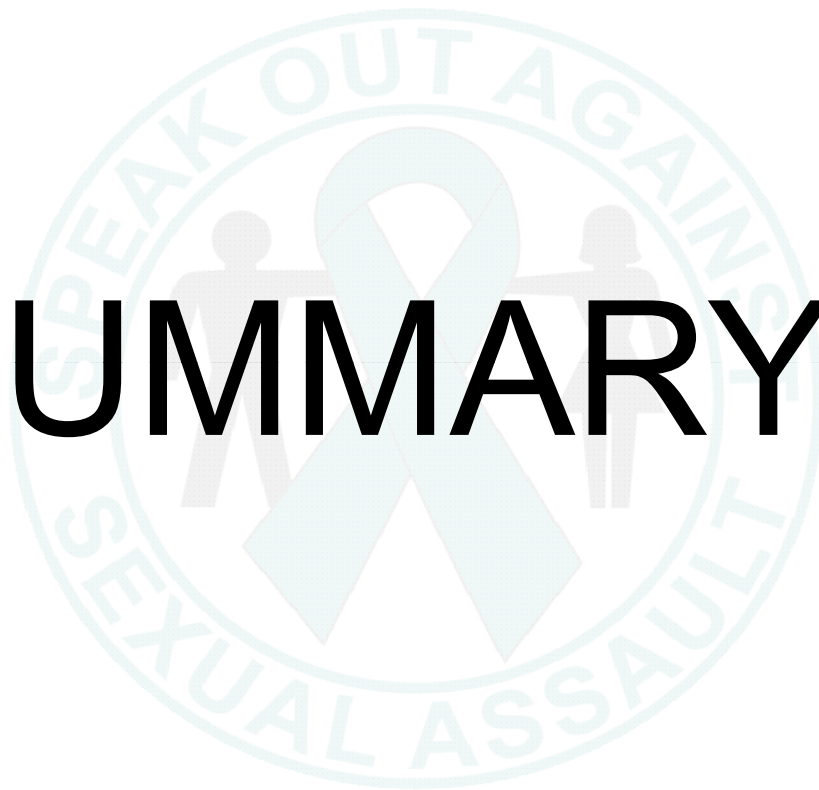
<b>TIMELINES</b>	
<b>Submission of Complaint</b>	<b>Within 3 months of the last incident</b>
<b>Notice to the Respondent</b>	<b>Within 7 days of receiving copy of the complaint</b>
<b>Completion of Inquiry</b>	<b>Within 90 days of complaint</b>
<b>Submission of Report by ICC/LCC to employer/DO</b>	<b>Within 10 days of completion of the inquiry</b>
<b>Implementation of Recommendations</b>	<b>Within 60 days Appeal Within 90 days of the recommendations</b>



# APPEAL



# SUMMARY



*Thank you*

