

Protection of Women against Sexual Harassment at Workplace Bill, 2010

The proposed Bill, if enacted, will ensure that women are protected against sexual harassment at all the work places, be it in public or private. This will contribute to realisation of their right to gender equality, life and liberty and equality in working conditions everywhere. The sense of security at the workplace will improve women's participation in work, resulting in their economic empowerment and inclusive growth.

Salient features of the Bill are as follows:

- The Bill proposes a definition of sexual harassment, which is as laid down by the Hon'ble Supreme Court in *Vishaka v. State of Rajasthan* (1997). Additionally it recognises the promise or threat to a woman's employment prospects or creation of hostile work environment as 'sexual harassment' at workplace and expressly seeks to prohibit such acts.
- The Bill provides protection not only to women who are employed but also to any woman who enters the workplace as a client, customer, apprentice, and daily wageworker or in ad-hoc capacity. Students, research scholars in colleges/university and patients in hospitals have also been covered. Further, the Bill seeks to cover workplaces in the unorganised sectors.
- The Bill provides for an effective complaints and redressal mechanism. Under the proposed Bill, every employer is required to constitute an Internal Complaints Committee. Since a large number of the establishments (41.2 million out of 41.83 million as per Economic Census, 2005) in our country have less than 10 workers for whom it may not be feasible to set up an Internal Complaints Committee (ICC), the Bill provides for setting up of Local Complaints Committee (LCC) to be constituted by the designated District Officer at the district or sub-district levels, depending upon the need. This twin mechanism would ensure that women in any workplace, irrespective of its size or nature, have access to a redressal mechanism. The LCCs will enquire into the complaints of sexual harassment and recommend action to the employer or District Officer.
- Employers who fail to comply with the provisions of the proposed Bill will be punishable with a fine which may extend to ` 50,000.
- Since there is a possibility that during the pendency of the enquiry the woman may be subject to threat and aggression, she has been given the option to seek interim relief in the form of transfer either of her own or the respondent or seek leave from work.
- The Complaint Committees are required to complete the enquiry within 90 days and a period of 60 days has been given to the employer/District Officer for implementation of the recommendations of the Committee.

- The Bill provides for safeguards in case of false or malicious complaint of sexual harassment. However, mere inability to substantiate the complaint or provide adequate proof would not make the complainant liable for punishment.

Implementation of the Bill will be the responsibility of the Central Government in case of its own undertakings/establishments and of the State Governments in respect of every workplace established, owned, controlled or wholly or substantially financed by it as well as of private sector establishments falling within their territory. Besides, the State and Central Governments will oversee implementation as the proposed Bill casts a duty on the Employers to include a Report on the number of cases filed and disposed of in their Annual Report. Organizations, which do not prepare Annual Reports, would forward this information to the District Officer.

Through this implementation mechanism, every employer has the primary duty to implement the provisions of law within his/her establishment while the State and Central Governments have been made responsible for overseeing and ensuring overall implementation of the law. The Governments will also be responsible for maintaining data on the implementation of the Law. In this manner, the proposed Bill will create an elaborate system of reporting and checks and balances, which will result in effective implementation of the Law.