

Gender Dimensions at Work and Employment: A Case of Sexual Harassment

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Shashi Bala



V.V. Giri National Labour Institute

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Foreword

In 1997, the Supreme Court of India recognized sexual harassment at the workplace as a form of discrimination against women and gave us a roadmap by way of the 'Vishaka Guidelines'. This was a watershed moment as it shed light on the myriad obstacles faced by women labour pursuing employability and was a positive step towards removing such obstacles. It is a troubling state of affairs that workforce participation by women in India has witnessed a downturn rather than an increase in the last decade and this makes the need to have gender sensitive legislation protecting women in the workplace even more critical.

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 is a logical legislative step furthering the goals of the Vishaka Guidelines for promoting workplaces free of sexual harassment for all women. The legislation mandates the constitution of complaints committees both within organizations and also at the district level for redressal of complaints of sexual harassment in a time bound and impartial manner which is sensitive to women. The legislation became effective only in December 2013 and it is still early days to comment on the implementation of the enactment, as this is a work in progress.

There is much expectation from the legislation, which has been a long awaited one given the fifteen year journey it has taken to come about. The legislation marks the beginning of a more gendered and nuanced understanding of women in the workplace, the complexities they face in terms of patriarchal mind-sets and how workplaces act as prisms to society in which violence against women abounds. The legislation is the need of the hour to better the work conditions of women and substantively increase their participation in the workforce.

The objective of this study is to provide, through a study of on ground realities, particularly - employer's perceptions of sexual harassment, existing mechanisms dealing with complaints and also reported cases, recommendations that augment and strengthen the implementation of the legislation. It is hoped that the outcomes of this study assist the authorities responsible for implementing the legislation. It is also hoped that the study provide clarity on any lesser developed and understood areas of the legislation at this early stage so that the same can be addressed effectively and that this endeavour gives the Indian working woman a workplace where she is able to meet and exceed her potential and productivity.

It is a privilege and an honour to have been a part of this study, which is the brainchild of Dr.ShashiBala and a result of her and her team's hard work and effort. Cohere Consultants, since inception, has been committed to helping organizations "Keep It Right" in their workplaces and this study from the annals of the reputed V.V. Giri National Labour Institute will help further all efforts in this direction.



Devika Singh,
Advocate Founder,
Cohere Consultants

Preface

Sexual harassment at workplace is considered as violation of women's right to equality, life and liberty. It creates an insecure and hostile work environment, which discourages women's participation in work, both in organized and unorganized sectors, thereby adversely affecting their social and economic empowerment and the goal of inclusive growth. Sexual harassment at the workplace is often considered as solely a women's rights issue and is neglected as a labor issue. Sexual harassment has been recognized as most intimidating and most violating form of violence in many countries, where as in many countries in the absence of national and international legislations this issue continues to be neglected.

Sexual harassment results in violation of the fundamental rights of a women to equality under article 14 & 15 of the constitution of India and her right to life and to live with dignity under article 24 of the constitution and right to practice any profession or to carry on any occupation, trade, or business which includes a right to safe environment free from sexual harassment. 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, which has been ratified on 25th June, 1993 by Government of India. It is expected to make provisions of giving effects to the said conventions for protection of women against sexual harassment at workplace.

In 1997, the Supreme Court of India defined sexual harassment very clearly and gave mandatory guidelines for resolution and prevention of sexual harassment, known as Vishaka Guidelines. Still the guidelines didn't give women enough strength to recognize their rights as workers. In 2013 the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 was brought into force by the Ministry of Women and Child to make this act an user friendly constitutional tool in the hands of employees, which will create a healthy and safe workplace and also safeguard the vision of Vishaka reaffirmed by Justice Verma committee.

The present study is an effort towards the effective implementation of this welfare piece of legislation for women and deals with employer's perspective on sexual harassment, existing mechanism for preventing sexual harassment. The study was conducted in the National Capital Region.

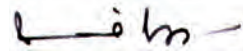
This project report has been designed in six chapters. Chapter-I principally gives a brief idea about sexual harassment at workplace, its adverse consequences both on health and financial level. There is a brief discussion on the formulation and enactment of Sexual Harassment Act, 2013 at workplace. It is felt that there should be awareness trainings and some sensing mechanisms for prevention of such incidents. Quick and consistent measures should be undertaken by the top authorities. Chapter-II reviews the existing data relating to sexual harassment at the regional and international levels followed by discussions on both aspect of gender discrimination and violence against women at various international forums. Chapter-III brings out a detailed idea about the provisions in the Constitution of India to emancipate women and mainstream gender equality. The Bhanwari Devi case paved the way for the Supreme courts Vishaka Guidelines for resolution and prevention of sexual harassment at workplace.

Chapter-IV Presents incidents that were reported. Case on sexual harassment at workplace are presented from various organizations. Chapter-V discusses various factors affecting sexual harassment at workplace such as; age group, marital status, educational status, social group and place of migration in Delhi NCR. Chapter V focuses on data related to the unreported cases of sexual harassment in the organization having sexual harassment committee; awareness on legislations pertaining to women; awareness of employers about Vishaka guidelines issued by the Supreme court of India and formulation of a committee to deal with the complaints of sexual harassment; constitution of Internal Complaints Committee; circulation of the sexual harassment policy and various mediums for the circulation of the policy like website, notice board, service contract, etc.; enactment on the provisions pertaining to the sexual harassment act and training programmes for the committee members. The summary and finding are discussed in Chapter-VI.

To tackle the evil of sexual harassment at workplace the major findings of the study are setting up of Internal Complaints Committee/Local Complaints Committee, training of ICC members and formulation of separate task force to monitor functioning of the committee. To make the work place a safe haven for all women. Everyone at the work place should be made aware of the act and it should become a part of the appointment letter as well. The policies should be circulated in different languages and the training modules should be in different languages to cover divergent population at workplace. Conducting regular gender audit and appointment of gender sensitive heads of the organisation is also important. The study proposes that complainants may be free to approach the ICC to state a complaint

orally, which may then be transcribed into the written form in the manner prescribed by the ICC. There is a period of limitation of 3 months for the making of a complaint about an incident, but by this the act may be misused, so it is suggested that fixed time period clause to be made flexible and a complaint shall be made within a reasonable period of time with regard to the facts and circumstances surrounding the making of such a complaint. A District Complaints Committee (DCC) should be formulated to deal with the case of Domestic Workers or the women who don't feel comfortable reporting to Internal Complaints Committee. Employers must take all necessary steps to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions internally when an instance of sexual harassment is brought to their notice, informing employees of their right to raise, and how to raise the issue of harassment, and developing methods to sensitize all concerned. Last but not the least all women should be made aware of their right and feel safe and free to report if some misconduct occurs against them.

I hope the study would be beneficial for the researchers as well as the policy makers who have taken initiative to make this act more user friendly and implementable.



Manish Kumar Gupta
Director General

Acknowledgement

I would like to acknowledge the support and cooperation provided by various people in pursuing the research. First and foremost I would like to thank Shri P.P. Mitra, Former Director General, VVG NLI and Labour & Economic Advisor, Ministry of Labour & Employment and Shri Manish Kumar Gupta, Present Director General, V.V. Giri National Labour Institute. Constant source of encouragement by the Head of the Organisation had been motivational. I would also like to express my sincere gratitude to the various Research Advisory Group members of the Research Centre for Gender and Labour and Faculty Colleagues, V.V. Giri National Labour Institute for enriching the present study. I wish to acknowledge the valuable contribution of Ms. Devika Singh (Advocate) regarding the improvement of quality, coherence, and content presentation of chapters.

Special thanks to entire project team including all Research Associates - Dr. Aparna Srivastava, Dr. Appala Naidu, Dr. Puja Singhal, all Interns - Atiya Gopinath and Sraman Sircar , Computer Operator- Ms. Annu Singh and Field Investigators -Mr. Praveen Kumar and Mr. Dharamvir Bharti who assisted at various stages of the research and provided their expertise to complete this important study. I acknowledge with thanks to Ms. Valsamma B. Nair, Stenographer Gr. II for her time to time interventions towards this study and taking care of administrative responsibilities for smooth conduct of study. Gratitude is also expressed towards all the respondents who spared their time and shared their valuable inputs regarding this important piece of research work. I would also like to thank Mr. J.K. Kaul, Administrative Officer , Mr. S.K. Verma, Assistant Library and Information Officer, Mr. Rajesh Kumar Karn and Mr. Vikesh Kumar from publication section for their valuable support.

Shashi Bala

CHAPTER I

Gender Dimensions at Work and Employment: A Case of Sexual Harassment

“...the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields”

- CEDAW

1.1 Introduction

Sexual harassment in the workplace is often considered to be solely an issue of women’s rights. This causes it to be neglected as the labor issue it represents. Sexual Harassment is a serious form of misconduct in the workplace that has severe impact not only on the employment of women but also on the workplace environment, company reputation and business. As the Commission of the European Union states, “sexual harassment pollutes the working environment and can have a devastating effect upon the health, confidence, morale and performance of those affected by it. The anxiety and stress produced by sexual harassment commonly lead to those subjected to it taking leave from work due to sickness, being less efficient at work, or leaving their job to seek work elsewhere. Employees often suffer the adverse consequences of the harassment along with short- and long-term damage to their employment prospects if they are forced to change jobs. Sexual harassment may create a damaging impact on employees, not only on those who are the object of unwanted behavior, but also on those who are witnesses to it or have knowledge of that behavior.”

“There are also adverse consequences arising from sexual harassment for employers. It has a direct impact on the profitability of the enterprise where the staff takes sick leave or resigns their posts because of sexual harassment, and on the economic efficiency of the enterprise where employees’ productivity is reduced by working in a climate in which individuals’ integrity is not respected. In general terms, sexual harassment is an obstacle to the proper integration of women into the labour market.” (O.J, 1992)

The above stated background and the recent incidences of sexual harassment in the workplace (SHW) in the newspaper have clearly highlighted that despite having Supreme Court guidelines and a law on prevention of sexual harassment; the SHW cases are often not reported or

not taken seriously by the concerned authorities due to various reasons mentioned in the literature review. This diverts the goal of achieving gender equality. In order to have implementable gender sensitive policies that would promote substantive equality at the work place, a detailed study in this area would help the policy makers to evolve a better strategy in this direction. Within this context the present study is conducted.

1.2. Effects of Sexual Harassment

1.2.1 Health Effects

In a summary of two studies of sexual harassment completed in 1998 covering 16 European countries, the EU Commission reported that almost all people suffering sexual harassment reported negative consequences both in their private lives and relating to their job. As regards the former, psychosomatic symptoms, loss of self-esteem, and interference with private life are the most commonly reported consequences. As regards the latter, it appears that harassed employees experience a negative impact on their career more often than the harassers (European Commission, 1998).

American scholars have come to similar conclusions. They mention that "sexual harassment often has a serious and negative impact on women's physical and emotional health, and the more severe the harassment, the more severe the reaction. The reactions frequently reported by women include anxiety, depression, sleep disturbance, weight loss or gain, loss of appetite, and headaches. There is a link between sexual harassment and Post-Traumatic Stress Disorder" (Barbara Mary 1993; Louise 1993).

Prominent U.S. psychologist Louise Fitzgerald had studied sexual harassment extensively in private U.S. companies using the Sexual Experiences Questionnaire (SEQ) she developed. The SEQ "measures harassment as the behavioral categories of gender harassment, unwanted sexual attention and sexual coercion" expressed through "crude words, acts and gestures conveying hostile, misogynist attitudes." Unwanted sexual attention is analogous to the legal concept of "hostile work environment harassment" and sexual coercion is analogous to the legal concept of "quid pro quo sexual harassment". "The SEQ gauges the psychological anguish of victim's experience. It also measures outcomes such as anxiety, depression, job satisfaction and work withdrawal." Using the SEQ, Fitzgerald demonstrated that sexual harassment leads to depression, anxiety and stress-related physical problems, especially when the harassment is severe and frequent. (Bridget 1998; Fitzgerald, et.al., 1997; Fitzgerald, Swann, et.al., 1997; and Schneider, et.al., 1997).

SHW experiences are associated with negative outcomes such as decreased job satisfaction, lower organizational commitment, withdrawing from

work, ill physical and mental health, and even symptoms of post-traumatic stress disorderSHW has been identified as one of the most damaging barriers to career success and satisfaction for women” (Chelsea et al., 2007).

The European Foundation for the Improvement of Living and Working Conditions has noted that: “Those affected by violence or harassment in the workplace tend to report higher levels of work-related ill-health. For example, the Foundation discovered that the proportion of workers reporting symptoms such as sleeping problems, anxiety and irritability is nearly four times greater among those who have experienced workplace harassment than among those who have not (Fourth European Working Conditions Survey, 2007).

1.2.2 Financial Effects

The financial effects of sexual harassment are potentially severe, especially when the employer does not have adequate policies and complaint procedures in place. Financial harms to victims of sexual harassment include loss of wages because of taking sick leave or leave without pay from work or as a result of the termination or transfer of employment. For example, the U.S. Government estimated that federal employees lost \$4.4 million in wages from 1992-1994 because of sexual harassment (U.S. Merit Systems Protection Board, 1995). Victims may face more intangible financial or career losses such as a loss of job references or recommendations, or being ostracized from professional or academic circles (Sexual Harassment Support, 2006).

According to the National Council for Research on Women, women in the United States are 9 times more likely than men to quit their jobs, 5 times more likely to transfer, and 3 times more likely to lose jobs because of harassment (Feminist Majority Foundation, 1994). Violence, including instances of sexual harassment, also “affects third parties, with witnesses and observers frequently leaving the organization in response to their experiences” (European Foundation for the Improvement of Living and Working Conditions, 2003).

1.3 Global Costs of Sexual Harassment

The costs of sexual harassment suffered by employers and consequently the global economy are high. These costs result from absenteeism, reduced job satisfaction and productivity, premature ill health and retirement, higher rates of staff turnover and insurance costs, legal defense and liability for sexual harassment claims (European Foundation for the Improvement of Living and Working Conditions, 2003). It is generally believed that formal

sexual harassment policies against sexual harassment in the workplace is one way to prevent lawsuits and drops in productivity and efficiency.

In Europe, it has been noted that workers who are exposed to “psychosocial risks” like sexual harassment are significantly more likely to report that they have been absent from work due to work-related ill health (European Foundation for the Improvement of Living and Working Conditions, 2007). These workers also “tend to have longer durations of work absence and are over-represented in that category of workers who took 60 days off in the previous 12 months due to work-related ill health”.

In the United States, it is estimated that “ignoring problems of sexual harassment can cost the company up to \$6.7 million a year in low productivity, low morale, and employee turnover and absenteeism, not including litigation or other legal costs” (Working Woman, 1988). The Equal Employment Opportunity Commission (EEOC) indicates that \$48.8 million in monetary benefits were provided to filers of sexual harassment claims in 2006; this amount does not include monetary benefits obtained through litigation (EEOC & FEPAs: FY 1997- 2006). In addition, the federal government reported a loss of \$327 million from 1992-1994 due to sexual harassment (U.S. Merit Systems Protection Board, 1995).

Australian Commissioner Broderick conducted the research, which is the only national and trend data on sexual harassment in Australian workplaces, shows that sexual harassment is widespread in Australian workplaces and progress in addressing it has stalled. Commissioner Broderick said the results show that “approximately one in five people aged 15 years and older were sexually harassed in the workplace in the past five years.” The research shows that one in four women (25%) and one in six men (16%) have been sexually harassed in the workplace in the past five years.

Targets of sexual harassment are most likely to be women under 40 and harassers are most likely to be male co-workers. Women are at least five times more likely than men to have been harassed by a boss or employer. Men harassing women accounts for more than half of all sexual harassment, while sexual harassment of men accounts for nearly a quarter.

Commissioner Broderick said that one of the most encouraging parts of the research concerned the role of bystanders - people who witnessed or later became aware of sexual harassment. “Fifty-one per cent of people who were bystanders - that is over half - took some action to prevent or reduce the harm of the sexual harassment they were aware of,” she said. “Bystanders have an extremely important role to play in confronting and combating sexual harassment.”

Bystander can help to prevent and reduce the harm of sexual harassment and ensure safe work environments for themselves and their colleagues, but they needed to be supported and empowered. "Eradicating sexual harassment from our workplaces will require leadership and a genuine commitment from everyone - government, employers, employer associations, unions and employees" (Elizabeth Broderick, 2012).

1.4 Provisions for Preventing Sexual Harassment

Sexual Harassment affects all women in some form or the other. Lewd remarks, touching, wolf-whistles, looks are part of any woman's life, so much so that it is dismissed as normal. Working women are no exception. In fact, working women most commonly face the backlash to women taking new roles, which belong to male domains within patriarchy. Sexual Harassment at work is an extension of violence in everyday life and is discriminatory, exploitative, thriving in atmosphere of threat, terror and reprisal.

Sexual harassment is all about expression of male power over a woman that sustains patriarchal relations. It is used to remind women of their vulnerability and subjugated status. In a society where violence against women, both subtle and direct, is borne out of the patriarchal values operating in society, it is an instrument to force women's conformity to gendered roles. These patriarchal values and attitudes of both men and women pose the greatest challenge in resolution and prevention of sexual harassment.

Studies find that sexual harassment is still endemic, often hidden, and present in all kinds of organizations. Yet it is still not always viewed as a problem, which has to be systematically tackled. The issue is of concern for both women and the employers as studies show that sexual harassment touches lives of nearly 40-60% of working women.

Thus, combating sexual harassment involves developing understanding of what is sexual harassment and change of attitudes in all- be it employees, colleagues, friends, administrators, employers or the law makers.

Sexual harassment has been recognized as most intimidating, most violating form of violence for a long while in countries like UK, USA and many countries have not only taken note of how degrading experiences of sexual harassment can be for women as well as employers but have adapted legislative measures to combat sexual harassment.

Sexual harassment is not an illegal practice in many countries and there is shortage of national and international legislation to address this serious rights violation. Studies indicate that women often fail to report incidents

to employers or courts because they are unaware of their rights, either because they have been threatened, or because they are afraid they will be punished or humiliated. Equally troubling is that the International Labor Organization (ILO) - the international body with the highest authority on defining workplace rights - does not currently have an exclusive convention prohibiting sexual harassment. However ILO Delhi office has been instrumental in organising various meetings in India to frame the Act to Prevent Sexual Harassment of Women at the Workplace.

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

In India, it was in 1997 that SHW was recognized for the first time by the Supreme Court of India in the case of *Vishaka v. State of Rajasthan* (AIR 1997 SC 3011) as a human rights violation and gender based systemic discrimination that affects women's "Right to Life and Livelihood" (Article 21, Constitution of India). The Court defined sexual harassment very clearly as well as provided guidelines for employers to redress and prevent sexual harassment at workplace.

Article 19 (1) g of the Indian Constitution affirms the right of all citizens to be employed in any profession of their choice or to practice their own trade or business. *Vishaka v. State of Rajasthan* established that actions resulting in a violation of one's rights to 'Gender Equality' and 'Life and Liberty' are in fact a violation of the victim's fundamental right under Article 19 (1) g. The case ruling establishes that sexual harassment violates a woman's rights in the workplace and is thus not just a matter of personal injury (Lawyer's Collective, 2012).

While the Apex Court gave mandatory guidelines, known as Vishaka Guidelines, for resolution and prevention of sexual harassment enjoining employers by holding them responsible for providing safe work environment for women, the issue still remained under carpets for most women and employers.

Though the Vishaka guidelines applied to both organized and unorganized work sectors and to all women whether working part time, on contract or in voluntary/honorary capacity and successive judgments attempted to reinforce them, they continued to be largely ignored. The guidelines were a broad framework, which put a lot of emphasis on prevention and within which all appropriate preventive measures can be adapted. One very important preventive measure is to adopt a sexual harassment policy, which expressly prohibits sexual harassment at work place and provides effective grievance procedure, which has provisions clearly laid down for prevention and for training the personnel at all levels of employment.

The Apex Court while laying down the guidelines provided that the guidelines would be the operative law on the subject till legislation was enacted. Finally, more than fifteen years after the judgment, The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 received the assent of the President on 23 April 2013 (Press Information Bureau, 2013) and was brought into force in December 2013 by the Ministry of Women and Child along with the Rules framed under it.

It is hoped that the Act will ensure that women are protected against sexual harassment at all the work places, be it in public or private. This will contribute to realization 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 (Press Information Bureau, 2012). The Act uses a definition of sexual harassment, which was laid down by the Supreme Court of India in *Vishaka v. State of Rajasthan* (1997) (Chakrabarty, 2012).

Largely, *Quid pro quo* and *hostile work environment* are the two broad types of sexual harassment. 'Quid pro quo', means seeking sexual favors or advances in exchange for work benefits and it occurs when consent to sexually explicit behavior or speech is made a condition for employment or refusal to comply with a 'request' is met with retaliatory action such as dismissal, demotion, difficult work conditions. 'Hostile working environment' is more pervasive form of sexual harassment involving work conditions or behavior that make the work environment 'hostile' for the woman to be in.

Major Features of the Act:

- The Act defines sexual harassment at the work place and creates a mechanism for redressal of complaints. It also provides safeguards against false or malicious charges.
- The definition of "aggrieved woman", who will get protection under the Act is extremely wide to cover all women, irrespective of her age or employment status, whether in the organised or unorganised sectors, public or private and covers clients, customers and domestic workers as well.
- While the "workplace" in the Vishaka Guidelines is confined to the traditional office set-up where there is a clear employer-employee relationship, the Act goes much further to include organisations, department, office, branch unit etc. in the public and private sector,

organized and unorganized, hospitals, nursing homes, educational institutions, sports institutes, stadiums, sports complex and any place visited by the employee during the course of employment including the transportation.

- The Committee is required to complete the inquiry within a time period of 90 days. On completion of the inquiry, the report will be sent to the employer or the District Officer, as the case may be, within 10 days and they are mandated to take action on the report within 60 days.
- Every employer is required to constitute an Internal Complaints Committee at each office or branch with 10 or more employees. The District Officer is required to constitute a Local Complaints Committee at each district, and if required at the block level.
- The Complaints Committees have the powers of civil courts for gathering evidence.
- The Complaints Committees are required to provide for conciliation before initiating an inquiry, if requested by the complainant.
- Penalties have been prescribed for employers. Non-compliance with the provisions of the Act shall be punishable with a fine of up to ₹50,000. Repeated violations may lead to higher penalties and cancellation of license or registration to conduct business.

Under the Act, which also covers students in schools and colleges as well as patients in hospitals, employers and local authorities will have to set up grievance committees to investigate all complaints. Employers who fail to comply will be punished with a fine of up to 50,000 rupees.

Brinda Karat, then serving in the Rajya Sabha as a Communist Party of India (Marxist) member for West Bengal initially had complained that the then Bill did not cover women in the armed forces and excluded women agricultural workers, as “a gross injustice to agricultural workers who are the single largest female component of work force in the country.” (Chakrabarty, Rakhi, 2012). However, the Act includes the clause “No woman shall be subjected to sexual harassment at any workplace” and is considered to have addressed those concerns (The Hindu, 2013). Manoj Mitta of The Times of India complained that the then Bill did not protect men, saying it “is based on the premise that only female employees needed to be safeguarded” (Manoj Mitta, 2012). Nishith Desai Associates, a law group, wrote a detailed analysis that included concerns about the role of

the employer in sexual harassment cases. They called out the fact that there is no stipulated liability for employers in cases of employee-to-employee harassment, something upheld in many other countries. They also viewed the provision that employers are obligated to address grievances in a timely manner at the workplace as problematic because of potentially uncooperative employees. Furthermore, the law requires a third-party non-governmental organisation to be involved, which could make employers less comfortable in reporting grievances, due to confidentiality concerns (Nishith Desai, 2013).

With so many warring factions and factors to consider, the legislative progress of the Act became a lengthy one. The Bill was first introduced by Women and Child Development Minister Krishna Tirath in 2007 and approved by the Union Cabinet in January 2010. It was tabled in the Lok Sabha in December 2010 and referred to the Parliamentary Standing Committee on Human Resources Development. The committee's report was published on 30 November 2011 (The Telegraph, 2012) (Thorpe, Edgar, 2012). In May 2012, the Union Cabinet approved an amendment to include domestic workers (Polanki, Pallavi, 2013). The amended Bill was finally passed by the Lok Sabha on 3 September 2012 (New York Daily News, 2012). The Bill was passed by the Rajya Sabha (the upper house of the Indian Parliament) on 26 February 2013. It has come into force and has been published in the Gazette of India, Extraordinary, Part-II, Section-1, dated the 23rd April 2013 as Act No. 14 of 2013. Eventually, the Rules were drafted and the Act came into force on the 9th of December, 2013.

Zakia Soman, a women's rights campaigner at Action Aid India said that "it helps to have a law and we welcome it, but the crux will lie in its implementation once it is enacted" (CNN-IBN, 2012). Only time will tell how well the Act will be implemented.

In the meanwhile, many NGOs like Jagori, PRIA, Lawyers Collective etc., have provided detailed guidelines on following issues for preventing SHW.

1.6 Sexual Harassment Awareness Training

Take your employees with you. Educate them about the issue and promote a healthy discussion of the policy. The setting up of a complaints committee and an anti-sexual harassment policy lays a strong foundation for a sexual harassment free workplace. However, effective training programmes are essential to sensitize/train all their staff members, men and women, to recognize sexual harassment, deal with it when it occurs and prevent it. The training programme is the best way to ensure proper understanding

and implementation of the policy. It is the best forum to communicate to employees what behavior is acceptable and what is not, in a non-threatening atmosphere of mutual learning. Training for the members of the Complaints Committee and others who are going to be instrumental in implementing the policy, is very essential. Their training should include a component of gender sensitization, along with the procedures for taking complaints, and for enquiry, etc.

Conduct yearly meetings with supervisors to review the sexual harassment policy, and to make sure that they understand that an employee does not need to suffer negative consequences in order to make a complaint of sexual harassment. Inform the supervisors that even mild to moderate sexual jokes or statements can create an atmosphere of hostility that will make some employees uncomfortable, and could lead to the creation of a hostile work environment.

Sexual harassment training for all employees should address perceptions and understanding of sexual harassment, impact of sexual harassment on individuals and workplace, understanding the policy and complaints mechanism. The training for Complaints Committee should address, in addition to these, the procedures of investigation, skills necessary for enquiries, documenting the procedures etc.

1.7 Sensing mechanisms

Setting up a mechanism does not mean that there is sexual harassment in your workplace. Prevention is always better than cure, and being proactive always helps. Along with performance, change in employees' behavior patterns also deserves employer's close scrutiny.

Conducting Surveys - Conducting time-to-time surveys are helpful to identify and prevent factors/situation leading to incidence of sexual harassment. The survey can be done anonymously and should be distributed with a copy of the company's sexual harassment policy. The survey can simply ask the employees (male and female) if they have experienced any form of sexual harassment during the past year. The survey also helps to show that the organization is actively engaged in preventing and correcting sexual harassment.

1.8 Commitment from top

Commitment is shown through enforcement and action by the responsible authorities. Even the most comprehensive sexual harassment policies and procedures are bound to fail if a company does not enforce them quickly, consistently, and aggressively. To be effective, organizations

must take sexual harassment seriously. They need to make certain that personnel responsible for enforcement conduct prompt, thorough, and documented investigations of all complaints, even those that appear trivial. Organizations should take action that is reasonably calculated to end the harassment. Such action must be directed toward the harasser, and may include verbal warnings, written warnings, job transfers, suspension of employment, and, if necessary, termination.

Employers should also keep tabs on their supervisors. This can be accomplished by means of monthly meetings with higher management, unscheduled spot checks, or periodic sexual harassment training sessions with the implementing authorities.

1.9 Practices consistent with policies

Organizations must place just as much emphasis on reporting responsibilities and mechanisms as on the policy itself. Setting a precedence - Even if the accused is a senior executive/ a partner/ any other person who is an asset to the company, and brings in a lot of business, it is essential that he should be punished if found guilty, as this sends out a strong message that the company will not tolerate any harassment by anyone.

The issue of sexual harassment needs understanding, assessment, sensitivity and commitment from all quarters but mostly from the senior managerial authority as their commitment and action can achieve the aim of prevention and effective resolution of sexual harassment at workplace and a gender friendly, discrimination free workplace.

Above mentioned literature highlights that Sexual harassment results in violation of the fundamental rights of a woman to equality under articles 14 and 15 of the Constitution of India and her right to life and to live with dignity under article 21 of the Constitution and right to practice any profession or to carry on any occupation, trade or business which includes a right to a safe environment free from sexual harassment. 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, which has been ratified on the 25th June, 1993 by the Government of India. It is expedient to make provisions for giving effect to the said Convention for protection of women against sexual harassment at workplace (PRS Legislative Research, 2013). In order to achieve substantive equality, Sexual Harassment issues need to be adopted in policies addressing affirmative steps that would enhance women participation in the labor market. The above mentioned literature

highlights the need for detailed research on issues pertaining to sexual harassment. Within this context the present research has been conducted.

1.10 Objectives

The broad objectives of the study were to evaluate sexual harassment policies existing both at the national and International level. The study specifically looks into:

- a) Employer's perspective on sexual harassment
- b) Existing mechanism for preventing sexual harassment at the work place
- c) To review the reported cases on Sexual Harassment at workplace in Delhi/NCR
- d) Impact of Sexual Harassment

1.11 Area of the Study

The Study was conducted in organized (public & private) sectors of Delhi, Faridabad, Gurgaon, Noida, Ghaziabad & Greater Noida region. Accordingly, the industries where strength of female employees is more than 30% are considered as female dominated industries and rest are considered as male dominated industries.

Table 1.1 : Strength of Employees from Gender perceptive

Industries	Strength of Male	Strength of Female	Total Strength	% of Female Strength
Manufacturing (Electrical Goods/Textiles)	475	10	485	2.06
Banking/Financial Services	120	75	195	38.46
Public Enterprises/ Navratnas	3800	1200	5000	24.00
Academia (Research/ Teaching)	780	430	1210	35.53
IT/ITES	1900	150	2050	7.31
Health	12000	8000	20000	40.00
Hotel	800	1200	2000	60.00
Media	150	100	250	40.00

Source: Computed from Sample data

1.12 Methodology

A survey design was used to obtain the required information. The population for this study comprised of employees working in various Public and Private Institutions in the New Delhi/National Capital Region. A sample size of 600 is chosen for this study. All the variables selected were further classified into measurable parameters for constructing a data collection tool (questionnaire). During the construction of this tool field work inputs were duly incorporated. It was pre-tested on a few Employers and Employees. After making the relevant changes, final questionnaire was prepared. Survey was conducted with various employers as well as employees.

Purposive sampling technique is used to gather data from the respondents, because of which respondents diverged from every age group, gender, organization, marital status and education etc can be included, but were restricted only to low and middle level employees, where the attrition is highest. The questionnaire was intricately designed to tap the demographic variables including age, education, gender, marital status, and tenure of the respondents.

The present study employed appropriate statistical tools in the analysis of data. The study examines the factors that influencing the sexual harassment at work place. Correlation and Regression model are used to identify the important factors that influence the sexual harassment. As described in Heather McLaughlin et al., these regression models will allow us to investigate the relative importance of sexual harassment and gender discrimination in the world of work. Further, the present study used SPSS 20.0 software and MS Office Excel in the analysis of cross tables. Simple statistical tools such as Percentages, Bar Diagrams, Graphs etc., are also used in the study.

1.13 Limitations of the study

The research study is limited to a few aspects. Considering the confidentiality clause to access information from management on the subject, the study

has considered only limited variables while assessing ICC functional implementation and sexual harassment policies implementation, in order to understand perceived attitudes of the employer's. Secondly, measuring attitudes of respondents (employees) is quite subjective. Although great care was taken for precision, yet there may be certain gaps which need to be addressed in future studies.

CHAPTER II

International Framework

2.1 Sexual Harassment of Women at the Workplace and Related Social Concerns

According to a 2013 global review of available data, 35 per cent of women worldwide have experienced either physical and/or sexual intimate partner violence or non-partner sexual violence. However, some national violence studies show that up to 70 per cent of women have experienced physical and/or sexual violence in their lifetime from an intimate partner.

More often, cases of violence against women go unreported. For instance, a study based on interviews with 42,000 women across the 28 Member States of the European Union revealed that only 14 per cent of women reported their most serious incident of intimate partner violence to the police, and 13 per cent reported their most serious incident of non-partner violence to the police.

Worldwide, more than 700 million women alive today were married as children (below 18 years of age). More than one in three—or some 250 million—were married before 15. Child brides are often unable to effectively negotiate safer sex, leaving themselves vulnerable to early pregnancy and sexually transmitted infections, including HIV. Both mothers and babies are put under risk by the fact that child brides are not physically mature enough to give birth. Poor girls are also 2.5 times more likely to marry in childhood than those living in the wealthiest quintile.

Around 120 million girls worldwide (slightly more than 1 in 10) have experienced forced intercourse or other forced sexual acts at some point of time in their lives.

More than 133 million girls and women have experienced some form of female genital mutilation (FGM) in the 29 countries in Africa and the Middle East where the harmful practice is most common. Beyond extreme physical and psychological pain, girls who undergo FGM are at risk of prolonged bleeding, infection (including HIV), infertility, complications during pregnancy and death.

Trafficking ensnares millions of women and girls in modern-day slavery. Women and girls represent 55 per cent of the estimated 20.9 million victims of forced labour worldwide, and 98 per cent of the estimated 4.5 million forced into sexual exploitation.

Between 40 and 50 per cent of women in European Union countries experience unwanted sexual advances, physical contact or other forms of sexual harassment at work.

Women in urban areas are twice as likely as men to experience violence, particularly in developing countries.

In the United States, 83 per cent of girls in grades 8 through 11 (aged 12 to 16) have experienced some form of sexual harassment in public schools.

In Canada, of the 6,428 disputes filed in 2011 with the Canadian Human Rights Commission, 160 or 11 percent cited sex discrimination as the grounds for the case.

In Australia, sexual harassment has been outlawed for 25 years but is still a problem. The Sex Discrimination Act 1984 (Commonwealth) prohibits discrimination on the basis of sex, marital or relationship status, actual or potential pregnancy, sexual orientation, gender identity, intersex status or breastfeeding in a range of areas of public life. These areas include work, accommodation, education, the provision of goods, facilities and services, the activities of clubs and the administration of Commonwealth laws and programs. 21% of all complaints to the Australian Human Rights Commission were under the Sex Discrimination Act, and 88% of those complaints were sex discrimination in the workplace complaints.

2.2 International Labour Organization

The International Labour Organization (ILO) has addressed sexual harassment through a range of instruments and during discussions at tripartite meetings. It has also conducted research and training on the issue, and provided information and technical assistance to its constituents. Most recently, it has been stressed that the elimination of sexual harassment and violence at the workplace is a significant element in promoting decent work for women.

Conventions

The Discrimination (Employment and Occupation) Convention, 1958 (No. 111), addresses discrimination in employment on a number of grounds, including sex, and requires that ILO member States declare and pursue a national policy designed to promote equality of opportunity and treatment with a view to eliminate discrimination. Like CEDAW (Committee on the Elimination of Discrimination against Women), it endeavors to create widespread awareness of the issue of sexual harassment. As a consequence, it has been necessary for the Committee of Experts on the Application of

Conventions and Recommendations to take the lead. In its 1996 Special Survey on Convention No. 111, the Committee confirmed that it views sexual harassment as a form of sex discrimination against women in employment which undermines equality, damages working relationships and impairs productivity.

The Committee defined sexual harassment as:

“Any insult or inappropriate remark, joke, insinuation and comment on a person’s dress, physique, age, family situation, etc.; a condescending or paternalistic attitude with sexual implications undermining dignity; any unwelcome invitation or request, implicit or explicit, whether or not accompanied by threats; any lascivious look or other gesture associated with sexuality; and any unnecessary physical contact such as touching, caresses, pinching or assault.”

It added that sexual harassment may also arise from “situations which are generally hostile to one sex or the other”, thereby including instances of sexual harassment within those involving sexual behaviour. Moreover, the Committee stated that the elimination of sexual harassment should “be an integral part of legislative or other policy, independently of policies on discrimination on the basis of sex”.

The elimination of sexual harassment and violence was identified as a priority gender issue during both the ‘Fourth World Conference on Women: Action for Equality, Development and Peace’ (Beijing, 4 - 15 September, 1995), and the Special Session of the United Nations General Assembly called ‘Women 2000: Gender equality, development and peace for the twenty-first century’, held in New York from 5 - 9 June, 2000.

However, the only international Convention which specifically prohibits sexual harassment at work is the Indigenous and Tribal Peoples Convention, 1989 (No. 169). It provides that governments shall do everything possible to prevent any discrimination between workers belonging to the peoples to whom the Convention applies and other workers, including taking measures to ensure that they enjoy protection from sexual harassment.

2.3 Regional Level Initiatives

Caribbean Community

The Caribbean Community (CARICOM) issued model legislation on sexual harassment in 1991. The model Protection against Sexual Harassment Act formed part of a broader project on the part of the Community to draft model laws on issues affecting women, which would be available to assist

CARICOM Member States in crafting national legislation. The model Act prohibits sexual harassment in the workplace, as well as in education and accommodation, and includes provisions which would empower officers to conduct investigations and establish a tribunal to hear complaints.

European Union

Within the European Union, concern over sexual harassment in the workplace was first expressed in 1986, when it was addressed in the European Parliament's Resolution on violence against women. In the following year, a European Commission report concluded that none of the then 12 Member States had adequate legal mechanisms in place to combat harassment, and called for an EU Directive. Until recently, however, the most significant EU initiative was the 1991 Commission Recommendation and its accompanying Code of Practice. The Recommendation on the protection of the dignity of women and men at work called upon Member States to take action to promote awareness of sexual harassment and to implement the measures outlined in the Code of Practice. Its definition of sexual harassment, which describes it as "unwanted conduct of a sexual nature, or other conduct based on sex affecting the dignity of women and men at work", has been highly influential across a number of Member States. In 1996, the Commission issued a second report on national legislation on sexual harassment, which concluded that the Recommendation and Code of Practice had not initiated sufficient progress. It subsequently proposed that the European-level social partners negotiate a collective agreement to be given legal effect as a Directive.

Organization of American States

Within the Organization of American States, in contrast to the EU, sexual harassment has been conceptualized primarily as a manifestation of violence against women, rather than as a form of sex discrimination. Adopted in 1995, the Inter-American Convention on Violence against Women (the Convention of Belem do Para) includes sexual harassment within its definition of violence against women. The Convention affirms the right of women to be free from violence, and imposes a number of duties on the States to promote and protect that right. The States condemn all forms of violence against women and agree to pursue policies to prevent, punish and eradicate it "by all appropriate means and without delay". In addition, they agree to impose penalties, enact legal provisions and refrain from engaging in violence against women themselves. The legal measures must require perpetrators to refrain from harassing women and establish procedures for victims, including ensuring they have access to "just and effective" remedies.

2.4 General Frameworks for the Protection and Promotion of Human Rights

The obligation of the State to ensure gender justice (including protecting women from crime and abuse) arises from many **sources of international law**.

The Universal Declaration of Human Rights (UDHR), 1948 - India was one of the 48 countries which voted in favour of the adoption of the UDHR by the United Nations General Assembly on 10th December 1948. **The UDHR is not a treaty in itself but defines 'fundamental freedoms' and 'human rights' for the purposes of the UN Charter.** The UDHR is generally agreed to be the foundation of international human rights law as it inspired the numerous human rights conventions which followed, including the ICCPR and ICESCR.

The **Preamble to the UDHR** states as follows:

"Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, Therefore THE GENERAL ASSEMBLY proclaims THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.”

Article 16 of the UDHR also mentions:

- (1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
- (2) Marriage shall be entered into only with the free and full consent of the intending spouses.
- (3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.”

The UDHR was followed up by the **ICCPR** (International Covenant on Civil and Political Rights, 1966), the Preamble to which inter alia states:

“Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights, Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms, Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant.”

India acceded to **International Covenant on Civil and Political Rights 1966** on 10th April, 1979 with declarations on Articles 1, 9 and 13.

Article 3 of the ICCPR places an obligation on all covenanting parties to:

“...undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.”

Article 23 of the ICCPR upholds certain inherent rights of the family and of men and women to commit to a union:

- (1) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.
- (2) The right of men and women of marriageable age to marry and to found a family shall be recognized.
- (3) No marriage shall be entered into without the free and full consent of the intending spouses.
- (4) The States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

India has, however, not signed or ratified the optional protocols to the ICCPR (including the Second Optional Protocol, which abolishes death penalty).

India acceded to ICESCR (International Covenant on Economic, Social and Cultural Rights, 1966) on 10th April 1979 with declarations on Article 1, 4, 7 and 8. ICESCR states in its Preamble:

“Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights...”

Article 7 of the ICESCR obligates state parties to:

“recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

- (a) Remuneration which provides all workers, as a minimum, with:
 - (i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;
 - (ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant
- (b) Safe and healthy working conditions;
- (c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;

- (d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays”

India is also a party to the Beijing Principles of the Independence of the Judiciary (drawn up and agreed to in 1995 by the Chief Justices of countries in the Asia-Pacific region). These principles represent the minimum standards to be necessarily observed in order to maintain the independent and effective functioning of the judiciary.

Under these principles **the judiciary has a duty to ensure that all persons are able to live securely under the Rule of Law. This is particularly important to women.** The judiciary also has a duty to promote the observance and the attainment of human rights of women under the Beijing Principles. The said principles set out the objectives of the judiciary as below:

The objectives and functions of the Judiciary include the following:

- (a) To ensure that all persons are able to live securely under the Rule of Law;
- (b) To promote, within the proper limits of the judicial function, the observance and the attainment of human rights; and
- (c) To administer the law impartially among persons and between persons and the State.

ILO mandate on gender equality - The ILO’s mandate to promote gender equality in the world of work is enshrined in its Constitution and reflected in relevant international labour standards. The four key ILO gender equality Conventions are the Equal Remuneration Convention (No. 100), Discrimination (Employment and Occupation) Convention (No. 111), Workers with Family Responsibilities Convention (No. 156) and Maternity Protection Convention (No. 183). Conventions 100 and 111 are also among the eight fundamental Conventions of the ILO Declaration on Fundamental Principles and Rights at Work.

The ILO mandate on gender equality is reinforced by related Resolutions adopted by its highest decision-making body, the International Labour Conference. The most recent of these is the Resolution concerning Gender Equality at the Heart of Decent Work, adopted in June 2009, and the Resolution concerning the Promotion of Gender Equality, Pay Equity and Maternity Protection, adopted in June 2004. Attention to gender equality in all aspects of the ILO’s technical cooperation is mandated by the Governing Body’s March 2005 Decision on Gender Mainstreaming in Technical Cooperation.

The ILO's gender equality mandate is also set in the context of an array of international instruments advancing equality between women and men. Amongst others, these include the UN Charter itself, numerous resolutions of the General Assembly, the 1997 UN Economic and Social Council's Agreed Conclusions on gender mainstreaming, the Convention on the Elimination of Discrimination against Women (CEDAW), the 1995 Beijing Platform for Action and its follow-up, and the Millennium Development Goals.

The ILO has called Sexual Harassment at Workplace a violation of the fundamental rights of workers, a safety and health hazard, a problem of discrimination, an unacceptable working condition and a form of violence usually against women workers. However, there is no convention to address the issue directly.

The Convention on Elimination of all forms of Discrimination against Women (CEDAW) - CEDAW, for the first time in the sphere of international law, accorded primacy and supremacy to women's human rights.

Article 1 of CEDAW -

"The definition of discrimination includes gender based violence, i.e., violence that is directed against woman because she is a woman or that affects woman disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. Gender based violence may breach specific provisions of the Convention regardless of whether those provisions expressly mention violence..."

Article 11(1) provides as follows:-

"States parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure on the basis of equality of men and women, the same rights in particular -

- (a) the right to work as an inalienable right of all human beings;
- (b) the right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction."

Article 22 postulates that equality in employment can be seriously impaired when women are subjected to gender specific violence such as sexual harassment in the work place.

Article 24 postulates that State parties will undertake to adopt all necessary measures at the national level aimed at achieving the full realization of the rights recognized in the present convention. Article 24

also requires State parties to include in their reports information about sexual harassment, and on measures to protect women from sexual harassment and other forms of violence of coercion in the workplace.

CEDAW and India - CEDAW was ratified by India on 25th June 1993 with two declarations and one reservation. They are as follows:

Declarations:

i. "With regard to Articles 5(a) and 16(1) of the Convention on the Elimination of All Forms of Discrimination Against Women, the Government of the Republic of India declares that it shall abide by and ensure these provisions are in conformity with its policy of non-interference in the personal affairs of any Community without its initiative and consent.

ii. With regard to Article 16 (2) of the Convention on the Elimination of All Forms of Discrimination Against Women, the Government of the Republic of India declares that though in principle it fully supports the principle of compulsory registration of marriages, it is not practical in a vast country like India with its variety of customs, religions and level of literacy."

Reservation: With regard to Article 29 of the Convention on the Elimination of All Forms of Discrimination against Women, the Government of the Republic of India declares that it does not consider itself bound by paragraph 1 of this Article. Paragraph 1 states that -

"Any dispute between two or more States Parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court."

Government of India has made the commitment at the **Fourth World Conference in Beijing in 1995** to formulate and operationalize a national policy on women, which will continuously guide an informed action at every level and in every sector.

The UN Committee on the Elimination of Discrimination against Women (CEDAW Committee) in 2007 recommended that the country should "widen the definition of rape in its Penal Code to reflect the realities of sexual abuse experienced by women and to remove the exception of marital rape from the definition of rape..." A detailed study was conducted by the United Nations called the **'In depth Study on all forms of Violence**

against Women,’ which clearly finds that *non-implementation or ineffective implementation of existing domestic laws in most countries was the single most important reason for continued immunity to perpetrators of violence against women particularly in intimate relationships.* Thus, failure to frame a domestic law, which is requisite for dealing with violence against women, will constitute a breach of the international Convention. Secondly, while physical violence is an offence, it also constitutes deprivation of human rights and liberty, and is a form of sex discrimination. The law must be implemented in a manner that satisfies the criteria of impartial administration of justice, which is the fundamental cornerstone of the rule of law. (Report of the Committee on Amendments to Criminal Law, 2013)

Women have been facing sexual harassment in the workplace for many decades, and across countries and cultures. Sexual harassment is identified by feminists as one manifestation of the larger patriarchal system in which men dominate women. There have been some positive and empowering developments in the recent years which have enabled women to stop suffering in silence and take up the matter in public domain. However, a lot needs to be done and the issue has to be addressed holistically.

Women’s participation in economic sector is crucial for their economic empowerment and their sustainability. However, problems such as sexual harassment in the workplace discourage women to continue working. It is a violation of human rights and human dignity, which undermines equality of opportunity and treatment between men and women.

Within the sexual harassment scenario, there are two possible power relations. The first one is “contra power” and this occurs when the abuser has formal power over the victim. The second case is “peer” sexual harassment and it occurs between equals.

Since the 1970s, there has been a wide range of surveys documenting the incidence of sexual harassment and testifying to its frequency and pervasiveness. One of the earliest North American surveys (carried out in 1976 and reported in Sanford 1979) was conducted by Redbook magazine, and it found that 88 per cent of the 9,000 respondents said that they had received unwanted sexual attention at work. The first comprehensive national survey of sexual harassment was conducted by the US Merit Systems Protection Board in 1981 and found that of over 20,000 people (all federal government employees), around 42 per cent of female and 15 per cent of male respondents reported experiencing ‘unwanted sexual attention’ in the workplace during the previous 24 months.

In Britain, in the same year, there were two surveys of sexual harassment in local government (carried out by Camden and Liverpool branches

of the National Association of Local Government Officers), which showed that 52 per cent of women had experienced sexual harassment at work, as had 20 per cent of men. A survey conducted in 1981 by the Canadian Human Rights Commission found that 49 per cent of women respondents and 33 per cent of men had experienced 'unwanted sexual attention'. Research also demonstrated that those who experienced sexual harassment were liable to suffer from a variety of symptoms of emotional or physical distress as a result – most commonly nervousness, irritability and uncontrolled anger.

European surveys have shown significant rates of sexual harassment in the workplace, with between 40 and 50 per cent of women in the European Union reporting some form of sexual harassment or unwanted sexual behaviour in the workplace. Small surveys in Asia-Pacific countries indicate that 30 to 40 per cent of women workers report some form of harassment - verbal, physical or sexual.

In Japan, a study conducted by the Ministry of Labour found that out of 2254 female respondents, two thirds were subjected to sexually harassment, 11 % had experienced quid pro quo and 45 % had been subjected to hostile working environment.

In Bangladesh, large scale entry of women into paid labour force has increased incidences of sexual harassment. Women are forced to face double jeopardy when it comes to sexual harassment. They are vulnerable to physical, psychological and sexual abuse in the workplace; they are frequently subjected to harassment in the public domain of the street. According to a health survey on safety regulations in the garment industry, sexual harassment is likely to be the most dominant source of stress for garment workers.

In Nepal, a research on Sexual Harassment at the Workplace revealed that the problem of sexual harassment is highly prevalent in workplaces, as 53.84 percent of women employees/workers reported that they have faced the problem of sexual harassment in their workplaces, 14 percent of male and 23.08 percent women employee/workers were of the view that they were aware of sexual harassment at the workplace.

However, the problem is not brought out in the open because the subject is taboo and Nepali women still do not share the problem among their friends, and also do not bring it to the authorities' attention.

As a matter of fact, **substantive equality and women's rights as human rights have been established both in domestic and international legal regimes.**

The Constitution of India embraces the substantive equality approach as provided in Article 15(1) and Article 15(3). The concept of dignity under Article 21 is also significant. Article 19 (1) g of the Indian Constitution affirms the right of all citizens to be employed in any profession of their choosing or to practice their own trade or business. The State has primary obligations under the Constitution to secure fundamental rights of its citizens. The fundamental rights of women include safety and bodily integrity. Assault, sexual or otherwise, on women is a violation of the fundamental right to live with dignity. The said rights, in turn, include secure spaces where they can exercise autonomy and freewill. If the constitutional obligations towards women are not fulfilled, there would be a declaration against the State that right to equality and dignity have been denied.

The Supreme Court in *Vishaka v. State of Rajasthan* (1997) established that an action resulting in a violation of one's rights to 'Gender Equality' and 'Life and Liberty' is in fact a violation of the victim's fundamental right under Article 19 (1) g. The case ruling established that sexual harassment violates a woman's rights in the workplace and is thus not just a matter of personal injury. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act passed in 2013 uses the definition of sexual harassment as laid down by the Supreme Court of India in *Vishaka v. State of Rajasthan*. The Act ensures 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.

2.5 Initiatives to Prevent Sexual Harassment in the Workplace at the International Level

Sexual harassment is a hazard encountered in workplaces across the world, which reduces the quality of working life, jeopardizes the well-being of women and men and above all, undermines gender equality at workplace. This report reviews international standards and workplace policies and programmes.

Workplace sexual harassment is relatively widespread. **Moreover, although it has male victims, sexual harassment is overwhelmingly directed at women, especially those in less-powerful positions in the labour market; therefore for the purpose of Study & Research only Women and Harassment at Work is integrated in the Report.**

Governments in all regions have enacted legislation to prohibit it, mainly over the period since 1995. There have been signs of an emerging trend towards enacting specific laws against sexual harassment which draw on both civil and criminal law approaches; of imposing duties on employers and holding them liable for the actions of their employees, and of tailoring enforcement procedures so that they do not discourage individuals from bringing claims. The role of laws in encouraging employers to introduce workplace policies is also increasingly influencing their content.

In addition to legal measures, many governments, employers' and workers' organizations, and other bodies are using a range of techniques to prevent sexual harassment and help its victims. It is common for governments to issue guidance on how to design anti-sexual harassment measures and to offer counselling to workers who have been targeted. At the workplace level, growing numbers of employers are introducing sexual harassment policies and complaints procedures, particularly in industrialized countries; and there are signs of awareness of the need for these policies in a number of countries in which they have, until now, been relatively rare. Moreover, there appears to be an emerging consensus around what workplace policies should contain and the steps to be taken to implement them, which can be drawn on by those employers who have yet to take action.

International recognition of sexual harassment

Women have long been exposed to workplace harassment, which involves conduct of a sexual nature or is premised on the sex of the victim. These kinds of behaviour were not given a name, however, until the 1970s, when women in the United States demanded that sexual harassment be recognized as sex discrimination under the federal anti-discrimination legislation. The designation "sexual harassment" has since been adopted by women in many other countries who have used it to characterize their experiences, ensure recognition of these forms of conduct and seek to have them prevented.

During the last few decades, legislation, court decisions, awareness-raising initiatives, and workplace programmes and policies have recognized and responded to the problem. In the last decade in particular, advances have been made in both industrialized and developing countries, including in those in which there had previously been little public recognition of the problem. **At international level too, sexual harassment has been recognized and addressed by a number of bodies, including the UN and International Labour Organization.**

Views on sexual harassment have evolved since it was a widely tolerated aspect of working life, often considered an occupational hazard which women should expect to endure. The influx of large numbers of women into the paid labour force over the last few decades and their increasing involvement in worker's organizations and women's advocacy groups have heightened awareness of the extent and destructive consequences of sexual harassment.

The International-Level Social Partners

In addition to their activities at workplace, national and regional level, the social partners have also taken international level action on sexual harassment at work.

The International Confederation of Free Trade Unions (ICFTU)

In 1998, the Executive Board of the International Confederation of Free Trade Unions (ICFTU) adopted an Action Programme to combat sexual harassment within the trade union movement. The ICFTU declared its opposition to sexual harassment, and called on its affiliates and regional organizations to adopt effective measures to eliminate it from all trade union activities. It made a number of suggestions on measures which can be taken to tackle harassment, including the inclusion of a statement of principle in union constitutions; the introduction of measures to ensure that participants at all trade union events are made aware of the policy; and complaints and investigation procedures which cover all trade union activities and workplaces. It also stated that the ICFTU, its regional organizations and affiliates should institute internal complaints procedures to deal with cases of sexual harassment in union workplaces, which should be included in collective agreements and discussed in special training programmes for all employees, and in basic trade union training courses. International federations have also taken initiatives on sexual harassment. The International Transport Workers' Federation (ITF), for example, launched a campaign on sexual harassment in 1997, which highlighted the mistreatment of female airline employees.

United Nations

Within the United Nations, the issue of sexual harassment in the workplace has been addressed as both a manifestation of sex discrimination and a form of violence against women. The 1979 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) was adopted at the time when awareness of sexual harassment was just emerge and therefore did not contain a specific prohibition. However, the Committee on the Elimination of Discrimination Against Women, set up under

the Convention, has explicitly addressed the problem. It's General Recommendation of 1989 recognized sexual harassment as a form of violence against women.

Three years later, in General Recommendation No. 19 of 1992, the Committee characterized gender-based violence as a type of sex discrimination and therefore a breach of CEDAW. The Recommendation notes that "[e]quality in employment can be seriously impaired when women are subjected to gender-specific violence, such as sexual harassment in the workplace". The Committee recommended that parties to the Treaty should take all legal and other measures necessary to provide effective protection for women against gender-based violence, including sexual harassment in the workplace. The work of the Committee was drawn on in developing the 1993 General Assembly Declaration on the Elimination of Violence Against Women, which affirms that this form of violence constitutes a violation of women's rights and fundamental freedoms.

It defines violence against women to encompass "sexual harassment and intimidation at work", and calls on States to condemn it and pursue a policy to eliminate it. Sexual harassment has also been addressed in the human rights context. The World Conference on Human Rights, held in Vienna in 1993, identified it as a human rights violation, while the Commission on Human Rights has treated it primarily as a form of violence against women. The Commission appointed a Special Rapporteur in 1995, whose work has included research on sexual harassment at work and the measures which can be taken to prevent it.

The United Nations Fourth World Conference on Women, held in Beijing in 1995, adopted a Platform for Action, which outlines strategic objectives and actions to be taken by a range of actors, includes provisions on sexual harassment in the workplace. It configures the problem as both a form of violence against women, and a barrier to their equality. The experience of sexual harassment is an affront to a worker's dignity and prevents women from making a contribution commensurate with their abilities.

The Platform calls on governments, trade unions, employers, community and youth organizations, and NGOs to eliminate sexual harassment. More specifically, governments are urged to enact and enforce laws and administrative measures on sexual and other forms of harassment in the workplace. Parties at the enterprise level are called upon to develop workplace policies. In addition, the Platform calls for the generation and dissemination of gender-disaggregated and sex-specific data and information on all forms of violence against women, including sexual harassment. At the June 2000 Special Session of the General Assembly on

Women 2000: Gender equality, development and peace for the twenty-first century, governments assessed the achievements and the obstacles which have been faced since the Beijing Conference. The Session produced a set of further actions and initiatives to implement the Beijing Declaration and Platform for Action, which again address workplace sexual harassment.

2.6 Conclusion

Workplace sexual harassment has been addressed at the regional and international levels as both an aspect of gender discrimination and a form of violence against women.

The United Nations Committee on the Elimination of Discrimination Against Women has expressed the relationship between these two approaches by identifying sexual harassment as a form of violence against women and gender-based violence as a type of sex discrimination. At the regional level, the European Union, one of the first bodies to take the problem seriously, has adopted binding legal measures on sexual harassment, while the Organization of American States has addressed it in its Convention on Violence Against Women. At the international level, workers' organizations have called on their affiliates to adopt measures and provided guidance on their content. Various UN instruments call for its elimination, including the Platform for Action adopted at Tripartite regional seminar on combating sexual harassment at work held in Manila on 22-26 November 1993 (Geneva, 1994).

Within the International Labour Organization, sexual harassment has been the focal point of meetings, research, and advice and information issued to its constituents. In recent years, its significance has been recognized by its inclusion as an element of the ILO's programme of promoting decent work worldwide.

CHAPTER III

Historical Overview: Indian Context

3.1 Indian Constitution and Women

The Constitution of India has strived to emancipate women and maintain gender equality. The fundamental rights enshrined in the Constitution of India not only liberate women but also permit the State to sanction necessary measures to make women overcome the various socially and culturally constructed handicaps which obstruct their rights.

The Constitution states that “The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India”.

Thus, Article 14 of the Constitution guarantees the right to equality to women.

Article 15 of the Indian Constitution states the following:-

(1) The State shall not discriminate against any citizen on grounds of religion, race, caste, **sex**, and place of birth or any of them.

(2) No citizen shall, on the grounds of religion, race, caste, **sex**, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to—

- (a) access to shops, public restaurants, hotels and places of public entertainment; or
- (b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.

(3) Nothing in this article shall prevent the State from making any special provision for **women** and children.

Article 21. No person shall be deprived of his life or personal liberty except according to procedure established by law.

Article 39. The State shall, in particular, direct its policy towards securing—

- (a) that the citizens, men and women equally, have the right to an adequate means of livelihood;

- (b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;
- (c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;
- (d) that there is equal pay for equal work for both men and women;

Article 42. The State shall make provision for securing just and humane conditions of work and for maternity relief.

Article 51A. It shall be the duty of every citizen of India :- a) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women.

3.2 The Bhanwari Devi Case

In the year 1992, Bhanwari Devi was gang-raped by upper-caste Gujjar men in a village called Bhatari in Rajasthan. Bhanwari Devi worked as a saath in, for the Women's Development Programme under the Government of Rajasthan. In her capacity as a saath in, who is a voluntary worker she tried to stop the marriage of a nine-month old baby girl child. The girl child belonged to the Gujjar community and the men of the community could not fathom the fact that a Dalit woman had the gall to report this case of child marriage to the police. In an act of revenge, Bhanwari Devi was gang-raped.

The district sessions court did not pronounce the accused guilty and thus, after this brutal assault on Bhanwari Devi, many women's groups rallied for her to get justice.

Finally in 1997, a Public Interest Litigation was filed by NGOs who worked for the cause of women, after the barbaric assault on Bhanwari Devi. The PIL was filed in the Supreme Court of India by these NGOs to legislate laws against sexual harassment of women at the workplace.

This landmark case called Vishaka and Others Vs State of Rajasthan resulted in the Supreme Court stating guidelines making it mandatory for every organisation whether public or private institute anti-sexual harassment committees. The Supreme Court also defined what constituted sexual harassment at the workplace.

The judgment stated that "Sexual harassment includes such unwelcome sexually determined behavior as physical contacts and advance, sexually

coloured remarks, showing pornography and sexual demands, whether by words or actions. Such conduct can be humiliating and may constitute a health and safety problem; it is discriminatory when the woman has reasonable grounds to believe that her objection would disadvantage her in connection with her employment, including recruiting or promotion, or when it creates a hostile working environment. Effective complaints procedures and remedies, including compensation, should be provided.”

The judgment given by the bench comprising of Justice J.S Verma, Justice Sujata Manohar and Justice B.N Kirpal also referred to the Convention on the Elimination of all Forms of Discrimination Against Women, which India ratified in 1993.

The judgment stated that, *The general recommendations of CEDAW in this context in respect of Article 11 are:*

- a) Any gender-specific violence can damage Equality in employment for women.
- b) Sexual harassment is a severe misconduct not only results into health and safety problems but also create problems in employment, including recruitment or promotion for women.

Therefore, the guidelines put in place by the Supreme Court against sexual harassment of women at the workplace were called the Vishaka Guidelines.

3.3 The Vishaka Guidelines

- It shall be the duty of the employer or other responsible persons in work places or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, settlement or prosecution of acts, of sexual harassment by taking all steps required.
- All employers or persons in charge of work place whether in public or private sector should take appropriate steps to prevent sexual harassment. Without prejudice to the generality of this obligation they should take the following steps:
- Express prohibition of sexual harassment as defined above at the work place should be notified, published and circulated in appropriate ways.

The Rules/Regulations of Government and Public Sector bodies relating to conduct and discipline should include rules/regulations prohibiting sexual harassment and provide for appropriate penalties in such rules against the offender.

As regards private employers, steps should be taken to include the aforesaid prohibitions in the standing orders under the Industrial Employment (Standing Orders) Act, 1946.

Appropriate work conditions should be provided in respect of work, leisure, health and hygiene to further ensure that there is no hostile environment towards women at work places and no employee woman should have reasonable grounds to believe that she is disadvantaged in connection with her employment.

- Where such conduct amounts to a specific offence under the Indian Penal Code or under any other law, the employer shall initiate appropriate action in accordance with law by making a complaint with the appropriate authority.
- In particular, it should ensure that victims or witnesses are not victimized or discriminated against while dealing with complaints of sexual harassment. The victims of sexual harassment should have the option to seek transfer of the perpetrator or their own transfer.
- Where such conduct amounts to misconduct in employment as defined by the relevant service rules, appropriate disciplinary action should be initiated by the employer in accordance with those rules.
- Whether or not such conduct constitutes an offence under law or a breach of the service rules, an appropriate complaint mechanism should be created in the employer's organisation for redress of the complaint made by the victim. Such complaint mechanism should ensure time bound treatment of complaints.
- The complaint mechanism, referred to above, should be adequate to provide, where necessary, a Complaints Committee, a special counselor or other support service, including the maintenance of confidentiality.
- The Complaints Committee should be headed by a woman and not less than half of its members should be women. Further, to prevent the possibility of any undue pressure or influence from senior levels, such Complaints Committee should involve a third party, either NGO or other body who is familiar with the issue of sexual harassment.
- The Complaints Committee must make an annual report to the Government department concerned of the complaints and action taken by them.
- The employers and person in charge will also report on the compliance with the aforesaid guidelines including on the reports of the Complaints Committee to the Government department.

- Employees should be allowed to raise issues of sexual harassment at a worker's meeting and in other appropriate forum and it should be affirmatively discussed in Employer- Employee Meetings.
- Awareness of the rights of female employees in this regard should be created in particular by prominently notifying the guidelines (and appropriate legislation when enacted on the subject) in a suitable manner.
- Where sexual harassment occurs as a result of an act or omission by any third party or outsider, the employer and person in charge will take all steps necessary and reasonable to assist the affected person in terms of support and preventive action.
- The Central/State Governments are requested to consider adopting suitable measures including legislation to ensure that the guidelines laid down by this order are also observed by the employers in Private Sector.

These guidelines will not prejudice any rights available under the Protection of Human Rights Act, 1993.

The Supreme Court of India vide this judgment, brought the first ever legislative action to address sexual harassment issue at the workplace. It was decreed that these SC Directives would have the effect of the law, till a specific legislation to address sexual harassment is enacted.

3.4 Outcome of the Vishaka Guidelines

Much jurisprudence has developed post Vishaka on the issue of SHW which has helped expand on the legal positions developed by the Supreme Court in the Vishaka case. The Vishaka case was unclear on the functioning of the complaint redressal mechanism and its procedures and also did not provide for any overseeing mechanisms that would ensure that employers in India are following the Vishaka Directives. Without provisions for fines or penalties against erring employers, the effect of the SC Directives got diluted and even in popular nomenclature they were and continue to be wrongly referred to as the "Vishaka Guidelines" despite their binding force.

Even after the implementation of the Vishaka Guidelines by the Supreme Court it was noticed that the incidents of sexual harassment at the workplace did not reduce and nor were organisations adhering to the guidelines.

The confused understanding and application of the Vishaka Directions became amply evident to the Supreme Court when it heard a set of petitions

titled as *Medha Kotwal Lele & Ors Vs. Union of India & Ors* [W.P.(Crl.) No.173-177/1999] (“*Medha Kotwal*”). The case, originated in a series of letters written to the Supreme Court by and on behalf of Ms. Meera Bhatt who had alleged that she had been sexually harassed by her guide in MS University, Baroda and some teachers of Delhi Public School, Faridabad who had alleged sexual harassment by the principal of the institution. In both cases, complaints committees were either not constituted or not properly constituted. Hence, the Supreme Court decided to widen the scope of the petitions to assess whether the Vishaka Guidelines were being complied with and to strengthen them if required. Accordingly, notices were issued to all the states and union territories and also to professional bodies like the University Grants Commission, the Medical Council of India, the Bar Council of India etc. calling upon them to furnish to the Apex court the steps taken by them to implement the Vishaka Directives.

The replies filed by all the states disclosed substantial non-compliance with the Vishaka Directives. Only the states of West Bengal and Madhya Pradesh had taken some steps following the Vishaka Directives. However, in West Bengal this was limited to amending the “Duties, Rights and Obligations of Government Employees Rules, 1980” and not the Conduct Rules. In Madhya Pradesh, the amendments made were not in conformity with the Vishaka Directives. No state had taken any steps with regard to private employers.

However, such a notice of the Supreme Court alerted several state governments to take action. A flurry of orders were issued in various states to set up complaints committees. For example, the Government of National Capital Territory of Delhi issued order No.2/37/98/S.1179 dated 19.5.1999 to provide for complaint committees. By this order a three-Members State Complaint Committee at the level of Government of NCT of Delhi was created under the aegis of the Delhi Women Commission. Simultaneously all Heads of Department and Autonomous Organizations were directed to constitute Departmental Complaint Committee comprising of three senior female members/staff of the department.

However, there continued to be considerable confusion on the role of the complaints committee envisaged by the Vishaka Directives (“Complaints Committee”). Some states that had amended their Civil Service Rules and the Standing Orders had merely included sexual harassment as one more form of misconduct to be inquired into by the normal departmental/domestic inquiry officer. Hence, the Complaints Committee was only being treated as a fact finding committee conducting a preliminary investigation. On receipt of its report, a charge would be framed against the employee under the relevant conduct rules/standing orders and a completely

fresh inquiry would be conducted by the inquiry officer. The Complaints Committee hence held no import and could not exercise any control over the accused or provide redressal to the victim. Also, since two enquiries were being conducted, these invariably lead to delays.

Moreover, no effective steps had been taken for private employers, particularly industrial establishments such as shops, factories and commercial establishments.

Realising that in this manner, the SC Directives were being circumvented, the Supreme Court in its order in *MedhaKotwal* dated 26.4.2004 rendered directions relevant to government employees and industrial establishments.

Directions for Government Employees

The Supreme Court directed that the Complaints Committee, as envisaged in the *Vishaka* case, will be deemed to be an inquiry authority for the purposes of Central Civil Services (Conduct) Rules, 1964 and the report of the Complaints Committee shall be deemed to be an inquiry report under those rules. Thereafter, the disciplinary authority will act on the report in accordance with the rules.

In pursuance of this direction, the Central Government amended sub-rule (2) of rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 vide notification no.11012/5/2001-Estt (A) dated 1st July, 2004 and a proviso to the Rule 14(2) was added.

The provision reads as under:

Provided that where there is a complaint of sexual harassment within the meaning of Rule 3-C of the Central Civil Service (Conduct) Rules, 1964, the Complaints Committee established in each Ministry or Department or Office for inquiring into such complaints, shall be deemed to be the Inquiring Authority appointed by the Disciplinary Authority for the purpose of these rules and the Complaints Committee shall hold, if separate procedure has not been prescribed for the Complaints Committee for holding the inquiry into the complaints of sexual harassment, the inquiry as far as practicable in accordance with the procedure laid down in these rules.

Directions for Industrial Establishments

Vide the above stated order in the *MedhaKotwal* case, the Supreme Court also directed that similar amendments be carried out in the Industrial Employment (Standing Orders) Rules.

Consequent to the directions of the Supreme Court, amendments were made to the Industrial Employment (Standing Orders) Central Rules, 1946 (“IESO Rules”). The amendments involved changes to the model standing orders provided in the IESO Rules to include SHW as a form of misconduct and provide that complaints of SHW would be inquired into by a complaints committee which would consist of -

- (a) a Chairperson who shall be a woman;
- (b) two members representing Non-Government Organisation (NGO) or any other body which is familiar with the issue of sexual harassment or nominees of the National or State Human Rights Commission or the National or State Commission for Women familiar with the issue of sexual harassment, to be nominated by the employer.

Provided that one of the two members of the Complaints Committee shall be a woman.

The amendments also require that the said complaints committee shall make and submit every year an annual report, to the appropriate Government, of the complaints and action taken and that the employers or their agents shall report, to the appropriate Government, on the compliance of the guidelines issued by the Central Government including on the reports of the Complaints Committee.

The IESO Rules provide that a legible copy of the standing orders adopted by the industrial establishment need to necessarily be displayed in English and in a local language on a notice board maintained at or near the entrance of the industrial establishment. Under the said rules, the employer of the industrial establishment shall personally be held responsible for the proper and faithful observance of the standing orders and is punishable with fines if he does not do so. Under Section 3 of the IESO Act, an employer would be required to submit the draft Standing Orders to the Certifying Officer and is punishable with fines in case of failure to do this. The term “Certifying Officer” has been defined in Section 2 of the IESO Act to include a Labour Commissioner or Regional Labour Commissioner.

The apex court also made its intention to issue further directions in relation to educational institutions and other establishments in subsequent orders.

Through the order dated 26.4.2004 in *Medha Kotwal*, the Supreme Court took decisive steps towards removing some fallacies surrounding the SC Directives and also showed the path on how the Vishaka Directions can be augmented into existing legal provisions governing organized

labour in India and thus can find legal sanction and be backed by fines and penalties. Also, in the case of government bodies and industrial establishments, the existence of a complaints committee was made a permanent requirement. This clarified the doubts cast in the Vishaka case that a complaints committee would only be established when a complaint of SHW is received.

Legally, these directions greatly strengthened the SC Directives in the Vishaka case. However, not much change could be brought about on ground as the authorities responsible for taking steps to further the actions and orders of the Supreme Court failed to either understand their role in this regard or take any steps.

In the state of Tamil Nadu, for example, the Personnel and Administrative Reforms (A) Department vide Letter No. 31367/A/2000-6, dated 29.12.2000 provided for the constitution of a complaints committee and the procedure for conducting an enquiry in complaints of SHW and limited the role of the complaints committee to a fact finding committee which is in contravention to the Supreme Court's Directions in Medha Kotwal.

This reflects that many gaps continue to exist in legal understanding, which have negatively impacted the cause of preventing and addressing SHW.

Also, it was still unclear if the requirement of establishing complaints committees was being followed.

Further Directions of the SC in the case of Medha Kotwal

Consequently, the Supreme Court issued further directions on 17.1.2006 in MedhaKotwal. It ordered as follows:

"It is not known whether the Committees as suggested in Vishaka case have been constituted in all the Departments/Institutions having members of the staff 50 and above and in most of the District level offices in all the States members of the staff working in some offices would be more than 50. It is not known whether the Committees as envisaged in the Viaskha case have been constituted in all these offices. The number of complaints received and the steps taken in these complaints are also not available. We find it necessary to give some more directions in this regard.

We find that in order to co-ordinate the steps taken in this regard, there should be a State level officer, i.e., either the Secretary of the Woman and Child Welfare Department or any other suitable officer who is in charge and concerned with the welfare of women and

children in each State. The Chief Secretaries of each State shall see that an officer is appointed as a nodal agent to collect the details and to give suitable directions whenever necessary.

As regards factories, shops and commercial establishments are concerned, the directions are not fully complied with. The Labour Commissioner of each State shall take steps in that direction. They shall work as nodal agency as regards shops, factories, shops and commercial establishments are concerned. They shall also collect the details regarding the complaints and also see that the required Committee is established in such institutions.

Counsel appearing for each State shall furnish the details as to what steps have been taken in pursuance of this direction within a period of eight weeks. Details may be furnished as shown in the format furnished by the petitioners in the paper books. A copy of this format shall form part of the order. The above facts are required at the next date of hearing. A copy of this order be sent to the Chief Secretary and Chief Labour Commissioner of each State for taking suitable action.”

Following this, the Ministry of Labour and Employment (“MoLE”) issued the notification for constitution of complaints committees in the Factories, Shops and Commercial Establishments having 50 or more workers to look into the matter of sexual harassment to the women workers and the labour commissioner’s office was in charge of implementation in every state.

Some proactive steps were also taken by State Women’s Commissions around the country. For example, the Maharashtra SWC wrote to all the State authorities as well as the public sector undertakings pointing to the mandatory requirement of constituting a Complaints Committee as per the Vishaka Directives.

Still, non-compliance, in the absence of a specific legislation, remained the norm. However, the efforts at drafting a legislation were extensive and challenging. Thus, the National Commission for Women or the NCW had been given the responsibility by the government to draft the legislation. In consultation with women’s organisations the NCW drafted a bill which was submitted to the Ministry of Women and Child Development.

The Draft of Protection of Women against Sexual Harassment at the Workplace Bill was approved by the Union Cabinet in 2007. After which it was proposed in the Lok Sabha in 2010. The year 2012 saw the amendment of the Bill after which it was re-introduced in the Lok Sabha.

The Medha Kotwal Lele Vs. Union of India and Others Case highlight the same. The Petitioners in this case, Medha Kotwal (she was a coordinator at a Women's organisation) and other women's organisations in their written petition wrote that the guidelines were not in place. The petitioners also stated incidents of sexual harassment at the workplace where the guidelines were not followed.

A Tripartite National Workshop on Sexual Harassment at the Workplace was organised by the International Labour Organisation in Bangalore in the year 2012. This tripartite meeting was attended by various trade unions, employers' organisations, policy-makers, academic institutions and civil society organisations. Issues and challenges of the Vishaka guidelines were discussed during this two-day workshop. During the meeting it was agreed upon that sexual harassment at the workplace mostly took two forms. One was of Quid Pro Quo and the other is of a hostile environment. The word Quid Pro Quo translates into English as 'this for that'. In this form of sexual harassment involves sexual favours in return for something. Thus, sexual favours or advances are sought in exchange for added rewards at work. The draft of the guidelines prepared by the tripartite meeting states that quid pro quo occurs when:-

- a.) *When there are implicit or explicit requests for unwelcome sexual activity as a term or condition for employment, or*
- b.) *When consent to or rejection of unwelcome, sexually explicit behaviour or speech is made a condition for employment, or refusal to comply with a 'request' is met with retaliatory action such as dismissal, demotion, difficult work conditions.*

The draft by the tripartite workshop also gives examples of quid pro quo. The examples are as follow :

- *Asking a person to spend the night in return for a promotion.*
- *Asking a person to have an affair in return for an increment.*
- *Asking a person to have sex, or to engage in sexual conduct with promises of out of turn or undeserved favours like a foreign trip.*

A hostile work environment according to the draft prepared by the tripartite meeting is a *more pervasive form of sexual harassment*. For example:-

- *Creating conditions of work or behaviour towards a worker which makes it uncomfortable for her to be there.*
- *An unreasonable interference with an individual's work.*
- *Creating an intimidating, hostile or abusive work environment.*

- *Unwelcome sexual harassment which occurs simply because of the individual is a woman although there might be no promises or denials in return for a sexual favour.*

In December 2012, the entire country was shaken by the gruesome gang-rape of a young girl in the national capital. There were widespread agitations to strengthen the laws, which deal with sexual assault on women.

In this background, a three-member committee comprising of Justice Leila Seth and Justice Gopal Subramaniam which was headed by Justice J.S Verma was formed. The report made several recommendations on laws relating to various forms of sexual assault on women.

The report was submitted on 23rd January 2013 and it gave its recommendations on the Sexual Harassment of Women at the Workplace Act 2013 as well.

Thus, the clamour for a legislation grew louder as it was felt that the country needed a law against sexual harassment at the workplace.

On 3rd September 2012, the Bill was passed in the Lok Sabha and on 26th February 2013, the Bill was passed in the Rajya Sabha. The Bill then received the President's approval and it was published in the Gazette of India as Act No.14 of 2013.

Therefore, the lengthy procedure to have legislation against the sexual harassment of women at the workplace came to a successful end when the Act was officially implemented on 9th December 2013.

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 in its introductory text states that this is 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.*

3.5 Important Features of the Sexual Harassment Act

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 borrows heavily from the Vishaka Guidelines though some additions make the legislation stronger.

- In the Act, institutions like schools, universities, sports complexes and hospitals which were not mentioned in the Vishaka Guidelines have been included in the Act.
- The Act includes domestic workers who were previously not included in the Vishaka Guidelines.

- In the Constitution of an Internal Complaints Committee and Local Complainants Committee have been included as the means of redressal.
- When 10 employees or more than 10 employees make up an organisation then an Internal Complaints Committee has to be instituted. According to the Act an Internal Complainants Committee must include a female who is at a higher position at the workplace as the Presiding Officer. The total strength of the ICC should have more than 50% of its members as women. At least two members of the ICC must be from the organisation and have to be committed to the cause of women or have legal knowledge. The ICC also needs to have an external member who should be either from an NGO or be a social worker committed to the cause of women or an advocate with experience of civil, administrative and labor laws.
- A Local Complainants Committee is constituted at the district level and is mandated to receive all complaints in the case of an organisation or workplace having less than 10 employees or where the complaint lies against the employer or where the ICC has not been constituted. According to the Act, it is the duty of the District Officer to constitute LCCs in every district to receive complaints of sexual harassment at workplace.
- The procedure in the Act for filing of complaint is that the aggrieved woman has to submit a written complaint to the ICC or LCC within the time period of 3 months from the date of the incident or in the event of series of incidents, within 3 months of the last incident.
- 90 days is the time given to the ICC or LCC to complete the full inquiry into the complaint. After which the report is sent to the employer or the District officer within 10 days, who are then to take action within 60 days.
- The Complainants Committee be it the ICC or LCC have been given the powers of civil courts to collect necessary evidence.
- The Act provides for conciliation but only on the request of the complainant and this too is a formal mechanism as conciliation terms are recorded in writing.
- Where the aggrieved woman informs the ICC or LCC that any term or condition of the settlement arrived at as per conciliation recorded has not been complied with by the respondent, the Internal Committee shall proceed to make an inquiry into the complaint or, as the case may be, forward the complaint to the police:
- Provided further that where both the parties are employees, the parties shall, during the course of inquiry, be given an opportunity of

being heard and a copy of the findings shall be made available to both the parties enabling them to make representation against the findings before the Committee.

- Where the Complaints Committee arrives at the conclusion that the allegation against the respondent has not been proved, it shall recommend to the management of the organization that no action is required to be taken in the matter.
- Where the Complaints Committee arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the management that it be treated as a matter of misconduct in accordance with the disciplinary processes or service rules of the organization.
- It is understood that an aggrieved women's mere inability to substantiate a complaint, or provide adequate proof, will not automatically cause her complaint to be perceived in the wrong light. However, where the Complaints Committee arrives at a conclusion that the allegation against the respondent is malicious or the aggrieved woman or any other person making the complaint has made the complaint knowing it to be false or the aggrieved woman or any other person making the complaint or any witness has produced any forged or misleading document or given false evidence with malicious intent, it may recommend to the management, to take disciplinary action in accordance with the service rules of the organisation can be taken.
- It is important to mention the duties of the employer as in the Act since the entire responsibility is on the employer. In Chapter Six of the act the duties of the employer have been explicitly given. 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.*
 - b) *display at any conspicuous place in the workplace, the penal consequences of sexual harassments; and the order constituting, the Internal Committee under subsection (I) of section 4;*
 - c) *organise workshops and awareness programmes at regular intervals for sensitising 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;*
 - d) *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;*

- e) *assist in securing the attendance of respondent and witnesses before the Internal Committee or the Local Committee, as the case may be;*
 - f) *make available such information to the Internal Committee or the Local Committee, as the case may be, as it may require having regard to the complaint made under sub-section (1) of section 9;*
 - g) *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;*
 - h) *cause to initiate action, under the Indian Penal Code(45 of 1860) or any other law for the time being in force, against the perpetrator, or if the aggrieved woman so desires, where the perpetrator is not an employee, in the workplace at which the incident of sexual harassment took place;*
 - i) *treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct;*
 - j) *monitor the timely submission of reports by the Internal Committee.*
- In the scenario where the employer himself is the accused then complainant can approach the LCC.
 - Interim measures of relief to the complainant are also mentioned in the Act where the complainant can be transferred to another location of the workplace or given leave in addition to her entitlement. Also, there are provisions for compensation that can be awarded by the Complaints Committee.

It is evident that many recommendations made by the Justice Verma Committee have been taken into consideration and included in the Act. For instance, the inclusion of domestic workers and compensation to the complainant by the employer. However, a notable departure is that the Justice Verma Committee proposed for an Employment Tribunal to deal with complainants rather than an Internal Complaints Committee. While there are various associated pros and cons to this departure – the fact of the matter is that the legislation provides much needed certainty on the process and procedure to be adopted in SHW and strengthens the cause of women in the workplace.

CHAPTER-IV

Sexual Harassment at Workplace: A Case of Delhi/NCR

4.1 Introduction

Though, safety of women in the country is of utmost priority for the Government. The Government is endeavoring to put in place effective mechanisms to provide safe environment for women. Ministry of Women and Child Development has enacted the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 which cover all women, irrespective of their age or employment status and protect them against sexual harassment at all workplaces both in public and private sector, whether organized or unorganized.

4.2 Crime against Women in India and Delhi/NCR

India is committed to the welfare and development of its people in general and of vulnerable sections of society in particular. Equality of status and opportunity to all citizens of the country is guaranteed by the Constitution of India, which also provides that no individual shall be discriminated against on the grounds of religion, caste or sex, etc.

According to United Population Fund Report(2012) , around two-third of married Indian women are victims of domestic violence as many as 70 per cent of married women in India between the age group of 15 and 49 are victims of beating, rape or forced sex. In India more than 55 per cent of the women suffer from domestic violence, especially in the states of Bihar, UP, MP and other northern states. Following table 4.1 indicated that, a total of 2, 44,270 incidents of crime against women (both under IPC and SLL) were reported in the country during the year 2012 as compared to 2, 28,650 incidences in the year 2011.

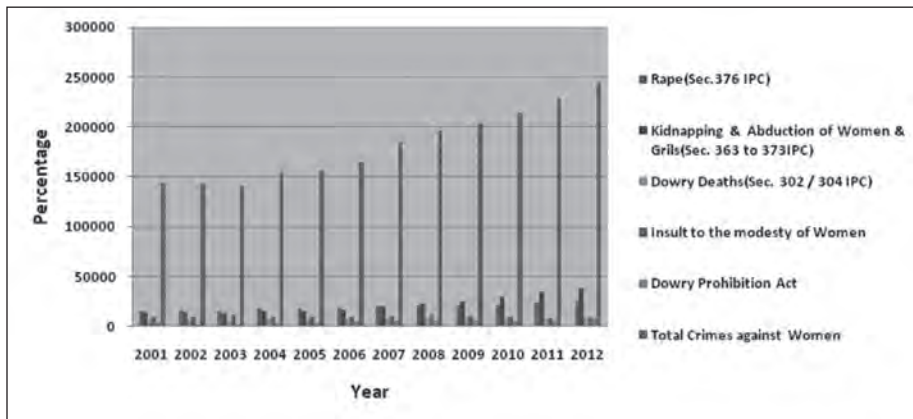
However, an increasing trend in cases of rape has been observed during 2007 - 2012. There were 2,442,70 total crimes against women in 2012 and out of that 24,923 reported rape cases in the country during the year 2012.

Table 4.1: Crimes Against Women in India during 2001-2012

CRIME	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Rape (Sec. 376 IPC)	16075	16373	15847	18233	18359	19348	20737	21467	21397	22172	24206	24923
Kidnapping & Abduction of Women & Girls(Sec. 363 to 373IPC)	14645	14506	13296	15578	15750	17414	20416	22939	25741	29795	35565	38262
Dowry Deaths (Sec. 302 / 304 IPC)	6851	6822	6208	7026	6787	7618	8093	8172	8383	8391	8618	8233
Insult to the modesty of Women	9746	10155	12325	10001	9984	9966	10950	12214	11009	9961	8570	9173
Dowry Prohibition Act	3222	2816	2684	3592	3204	4504	5623	5555	5650	5182	6619	9038
Total Crimes against Women	143795	143034	140601	154333	155553	164765	185312	195857	203804	213585	228650	244270

Source: National Crime Records Bureau Reports

Figure 4.1: Crimes against Women in India (2001-12)



Source: Table 4.1

4.3 Crime against women in Delhi/NCR

However, the number of cases registered for rape, assault on women with intends to outrage her modesty and insult to the modesty of Women

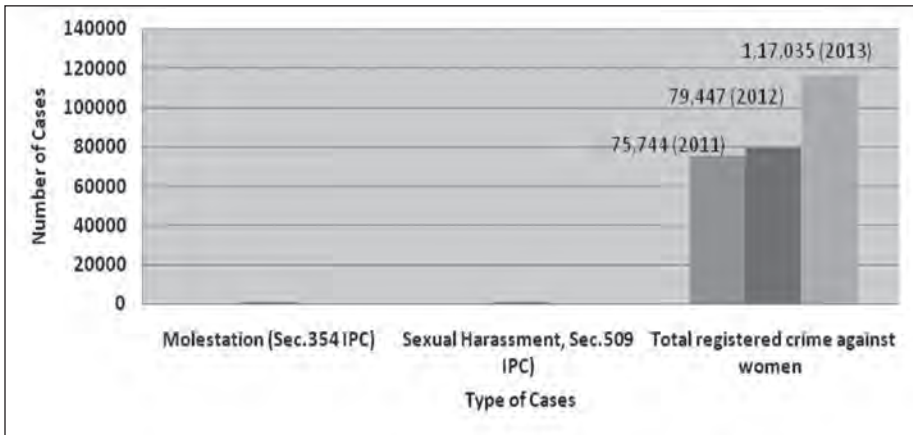
has shown an increasing trend between the years 2011-13. As per the provisional data of the National Crime Records Bureau (NCRB) which is available up to 2013(see table-2), the number of such cases registered in 2013 were 117035 in 2013, 79447 in 2012 and 75744 in 2011.

Table 4. 2: Incidents of Crime Against Women in Delhi/NCR (2011- 2013)

Year	Molestation (Sec. 354 IPC)	Sexual Harassment (Sec. 509 IPC)	Total registered crime against women
2011	572	657	75,744
2012	706	727	79,447
2013	804	554	1,17,035

Source: *The new Indian Express*, 23 January 2015, Rabita Islamic News Agency, March 13, 2015

Figure 4.2: Incidents of Crime against Women in Delhi/NCR (2011- 2013)



Source: Table 4.2

Given below are Protective legal provisions for women workers under various Acts:

Table 4.3: Employment of Women – Protective Legal Provisions

Name of the Act	Protective Provisions
1. The Beedi & Cigar Workers (Conditions of Employment) Act,1966	Provision of crèches for the benefit of women workers in the industrial premises wherein more than fifty female employees are ordinarily employed.
2. The Plantation Labour Act,1951	Provision of crèches in every plantation wherein fifty or more women workers (including women workers employed by any contractor) are employed or where the number of children of women workers (including women workers employed by any contractor) is twenty or more. Women workers are provided time off for feeding children.
3. The Contract Labour (Regulation & Abolition) Act,1970	Provision of crèches where twenty or more women are ordinarily employed as contract labour. Female contract labour to be employed by any contractor between 6.00 AM to & 7.00 PM with the exception of mid-wives and nurses in hospitals and dispensaries.
4. The Inter State Migrant Workmen (Regulation of Employment & Conditions of Service) Act,1979	Provision of crèches for the benefit of women workers in establishments wherein twenty or more women are ordinarily employed as migrant workers and in which employment of migrant workers is likely to continue for three months or more.
5. Factories Act,1948	Provision of crèches in every factory wherein more than thirty women workers are ordinarily employed. Employment of women in factory is prohibited except between the hours of 6.00 A.M. to 7.00 P.M. However, in exceptional circumstances, employment of women is permitted up to 10.00 P.M. Employment of women is also prohibited in certain factories involving dangerous manufacturing process or operations.

6. The Mines Act,1952	Employment in mines below ground prohibited and in any mine above ground except between the hours of 6 am and 7 pm however no employment of women between 10 pm and 5 am is permitted. Further, women employed aboveground shall have rest period not less than eleven hours. Provision of separate toilets and washing facilities for women workers.
7. Maternity Benefit Act,1961	<p>Maternity benefits to be provided on completion of 80 days working.</p> <p>Not required to work during six weeks immediately following the day of delivery or miscarriage. No work of arduous nature, long hours of standing likely to interfere with pregnancy/normal development of fetus or which may cause miscarriage or is likely to affect health to be given for a period of six months immediately preceding the period of one week before delivery. On medical certificate, advance maternity benefit to be allowed.</p> <p>Rs.250/- as Medical bonus to be given when no prenatal confinement and post natal care is provided free of charge.</p>
8. Equal Remuneration Act,1976	<p>Payment of equal remuneration to men and women workers for same or similar nature of work protected under the Act.</p> <p>No discrimination is permissible in recruitment and service conditions except where employment of women is prohibited or restricted by or under any law.</p>
9. Employee's State Insurance (General) Regulation,1950	<p>Claim for maternity benefit becomes due on the date medical certificate is issued for miscarriage, sickness arising out of pregnancy, confinement or premature birth of child.</p> <p>Claim for maternity benefit becomes due on (General Regulation 1950) the date medical certificate issued for miscarriage, sickness arising out of pregnancy, confinement or premature birth of child.</p>
10. Industrial Employment (Standing Orders) Act,1946	Provision regarding safeguards against sexual harassment of women workers at their work places.

4.4 Reported Cases on Sexual Harassment at work place

Incidents of sexual harassment at the workplace can be explained in depth and substantiated with the help of sexual harassment cases reported in national newspapers. They describe and depict both in vivid and vivid manner not only the employer's response to complaints but also the consequences faced by the complainant.

Some of the case reported are presented from both public and private service organizations. In many of the cases the harassment is by a higher official against a woman official of a lower rank. The cases also highlight the absence of an effective redressed system to handle such issues. In most cases the victim is harassed for a period of time before she seeks help.

CASE 1: In 2015, Mrs. Y, an employee at the state electricity department in Panaji, Goa, accused her colleague, assistant engineer Mr. X, of sexually harassing her at the workplace. In her complaint at the women police station, Mrs. Y stated that since April 10 of 2015, Mr. X had been making sexual advances towards her and was sexually harassing her. She also said that "he has been touching me, demanding sexual favours and passing sexually-coloured remarks against me."

Mr. X was the boss of Mrs. Y, and since April 10, his behaviour towards her changed completely. He befriended her husband and visited her residence. On one occasion, he molested her, she stated. With the harassment persisting, she said she was forced to file a complaint. She also stated that she has recordings all of his telephone conversations and lewd SMSs on her phone to prove his guilt.

Mrs. Y is in her thirties, while Mr. X is 60 years old and due to retire in the month of May, 2015.

Women police station had registered the case under Section 354 (outrage modesty) and 354 (A) (sexual harassment) of the Indian Penal Code (IPC). On May 21, Mr. X was granted anticipatory bail when the offence was first registered.

CASE 2: X, an air hostess trainee with a popular Indian airline accused her associate trainee Y of sexual harassment and molestation in May 2015. X was allegedly harassed and molested on two occasions in the course of their training period. The police have charged Y with section 354 of IPC. The victim also accused the airline company of handling her grievance which she brought to their notice with apathy, while also dissuading her from filing a written complaint she wanted to submit. The airline refuted

the victim's accusations. X was also threatened that she would face suspension if she pursued the case.

CASE 3: The police in Chandigarh have reported that Mr. X, chief administrator, and Mr. Z, the principal, of a school in Rohtak, have been booked for making sexual advances towards Mrs. Y, a teacher employed in the school.

According to police, Mrs. Y has alleged in her complaint that Mr. X and Mr. Z had been making sexual advances towards her on different occasions in the school. She said that the duo repeated the same behaviour this month also and when she objected, they allegedly threatened her with dire consequences. The school is owned by a private charitable trust.

On May 23, 2015, the police registered a case of outraging the modesty of a woman against Mr. X and Mr. Z, and investigation has begun.

CASE 4: X, a 20-year old student of a reputed private university filed a complaint on 11 April 2015 in a police station against three students of the same college alleging that she had been raped and molested by them for over two years since August 2013. The three accused threatened and blackmailed X that they would leak her nude photographs. X being scared of the consequences didn't complain earlier and was forced into having sex with the accused students for a period of two years. The main accused forced the girl to have sex even with his friends. Before reaching to the police, the girl narrated her ordeal in front of prevention of sexual harassment committee which has been set up by the University authorities as a measure to prevent such acts. One of the accused was expelled and four others were suspended. The three accused are now in judicial custody.

CASE 5: Mr. X, a Director- General of a reputed Institution was accused of sexual harassment by a women employee (Research Associate) for more than two years. The woman had submitted her complaint to the police on February 13th after approaching the institute on February 9th 2015. According to the FIR, the women claimed that she had been fending off "repeated and constant requests to have romantic and physical relations with Mr. X" ever since she joined in September 2013. The police booked Mr. X on charges of molestation, stalking, sexual harassment (Sections 354,354A, 354D of IPC) and criminal intimidation (Section 506 of IPC). The focus also shifted to the institute's observance of the Sexual Harassment of Women at Workplace Act, 2013 in handling the case through its Internal Complaints Committee. After some discussion of this case, Mr. X proceeded on leave from the charge of Director-General of the Institute and resigned as the chairperson of the International Body on 24th February 2015.

CASE 6: A former senior executive X (based in USA) filed a sexual harassment allegation against her company's legal head (based in Bangalore). The complainant alleged that the organisation took no action when she complained against inappropriate sexual behavior by Y in 2013. X reported that she was harassed twice: once when person Y visited the USA in April 2012 and again in September when Y came to India for official work. Finally, the company confirmed that the case had been filed and made a statement saying that, "We have completed a thorough investigation into this claim, and have found that it is unequivocally without merit. We intend to vigorously defend this action. We have a zero tolerance policy on harassment of any kind, and are committed to maintaining a caring and nurturing workplace". The case was settled out of court.

CASE 7: A student of management studies at the reputed University filed a sexual harassment case against her professor. On January 30, 2015, the student had lodged a complaint against the professor at a police station alleging that he tried to harass her sexually after which the university administration suspended the professor. However, on the complaint of the girl student an FIR was registered on January 30 under section 354(A) (Sexual Harassment and Punishment for Sexual Harassment) of IPC against the professor and an investigation into the matter is still on.

CASE 8: In Udaipur, Mrs. Y, a 45-year-old staff nurse posted at the research centre of the government Ayurvedic College, complained that she had been facing harassment at the hands of Mr. X, principal of the college for more than one and a half years.

The complaint said the principal made obscene gestures, sent vulgar messages and transferred the nurse when she strongly objected to his advances. A district committee empowered to hear such complaints has submitted its report finding the charges to be true. Mrs. Y has claimed that Mr. X is a man of low morals, and was in the habit of making nasty remarks on her appearance. He used to visit her department often and asked her for a body massage.

Tired of the continuous harassment, Mrs. Y registered her case with the district complaint committee for prevention of sexual harassment of women at workplace in January, 2015.

CASE 9: A well known religious personality Y has been accused of sexual harassing X. The case was registered after the victim's daughter had filed a complaint against Y seeking police action. However, the representative of Y contended that the complaint was a "false" one and it was a ploy to tarnish the image of the religious personality in question. The counsel of Y

also sought a stay on the criminal proceedings against the religious leader. Hence, the state public prosecutor argued that the police had already questioned the victim, who gave a statement that the Mr. Y had been sexually harassing her since 2010. Matter is being pursued as per the law.

CASE 10: Judge X was suspended after being accused for sexual harassment charge at workplace. A departmental inquiry was initiated against him following a preliminary inquiry. Preliminary inquiry was conducted and Mr. X was suspended after substance was found in the complaint. Some of other women staff also reported reiterated instances of inappropriate behavior against him during the preliminary inquiry.

CASE 11: An additional District and Session's judge quit her job after accusing her colleague, a judge of the high court of sexual harassment. The complaint narrates an incident in February 2014 where at the marriage ceremony of a judicial officer, the high court judge had allegedly told her in the presence of her 16 year old daughter that her work was excellent but "you are more beautiful than your work".

CASE 12: In this case two gym instructors have been charged with the rape of a six year old student in the school premises. The chairperson of the school has also been charge sheeted for withholding information related to the case.

CASE 13: In October 2013, a woman was sexually harassed for eight years by Mr. X (Media Head) after the National Commission for Women (NCW) established that the girl was terrified of going public against a top official, but when she did, she was handed out a transfer of X from one media house to other. Finally, the accused was shielded by the top management citing staff shortage.

CASE 14: In this case, Mr.X and Mr.Y harassed a media presenter. Action was taken after the Association moved to the Delhi High Court which pulled up the government for lack of seriousness on the Vishakha guidelines. In its affidavit, the government admitted that cases of harassment had taken place at the organization and redress mechanisms had been put in place.

CASE 15: X, a laboratory assistant died in the year 2003 after setting herself ablaze outside the Delhi Secretariat. X had long been alleging harassment at the hands of the principal of the college. She even complained to the then Delhi Chief Minister before resorting to the extreme step. An NCW probe into the matter, however, gave a clean chit to the principal, saying her last letters didn't mention sexual harassment.

CASE 16: The editor-in-chief of a leading magazine has been accused of sexual assault by his fellow colleague. The victim was allegedly assaulted

by the accused while she was fulfilling her official work duties in November 2013. The media house in question did not have an internal complaints committee (ICC) in place. An ICC was constituted only after the incident had taken place. The editor-in-chief has been charged with Section 375 of the IPC (rape) and Section 354 IPC which ranges from outraging the modesty of a woman to “assaults with an intention to disrobe a woman”. The accused is currently out on bail and the case is heading towards its close.

CASE 17: In 1973, a nurse was brutally attacked and raped by a ward boy who worked at the same hospital. The nurse was first attacked with a dog chain and then raped by the ward boy in the premises of the hospital. This horrific assault left the nurse in a vegetative state for about 42 years before she passed away. Sadly, the police only charged the accused with robbery as he had stolen her belongings. The ward boy was not charged with rape since he had penetrated her anally.

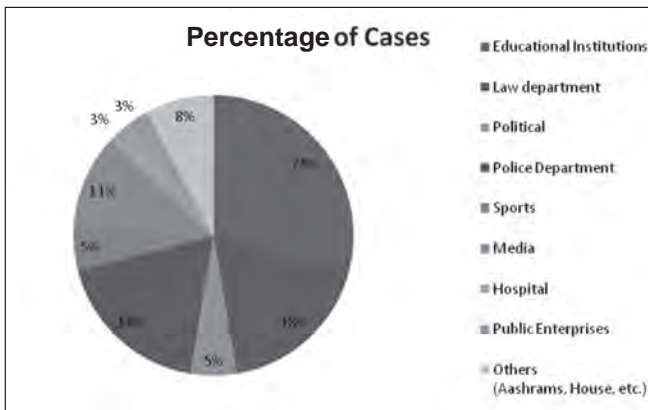
CASE 18: In 1973, when Mrs. Y, secretary to Mr. X, a Minister protested against his abuse of girls in welfare institutions, he attempted to molest her; and followed by dismissing her. In 1995, the Supreme Court passed a judgment in her favor, with back pay and perks from the date of dismissal.

Following table shows department wise cases published in the news papers for further implementation of the Act:

Table 4.4: Reported Cases in Various Organisations of India During 2011-15

Organisations	Number of Cases
Educational Institutions	11
Law Department	7
Political	2
Police Department	7
Sports	2
Media	4
Hospital	1
Public Enterprises	1
Others (Aashrams, House, etc.)	3
Total	38

Source: News Papers Review

Figure 4.3: Percentage of Cases Pertaining to Sexual Harassment

Source: Table 4.4

Interaction with PRO of the Indian Air Force on the Status of Internal Complaints Committee

Indian Air Force - Based on Telephonic conversations

The Officer said that in the Indian Air Force lady officers and gentleman officers are considered at par. Any kind of harassment for either sex is not tolerated. A code of inquiry is set up where members of both genders are in the team. They delve into the entirety of the case and give recommendations.

The accused, if found guilty, is sent for Court Marshall. A judgment is given, which is stringent than the ones given by Civil Courts while being legally binding. It may result in the loss of rank, dismissal from service and so on.

The officer said that there are no sexual harassment committees in the Air Force. He was unaware that it is mandatory for the Armed Forces to set up such committees.

He was sent an email by the Centre wherein a copy of the Law against Sexual Harassment/ Rules and Notification was attached. The officer called up later to say that he was not aware of the fact that the Indian Air Force was already in the process of the setting of the Internal Complaints Committees. He had consulted the Legal department after which he came to know that ICCs had already been set up at the Air Force Headquarters', Command Headquarters' and at 70-80 % of the Air Force Stations. The Committees were formed in accordance with the prescribed guidelines.

About writing a formal response to the mail, he specified that he would have to follow a long procedure and that it would take a lot of time. He added that this wouldn't be the issue of priority. When asked if the Committees have been set up as per the Act of December 2013, he said he needs to verify this.

CHAPTER-V

Factors Affecting Sexual Harassment at Work Place

The present chapter provides insight of the respondent on sexual harassment at Workplace. As mentioned in chapter one the interviews were conducted in male and female dominated industries of Delhi, Faridabad, Gurgaon, Noida, Ghaziabad & Greater Noida region. Sample of 600 was taken, 300 each for employer and employees respectively.

Employees Frequency

Sexual harassment at work place is not only a women issue, but also an important labour issue. Information provided below illustrates the respondent's responses on this imperative issue.

5.1 Age Group

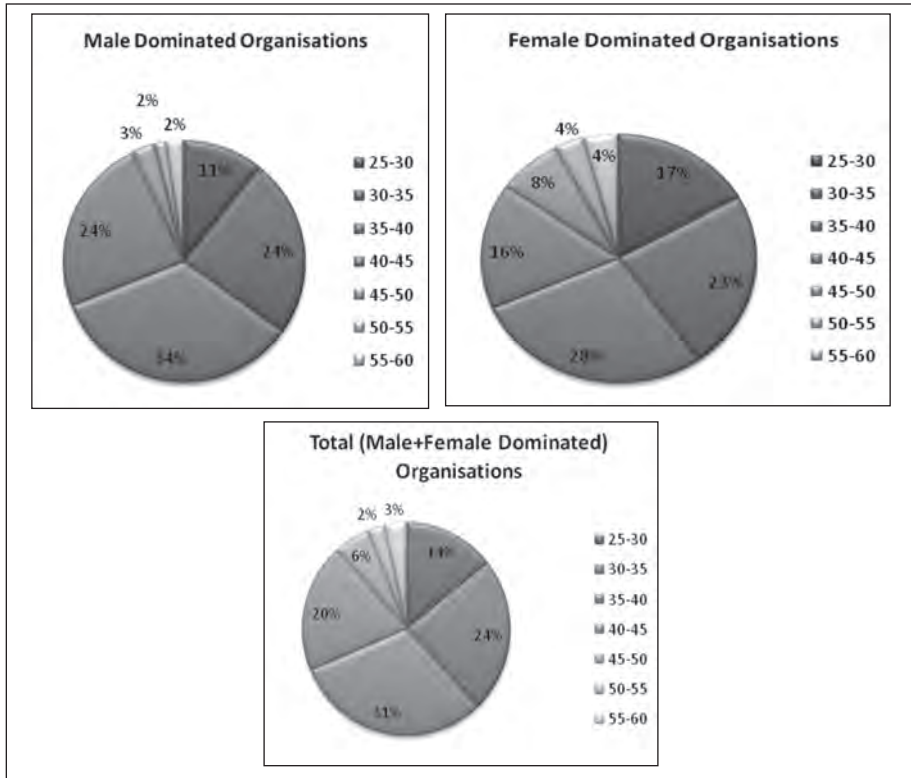
It can be analysed from table 5.1 that Maximum respondents were from the age group of 35-40 years.

Table 5.1: Age Group of the Respondents

Age Group of the Employees	Male Dominated Organisations	Female Dominated Organisations	Total (Male+Female Dominated) Organisations
25-30	14 (10.85%)	29 (16.95%)	43 (14.33%)
30-35	31 (24.03%)	40 (23.39%)	71 (23.6%)
35-40	44 (34.1%)	48 (28.0%)	92 (30.6%)
40-45	31 (24.03%)	28 (16.37%)	59 (19.6%)
45-50	4 (3.10%)	13 (7.6%)	17 (5.6%)
50-55	2 (1.55%)	6 (3.5%)	8 (2.66%)
55-60	3 (2.32%)	7 (4.09%)	10 (3.33%)
Total	129 (100.0)	171 (100.0)	300 (100.0)

Source: Field Work

Figure 5.1: Age Group of the Respondents



Source: Table 5.1

5.2 Marital Status

As seen from the following table, 89.7 % of the respondents were married while 10.3 % were unmarried.

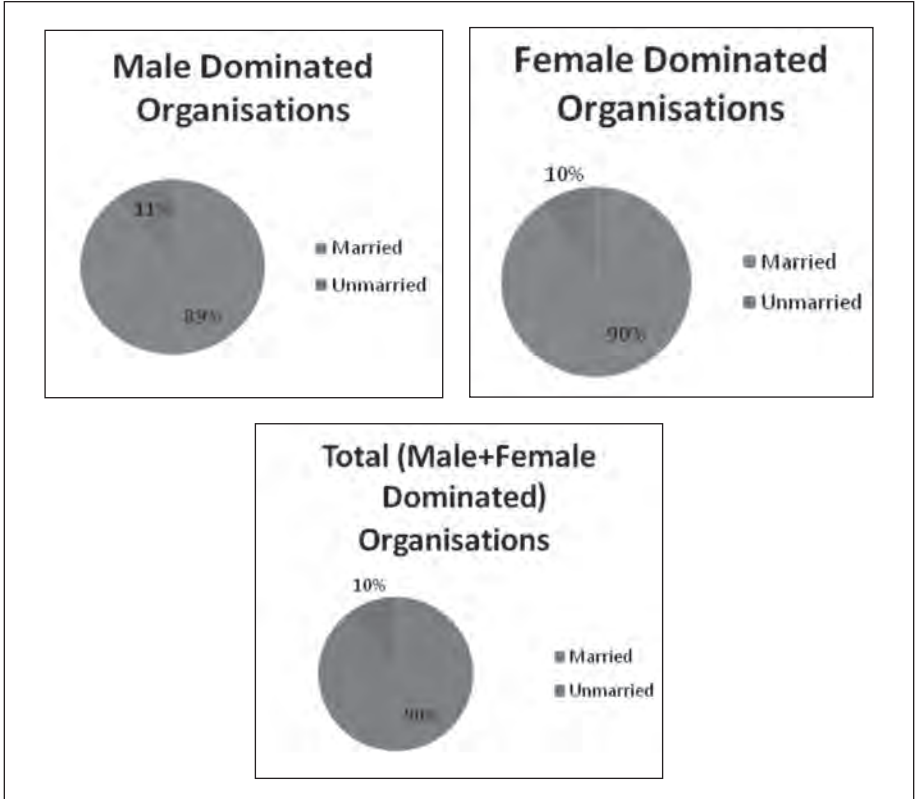
Table 5.2: Marital Status of Respondents

Marital Status	Male Dominated Organisations	Female Dominated Organisations	Total (Male+Female Dominated) Organisations
Married	115 (89.1%)	154 (90.1%)	269 (89.7%)
Unmarried	14 (10.9%)	17 (9.9%)	31 (10.3%)
Total	129 (100.0%)	171 (100.0%)	300 (100.0%)

Source: Field Work

Reporting of sexual harassment at workplace was comparatively low in the case of male dominated industries. The main reason reported for such a situation was that flirting with married women was safe from the view point of perpetrators as married women tolerate such instance to protect their social status and marriage and also because reporting in such case has negative effect on family and children in particular. Just to maintain work life balance and stigma attached with such cases, women in absence of moral support from family prefer not to report such cases.

Figure 5.2: Marital Status of Respondents



Source: Table 5.2

5.3 Educational Status

Table 5.3 illustrates that 68.3% of respondent were postgraduate and above, 31.7% of respondent were graduate. It is therefore very clear that a larger majority of respondents reporting sexual harassment at workplace were highly educated. Same trend was observed in female dominated organisations, wherein 70.8 %of the respondents were post graduate&

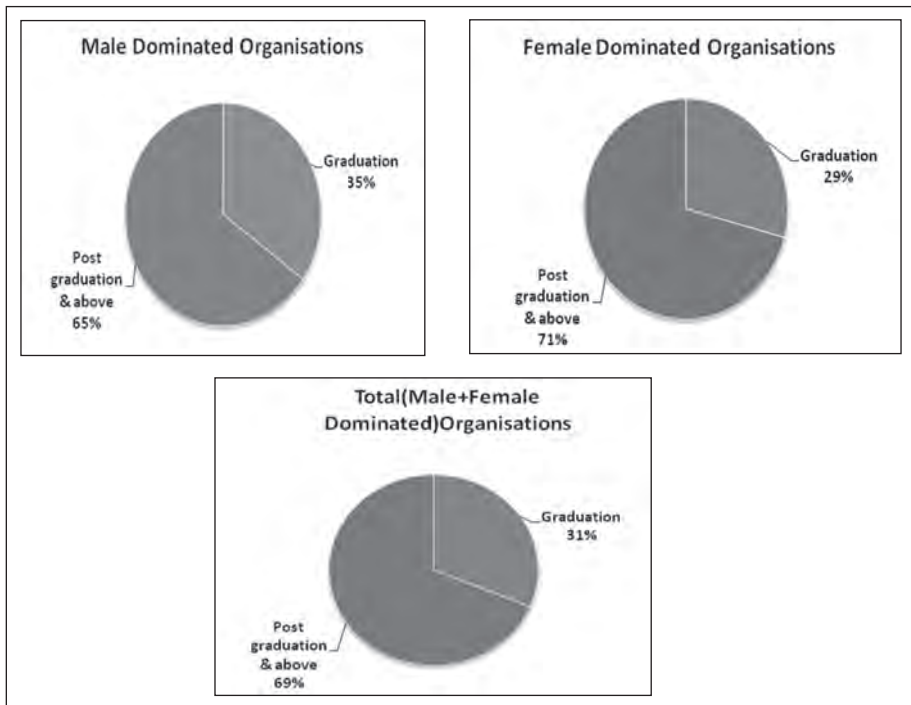
above and 29.2 % were Graduate. While in case of male dominated organization 34.9% of the respondents were graduate and 65.1% were post graduate. This contradicts general contention that women with lower educational status run a higher risk of sexual harassment at workplace. We can also say that the reporting is higher among highly qualified women compare to less qualified women.

Table 5.3: Educational Status of Respondents

Educational Status	Male Dominated Organisations	Female Dominated Organisations	Total (Male+Female Dominated) Organisations
Graduation	45 (34.9%)	50 (29.2%)	95 (31.7%)
Post-Graduation and Above	84 (65.1%)	121 (70.8%)	205 (68.3%)
Total	129 (100.0%)	171 (100.0%)	300 (100.0%)

Source: Field Work

Figure 5.3: Educational Status of Respondents



Source: Table 5.3

5.4 Social Group

The data presented in table 5.4 reveals that 95.0% respondents were from other social group, 2.3% were from OBC group and 1.7% from SC group and 1.0% were from ST group. Reporting in male dominated industries was less compared to female dominated industries. This contradicts the general view that women don't report because women don't support other women.

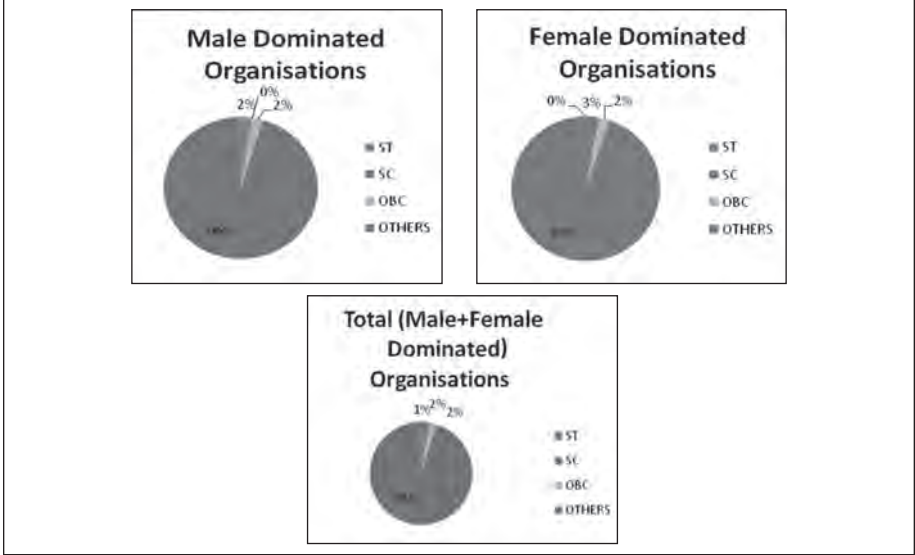
Table 5.4: Social Group

Social Group	Male Dominated Organisations	Female Dominated Organisations	Total (Male+Female Dominated) Organisations
ST	3 (2.3%)	0 (0.00%)	3 (1.0%)
SC	0 (0.00%)	5 (2.9%)	5 (1.7%)
OBC	3 (2.3%)	4 (2.3%)	7 (2.3%)
OTHERS	123 (95.3%)	162 (94.7%)	285 (95.0%)
Total	129 (100.0%)	171 (100.0%)	300 (100.0%)

Source: Field Work

Representation of more population in others group provides voice to the women to report the case. Low percentage of reporting among SC, ST, and OBC women shows that marginalized status further effects the reporting of the cases. Women from weaker sections avoid further vulnerabilities attached to reporting the case pertaining to Sexual Harassment.

Figure 5.4: Social Group



Source: Table 5.4

5.5 Place of Migration

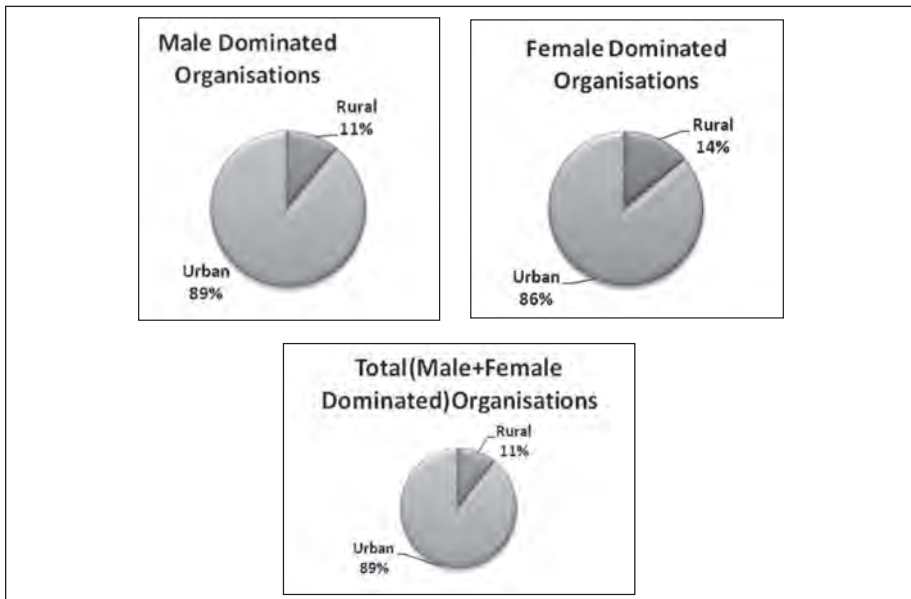
Table 5.5 provides information pertaining to migration. It was revealed that approximately 89.3% of the respondents from urban areas had been sexually harassed at the workplace. While in the case of rural respondents reporting was only 10.7%. 86 % of respondent were harassed in the case of female dominated organisations compared to 89.1% of the respondent in male dominated organisations from in urban areas. This indicates that the incidence and extent of sexual harassment was more among respondents from urban Areas. This also means women from urban area were more confident in reporting the cases compare to women from rural area.

Table 5.5: Place of Migration

Place of Migration	Male Dominated Organisations	Female Dominated Organisations	Total (Male+Female Dominated) Organisations
Rural	14 (10.9%)	12 (14.0%)	26 (10.7%)
Urban	115 (89.1%)	159 (86.0%)	274 (89.3%)
Total	129 (100.0%)	171 (100.0%)	300 (100.0%)

Source: Field Work

Figure 5.5: Place of Migration



Source: Table 5.5

5.6 Types of Sexual Harassment Cases at Workplace Prior to the Enactment of Sexual Harassment Act

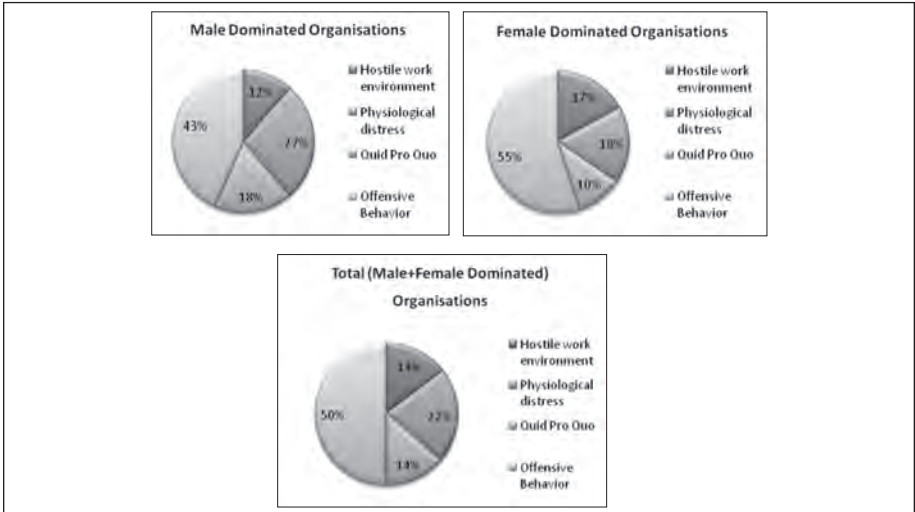
The table below reveals cases of sexual harassment in the organization prior to the enactment of the Act. Offensive behavior was considered to be an important issue effecting maximum women followed by psychological distress, quid pro quo and hostile working environment.

Table 5.6: Types of Sexual Harassment Cases at Workplace Prior to the Enactment of Sexual Harassment Act

Types of Sexual Harassment cases in Organisation	Male Dominated Organisations	Female Dominated Organisations	Total (Male+Female Dominated) Organisations
Hostile work environment	15 (11.62%)	29 (16.95%)	44 (14.66%)
Physiological distress	35 (27.13%)	30 (17.54%)	65 (21.66%)
Quid Pro Quo	23 (17.82%)	18 (10.52%)	41 (13.66%)
Offensive Behavior	56 (43.41%)	94 (54.97%)	150 (50%)
Total	129 (100.0%)	171 (100.0%)	300 (100.0%)

Source: Field Work

Figure 5.6: Types of Sexual Harassment Cases at Workplace Prior to the Enactment of Sexual Harassment Act



Source: Table 5.6

5.7 Types of Sexual Harassment Cases at Workplace Post Enactment of Sexual Harassment Act

The table 5.7 reveals cases of sexual harassment behaviours in the organization post enactment of the Act.

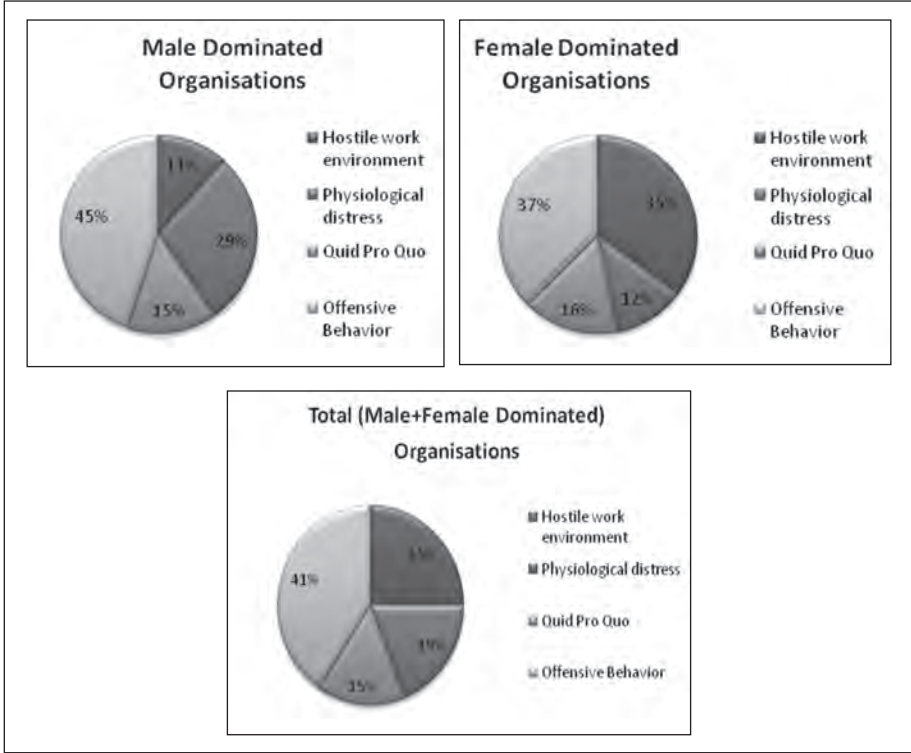
This reflects types of behaviours post enactment of the Act. Offensive behaviour was maximum followed by hostile work environment. This was mainly because women find reporting very awkward as management and committee members are often not sensitive towards these issues. Women have apprehension that reporting will makes life more difficult for them.

Table 5.7: Types of Sexual Harassment Cases at Workplace Post Enactment of Sexual Harassment Act

Types of Sexual Harassment cases in Organisation	Male Dominated Organisations	Female Dominated Organisations	Total (Male+Female Dominated) Organisations
Hostile work environment	15 (11.62%)	60 (35.08%)	75 (25%)
Physiological distress	37 (28.68%)	20 (11.69%)	57 (19%)
Quid Pro Quo	19 (14.72%)	27 (15.78%)	46 (15.33%)
Offensive Behavior	58 (44.96%)	64 (37.42%)	122 (40.66%)
Total	129 (100.0%)	171 (100.0%)	300 (100.0%)

Source: Field Work

Figure 5.7: Types of Sexual Harassment Cases at Workplace Post Enactment of Sexual Harassment Act



Source: Table 5.7

Employers Frequency

The present section provides information on employers perspective on Sexual Harassment.

5.8 Categories of Employment

The employers and the senior members of management team are expected to know the nature of unwelcome sexual behaviour of a male employee that results in sexual harassment of women at work place. The following table indicates nature of employment of the employees in the organization i.e. permanent, contract, Adhoc and daily wages.

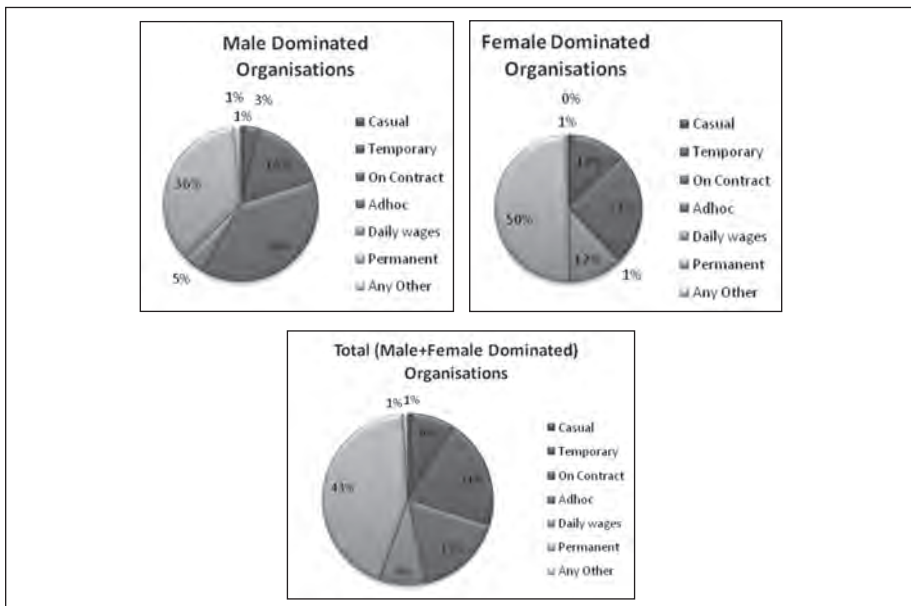
From the following table it is observed that Percentages of permanent employees were relatively more in case of women dominated organization compare to male dominated organizations.

Table 5.8: Categories of Employment

Categories of Employment	Male Dominated Organisations	Female Dominated Organisations	Total (Male+Female Dominated) Organisations
Casual	1 (0.77%)	1 (0.58%)	2 (0.66%)
Temporary	4 (3.1%)	21 (12.28%)	25 (8.33%)
On Contract	21 (16.27%)	42 (24.56%)	63 (21%)
Adhoc	49 (37.98%)	1 (0.58%)	50 (16.66%)
Daily wages	6 (4.65%)	20 (11.69%)	26 (8.66%)
Permanent	46 (35.65%)	85 (49.70%)	131 (43.66%)
Any Other	2 (1.55%)	1 (0.58%)	3 (1%)
Total	129 (100.0%)	171 (100.0%)	300 (100.0%)

Source: Field Work

Figure 5.8: Categories of Employment



Source: Table 5.8

5.9 Awareness on Legislations Pertaining to Women

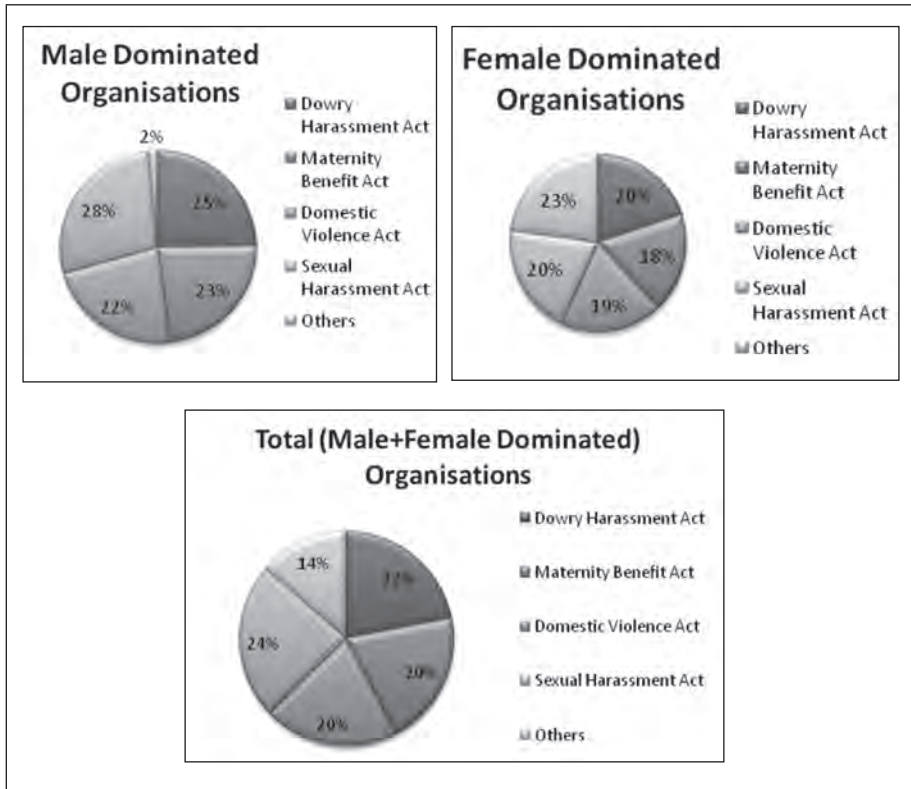
Majority of the employers were aware of legislations pertaining to women workers at their organisation. From the following table it can be revealed that 23.66 per cent of respondents were aware of the legislation on Sexual Harassment Act, followed by 22 per cent of the employers know about Dowry Harassment Act, 20.33 per cent of the employers know about the law of Maternity benefit Act, 20.33 per cent were aware about legislation on Domestic Violence Act. However, compared to female dominated organizations, male dominated organization were more aware about the women related legislations. Among all the legislations pertaining to women, awareness on Sexual Harassment Act was found to be highest.

Table 5.9: Women related legislations

Women Related Legislations	Male Dominated Organisations	Female Dominated Organisations	Total (Male+Female Dominated) Organisations
Dowry Harassment Act	32 (24.8%)	34 (19.88%)	66 (22%)
Maternity Benefit Act	30 (23.25%)	31 (18.12%)	61 (20.33%)
Domestic Violence Act	29 (22.48%)	32 (18.71%)	61 (20.33%)
Sexual Harassment Act	36 (27.90%)	35 (20.46%)	71 (23.66%)
Others	2 (1.55%)	39 (22.80%)	41 (13.66%)
Total	129 (100.0%)	171 (100.0%)	300 (100.0%)

Source: Field Work

Figure 5.9: Women related legislations



Source: Table 5.9

5.10 Vishaka Guidelines Issued by Honorable Supreme Court

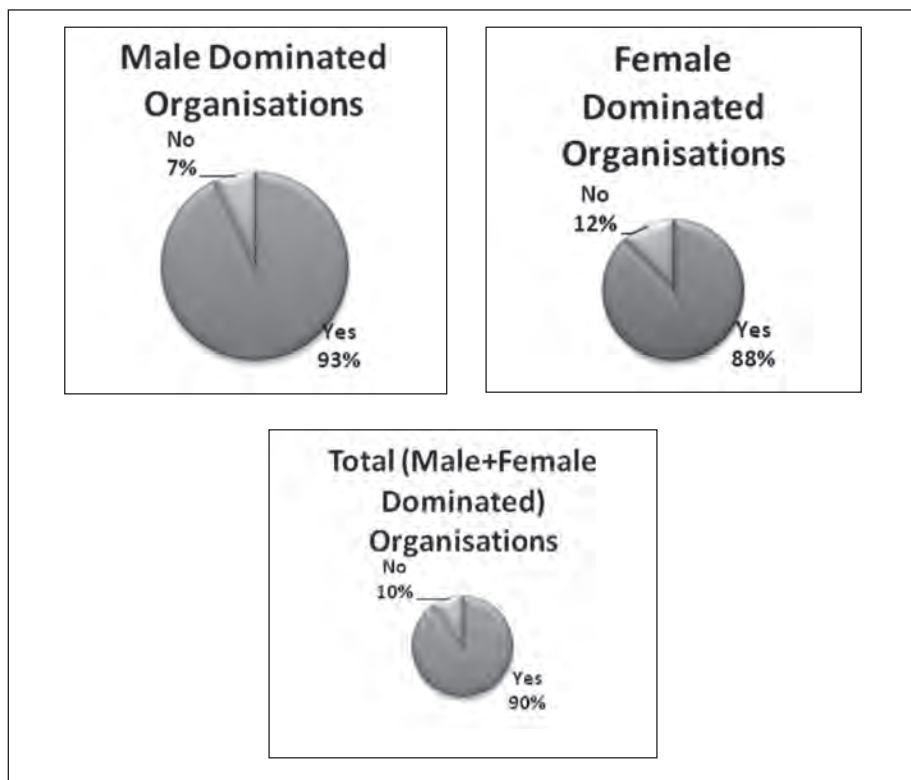
The following table-5.10 shows that a majority of the employers i.e. 90 percent knows that the Supreme Court of India issued Vishaka Guidelines. The remaining 10 percent employers were ignorant about these Guidelines. It clearly means that the Notification Authority is yet to strictly issue directive to all the establishments in NCR and other all organization in India. Those employers who were aware of the Supreme Court decision to follow guidelines in connection with sexual harassment at work place were asked as to whether they had constituted a committee to deal with the complaints of sexual harassment. The responses from the employers are given in the following table:

Table 5.10: Awareness on Vishaka Guidelines issued by the SC of India

Scale	Male Dominated Organisations	Female Dominated Organisations	Total (Male+Female Dominated) Organisations
Yes	120 (93.0%)	150 (87.7%)	270 (90%)
No	9 (7.0%)	21 (12.3%)	30 (10%)
Total	129 (100.0%)	171 (100.0%)	300 (100.0%)

Source: Field Work

Figure 5.10: Awareness on Vishaka Guidelines Issued by the SC of India



Source: Table 5.10

5.11 Awareness on sexual harassment Vs. reporting of sexual harassment cases

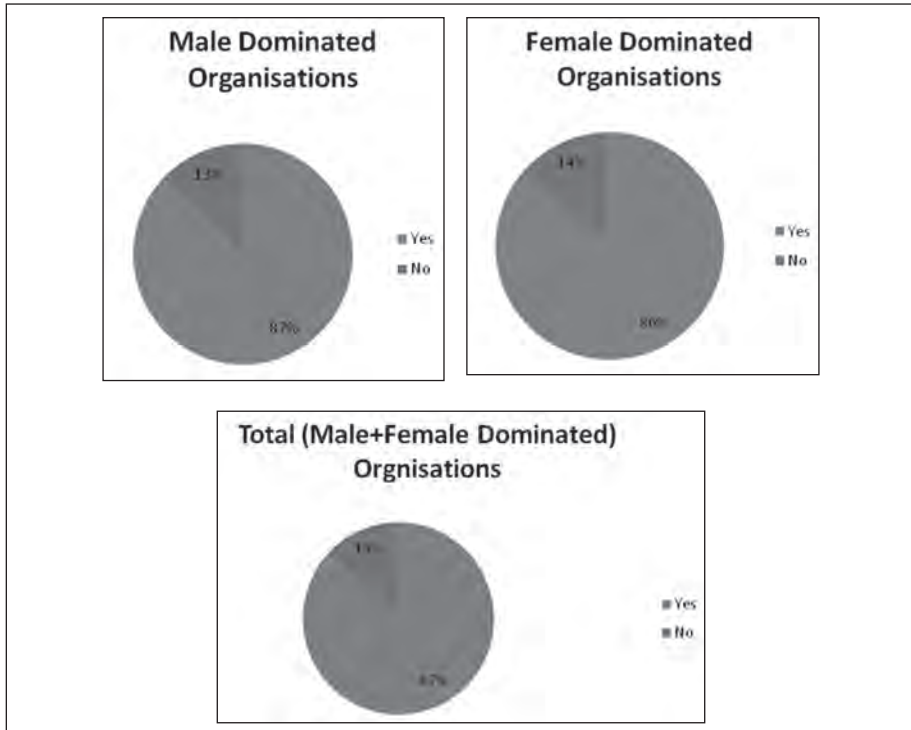
Table 5.11 shows relationship between Awareness on Sexual Harassment and reporting of Sexual Harassment Case. The organization where regular Sexual Harassment awareness programmes are conducted reporting of Sexual Harassment cases in such organization is high.

Table 5.11: Relationship between Awareness on Sexual Harassment & Reporting of Sexual Harassment

Scale	Male Dominated Organisations	Female Dominated Organisations	Total (Male+Female Dominated) Organisations
Yes	112 (86.8%)	147 (86.0%)	259 (86.3%)
No	17 (13.2%)	24 (14.0%)	41 (13.6%)
Total	129 (100.0%)	171 (100.0%)	300 (100.0%)

Source: Field Work

Figure 5.11: Relationship between Awareness on Sexual Harassment & Reporting of Sexual Harassment



Source: Table 5.11

5.12 Sexual Harassment Policy

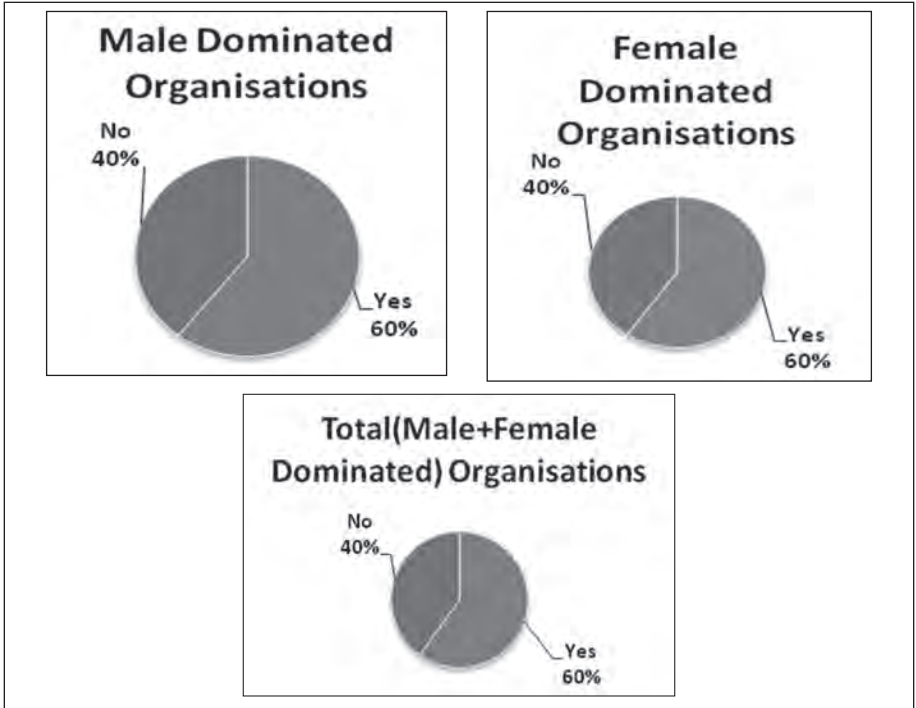
Table 5.12 depicts that in 60 percent of the establishments Sexual Harassment Policy was formulated for processing the complaints of Sexual Harassment but not even a single complaint was forwarded to these Committees. On interrogation it was disclosed that there had been some complaints but the same were settled by the management at their level. 60.5% Male dominated organization had Sexual Harassment Policy, compare to female dominated organizations (i.e., 59.6 per cent).

Table 5.12 : Constitution of the Sexual Harassment Policy

Scale	Male Dominated Organisations	Female Dominated Organisations	Total (Male+Female Dominated) Organisations
Yes	78 (60.5%)	102 (59.6%)	180 (60%)
No	51 (39.5%)	69 (40.4%)	120 (40%)
Total	129 (100.0%)	171 (100.0%)	300 (100.0%)

Source: Field Work

Figure 5.12 Constitution of the Sexual Harassment Policy



Source: Table 5.12

5.13 Constitution of Internal Complaints Committee

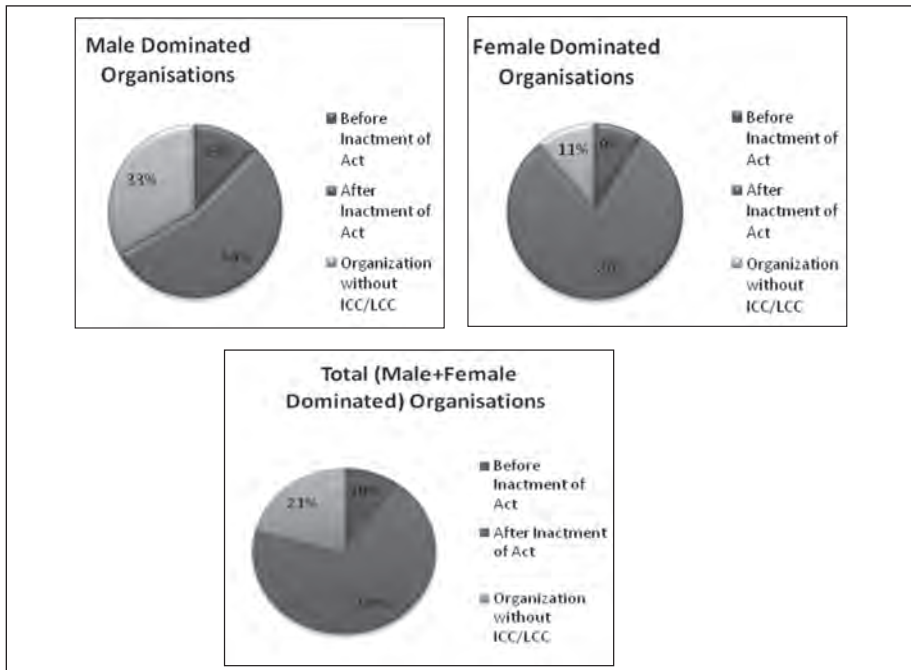
It can be seen from the table 5.13 that 69 per cent of the organizations constituted the Internal Complaints Committee after enactment of Act. Only 10 per cent of the organizations constituted the Internal Complaints Committee before enactment of Act. It is indicated that most of the organization constituted Internal Complaints Committee after enactment of Act in 2013. In female dominated organisations, 80 per cent of the organizations constituted the Committee after Enactment of the Act.

Table 5.13: Constitution of Internal Complaints Committee

Internal Complaints Committee	Male Dominated Organisations	Female Dominated Organisations	Total (Male+Female Dominated) Organisations
Before Enactment of Act	16 (12.40%)	15 (8.77%)	31 (10.33%)
After Enactment of Act	70 (54.26%)	137 (80.11%)	207 (69%)
Organization Without ICC/LCC	43 (33.33%)	19 (11.11%)	62 (20.66%)
Total	129 (100.0%)	171 (100.0%)	300 (100.0%)

Source: Field Work

Figure: 5.13: Constitution of Internal Complaints Committee



Source: Table 5.13

5.14 Circulation of Sexual harassment policy

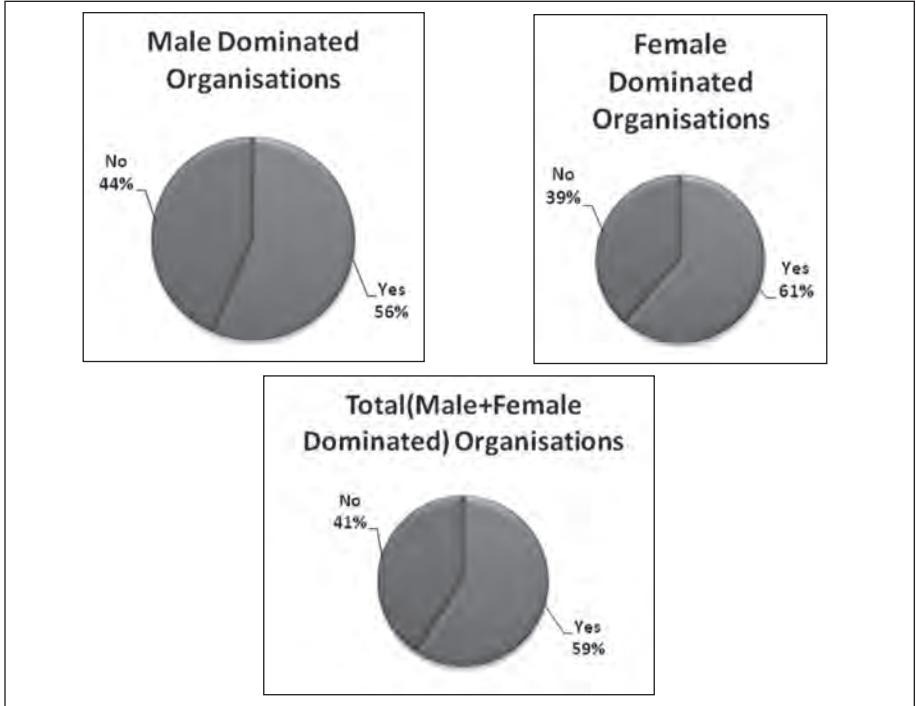
The data presented in the table 5.14 clearly illustrates that 59.3% of organisation had circulated the sexual harassment policy while 40.7 percent of the organizations did not circulated sexual harassment policy. 56.6 per cent of the male dominated organization circulated sexual harassment policy in their organization compared to 61.4 percent in female dominated organizations.

Table 5.14 : Circulation of Sexual Harassment Policy among Employees

Scale	Male Dominated Organisations	Female Dominated Organisations	Total (Male+Female Dominated) Organisations
Yes	73 (56.6%)	105 (61.4%)	178 (59.3%)
No	56 (43.4%)	66 (38.6%)	122 (40.7%)
Total	129 (100.0%)	171 (100.0%)	300 (100.0%)

Source: Field Work

Figure 5.14 Circulation of Sexual harassment policy among employees



Source: Table 5.14

5.15 Mediums of outreach of Sexual Harassment Policy

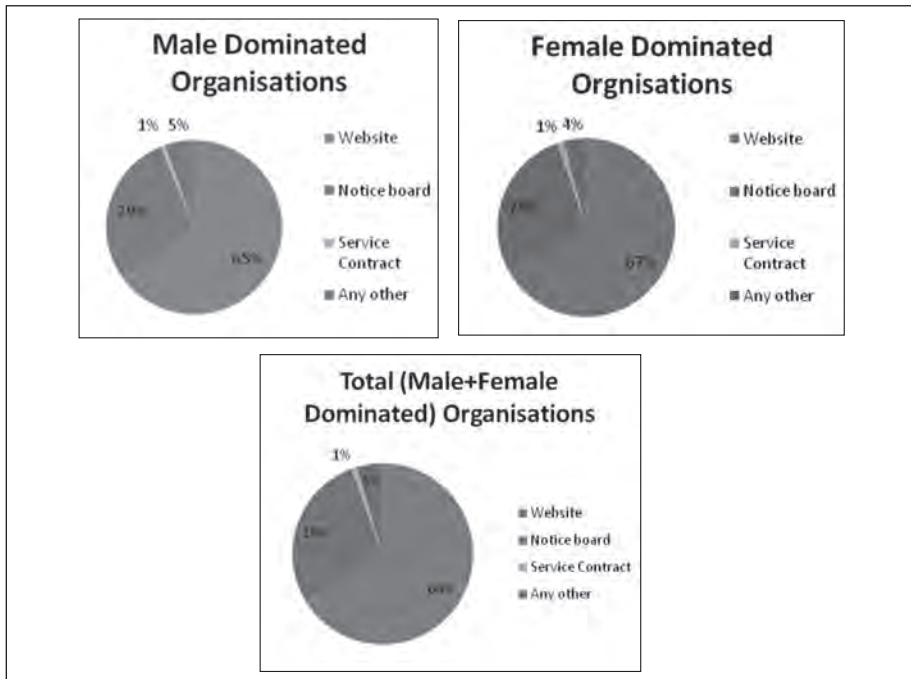
Among the organizations that had circulated the Sexual Harassment Policy, the medium was website for the 66 per cent of the organization followed by 28.32 per cent through the Notice board, 1 per cent mentioned in Service Contract and 4.66 per cent informed through induction training. In the case of female dominated organizations major source of communication was website i.e., 66.6 per cent while for the male dominated organizations it was 65.11 per cent.

Table 5.15: Mediums of Outreach of the Sexual Harassment Policy

Scale	Male Dominated Organisations	Female Dominated Organisations	Total (Male+Female Dominated) Organisations
Website	84 (65.11%)	114 (66.66%)	198 (66%)
Notice board	37 (28.68%)	48 (28.07%)	85 (28.33%)
Service Contract	1 (0.77%)	2 (1.16%)	3 (1%)
Any other	7 (5.42%)	7 (4.09%)	14 (4.66%)
Total	129 (100.0%)	171 (100.0%)	300 (100.0%)

Source: Field Work

Figure 5.15: Mediums of Outreach of the Sexual Harassment Policy



Source: Table 5.15

5.16 Languages of Sexual Harassment Policy

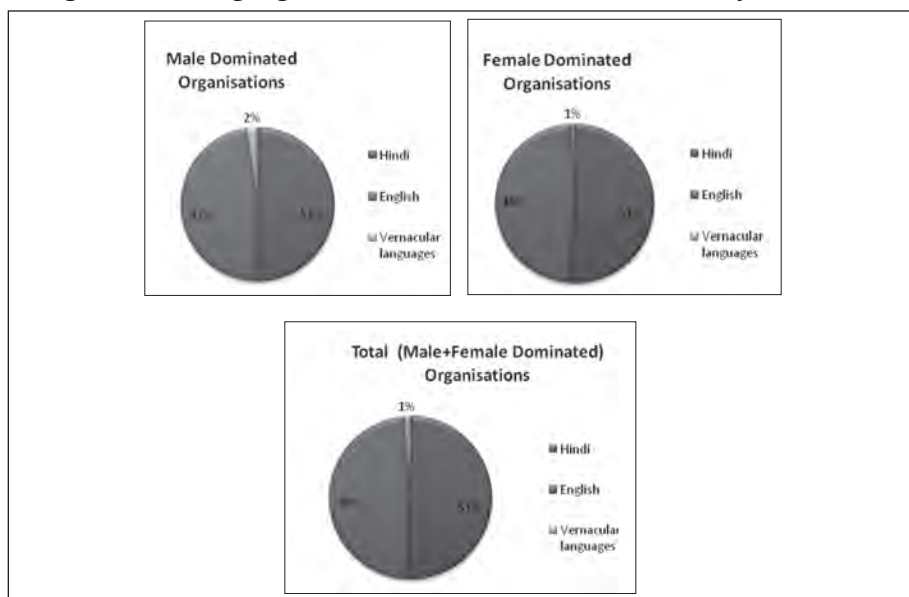
It can be seen from the following table 5.16. that 48 per cent of the organisation circulated the policy in English language and 50.66 per cent circulated in Hindi language. It was observed that in most of the organisation Sexual Harassment Policy was circulated in English and Hindi Language. Very few organisation circulated in other languages. 48.53 per cent of female dominated organizations circulated in English languages compared to 47.28 percent in the male dominated organizations. Considering that our country has multi languages speaking population, Ministry of Women & Child Development (MoW&CD) may provide instruction to circulate the Policy in other Vernacular languages also.

Table 5.16: Languages in which Sexual Harassment Policy Circulated

Languages Policy	Male Dominated Organisations	Female Dominated Organisations	Total (Male+Female Dominated) Organisations
Hindi	65 (50.38%)	87 (50.87%)	152 (50.66%)
English	61 (47.28%)	83 (48.53%)	144 (48%)
Vernacular languages	3 (2.32%)	1 (0.58%)	4 (1.33%)
Total	129 (100.0%)	171 (100.0%)	300 (100.0%)

Source: Field Work

Figure 5.16: Languages in which Sexual Harassment Policy Circulated



Source: Table 5.16

5.17 Enactment on the provisions pertaining to the Sexual Harassment Act, 2013

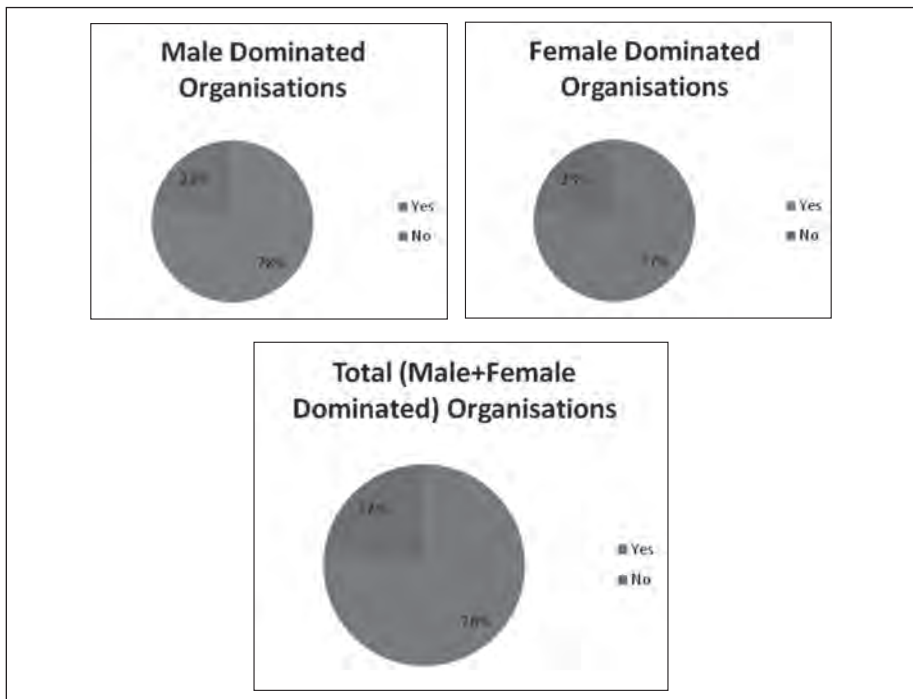
It was observed that majority of (77.3 percent) of the employers followed the instruction on the Sexual Harassment Act 2013 and agreed this Act has a very important role in the prevention of sexual harassment at workplace. On the other hand 22.6 per cent of the organizations are yet to follow on provision pertaining to the Sexual Harassment Act, 2013.

Table 5.17: Enactment on the provision pertaining to the Sexual Harassment Act, 2013

Scale	Male Dominated Organisations	Female Dominated Organisations	Total (Male+Female Dominated) Organisations
Yes	100 (77.5%)	132 (77.2%)	232 (77.3%)
No	29 (22.48%)	39 (22.8%)	68 (22.6%)
Total	129 (100.0%)	171 (100.0%)	300 (100.0%)

Source: Field Work

Figure 5.17: Enactment on the provision pertaining to the Sexual Harassment Act, 2013



Source: Table 5.17

5.18 Training Programmes for the Committee Members

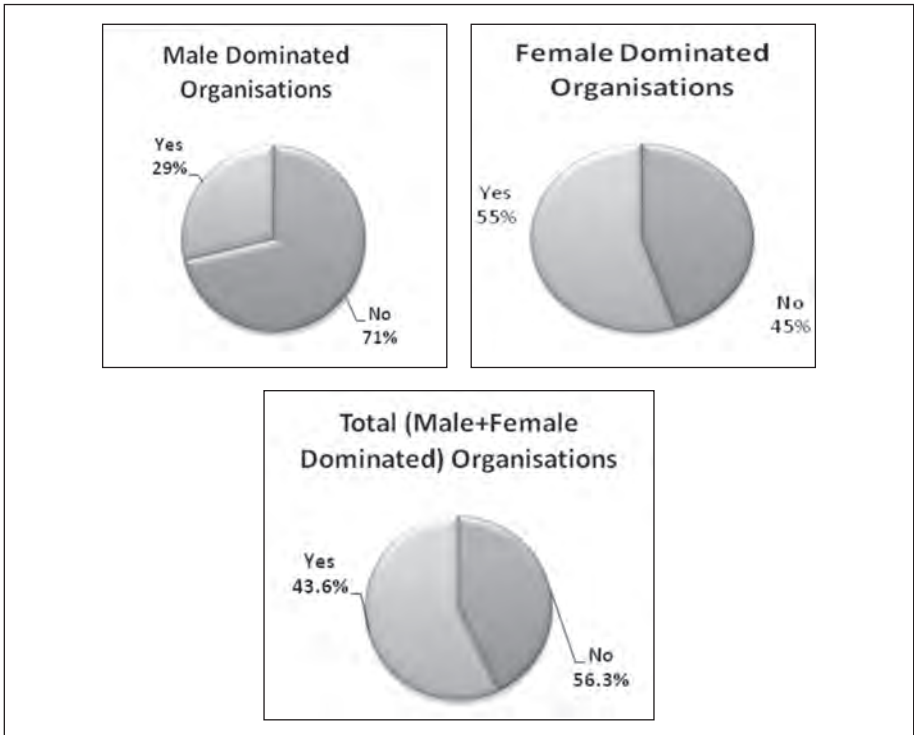
The following table indicates 56 per cent of organization have not conducted any training for the committee members. Only 43 per cent of the organization had conducted the training programmes.

Table 5.18: Training Programmes for the Committee Members

Scale	Male Dominated Organisations	Female Dominated Organisations	Total (Male+Female Dominated) Organisations
No	92 (71.3%)	77 (45.0%)	169 (56.3%)
Yes	37 (28.7%)	94 (55.0%)	131 (43.6%)
Total	129 (100.0%)	171 (100.0%)	300 (100.0%)

Source: Field Work

Figure 5.18: Training Programmes for the Committee Members



Source: Table 5.18

Thus, to conclude, a large percentage of male dominated organizations had constituted training programmes for active functioning of the Complaint Committees. This was mainly because of the initiatives of the female workers working in senior positions apart from domination of male members at top position resulted in the delay in attending the complaints, along with a lot of bias to the formulation of Internal Complaint Committee.

5.19 Research Models and Variables

The present study employed appropriate statistical tools in the analysis of data. The study examines the factors influencing the sexual harassment at work place. Correlation and Regression models were used to identify the important factors that influence the sexual harassment. As described in the study of Heather McLaughlin et al., these regression models will allow us to investigate the relative importance of sexual harassment and gender discrimination in the world of work. Further, the present study used SPSS 20.0 software and M S Office Excel in the analysis of frequency tables. The model, employed to identify the factors effecting sexual harassment at workplace is specified as

$$SHWP = \alpha + \beta_1 ICCFIM + \beta_2 SHPIM + \beta_3 AGE + \beta_4 EDU + \beta_5 MST + U$$

Where **SHWP** is the Sexual Harassment at work place

α is the Constant term

ICCFIM is the ICC (Internal Criminal Committee) functions implementation

SHPIM is the Sexual Harassment Policy implementation

AGE is the Age

EDU is the Education

MST is the Marital Status of the women.

U is the Error term

$\beta_1, \beta_2, \beta_3, \beta_4, \beta_5$ and β_6 are partial regression coefficients

The estimated coefficients are tested for statistical reliability and the model estimated with SPSS 20.00 version.

5.19.1 Analysis and Results

Correlation Analysis

Table: 5.19.1 Descriptive Statistics and Correlation Coefficients of Variables

Variables	Mean	St.d	1	2	3	4	5	6	7
Victims of Sexual Harassment at workplace	1.81	.039	1						
Age Brackets	3.04	1.474	-0.14	1					
Marital Status	1.11	.309	0.102	-2.52**	1				
Religion	1.02	.123	-0.100	-0.024	-0.043	1			
Educational Status	1.70	.458	0.224**	0.113	-0.046	0.081	1		
Social Group	3.90	.443	0.026	0.070	-0.034	0.028	0.024	1	
Provision of Sexual Harassment Committee at the work place	1.42	.494	0.129*	-0.106	0.182**	0.084	-0.175**	-0.54	1

It can be seen from the above table that the Victims of Sexual harassment at workplace and Educational Status are correlated with each other with $r=0.224$. Hence, it can be interpreted that educated women are more confident in reporting the cases of sexual harassment in comparison to that of less qualified women and with the increase in the education status among women they will become more powerful to express the injustice they have to tolerate in this male dominated society. Above correlation analysis table also illustrates the positive correlation between Victims of Sexual Harassment at workplace and provision of sexual harassment committee at the workplace, it means that with such type of provisions in organizations women feel more comfortable in reporting their problems because generally Women find reporting very awkward as that will makes life more difficult for them. Therefore, formation of sexual harassment committee at the workplace is imperative to protect the women from this serious form of misconduct in the workplace that has rigorous impact not only on the health and service of women but also on the culture and image of workplace.

5.19.2 Regression Analysis

The following table-5.19.2 shows the predictor variables entered to the model, its coefficients(B), Standard errors(SE), significant test (sig), individual test of relationship between the outcome and independent variable (Wald statistics), expected odds(exp(B)) and the 95 % confidence interval of the each odd ratio. These results are very important in identifying and explaining significant predictor variables.

Table 5. 19.2: Parameter Estimates through regression analysis for predicting Individual Predictors of Sexual Harassment at Workplace in Delhi/NCR.

Variables	B	SE	Wald	Df	Sig.	Exp(B)	95 % CI for	
							Lower	Upper
Age Brackets	-.035	.115	.095	1	.758	.965	.771	1.208
Marital Status	.925	.787	1.383	1	.240	2.522	.540	11.788
Religion	-2.459	1.079	5.196	1	.023**	.085	.010	.708
Educational Status	1.505	.360	17.486	1	.000*	4.503	2.224	9.116
Social Group	.170	.377	.204	1	.651	1.186	.567	2.480
Provision of Sexual Harassment Committee at the work place	1.035	.385	7.208	1	.007*	2.814	1.322	5.990
Constant	-1.419	2.066	.472	1	.000*	.242		

*Indicate that Significant at 1 per cent level

**Indicate that Significant at 5 per cent level

Dependent Variable: Victims of Sexual Harassment at workplace

Above table depicts the major determinant factors of sexual harassment at workplace and are examined through the regression model with the help of SPSS. The results show that there are two important factors i.e. Educational Status and Provision of Sexual Harassment Committee at the work place which can create an impact on sexual harassment at workplace. Results reveal that both the factors are significant at 1 per cent level and due to increase in both the factors independently, reporting of sexual harassment at workplace will also increase.

CHAPTER-VI

Summing up

Much has been said and done in the past several years about sexual harassment at the workplace; it is evident that this evil is still rampant in Indian society. In compliance with the *judgment in Vishaka v. State of Rajasthan*, universities such as the Jawaharlal Nehru University and the University of Delhi have formulated policies and constituted mechanisms to prevent and redress complaints of sexual harassment. The Supreme Court's judgment in *Vishaka*, in petitioner in question sought to enforce the fundamental rights of working women. The said petition wanted an enforcement of Article 14, 19 and 21 'in view of the prevailing climate in which the violation of these rights is not uncommon'. Regrettably, notwithstanding the directions of the Supreme Court in *Vishaka*, there is no empirical evidence to suggest that conditions of working women have distinctly improved in the recent past. It was noticed that the petition was presented as a class action by certain social activists and NGOs with the aim of focusing attention towards the 'societal aberration' and also to a system finding suitable methods for realization of the true concept of gender equality. There was also a prayer that sexual harassment of women in all workplaces must be enjoined through judicial orders until the vacuum in the existing legislation was replaced.

In *Vishaka*, it was observed that:-

"Gender equality includes protection from sexual harassment and right to work with dignity, which is a universally recognized basic human right. The common minimum requirement of this right has received global acceptance. The international conventions and norms are, therefore, are of great significance in the formulation of the guidelines to achieve this purpose."

The *Vishaka* judgment made it clear that gender equality and the right to a secure workspace was part of the fundamental rights guaranteed under the Constitution, and that it was the duty of the judiciary to ensure (as a part of the Constitutional machinery) that the State enforced these rights, especially in view of the nation's obligation to comply with covenants of international treaties and conventions. Considering the patriarchal mindset of the society and problem's in implementation of constitutional provisions The Sexual Harassment of Women at Workplace (Prevention, prohibition & Redressal) Act came into force in 2013.

6.1 Major Outcomes Based on Analysis of Available Literature

Our analysis of the recent Sexual Harassment Act and suggestions for a more effective legislation are as follows:

- (a) **Separate Task force:** At present, the Act is unclear on monitoring mechanisms. Without an effective oversight mechanism for ICCs, it may well be a case of the proverbial fox guarding the hen coop. While, self regulation is a laudable concept, there are concerns that the in-house dealing of all grievances discourages women from filing complaints and may promote a culture of suppression and is counter-productive to the ends sought to be met. Therefore, it is proposed to set up separate Task force to provide oversight to the functioning of the ICC/LCC. Separate Task force set up should comprise of two retired judges (of which one must be a woman), two eminent sociologists and one social activist, who has sufficient experience in the field of gender-based discrimination.
- (b) **Clarity on appellate mechanism:** The appellate mechanism s provided in the Act and Rules, need to be more clearly defined and identifiable.
- (c) **Clarification on the Establishments to which the Act applies:** Clarification on the implementation of act for women employees in defence /police/District Administration may be necessary.
- (d) **Dissemination of the rules relating to sexual harassment:** The content of the Act should be disseminated so that all persons at the workplace are aware of what is expected. It is therefore suggest that the sexual harassment policy of each establishment ought to be prominently displayed within the premises with complete details on the procedure for making a complaint.
- (e) **Policy to be part of the letter of appointment:** it is suggested that the policy should form part and parcel of the letter of appointment to ensure every person joining the establishment is made aware of their rights against sexual harassment.
- (f) **Requirement of Complaint to be made only in writing:** The ground realities and the fact that the proposed legislation shall be applicable to the widest possible amplitude of workplaces, it would be tedious to expect a complaint to be made only in writing. We propose that complainants may be free to approach the ICC to state a complaint orally, which may then be transcribed into the written form in the manner prescribed by the ICC.

- (g) **Limitation of 3 months:** The period of limitation of 3 months for the making of a complaint of the Sexual Harassment Act may be misused to defeat the ends sought to be achieved. A woman may fail to make a complaint on the occurrence of the first instance of sexual harassment and may only do so upon a repetition of such instances. It would in those circumstances be unfair for only the last of such incidents (or those that fall within the three month limitation) to form the basis of her complaint when evidence of prior instances may reveal a systemic flaw at the workplace which is promotive of gender-based discrimination. It is therefore suggested that no fixed time period of limitation be prescribed and that the only expectation be that a complaint shall be made within a reasonable period of time with regard to the facts and circumstances surrounding the making of such a complaint and the personal circumstances of the complainant. A determination of what amounts to a reasonable period of time shall be made by the ICC in consultation with taskforce. In any event, training of ICC/LCC members should include understanding the entire chain of events and so as to not truncate their scrutiny to the incidents only of the last three months which would not give a composite picture particularly in cases of hostile work environment which are insidious and persistent and usually by this very nature exist over long periods of time before being reported.
- (h) **Conciliation:** Conciliation in cases of sexual harassment is adversative to the intended result, in as much as the concept of conciliation presupposes the existence of a valid complaint. Since conciliation arises at a time prior to action being taken on a complaint it may be used as an effective tool to silence the ICC's primary duty of investigating. It is a serious concern that the provision of conciliation, even if it is at the instance of the complainant, may negatively impact the ability of women to bring valid complaints before the ICC. The countless pressurizing influences that are brought to bear upon women in our society may act to disable her from pursuing a valid complaint. However, the advantages of conciliation as a method of resolution – particularly in cases where the complainant may be seeking the ICC's intervention at an early stage to prevent inappropriate workplace behavior from becoming pervasive sexual harassment are concrete. It has been seen in practice that in a majority of the cases, the complainant is just seeking through her complaint that the inappropriate behavior stop and that the respondent be warned about the inappropriateness of his behavior rather than be subjected to inquiry/ disciplinary action. Such goals can be achieved in the no-judgment environment that conciliation provides very quickly and can lead to early detection and

strengthen the overall effort of improving the quality of workplaces. However, safeguards such as mandatory inclusion of the presiding officer of the complaints committee and the external member in all conciliation proceedings, a written request for conciliation and a written record of conciliation terms should be introduced.

- (i) **Role of the Employer:** While it is proposed to set up Task force, it is also viewed that the best source for prevention of incidents of sexual harassment is an enlightened employer. They are also free to take other measures such as education programmes within their premises to further strengthen anti-sexual harassment measures within their establishments. Employers must take all steps necessary to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions internally when an instance of sexual harassment is brought to their notice, informing employees of their right to raise, and how to raise, the issue of harassment, and developing methods to sensitize all concerned.
- (j) **Nodal Officer:** All employers must have a nodal officer to whom all complaints of sexual harassment may be made, whether in writing or otherwise. Such a person should always be a female member of the workforce and should be granted sufficient training to deal with such situations. It shall be such nodal officer's duty to assist an aggrieved party to make a complaint to the ICC, if necessary. It shall not be mandatory for a complainant to approach such nodal officer prior to the filing of a complaint with the ICC. The Nodal Officer should not be the Officer belonging to management.
- (k) **Gender Sensitive Employer:** The primary responsibility for avoiding situations of sexual harassment lies with the employer. A trained employer on significance of gender sensitive environment would have trickledown effect at the work place.

It is well recognized that sexual harassment is all about power play; the very act puts the women in an inferior position and continues to hold her there. Very few women deal with sexual harassment strictly, while majority prefer to suffer. Considering the patriarchal mind set, women still prefer not to raise their voice. They don't find themselves comfortable as they fear of discrimination, hostility, ridicule and stigma attached to it. While the onus to provide women employees a hostile free work environment lies with the employer, still Sexual Harassment being considered as a part of life women prefer not to complain. Not raising voice has a trickledown effect on other women who have to bear the brunt. When a woman raises her voice, she is raising a voice on behalf of many silent victims.

Sexual Harassment is a discrimination faced by every woman who questions about the negativity of the existing patriarchal mind set. One can see this patriarchal mind set not only among males but also among majority of women, who feel pride in accepting male dominated mindset for being accepted as part of crowd.

It is all about how we treat each one of us in a given situation or series of situations. All of us need to evolve as a Human being first; the present study from the day it was conceived, the proposal found that the Human touch has reduced drastically in our country. From the beginning, we had wonderful constitution, law, but when it comes to application, the mindset of majority of the Employer's reflected "missing human touch". Women being neglected for ages were the soft target as they stepped in the male dominated world of work.

6.2 Recommendations on the basis of Field Study and Observations:

1. Training of the Internal Complaints Committee members is essential as this will help the Internal Complaints Committee members to conduct their work in professional manners.
2. Circulation of information about Internal Complaints Committee members and policy in different languages would help to bring different divergent population at workplace.
3. Conducting regular Gender Audits of the organizations would help in sensitization and commitment to have gender sensitive workplace.
4. Developing Training Modules in different languages for Training the Trainers would help in changing patriarchal Mindset.
5. Training of newly appointed and recruited employees on code of conduct at workplace.
6. Refresher training of the employees at regular interval.
7. Appointment of gender sensitive Heads of the Organisation through gender sensitive Heads in Interview Boards. This will have trickledown effect.
8. Time bound formation of the Local Complaints Committee (LCC) for which the Ministry of Women & Child Development (MoW&CD) needs to circulate the necessary instruction.
9. Conciliation clause may be handled carefully by experts on the subject as this could well results in the mockery of victims and lead to further emotional distress; therefore, it is proposed that the independent member in the committee have expertise in conciliation and also

that the Complaints Committee part from the written request for conciliation, record its own finding on why the case seems to be a fit case for conciliation.

10. Inclusion of Behavior Experts in Internal Complaints Committee would widen the expertise of the committee.
11. External members should not be drawing any benefits from the organization as benefit may result in increase in probability of biasedness.
12. Employees with at least 10 years regular experience may be appointed the members of the Internal Complaints Committee (ICC).
13. If necessary, trained gender sensitive management should be part of Internal Complaints Committee (ICC). Absence of trained person may hamper the independent functioning of Internal Complaints Committee (ICC).

Protection against sexual harassment and the right to work with dignity and nondiscrimination as per treaties on Human Rights of women and ratification of international conventions by the Indian Government (e.g. United Nations Convention on the Elimination of all Forms of discrimination against Women, International Covenant on Economic, Social and Cultural Rights, Universal Declaration of Human Rights, Beijing Platform for Action, ILO Conventions etc). Sexual harassment is a serious manifestation of sex discrimination at the workplace and a violation of human rights as well as fundamental rights enshrined in the Constitution of India (e.g. Article 14- Equal rights and opportunities for men and women in the political, economic and social sphere among others). It is yet another form of violence against women reflecting patriarchal mindsets and gender based discrimination at work. It is also a manifestation of power relations as women are much more likely to be victims of sexual harassment because of their vulnerability, insecurity, and social conditioning to accept discrimination in silence. 1997 was a turning point in this regard. It was a watershed moment in how we respond to sexual harassment of women when we understand it through a constitutional equality lens. The Vishaka Guidelines provided us with a blue print for where we needed to go for developing a rights-based understanding of and response to an issue historically dismissed as “no way to treat a lady.” It provides the equality yardstick to measure sexual harassment of women and way to enable systems, such as workplaces, to respond effectively to the elimination of such violation for the benefit and health of all workplaces. The Act furthers the goals of the Vishaka Guidelines and is a very important step towards creating responsible mind-sets. But at the same time it should be

user friendly and accessible. Considering its early days, this study is an effort to refine and fine tune such initiatives in order to make it a user friendly constitutional tool in the hands of employers and employees to create healthy and safe workplaces and safeguard the vision of Vishaka, one reaffirmed by the Justice Verma Committee also.

Law and its enactment is very important. Implementing the law effectively too is an important need. Effective implementation requires that the law should be understood and applied not just in letter but also in spirit. To ensure such spirit in our own conscience, it is important to provide initial learning steps from our own respective families. Boy's parents need to be more vigilant in this direction. They should teach their sons to give equal respect to every girl, as rightly said by our honourable Prime Minister of India Shri Narendra Modi during the Independence Day speech on 15th Aug, 2014.

"Today as we hear about the incidents of rapes, our head hangs in shame. I want to ask parents when your daughter turns 10 or 12 years old, you ask, 'Where are you going? When will you return?' Do the parents dare to ask their sons, 'Where are you going? Why are you going? Who are your friends?' After all, the rapist is also someone's son. If only parents decide to put as many restrictions on their sons as they do on their own daughters."

(Source: <http://economictimes.indiatimes.com/pm-narendra-modis-first-independence-day-speech-live/liveblog/40299693.cms>)

REFERENCES

1. Alison M. Thomas and Celia Kitzinger (ed.) (1997), *Sexual harassment: reviewing the field*, Buckingham; Bristol, PA, USA: Open University Press.
2. *Asian Age*, 8 August (2014).
3. Barbara A. Gutek and Mary P. Koss (1993) *Changed Women and Changed Organizations: Consequences of and Coping with Sexual Harassment*, *Journal of Vocational Behavior*, Vol.42, 28, 33.
4. Bridget 1998; Fitzgerald, et.al., 1997; Fitzgerald, Swann, et.al., 1997; and Schneider, et.al, 1997.
5. Chakrabarty, Rakhi (4 September 2012) *Sexual Harassment at Workplace Bill Passed*, *Times of India*.
6. Chelsea R. Willness, et.al., (2007) "A Meta-Analysis of The Antecedents and Consequences of Workplace Sexual Harassment,*Journal of Personnel Psychology* Vol.60,PP 127-162.
7. CNN-IBN, (5 September 2012) *India Moves to Protect Women from Sexual Harassment at Work*. [Online Web] Accessed, URL:https://en.wikipedia.org/wiki/Sexual_Harassment_of_Women_at_Workplace_%28Prevention,_Prohibition_and_Redressal%29_Act,_2013
8. Collective (6 September 2012) *Sexual Harassment of Women at Workplace Bill 2012* passed by Lok Sabha.
9. Deirdre McCann (2005), *Sexual Harassment at Work: National and International Responses*, International Labour Office, Geneva, Switzerland. [Online Web] Accessed, URL:<http://www.ilo.org/publns>
10. Directorate General for Employment, Industrial Relations and Social Affairs (1998) *Sexual Harassment in the Workplace in the European Union*, European Commission, Effect of Sexual Harassment (2006) *Sexual Harassment Support*, European Working Conditions Survey (2007) *European Foundation for the Improvement of Living and Working Conditions*, EEOC & FEPAs (1997-2006) *Sexual Harassment Charges*.
11. Elizabeth Broderick (2012) *Working without fear: Results of the Sexual Harassment National Telephone Survey*.
12. European Commission, (1998) *Sexual harassment in the workplace in the European Union* [Online web] Accessed, URL: <http://www.un.org/womenwatch/osagi/pdf/shworkpl.pdf>
13. European Foundation for the Improvement of Living and Working Conditions, (2007) [Online web] Accessed, URL: <http://www.newunionism.net/library/working%20life/Eurofound%20-%20European%20Working%20Conditions%20Survey%20-%202007.pdf>
14. Hurley Enrique, et.al, (2007) *Fourth European Working Conditions Survey*.
15. International Covenant on Civil and Political Rights, 1966.
16. International Covenant on Economic, Social and Cultural Rights, 1966.
17. Kayuni, Happy Mick son (Sep-2009), *Journal of International Women's Studies* "The Challenge of Studying Sexual Harassment in Higher Education: An Experience from the UNIVERSITY OF Malawi's Chancellor College-Lehman,

- John (Third Quarter 2006), *Journal of Business Case Studies - Sexual Harassment in the Workplace: Europe*.
18. Kit zinger Celia, Thomas M. Alison (ed.) (1997), *Sexual Harassment Contemporary feminist perspectives*, Open University Press-Buckingham, Philadelphia.
 19. Lawyer's Collective, (2012) ,[Online web] Accessed, URL: <http://www.lawyerscollective.org/womens-rights-initiative/womens-rights-initiatives.html>
 20. Manoj, Mitta (16 August 2012) *Indian men can be raped, not sexually harassed*, Times of India.
 21. New York Daily News (3 September 2012). *Lok Sabha passes bill against Sexual Harassment in the Workplace*.
 22. Nishith Desai Associates, Veena Gopalakrishnan, Ajay Singh Solanki and Vikram Shroff (2013) *India's New Labour Law-Prevention of Sexual Harassment at the Workplace*, Lexology.
 23. O.J., (1992) *Recommendation on the protection of the dignity of women and men at work*, European Union Commission.
 24. [Online web] Accessed, URL: <http://indianexpress.com/article/india/india-others/bangalore-police-book-vibgyor-school-chairman-for-suppressing-rape-incident>
 25. [Online web] Accessed, URL: <http://timesofindia.indiatimes.com/india/Sexual-assault-case-SC-grants-bail-to-Tehelka-founder-Tarun-Tejpal/articleshow/37567369.cms>
 26. [Online web] Accessed, URL: <http://www.hindustantimes.com/india-news/jet-airways-trainee-alleges-sexual-harassment-batchmate-arrested/article1-1348051.aspx>
 27. [Online web] Accessed, URL: http://articles.economictimes.indiatimes.com/2015-04-14/news/61142368_1_jgls-accused-students-jindal-global-law-school April 14 2015
 28. [Online web] Accessed, URL: http://india.gov.in/sites/upload_files/npi/files/coi_part_full.pdf
 29. [Online web] Accessed, URL: <http://indiankanoon.org/doc/1031794/>
 30. [Online web] Accessed, URL: <http://indiacode.nic.in/acts-in-pdf/142013.pdf>
 31. [Online web] Accessed, URL: <http://indiacode.nic.in/acts-in-pdf/142013.pdf>
 32. [Online web] Accessed, URL: www.altindia.net
 33. Press Information Bureau (2013) *The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013*, The Gazette of India.
 34. Preventing Violence and Harassment in the Workplace (2003) *European Foundation for the Improvement of Living and Working Conditions*.
 35. PRS Legislative Research (2013) *The Protection of Women Against Sexual Harassment at Work Place Bill, 2010*. [Online web] Accessed, URL: <http://www.lawyerscollective.org/wp-content/uploads/2012/09/Sexual-Harassment-at-Workplace-Bill-2012.pdf>
 36. PRS Legislative Research (2013) *"The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013* [Online web] Accessed,

- URL:<http://www.outlookindia.com/article/report-of-the-committee-on-amendments-to-criminal-law/283684>
37. Press Information Bureau, 2012.
 38. Report of the Committee on Amendments to Criminal Law, 2013.
 39. Step by Step Guideline for Employers in Public and Private Enterprises and Internal Complaints Committees on The prevention and redress of sexual harassment at the workplace. "International Labour Organisation". [Online web] Accessed, URL:<http://www.thehindu.com/news/national/parliament-passes-bill-to-prevent-sexual-harassment-at-workplace/article4455795.ece>
 40. Sexual Harassment at Work by Deirdre McCann, 2005.
 41. The Supreme Court in Vishaka v. State of Rajasthan (1997).
 42. The Hindu (Feb. 2013) *Parliament Passes Bill to Prevent Sexual Harassment at Workplace*. [Online web] Accessed, URL:http://www.telegraphindia.com/1120418/jsp/opinion/story_15387413.jsp#.VeAodZdDRFs
 43. The Telegraph (18 April 2012) "Watch What You Say", Calcutta. [Online web] Accessed, URL: https://books.google.co.in/books/about/The_Pearson_Current_Event_Digest_2011_20.html?id=wFD0wcLWwqYC&hl=en
 44. The Times of India, New Delhi, February, 2015 and Business Line, 25th February, 2015 [Online web] Accessed, URL: <http://timesofindia.indiatimes.com/2015/2/25/archivist/year-2015,month-2,starttime-42060.cms>
 45. The Economic Times, 6 February (2015) [Online web] Accessed, URL:http://articles.economictimes.indiatimes.com/2015-02-06/news/58878735_1_igate-ceo-phaneesh-murthy-firm-igate-araceli-roiz
 46. The Economic Times, 1st February (2015) [Online web] Accessed, URL:http://articles.economictimes.indiatimes.com/2015-02-01/news/58675897_1_bhuvanaras-hindu-university-accused-professor
 47. The Hindu, 21 August (2014) [Online web] Accessed, URL:<http://www.thehindu.com/news/cities/mumbai/judge-suspended-but-law-against-sexual-harassment-flouted-say-activists/article6335564.ece>
 48. Times of India, (2013) [Online web] Accessed, URL: <http://timesofindia.indiatimes.com/india/Parliament-passes-sexual-harassment-at-workplace-Bill/articleshow/18703412.cms>
 49. Times of India, (2013) [Online web] Accessed, URL:<http://timesofindia.indiatimes.com/india/Law-against-sexual-harassment-at-workplace-comes-into-effect/articleshow/27308194.cms>
 50. Times of India, 2013 [Online web] Accessed, URL:<http://timesofindia.indiatimes.com/life-style/relationships/work/Are-offices-equipped-to-handle-sexual-harassment-cases/articleshow/26455223.cms>
 51. Thorpe, Edgar (ed.) (2012) *The Pearson Current Event Digest 2011-2012*, Pearson Education India.
 52. U.S. Merit Systems Protection Board (1995) *Sexual Harassment in the Federal Workforce: Trends, Progress and Continuing Challenges*.
 53. "Violence against women: Good practices in combating and eliminating violence against women" Expert Group Meeting Organized By- UN Division for the Advancement of Women in collaboration with: UN Office on Drugs and Crime 17 to 20 may 2005 Vienna, Austria.

Appendix I Details Sources of Newspaper Cases

Organisation	Date of News	Sources of Newspaper
Educational Institutions	20 February,2015	The Times of India
	1 February,2015	The Economic Times
	24 July,2014	The Asian Age
	24 July,2014	The Indian Express
	24 July,2014	The Pioneer
	6 August,2014	The Hindu
	29 July,2014	The Indian Express
	3 August,2014	Hindustan Times
	29 July,2014	The Hindu
	31 August,2014	Hindustan Times
	3 November,2014	The Hindu
Law department	21 March,2014	The Hindu
	5 August,2014	The Asian Age
	30,August,2014	The Times of India
	5 August,2014	The Times of India
	4 August,2014	The Times of India
	21 August,2014	The Hindu
	27 November,2013	The Statesman
Politics	20 november,2014	The Economic Times
	20 September,2015	The Times of India
Police Department	12 May 2011	The Times of India
	9th May 2011	Deccan Chronicle
	9th May 2011	The Times of India
	9th May 2011	Express Buzz
	22 September,2011	The Hindu
	15th July 2010	Express Buzz
	29th February 2000	The Hindu
Sports	8 May,2015	Hindustan Times
	23 September,2014	The Indian Express
Media	22 November,2013	Hindustan Times
	14 November,2013	The Tribune
	25 November,2013	The Hindu
	1 December,2013	The Tribune
Hospital	2 July.2014	The Hindu
Public Enterprises	6 February,2015	The Times of India
Others (Aashramas, House, etc.)	10 September,2014	Mail Today
	9 September,2014	The Pioneer
	29 November,2013	The Pioneer

Annexure - I

रजिस्ट्री सं० डी० एल०—(ए३)०४/०००७/२००३—१३

REGISTERED NO. DL—(N)०४/०००७/२००३—१३



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 18]

नई दिल्ली, मंगलवार, अप्रैल 23, 2013/ वैशाख 3, 1935 (शक)

No. 18]

NEW DELHI, TUESDAY, APRIL 23, 2013/ VAISAKHA 3, 1935 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 23rd April, 2013/Vaisakha 3, 1935 (Saka)

The following Act of Parliament received the assent of the President on the 22nd April, 2013, and is hereby published for general information:—

THE SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013

(No. 14 of 2013)

[22nd April, 2013.]

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.

WHEREAS sexual harassment results in violation of the fundamental rights of a woman to equality under articles 14 and 15 of the Constitution of India and her right to life and to live with dignity under article 21 of the Constitution and right to practice any profession or to carry on any occupation, trade or business which includes a right to a safe environment free from sexual harassment;

AND WHEREAS the protection against sexual harassment and the right to work with dignity are universally recognised human rights by international conventions and instruments such as Convention on the Elimination of all Forms of Discrimination against Women, which has been ratified on the 25th June, 1993 by the Government of India;

AND WHEREAS it is expedient to make provisions for giving effect to the said Convention for protection of women against sexual harassment at workplace.

Be it enacted by Parliament in the Sixty-fourth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title,
extent and
commencement

1. (1) This Act may be called the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires, —

(a) “aggrieved woman” means—

(i) in relation to a 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;

(ii) in relation to a dwelling place or house, a woman of any age who is employed in such a dwelling place or house;

(b) “appropriate Government” means—

(i) in relation to a workplace which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly —

(A) by the Central Government or the Union territory administration, the Central Government;

(B) by the State Government, the State Government;

(ii) in relation to any workplace not covered under sub-clause (i) and falling within its territory, the State Government;

(c) “Chairperson” means the Chairperson of the Local Complaints Committee nominated under sub-section (1) of section 7;

(d) “District Officer” means an officer notified under section 5;

(e) “domestic worker” means a woman who is employed to do the household work in any household for remuneration whether in cash or kind, either directly or through any agency on a temporary, permanent, part time or full time basis, but does not include any member of the family of the employer;

(f) “employee” means a person 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;

(g) “employer” means—

(i) in relation to any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit of the appropriate Government or a local authority, the head of that department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit or such other officer as the appropriate Government or the local authority, as the case may be, may by an order specify in this behalf;

(ii) in any workplace not covered under sub-clause (i), any person responsible for the management, supervision and control of the workplace.

Explanation.— For the purposes of this sub-clause “management” includes the person or board or committee responsible for formulation and administration of policies for such organisation;

(iii) in relation to workplace covered under sub-clauses (i) and (ii), the person discharging contractual obligations with respect to his or her employees;

(iv) in relation to a dwelling place or house, a person or a household who employs or benefits from the employment of domestic worker, irrespective of the number, time period or type of such worker employed, or the nature of the employment or activities performed by the domestic worker;

(h) “Internal Committee” means an Internal Complaints Committee constituted under section 4;

(i) “Local Committee” means the Local Complaints Committee constituted under section 6;

(j) “Member” means a Member of the Internal Committee or the Local Committee, as the case may be;

(k) “prescribed” means prescribed by rules made under this Act;

(l) “Presiding Officer” means the Presiding Officer of the Internal Complaints Committee nominated under sub-section (2) of section 4;

(m) “respondent” means a person against whom the aggrieved woman has made a complaint under section 9;

(n) “sexual harassment” includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication) namely:—

(i) physical contact and advances; or

(ii) a demand or request for sexual favours; or

(iii) making sexually coloured remarks; or

(iv) showing pornography; or

(v) any other unwelcome physical, verbal or non-verbal conduct of sexual nature;

(o) “workplace” includes —

(i) any department, organisation, 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 co-operative society;

(ii) any private sector organisation or a private venture, undertaking, enterprise, institution, establishment, society, trust, non-governmental organisation, unit or service provider carrying on commercial, professional, vocational, educational, entertainment, industrial, health services or financial activities including production, supply, sale, distribution or service;

(iii) hospitals or nursing homes;

(iv) any sports institute, stadium, sports complex or competition or games venue, whether residential or not used for training, sports or other activities relating thereto;

(v) 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;

(vi) a dwelling place or a house;

(p) "unorganised sector" in relation to a workplace means an enterprise owned by individuals or self-employed workers and engaged in the production or sale of goods or providing service of any kind whatsoever, and where the enterprise employs workers, the number of such workers is less than ten.

Prevention of sexual harassment

3. (1) No woman shall be subjected to sexual harassment at any workplace.

(2) 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:—

- (i) implied or explicit promise of preferential treatment in her employment; or
- (ii) implied or explicit threat of detrimental treatment in her employment; or
- (iii) implied or explicit threat about her present or future employment status; or
- (iv) interference with her work or creating an intimidating or offensive or hostile work environment for her; or
- (v) humiliating treatment likely to affect her health or safety.

CHAPTER II

CONSTITUTION OF INTERNAL COMPLAINTS COMMITTEE

Constitution of Internal Complaints Committee.

4. (1) Every employer of a workplace shall, by an order in writing, constitute a Committee to be known as the "Internal Complaints Committee":

Provided that where the offices or administrative units of the workplace are located at different places or divisional or sub-divisional level, the Internal Committee shall be constituted at all administrative units or offices.

(2) The Internal Committee shall consist of the following members to be nominated by the employer, namely:—

(a) a Presiding Officer who shall be a woman employed at a senior level at workplace from amongst the employees;

Provided that in case a senior level woman employee is not available, the Presiding Officer shall be nominated from other offices or administrative units of the workplace referred to in sub-section (1):

Provided further that in case the other offices or administrative units of the workplace do not have a senior level woman employee, the Presiding Officer shall be nominated from any other workplace of the same employer or other department or organisation;

(b) not less than two Members from amongst employees preferably committed to the cause of women or who have had experience in social work or have legal knowledge;

(c) one member from amongst non-governmental organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment:

Provided that at least one-half of the total Members so nominated shall be women.

(3) The Presiding Officer and every Member of the Internal Committee shall hold office for such period, not exceeding three years, from the date of their nomination as may be specified by the employer.

(4) The Member appointed from amongst the non-governmental organisations or associations shall be paid such fees or allowances for holding the proceedings of the Internal Committee, by the employer, as may be prescribed.

(5) Where the Presiding Officer or any Member of the Internal Committee, -

(a) contravenes the provisions of section 16; or

(b) has been convicted for an offence or an inquiry into an offence under any law for the time being in force is pending against him; or

(c) he has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or

(d) has so abused his position as to render his continuance in office prejudicial to the public interest,

such Presiding Officer or Member, as the case may be, shall be removed from the Committee and the vacancy so created or any casual vacancy shall be filled by fresh nomination in accordance with the provisions of this section.

CHAPTER III

CONSTITUTION OF LOCAL COMPLAINTS COMMITTEE

5. The appropriate Government may notify a District Magistrate or Additional District Magistrate or the Collector or Deputy Collector as a District Officer for every District to exercise powers or discharge functions under this Act. Notification of District Officer.

6. (1) Every District Officer shall constitute in the district concerned, a committee to be known as the "Local Complaints Committee" to receive complaints of sexual harassment from establishments where the Internal Complaints Committee has not been constituted due to having less than ten workers or if the complaint is against the employer himself. Constitution and jurisdiction of Local Complaints Committee

(2) The District Officer shall designate one nodal officer in every block, taluka and tehsil in rural or tribal area and ward or municipality in the urban area, to receive complaints and forward the same to the concerned Local Complaints Committee within a period of seven days.

(3) The jurisdiction of the Local Complaints Committee shall extend to the areas of the district where it is constituted.

7. (1) The Local Complaints Committee shall consist of the following members to be nominated by the District Officer, namely: - Composition, tenure and other terms and conditions of Local Complaints Committee

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

(b) one Member to be nominated from amongst the women working in block, taluka or tehsil or ward or municipality in the district;

(c) two Members, of whom at least one shall be a woman, to be nominated from amongst such non-governmental organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment, which may be prescribed:

Provided that at least one of the nominees should, preferably, have a background in law or legal knowledge:

Provided further that at least one of the nominees shall be a woman belonging to the Scheduled Castes or the Scheduled Tribes or the Other Backward Classes or minority community notified by the Central Government, from time to time;

(d) the concerned officer dealing with the social welfare or women and child development in the district, shall be a member *ex officio*.

(2) The Chairperson and every Member of the Local Committee shall hold office for such period, not exceeding three years, from the date of their appointment as may be specified by the District Officer.

(3) Where the Chairperson or any Member of the Local Complaints Committee—

(a) contravenes the provisions of section 16; or

(b) has been convicted for an offence or an inquiry into an offence under any law for the time being in force is pending against him; or

(c) has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or

(d) has so abused his position as to render his continuance in office prejudicial to the public interest,

such Chairperson or Member, as the case may be, shall be removed from the Committee and the vacancy so created or any casual vacancy shall be filled by fresh nomination in accordance with the provisions of this section.

(4) The Chairperson and Members of the Local Committee other than the Members nominated under clauses (b) and (d) of sub-section (1) shall be entitled to such fees or allowances for holding the proceedings of the Local Committee as may be prescribed.

Grants and
audit

8. (1) The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the State Government grants of such sums of money as the Central Government may think fit, for being utilised for the payment of fees or allowances referred to in sub-section (4) of section 7.

(2) The State Government may set up an agency and transfer the grants made under sub-section (1) to that agency.

(3) The agency shall pay to the District Officer, such sums as may be required for the payment of fees or allowances referred to in sub-section (4) of section 7.

(4) The accounts of the agency referred to in sub-section (2) shall be maintained and audited in such manner as may, in consultation with the Accountant General of the State, be prescribed and the person holding the custody of the accounts of the agency shall furnish, to the State Government, before such date, as may be prescribed, its audited copy of accounts together with auditors' report thereon.

CHAPTER IV

COMPLAINT

Complaint of
sexual
harassment

9. (1) Any aggrieved woman may make, in writing, a complaint of sexual harassment at workplace to the Internal Committee if so constituted, or the Local Committee, in case it is not so constituted, 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:

Provided that where such complaint cannot be made in writing, the Presiding Officer or any Member of the Internal Committee or the Chairperson or any Member of the Local Committee, as the case may be, shall render all reasonable assistance to the woman for making the complaint in writing:

Provided further that the Internal Committee or, as the case may be, the Local Committee may, for the reasons to be recorded in writing, extend the time limit not exceeding three months, if it is satisfied that the circumstances were such which prevented the woman from filing a complaint within the said period.

(2) Where the aggrieved woman is unable to make a complaint on account of her physical or mental incapacity or death or otherwise, her legal heir or such other person as may be prescribed may make a complaint under this section.

Conciliation

10. (1) The Internal Committee or, as the case may be, the Local Committee, may, before initiating an inquiry under section 11 and at the request of the aggrieved woman take steps to settle the matter between her and the respondent through conciliation:

Provided that no monetary settlement shall be made as a basis of conciliation.

(2) Where a settlement has been arrived at under sub-section (1), the Internal Committee or the Local Committee, as the case may be, shall record the settlement so arrived and forward the same to the employer or the District Officer to take action as specified in the recommendation.

(3) The Internal Committee or the Local Committee, as the case may be, shall provide the copies of the settlement as recorded under sub-section (2) to the aggrieved woman and the respondent.

(4) Where a settlement is arrived at under sub-section (1), no further inquiry shall be conducted by the Internal Committee or the Local Committee, as the case may be.

11. (1) Subject to the provisions of section 10, the Internal Committee or the Local Committee, as the case may be, shall, where the respondent is an employee, proceed to make inquiry into the complaint in accordance with the provisions of the service rules applicable to the respondent and where no such rules exist, in such manner as may be prescribed or in case of a domestic worker, the Local Committee shall, if *prima facie* case exist, forward the complaint to the police, within a period of seven days for registering the case under section 509 of the Indian Penal Code, and any other relevant provisions of the said Code where applicable:

45 of 1860

Provided that where the aggrieved woman informs the Internal Committee or the Local Committee, as the case may be, that any term or condition of the settlement arrived at under sub-section (2) of section 10 has not been complied with by the respondent, the Internal Committee or the Local Committee shall proceed to make an inquiry into the complaint or, as the case may be, forward the complaint to the police:

Provided further that where both the parties are employees, the parties shall, during the course of inquiry, be given an opportunity of being heard and a copy of the findings shall be made available to both the parties enabling them to make representation against the findings before the Committee.

45 of 1860

(2) Notwithstanding anything contained in section 509 of the Indian Penal Code, the court may, when the respondent is convicted of the offence, order payment of such sums as it may consider appropriate, to the aggrieved woman by the respondent, having regard to the provisions of section 15.

5 of 1908

(3) For the purpose of making an inquiry under sub-section (1), the Internal Committee or the Local Committee, as the case may be, shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 when trying a suit in respect of the following matters, namely:--

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents; and

(c) any other matter which may be prescribed.

(4) The inquiry under sub-section (1) shall be completed within a period of ninety days.

CHAPTER V

INQUIRY INTO COMPLAINT

12. (1) During the pendency of an inquiry, on a written request made by the aggrieved woman, the Internal Committee or the Local Committee, as the case may be, may recommend to the employer to:

Action during pendency of inquiry

(a) transfer the aggrieved woman or the respondent to any other workplace; or

(b) grant leave to the aggrieved woman up to a period of three months; or

(c) grant such other relief to the aggrieved woman as may be prescribed.

(2) The leave granted to the aggrieved woman under this section shall be in addition to the leave she would be otherwise entitled.

(3) On the recommendation of the Internal Committee or the Local Committee, as the case may be, under sub-section (1), the employer shall implement the recommendations made under sub-section (1) and send the report of such implementation to the Internal Committee or the Local Committee, as the case may be.

Inquiry report

13. (1) On the completion of an inquiry under this Act, the Internal Committee or the Local Committee, as the case may be, shall provide a report of its findings to the employer, or as the case may be, the District Officer within a period of ten days from the date of completion of the inquiry and such report be made available to the concerned parties.

(2) Where the Internal Committee or the Local Committee, as the case may be, arrives at the conclusion that the allegation against the respondent has not been proved, it shall recommend to the employer and the District Officer that no action is required to be taken in the matter.

(3) Where the Internal Committee or the Local Committee, as the case may be, arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the employer or the District Officer, as the case may be---

(i) to take action for sexual harassment as a misconduct in accordance with the provisions of the service rules applicable to the respondent or where no such service rules have been made, in such manner as may be prescribed;

(ii) to deduct, notwithstanding anything in the service rules applicable to the respondent, from the salary or wages of the respondent such sum as it may consider appropriate to be paid to the aggrieved woman or to her legal heirs, as it may determine, in accordance with the provisions of section 15:

Provided that in case the employer is unable to make such deduction from the salary of the respondent due to his being absent from duty or cessation of employment it may direct to the respondent to pay such sum to the aggrieved woman:

Provided further that in case the respondent fails to pay the sum referred to in clause (ii), the Internal Committee or, as the case may be, the Local Committee may forward the order for recovery of the sum as an arrear of land revenue to the concerned District Officer.

(4) The employer or the District Officer shall act upon the recommendation within sixty days of its receipt by him.

Punishment for false or malicious complaint and false evidence

14. (1) Where the Internal Committee or the Local Committee, as the case may be, arrives at a conclusion that the allegation against the respondent is malicious or the aggrieved woman or any other person making the complaint has made the complaint knowing it to be false or the aggrieved woman or any other person making the complaint has produced any forged or misleading document, it may recommend to the employer or the District Officer, as the case may be, to take action against the woman or the person who has made the complaint under sub-section (1) or sub-section (2) of section 9, as the case may be, in accordance with the provisions of the service rules applicable to her or him or where no such service rules exist, in such manner as may be prescribed:

Provided that a mere inability to substantiate a complaint or provide adequate proof need not attract action against the complainant under this section:

Provided further that the malicious intent on part of the complainant shall be established after an inquiry in accordance with the procedure prescribed, before any action is recommended.

(2) Where the Internal Committee or the Local Committee, as the case may be, arrives at a conclusion that during the inquiry any witness has given false evidence or produced any forged or misleading document, it may recommend to the employer of the witness or the District Officer, as the case may be, to take action in accordance with the provisions of the service rules applicable to the said witness or where no such service rules exist, in such manner as may be prescribed.

15. For the purpose of determining the sums to be paid to the aggrieved woman under clause (ii) of sub-section (3) of section 13, the Internal Committee or the Local Committee, as the case may be, shall have regard to –

Determination of compensation.

- (a) the mental trauma, pain, suffering and emotional distress caused to the aggrieved woman;
- (b) the loss in the career opportunity due to the incident of sexual harassment;
- (c) medical expenses incurred by the victim for physical or psychiatric treatment;
- (d) the income and financial status of the respondent;
- (e) feasibility of such payment in lump sum or in instalments.

22 of 2005

16. Notwithstanding anything contained in the Right to Information Act, 2005, the contents of the complaint made under section 9, the identity and addresses of the aggrieved woman, respondent and witnesses, any information relating to conciliation and inquiry proceedings, recommendations of the Internal Committee or the Local Committee, as the case may be, and the action taken by the employer or the District Officer under the provisions of this Act shall not be published, communicated or made known to the public, press and media in any manner:

Prohibition of publication or making known contents of complaint and inquiry proceedings

Provided that information may be disseminated regarding the justice secured to any victim of sexual harassment under this Act without disclosing the name, address, identity or any other particulars calculated to lead to the identification of the aggrieved woman and witnesses.

17. Where any person entrusted with the duty to handle or deal with the complaint, inquiry or any recommendations or action to be taken under the provisions of this Act, contravenes the provisions of section 16, he shall be liable for penalty in accordance with the provisions of the service rules applicable to the said person or where no such service rules exist, in such manner as may be prescribed.

Penalty for publication or making known contents of complaint and inquiry proceedings

18. (1) Any person aggrieved from the recommendations made under sub-section (2) of section 13 or under clause (i) or clause (ii) of sub-section (3) of section 13 or sub-section (1) or sub-section (2) of section 14 or section 17 or non-implementation of such recommendations may prefer an appeal to the court or tribunal in accordance with the provisions of the service rules applicable to the said person or where no such service rules exist then, without prejudice to provisions contained in any other law for the time being in force, the person aggrieved may prefer an appeal in such manner as may be prescribed.

Appeal

(2) The appeal under sub-section (1) shall be preferred within a period of ninety days of the recommendations

CHAPTER VI

DUTIES OF EMPLOYER

19. Every employer shall --

Duties of employer.

(a) provide a safe working environment at the workplace which shall include safety from the persons coming into contact at the workplace;

(b) display at any conspicuous place in the workplace, the penal consequences of sexual harassments; and the order constituting the Internal Committee under sub-section (1) of section 4;

(c) organise workshops and awareness programmes at regular intervals for sensitising 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;

(d) 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;

(e) assist in securing the attendance of respondent and witnesses before the Internal Committee or the Local Committee, as the case may be;

(f) make available such information to the Internal Committee or the Local Committee, as the case may be, as it may require having regard to the complaint made under sub-section (1) of section 9;

(g) provide assistance to the woman if she so chooses to file a complaint in relation to the offence under the Indian Penal Code or any other law for the time being in force; 45 of 1860

(h) cause to initiate action, under the Indian Penal Code or any other law for the time being in force, against the perpetrator, or if the aggrieved woman so desires, where the perpetrator is not an employee, in the workplace at which the incident of sexual harassment took place; 45 of 1860

(i) treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct;

(j) monitor the timely submission of reports by the Internal Committee.

CHAPTER VII

DUTIES AND POWERS OF DISTRICT OFFICER

20. The District Officer shall, -

(a) monitor the timely submission of reports furnished by the Local Committee;

(b) take such measures as may be necessary for engaging non-governmental organisations for creation of awareness on sexual harassment and the rights of the women.

CHAPTER VIII

MISCELLANEOUS

Duties and powers of District Officer

Committee to submit annual report

21. (1) The Internal Committee or the Local Committee, as the case may be, shall in each calendar year prepare, in such form and at such time as may be prescribed, an annual report and submit the same to the employer and the District Officer.

(2) The District Officer shall forward a brief report on the annual reports received under sub-section (1) to the State Government.

Employer to include information in annual report

22. The employer shall include in its report the number of cases filed, if any, and their disposal under this Act in the annual report of his organisation or where no such report is required to be prepared, intimate such number of cases, if any, to the District Officer.

Appropriate Government to monitor implementation and maintain data

23. The appropriate Government shall monitor the implementation of this Act and maintain data on the number of cases filed and disposed of in respect of all cases of sexual harassment at workplace.

Appropriate Government to take measures to publicise the Act

24. The appropriate Government may, subject to the availability of financial and other resources, -

(a) develop relevant information, education, communication and training materials, and organise awareness programmes, to advance the understanding of the public of the provisions of this Act providing for protection against sexual harassment of woman at workplace.

(b) formulate orientation and training programmes for the members of the Local Complaints Committee.

25. (1) The appropriate Government, on being satisfied that it is necessary in the public interest or in the interest of women employees at a workplace to do so, by order in writing,—

Power to call for information and inspection of records

(a) call upon any employer or District Officer to furnish in writing such information relating to sexual harassment as it may require;

(b) authorise any officer to make inspection of the records and workplace in relation to sexual harassment, who shall submit a report of such inspection to it within such period as may be specified in the order.

(2) Every employer and District Officer shall produce on demand before the officer making the inspection all information, records and other documents in his custody having a bearing on the subject matter of such inspection.

26. (1) Where the employer fails to—

(a) constitute an Internal Committee under sub-section (1) of section 4;

(b) take action under sections 13, 14 and 22; and

(c) contravenes or attempts to contravene or abets contravention of other provisions of this Act or any rules made thereunder,

Penalty for non-compliance with provisions of Act.

he shall be punishable with fine which may extend to fifty thousand rupees.

(2) If any employer, after having been previously convicted of an offence punishable under this Act subsequently commits and is convicted of the same offence, he shall be liable to—

(i) twice the punishment, which might have been imposed on a first conviction, subject to the punishment being maximum provided for the same offence;

Provided that in case a higher punishment is prescribed under any other law for the time being in force, for the offence for which the accused is being prosecuted, the court shall take due cognizance of the same while awarding the punishment;

(ii) cancellation, of his licence 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.

27. (1) No court shall take cognizance of any offence punishable under this Act or any rules made thereunder, save on a complaint made by the aggrieved woman or any person authorised by the Internal Committee or Local Committee in this behalf.

Cognizance of offence by courts

(2) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

(3) Every offence under this Act shall be non-cognizable.

28. The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

Act not in derogation of any other law

29. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power of appropriate Government to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the fees or allowances to be paid to the Members under sub-section (1) of section 4;

(b) nomination of members under clause (c) of sub-section (1) of section 7;

(c) the fees or allowances to be paid to the Chairperson, and Members under sub-section (1) of section 7;

- (d) the person who may make complaint under sub-section (2) of section 9;
- (e) the manner of inquiry under sub-section (1) of section 11;
- (f) the powers for making an inquiry under clause (c) of sub-section (2) of section 11;
- (g) the relief to be recommended under clause (c) of sub-section (1) of section 12;
- (h) the manner of action to be taken under clause (i) of sub-section (3) of section 13;
- (i) the manner of action to be taken under sub-sections (1) and (2) of section 14;
- (j) the manner of action to be taken under section 17;
- (k) the manner of appeal under sub-section (1) of section 18;
- (l) the manner of organising workshops, awareness programmes for sensitising the employees and orientation programmes for the members of the Internal Committee under clause (c) of section 19; and
- (m) the form and time for preparation of annual report by Internal Committee and the Local Committee under sub-section (1) of section 21.

(3) Every rule made by the Central Government under this Act shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(4) Any rule made under sub-section (4) of section 8 by the State Government shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

Power to
remove
difficulties

30. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

P.K. MALHOTRA,
Secy. to the Govt. of India.

CORRIGENDA

THE PREVENTION OF MONEY-LAUNDERING (AMENDMENT) ACT, 2012 (2 of 2013)

At page 18, in line 2, for "Arts", read "Art".

At page 21, in line 14, for "Protection", read "(Protection)".

CORRIGENDUM

THE UNLAWFUL ACTIVITIES (PREVENTION) AMENDMENT ACT, 2012
(3 of 2013)

At page 6, in line 22, *for* "clause", *read* "clause".

CORRIGENDUM

THE BANKING LAWS (AMENDMENT) ACT, 2012
(4 of 2013)

At page 8, in line 29, *for* 'sections 30', *read* 'section 30',*.

CORRIGENDUM

THE APPROPRIATION ACT, 2013
(9 of 2013)

At page 1, in the marginal heading to section 2, *for* "4715,54,00,000",
read "49715,54,00,000".


भारत का राजपत्र
The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (I)

PART II—Section 3—Sub-section (I)

प्राधिकार से प्रकाशित

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महिला एवं बाल विकास मंत्रालय

अधिसूचना

नई दिल्ली, 9 दिसम्बर, 2013

सा.का.नि. 769(अ)—केंद्रीय सरकार, महिलाओं का कार्यस्थल पर लैंगिक उत्पीड़न (निवारण, प्रतिबंध एवं प्रतितोष) अधिनियम, 2013 (2013 का 14) की धारा 29 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, निम्नलिखित नियम बनाती है, अर्थात्—

1. संक्षिप्त नाम और प्रारंभ.—(1) इन नियमों का संक्षिप्त महिलाओं का कार्यस्थल पर लैंगिक उत्पीड़न (निवारण, प्रतिबंध एवं प्रतितोष) नियम, 2013 है।
 - (2) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।
2. परिभाषाएँ.—इन नियमों में, जब तक संदर्भ में अन्यथा अपेक्षित न हो, —
 - (क) "अधिनियम" से कार्यस्थल पर महिलाओं का कार्यस्थल पर लैंगिक उत्पीड़न (निवारण, प्रतिबंध एवं प्रतितोष) अधिनियम, 2013 (2013 का 14) अभिप्रेत है;
 - (ख) "शिकायत" से धारा 9 के अधीन की गई शिकायत अभिप्रेत है;
 - (ग) "शिकायत समिति" से आंतरिक समिति अथवा स्थानीय समिति अभिप्रेत है;
 - (घ) "घटना" से धारा 2 के खंड (द) में यथा-परिभाषित लैंगिक उत्पीड़न की घटना अभिप्रेत है;
 - (ङ) "घारा" से अधिनियम की कोई धारा अभिप्रेत है;
 - (च) "विशेष शिक्षक" से कोई ऐसा व्यक्ति अभिप्रेत है जो विशेष जरूरतों वाले लोगों के साथ ऐसे ढंग से संवार करने के लिए प्रशिक्षित है, जिससे उनके व्यक्तिगत मतभेदों एवं आवश्यकताओं का समाधान होता है;
 - (छ) यहां शब्द और पद जो यहां प्रयुक्त हैं और परिभाषित नहीं किए गए हैं, किंतु अधिनियम में परिभाषित किए गए हैं, उनके अर्थ वहीं होंगे, जो अधिनियम में दिए गए हैं।
3. आंतरिक समिति के सदस्यों के लिए फीस या भत्ते :
 - (1) गैर-सरकारी संगठनों में नियुक्त सदस्य, आंतरिक समिति की कार्यवाहियों के आयोजन के लिए प्रतिदिन 200 रुपये के भत्ते के हकदार होंगे, और उक्त सदस्य रेलगाड़ी से थ्री टायर वातानुकूलन या वातानुकूलित बस से तथा आटोरिक्शा या टैक्सी से अथवा यात्रा पर उतसके द्वारा खर्च की गई वास्तविक राशि, जो भी, कम हो प्रतिपूर्ति के भी हकदार होंगे।
 - (2) नियोक्ता उप-नियम (1) में निर्दिष्ट भत्तों के संदाय के लिए उत्तरदायी होगा।

4. **लैंगिक उत्पीड़न से संबंधित मुद्दों से परिचित व्यक्ति :** धारा 7 की उप-धारा (1) के खण्ड (ग) के प्रयोजन के लिए लैंगिक उत्पीड़न से संबंधित मुद्दों से परिचित व्यक्ति ऐसा व्यक्ति होगा जिसे लैंगिक उत्पीड़न से संबंधित मुद्दों पर विशेषज्ञता प्राप्त हो तथा इरामें निम्नलिखित में से कोई सम्मिलित हो सकेगा -
- (क) समाज कार्य के क्षेत्र में कम से कम 5 साल के अनुभव वाला कोई सामाजिक कार्यकर्ता जो महिलाओं के सशक्तिकरण तथा विशिष्टतया कार्यक्षेत्र पर लैंगिक उत्पीड़न की समस्या को दूर करने के लिए अनुकूल सामाजिक स्थितियों का सृजन करने का मार्ग प्रशस्त करता है;
- (ख) ऐसा व्यक्ति जिसे भ्रम, रोजगार, सिविल या दंडिक विधि में अर्हता प्राप्त है।
5. **स्थानीय समिति के अध्यक्ष तथा सदस्यों के लिए फीस या भत्ता :**
- (1) स्थानीय समिति के अध्यक्ष उक्त समिति की कार्यवाहियों के आयोजन के लिए प्रतिदिन 250 रुपये (दो सौ पचास रुपये) के भत्ते के लिए हकदार होंगे।
- (2) धारा 7 की उप-धारा (1) के खंड (ख) और खंड (घ) के अधीन नामनिर्दिष्ट सदस्यों से भिन्न स्थानीय समिति के सदस्य, उक्त समिति की कार्यवाहियों के आयोजन के लिए प्रतिदिन दो सौ रुपये के भत्ते के हकदार होंगे और रेलगाड़ी से श्री टायर वातानुकूलन, वातानुकूलित बस से तथा आटोरिक्सा या टैक्सी से अथवा यात्रा पर उसके द्वारा खर्च की गई वास्तविक लागत जो भी कम हो, की प्रतिपूर्ति के भी हकदार होंगे।
- (3) जिला अधिकारी, उपनियम (1) और उपनियम (2) में निर्दिष्ट भत्तों के संदाय के लिए उत्तरदायी होगा।
6. **लैंगिक उत्पीड़न की शिकायत :** धारा 8 की उप-धारा (2) के प्रयोजन के लिए,
- (i) जहां व्यथित महिला, अपनी शारीरिक असमर्थता के कारण शिकायत करने में असमर्थ है, वहां निम्नलिखित द्वारा शिकायत फाइल की जा सकती है -
- (क) उसका नातेदार या मित्र; अथवा;
- (ख) उसका सहकर्मी; या
- (ग) राष्ट्रीय महिला आयोग या राज्य महिला आयोग का कोई अधिकारी; या
- (घ) व्यथित महिला की लिखित सम्मति से कोई ऐसा व्यक्ति जिसे घटना की जानकारी है।
- (ii) जहां व्यथित महिला, अपनी मानसिक अक्षमता के कारण शिकायत करने में असमर्थ है, वहां निम्नलिखित द्वारा शिकायत फाइल की जा सकती है -
- (क) उसका नातेदार या मित्र; अथवा
- (ख) कोई विशेष शिक्षक; या
- (ग) कोई अर्हित मनोविकार विज्ञानी या मनोवैज्ञानिक; अथवा
- (घ) संरक्षक या प्राधिकारी जिसके अधीन वह उपचार या देखरेख प्राप्त कर रही है; अथवा
- (ङ) उसके नातेदार या दोस्त या विशेष शिक्षक या अर्हता-प्राप्त मनोविकार विज्ञानी या मनोवैज्ञानिक या संरक्षक अथवा प्राधिकारी जिसके अधीन वह उपचार या देखरेख प्राप्त कर रही है, के साथ संयुक्त रूप से कोई ऐसा व्यक्ति जिसे लैंगिक उत्पीड़न की जानकारी है।
- (iii) जहां व्यथित महिला, किसी कारण से शिकायत करने में असमर्थ है, वहां उसकी लिखित सम्मति से ऐसे व्यक्ति द्वारा शिकायत फाइल की जा सकती है, जिसे घटना की जानकारी है।
- (iv) जहां व्यथित महिला की मृत्यु हो जाती है वहां एक शिकायत, घटना के जानकार द्वारा उसके विधिक वारिस की सम्मति से लिखित रूप में फाइल की जा सकेगी।
7. **शिकायत की जांच का ढंग -**
- (1) शिकायत फाइल करते समय, धारा 11 के उपबंधों के अध्यक्षीन शिकायतकर्ता समर्थक दस्तावेजों तथा साक्षियों के नाम एवं पता के साथ शिकायत की छह प्रतियां शिकायत समिति को प्रस्तुत करेगा।
- (2) शिकायत प्राप्त होने पर, शिकायत समिति उपनियम (1) के अधीन व्यथित महिला से प्राप्त प्रतियों में से एक प्रति सात कार्य दिवस की अवधि के भीतर प्रत्यर्थी को भेजेगी।
- (3) प्रत्यर्थी उपनियम (1) के अधीन विनिर्दिष्ट दस्तावेजों की प्राप्ति की तारीख से दस दिन से अनधिक अवधि के भीतर दस्तावेजों की सूची तथा साक्षियों के नाम एवं पता के साथ शिकायत पर अपना उत्तर फाइल करेगा।
- (4) शिकायत समिति नैसर्गिक न्याय के सिद्धांतों के अनुसार, शिकायत की जांच करेगी।
- (5) शिकायत समिति को जांच की कार्यवाही समाप्त करने या शिकायत पर एक पक्षीय निर्णय देने का अधिकार होगा, यदि शिकायतकर्ता या प्रत्यर्थी पर्याप्त कारण के बिना यथार्थिथि अध्यक्ष या पीठासीन अधिकारी द्वारा आयोजित लगातार तीन सुनवाईयों में अनुपस्थित रहता है या रहती है :

परंतु संबंधित पक्षकार को अग्रिम में लिखित रूप में पन्द्रह दिन का नोटिस दिए बिना ऐसी समाधि या एक पक्षीय आदेश पारित नहीं किया जा सकेगा।

- (6) पक्षकारों को शिकायत समिति के समक्ष कार्यवाही के किसी चरण में अपने मामले का प्रतिनिधित्व करने के लिए किसी विधिक व्यावसायी को लाने की अनुमति नहीं होगी।
 (7) जाच का संचालन करते समय, शिकायत समिति के कम से कम तीन सदस्य जिन्हें यथास्थिति पीठारीन अधिकारी अथवा अध्यक्ष, हो, उपस्थित होंगे।

8. जांच लंबित रहने के दौरान शिकायतकर्ता को अन्य अनुतोष : व्यथित महिला के लिखित रूप में अनुरोध पर, शिकायत समिति नियोक्ता से निम्नलिखित की सिफारिश कर सकती है।

- (क) व्यथित महिला के कार्य निष्पादन या उसकी गोपनीय रिपोर्ट लिखने तथा इसे किसी अन्य अधिकारी को आवंटित करने से प्रत्यर्था को अवरुद्ध करना।
 (ख) शैक्षिक सहायता के मामले में व्यथित महिला की किसी शैक्षिक गतिविधि का पर्यवेक्षण करने से प्रत्यर्था को अवरुद्ध करना।

9. लैंगिक उत्पीड़न के लिए कार्रवाई करने की रीति : ऐसे मामलों को छोड़कर, जहां सेवा नियम विद्यमान हैं जहां शिकायत समिति इस निष्कर्ष पर पहुंचती है कि प्रत्यर्था के विरुद्ध अधिकथन साबित हो गए हैं, यह यथास्थिति नियोक्ता या जिलाधिकारी से कार्रवाई करने की सिफारिश कर सकती है जिसमें लिखित रूप में क्षमा याचना करना, चेतावनी जारी करना, डांटना या निंदा करना, प्रोन्नति रोकना, वेतनबढ़ोत्तरी या वेतनवृद्धि रोकना, प्रत्यर्था को सेवा समाधि करना या परामर्श सत्र में भाग लेने या सामुदायिक सेवा करने का आदेश देना शामिल है।

10. मिथ्या अथवा दुर्भावपूर्ण शिकायत अथवा मिथ्या साक्ष्य पर कार्रवाई : उन मामलों के सिवाय जहां सेवा नियम विद्यमान हैं, जहां शिकायत समिति इस निष्कर्ष पर पहुंचती है कि प्रत्यर्था के विरुद्ध अधिकथन दुर्भावपूर्ण है अथवा व्यथित महिला अथवा शिकायत करने वाली अन्य किसी व्यक्ति ने यह जानते हुए कि यह मिथ्या है शिकायत की है अथवा व्यथित महिला या शिकायत करने वाले किसी व्यक्ति ने कूटस्थित अथवा भ्रामक दस्तावेज प्रस्तुत किए हैं तो यह यथास्थिति नियोक्ता अथवा जिला अधिकारी को नियम 9 के उपबंधों के अनुसार कार्रवाई करने की सिफारिश कर सकेगी।

11. अपील : धारा 18 के उपबंधों के अधीन, धारा 13 की उप-धारा (2) के अधीन या धारा 13 की उप-धारा (3) के खण्ड (i) या खण्ड (ii) के अधीन अथवा धारा 14 की उपधारा (1) या उप-धारा (2) या धारा 17 के अधीन की गयी सिफारिशों या ऐसी सिफारिशों को कार्यान्वित न किए जाने से व्यथित कोई व्यक्ति औद्योगिक नियोजन (स्थायी आदेश) अधिनियम, 1946 (1946 का 20) की धारा 2 के खण्ड (क) के अधीन अधिसूचित अपीली प्राधिकारी को अपील कर सकेगा।

12. धारा 18 के उपबंधों के उल्लंघन के लिए दंड - धारा 17 के उपबंधों के अधीन, यदि कोई व्यक्ति धारा 16 के उपबंधों का उल्लंघन करता है, तो नियोक्ता ऐसे व्यक्ति से शक्ति के रूप में पांच हजार रुपये की राशि की वसूली करेगा।

13. कार्यशालाएं आदि आयोजित करने की रीति : धारा 19 के उपबंधों के अधीन, प्रत्येक नियोक्ता -

- (क) कार्यस्थल पर लैंगिक उत्पीड़न के प्रतिरोध, निवारण एवं प्रतिरोध के लिए एक आंतरिक नीति या चार्टर या सकल्य या घोषणा तैयार करेगा तथा उसका व्यापक प्रसार करेगा, जिसका आशय लिंग संवेदी सुरक्षित स्थानों को बढ़ावा देना तथा ऐसे अतर्निहित कारकों का निवारण करना है, जो महिलाओं के विरुद्ध प्रतिकूल कार्य परिवेश में योगदान करते हैं;
 (ख) आंतरिक समिति के सदस्यों के लिए, प्रबोधन कार्यक्रमों एवं सेमिनारों का क्रियान्वयन करेगा;
 (ग) कर्मचारी जागरूकता कार्यक्रमों का क्रियान्वयन करेगा तथा संवादों के लिए मंच का सृजन करेगा जिसमें पंचायती राज संस्थाएं, याग सभा, महिला समूह, मातृ समितियाँ, किशोर समूह, शहरी स्थानीय निकाय तथा कोई अन्य निकाय, जिसे आवश्यक समझा जाए, अंतर्लिखित हो सकते हैं;
 (घ) आंतरिक समिति के सदस्यों के लिए क्षमता निर्माण एवं कौशल निर्माण कार्यक्रमों का संचालन करेगा;
 (ङ) आंतरिक समिति के सभी सदस्यों के नामों एवं संपर्क के व्यौरों की घोषणा करेगा,
 (च) अधिनियम के उपबंधों के बारे में कर्मचारियों को संवेदनशील बनाने के लिए, कार्यशालाओं एवं जागरूकता कार्यक्रमों के आयोजन के लिए, राज्य सरकारों द्वारा विकसित मापदंडों का उपयोग करेगा।

14. वार्षिक रिपोर्टें तैयार करना : वार्षिक रिपोर्टें जिसे धारा 21 के अंतर्गत शिकायत समिति द्वारा तैयार किया जाएगा, में निम्नलिखित व्यौरे होंगे :

- (क) वर्ष में प्राप्त लैंगिक उत्पीड़न की शिकायतों की संख्या;
 (ख) ऐसी शिकायतों की संख्या (जिनका) वर्ष के दौरान निस्तारण किया गया;
 (ग) ऐसे मामलों की संख्या जो नब्बे दिन से अधिक अवधि तक लंबित हैं;

- (घ) लैंगिक उत्पीड़न के विरुद्ध क्रियान्वित कार्यशालाओं या जागरूकता कार्यक्रमों की संख्या,
 (ङ) नियोक्ता या जिला अधिकारी द्वारा की गई कार्रवाई का स्वरूप।

[फा. सं. 19-5/2013-डब्ल्यूडब्ल्यू]

डॉ. श्रीरंजन, संयुक्त सचिव

**MINISTRY OF WOMEN AND CHILD DEVELOPMENT
 NOTIFICATION**

New Delhi, the 9th December, 2013

G.S.R. 769(E).—In exercise of the powers conferred by section 29 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (14 of 2013), the Central Government hereby makes the following rules, namely:—

1. **Short title and commencement.** – (1) These rules may be called the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. **Definitions.** – In these rules, unless the context otherwise requires,—

- (a) "Act" means the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (14 of 2013);
 (b) "complaint" means the complaint made under section 9;
 (c) "Complaints Committee" means the Internal Committee or the Local Committee, as the case may be;
 (d) "incident" means an incident of sexual harassment as defined in clause (n) of section 2;
 (e) "section" means a section of the Act;
 (f) "special educator" means a person trained in communication with people with special needs in a way that addresses their individual differences and needs;
 (g) words and expressions used herein and not defined but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. **Fees or allowances for Member of Internal Committee.**— (1) The Member appointed from amongst non-government organisations shall be entitled to an allowance of two hundred rupees per day for holding the proceedings of the Internal Committee and also the reimbursement of travel cost incurred in travelling by train in three tier air condition or air conditioned bus and auto rickshaw or taxi, or the actual amount spent by him on travel, whichever is less.

The employer shall be responsible for the payment of allowances referred to in sub-rule (1).

4. **Person familiar with issues relating to sexual harassment.**— Person familiar with the issues relating to sexual harassment for the purpose of clause (c) of sub-section (1) of section 7 shall be a person who has expertise on issues relating to sexual harassment and may include any of the following:—

- (a) a social worker with at least five years' experience in the field of social work which leads to creation of societal conditions favourable towards empowerment of women and in particular in addressing workplace sexual harassment;
 (b) a person who is familiar with labour, service, civil or criminal law.

1. **Fees or allowances for Chairperson and Members of Local Committee.**— (1) The Chairperson of the Local Committee shall be entitled to an allowance of two hundred and fifty rupees per day for holding the proceedings of the said Committee.

(2) The Members of the Local Committee other than the Members nominated under clauses (b) and (d) of sub-section (1) of section 7 shall be entitled to an allowance of two hundred rupees per day for holding the proceedings of the said Committee and also the reimbursement of travel cost incurred in travelling by train in three tier air condition or air conditioned bus and auto rickshaw or taxi, or the actual amount spent by him on travel, whichever is less.

The District Officer shall be responsible for the payment of allowances referred to in sub-rules (1) and (2).

6. **Complaint of sexual harassment.** – For the purpose of sub-section (2) of Section 9,—

- (i) where the aggrieved woman is unable to make a complaint on account of her physical incapacity, a complaint may be filed by –

- (a) her relative or friend; or
 (b) her co-worker; or
 (c) an officer of the National Commission for Women or State Women's Commission; or
 (d) any person who has knowledge of the incident, with the written consent of the aggrieved woman;
- (ii) where the aggrieved woman is unable to make a complaint on account of her mental incapacity, a complaint may be filed by-
- (a) her relative or friend; or
 (b) a special educator; or
 (c) a qualified psychiatrist or psychologist; or
 (d) the guardian or authority under whose care she is receiving treatment or care; or
 (e) any person who has knowledge of the incident jointly with her relative or friend or a special educator or qualified psychiatrist or psychologist, or guardian or authority under whose care she is receiving treatment or care;
- (iii) where the aggrieved woman for any other reason is unable to make a complaint, a complaint may be filed by any person who has knowledge of the incident, with her written consent;
- (iv) where the aggrieved woman is dead, a complaint may be filed by any person who has knowledge of the incident, with the written consent of her legal heir.
7. **Manner of inquiry into complaint.**- (1) Subject to the provisions of section 11, at the time of filing the complaint, the complainant shall submit to the Complaints Committee, six copies of the complaint along with supporting documents and the names and addresses of the witnesses.
- (2) On receipt of the complaint, the Complaints Committee shall send one of the copies received from the aggrieved woman under sub-rule (1) to the respondent within a period of seven working days.
- (3) The respondent shall file his reply to the complaint along with his list of documents, and names and addresses of witnesses, within a period not exceeding ten working days from the date of receipt of the documents specified under sub-rule (1).
- (4) The Complaints Committee shall make inquiry into the complaint in accordance with the principles of natural justice.
- (5) The Complaints Committee shall have the right to terminate the inquiry proceedings or to give an *ex-parte* decision on the complaint, if the complainant or respondent fails, without sufficient cause, to present himself or himself for three consecutive hearings convened by the Chairperson or Presiding Officer, as the case may be:
- Provided that such termination or *ex-parte* order may not be passed without giving a notice in writing, fifteen days in advance, to the party concerned.
- (6) The parties shall not be allowed to bring in any legal practitioner to represent them in their case at any stage of the proceedings before the Complaints Committee.
- (7) In conducting the inquiry, a minimum of three Members of the Complaints Committee including the Presiding Officer or the Chairperson, as the case may be, shall be present.
8. **Other relief to complainant during pendency of inquiry.**-The Complaints Committee 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;
 (b) restrain the respondent in case of an educational institution from supervising any academic activity of the aggrieved woman.
9. **Manner of taking action for sexual harassment.**- Except in cases where service rules exist, where the Complaints Committee arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the employer or the District Officer, as the case may be, to take any action including a written apology, warning, reprimand or censure, withholding of promotion, withholding of pay rise or increments, terminating the respondent from service or undergoing a counselling session or carrying out community service.

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10. Action for false or malicious complaint or false evidence.— Except in cases where service rules exist, where the Complaints Committee arrives at the conclusion that the allegation against the respondent is malicious or the aggrieved woman or any other person making the complaint has made the complaint knowing it to be false or the aggrieved woman or any other person making the complaint has produced any forged or misleading document, it may recommend to the employer or District Officer, as the case may be, to take action in accordance with the provisions of rule 9.

11. Appeal.— Subject to the provisions of section 18, any person aggrieved from the recommendations made under sub-section (2) of section 13 or under clauses (i) or clause (ii) of sub-section (3) of section 13 or sub-section (1) or sub-section (2) of section 14 or section 17 or non-implementation of such recommendations may prefer an appeal to the appellate authority notified under clause (a) of section 2 of the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946).

12. Penalty for contravention of provisions of section 16.— Subject to the provisions of section 17, if any person contravenes the provisions of section 16, the employer shall recover a sum of five thousand rupees as penalty from such person.

13. Manner to organise workshops, etc.— Subject to the provisions of section 19, every employer shall—

- (a) formulate and widely disseminate an internal policy or charter or resolution or declaration for prohibition, prevention and redressal of sexual harassment at the workplace intended to promote gender sensitive safe spaces and remove underlying factors that contribute towards a hostile work environment against women;
- (b) carry out orientation programmes and seminars for the Members of the Internal Committee;
- (c) carry out employees awareness programmes and create forum for dialogues which may involve Panchayati Raj Institutions, Gram Sabha, women's groups, mothers' committee, adolescent groups, urban local bodies and any other body as may be considered necessary;
- (d) conduct capacity building and skill building programmes for the Members of the Internal Committee;
- (e) declare the names and contact details of all the Members of the Internal Committee;
- (f) use modules developed by the State Governments to conduct workshops and awareness programmes for sensitising the employees with the provisions of the Act.

14. Preparation of annual report.— The annual report which the Complaints Committee shall prepare under Section 21, shall have the following details:

- (a) number of complaints of sexual harassment received in the year;
- (b) number of complaints disposed off during the year;
- (c) number of cases pending for more than ninety days;
- (d) number of workshops or awareness programme against sexual harassment carried out;
- (e) nature of action taken by the employer or District Officer.

[F. No. 19-5/2013-WW]

Dr. SHREERANJAN, Jt. Secy.

Annexure - III

पत्रिका क्र. 10/2013-33004/99

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सत्यमेव जयते

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असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

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अधिसूचना

नई दिल्ली, 9 दिसम्बर, 2013

का.आ. 3606(अ)—केंद्रीय सरकार, महिलाओं का कार्यस्थल पर लैंगिक उत्पीड़न (नियारण, प्रतिषेध और प्रतिरोध) अधिनियम, 2013 (2013 का सं. 14) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, 9 दिसम्बर, 2013 को उस तारीख के रूप में नियत करती है जिसको उक्त अधिनियम के उपबंध प्रवृत्त होंगे।

[फा.सं. 19-5/2013-डब्ल्यूडब्ल्यू]

डा. श्रीरंजन, संयुक्त सचिव

MINISTRY OF WOMEN AND CHILD DEVELOPMENT

NOTIFICATION

New Delhi, the 9th December, 2013

S.O. 3606(E).—In exercise of the powers conferred by sub-section (3) of Section 1 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (14 of 2013), the Central Government hereby appoints the 9th day of December, 2013 as the date on which the provisions of the said Act shall come into force.

[F. No. 19-5/2013-WW]

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