

Using law to address sexual harassment against women in the workplace in India

A guide for working women


North East Network

© NEN, 2014

North East Network (NEN)

J N Borooh Lane, Jorpukhuri

Guwahati, Assam, PIN 781001, India

 (91-361) 2603833

Telefax: (91-361) 2631582, 91-94350 17824

 assammen@yahoo.co.uk

Gender equality includes protection from sexual harassment and the right to work with dignity, which is a universally recognised basic human right.

Vishaka vs State of Rajasthan, 1997

*Assamese edition of the Guidebook
is available at the office of
North East Network, Guwahati.*

What is sexual harassment of women at the workplace?

Sexual harassment against women can take place anywhere - at home or in public. When such conduct takes place in the workplace, it is termed 'sexual harassment of women at the workplace' (SHWAWP). It includes any sexually oriented practice or behaviour that endangers a woman's continued employment, negatively affects her work performance or undermines her sense of personal dignity. It results in considerable losses to both individuals and institutions, in terms of work performance as well as professional and personal growth. With more and more women visible and joining the workforce, sexual harassment is a growing concern.

Although there is no national level data on the prevalence of SHWAWP, NGO studies (Sakshi [2002] and Centre for

Transforming India [2010]) found that 80-88% women surveyed in different work situations had faced some form of sexual harassment. However, reporting of sexual harassment remains low, as women fear stigmatisation or the loss of job opportunities or being faced with further harassment.

Sexual harassment can be physical and psychological (verbal and non-verbal conduct). In its milder forms, it can involve verbal suggestions and inappropriate affectionate gestures. However, it can, in cases, escalate to extreme behaviour such as attempted rape and rape.

Illustrations of Sexual Harassment

Verbal - asking for or demanding sexual favours, making comments with sexual overture or proposals or obscene or suggestive comments/jokes, corridor comments, discussing women's personal issues such as marriage, pregnancy, appearance, body, etc., insulting publicly or saying something demeaning or humiliating, unwanted calls, gossiping about women staff, singing obscene songs, etc.

Non-verbal - staring, leering, whistling, winking, showing pornography or sexually explicit material (graffiti, pictures, etc.), indecent exposure (flashing), stroking private parts, smacking lips, 'elevator eyes', sending unwanted emails/sms/mms /letters with propositions, advances,

or inappropriate materials, etc., conduct which makes women feel uncomfortable (e.g., opening belt after a meal, sitting in an obscene manner, drinking alcohol in the workplace), etc.

Physical - physical contact or advances, unwanted touching, grabbing, holding, pinching, rubbing up against, blocking a woman's path or cornering her, sexual assault or attempts to molest, etc.

Overview of laws to address sexual harassment of women at the workplace

The Supreme Court of India, in the landmark case of Vishaka vs State of Rajasthan, (1997) acknowledged SHWAWP to be a violation of women's right to equality and dignity, particularly a violation of a woman's right to a safe working environment. The Court also laid down guidelines in this judgement (Vishaka Guidelines), which were applied in cases of sexual harassment before a law was passed on the issue – this led to a number of other Supreme Court judgements that explained and clarified the Vishaka Guidelines¹.

In 2013, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, in short the SHWW(PPR) Act, was enacted and brought into force to -

- Stop sexual harassment from occurring (prevention)
- Forbid sexual harassment at the workplace (prohibition)
- Set right or provide remedies in cases of sexual harassment (redressal)

Additionally, the Indian Penal Code(IPC) was amended in 2013 to insert Section 354A, which criminalises all forms of sexual harassment against women.

A woman facing sexual harassment can, therefore, begin criminal proceedings under the IPC (e.g., Section 354 A)², as well as use the SHWW(PPR) Act to access civil remedies and reliefs simultaneously. The importance of the SHWW (PPR) Act also lies in that it obligates employers to provide a safe working environment and mechanisms or systems for redressing sexual harassment at work.

The differences between proceedings under the IPC and SHWW(PPR) Act are:

Proceedings under the IPC and SHWW(PPR) Act

Section 354A

Act of sexual harassment is a criminal offence; hence, leads to imprisonment (upto 3 years) and fines / penalties that are paid to the State. There is no scope for compensation for the victim.

Applies to sexual harassment in all spaces and relationships.

SHWW(PPR) Act

SHWAWP is recognised as a civil wrong, hence, victim/survivors are entitled to civil reliefs (e.g. transfer of the respondent, reinstatement, etc.) and compensation.

Applies to sexual harassment at the workplace and employment relationships.

Section 354A

Investigations and trials are conducted using criminal procedure and by the police and prosecutor.

SHWW(PPR) Act

Internal Complaints Committee (ICC) conducts inquiries primarily based on civil procedural law.

Frequently asked Questions

How is sexual harassment of women at the work place defined in Indian law?

The definition of sexual harassment under Section 354A and the SHWW (PPR) Act are similar and cover any unwelcome conduct, including:

- Physical contact and advances;
- A demand or request for sexual favours;
- Showing pornography;
- Making sexually coloured remarks;
- Non-verbal or explicit sexual overtures or acts or conduct of sexual nature.

Additionally, the SHWW(PPR) Act, under Section 3, addresses sexual harassment at the workplace specifically by including circumstances, which are related to the workspace and employment relationships. Hence, sexual harassment under the SHWW(PPR) Act includes:

- An implied or explicit promise of preferential treatment in her employment. E.g. a woman is promised promotion if she performs a sexual act;
- An implied or explicit threat of detrimental treatment in her employment. E.g. a woman is threatened with demotion if she does not perform a sexual act;
- An interference with her work or creating an intimidating or offensive or hostile work environment. E.g. a group of workers joke and snigger amongst themselves about sexual

matters to humiliate or embarrass a woman colleague;

- Humiliating treatment likely to affect her health and or safety.

Understanding different forms of sexual harassment at the workplace

Acts of sexual harassment can be categorised into two:

- **Quid pro quo harassment-** which is harassment related to the abuse of authority resulting in tangible or noticeable employment related action, such as promotion, increments, change in work assignments, etc. In such cases a supervisor or a person in authority makes job benefits dependent on sexual favours or denies or threatens to deny job benefits if such favours are rejected.

- **Hostile work environment-** is when the abuse does result in tangible employment action but creates an environment in which a woman feels unsafe, uncomfortable or threatened. The creation of a hostile or unfriendly work environment has a negative impact on a woman's health and safety and diminishes her job performance.

Both the forms are addressed under the SHWW(PPR) Act.

Illustrations

Quid Pro Quo Harassment³

- A supervisor requests sexual favours from a junior in return for a promotion or other job benefits

Hostile work environment

- Displaying pornography & other sexually explicit material in the workplace
- Touching or grabbing

***Quid Pro Quo
Harassment***

- Asking a woman to spend the night in return for a promotion
- Asking a woman to have a sexual relationship in return for an increment
- Asking a woman to have sex or perform sexual acts with promises of out of turn or undeserved favours like a foreign trip, business tour, outing, etc.

***Hostile work
environment***

- Making sexually explicit or suggestive jokes
- Making it difficult for a woman to come to work
- Making personal comments about a woman's appearance, marital/love life, pregnancy
- Singing obscene songs
- Swearing unnecessarily

Quid Pro Quo Harassment

- A worker is threatened with dismissal if she refuses to perform a sexual act
- A boss makes interfering inquiries into the private lives of women employees, or persistently asks them out on dates

Hostile work environment

- Making sexist remarks
- Discussing somebody's or the woman's sexuality in public

Who can file a complaint under the SHWW(PPR) Act ?

The SHWW(PPR) Act covers all women, whether employed or not, who have been subjected to sexual harassment at the workplace. This includes women

engaged in the unorganised sector and domestic workers, although remedies for domestic workers under the SHWW(PPR) Act are limited. The person against whom a complaint of sexual harassment is brought is called a 'respondent'.

Women employees covered under the SHWW(PPR) Act include:

- All regular, temporary and ad hoc employees;
- Those directly employed or employed through an agent / contractor;
- All employment relations, whether salaried or voluntary;
- Employees with express or implied terms of engagement (e.g. written or oral contracts);
- Probationers / apprentices / interns / volunteers.

However, the law applies only to sexual harassment faced by women and does not cover sexual harassment faced by

men. Men facing sexual harassment may use general legal provisions to address the same. As sexual harassment at the workplace is a form of discrimination against women, the SHWW(PPR) Act is a special measure taken to address historical social disadvantages and biases women face at the workplace. It is, therefore, a gender specific law covering only women complainants .

What is a 'workplace' according to the SHWW(PPR) Act ?

The term 'workplace' is broadly defined under the SHWW(PPR) Act to include organisations in the private and public sector, as well as government owned / controlled establishments, hospitals / nursing homes, vocational and educational institutions, sports institutes, hospitals, and training institutions and other such informal and formal work sectors (e.g. brick kilns, beauty parlours, pubs, clubs, NGOs, etc.

The definition of 'workplace' also extends to any place visited by the aggrieved woman in relation to her employment, including transportation provided by the employer. Hence, instances of sexual harassment faced by a woman while visiting places in connection with her work are covered under the SHWW(PPR) Act.

In short, the SHWW(PPR) Act covers sexual harassment in all areas where work relations exist.

Who is responsible for providing a safe working environment?

The SHWW(PPR) Act obligates employers to provide a safe working environment and grievance / complaint / redress mechanisms. The term 'employers' has been broadly defined to include,

- All those heading government organisations / departments / local authorities / undertaking, etc.;

- All those in managerial, supervisory or any position where they can exercise control ;
- 'Managerial' positions particularly personnel responsible for formulation and administration of organisational policies. E.g. persons heading the human resources department in a company;
- Persons discharging contractual obligations vis their employees are also clearly included.

What is the grievance redressal mechanism mandated under the SHWW(PPR) Act ?

Under the SHWW(PPR) Act, all employers (organisations/departments/ companies), engaging 10 or more employees, are required to constitute an Internal Complaints Committee (ICC). In big organisations/institutions/departments, ICCs must be established in branches or administrative units, if such units engage

10 or more employees. It must be noted that ICCs are required in all establishments, even those without woman employees, as women vendors or visitors must also have the option to complain.

An employer who has failed to put an ICC in place may be fined (up to ₹ 50,000) and may also lose his/her licence or registration to operate.

Complaints arising from workplaces with less than 10 employees or organisations that have not established an ICC can be filed with the Local Complaints Committee (LCC). The LCC are to be established by the district authorities at the district or lower levels.

Constitution of Complaints Committees

Internal Complaints Committee

- Presiding Officer – senior woman employee from the workplace, or in her absence the employer's nominee
- 2 members from employees who are committed to the cause of women or have experience in social work or legal knowledge
- 1 member from an NGO working on women's issues or a person familiar with the issue of sexual harassment
- One half of the committee members must be women.

Local Complaints Committee

- Chairperson – nominated from amongst experienced women in the field of social work and commitment to women's rights

- 1 woman nominated from amongst women working at the local level (e.g. block or ward level)
- 2 NGO members, of which at least
 - One should be a woman
 - One with a background of law or with legal knowledge
 - One woman belonging to the SC/ST/OBC
- Concerned officer from the department of social welfare or women and child development.

Members of the LCC and ICC can hold a term of not more than 3 years and are entitled to travel reimbursements and honorarium of ₹250 per proceedings.

Mechanisms such as women's cell in colleges, officer's wives' welfare associations or complaints committee in

government departments, women's wing in student unions or HR committee in a bank and other such facilities in different work sectors do not have the authority to register SHWAWP complaints. All SHWAWP complaints must be filed with the ICC / LCC.

What are the steps involved in redressing complaints under the SHWW(PPR) Act?

Step 1

Aggrieved women can file their complaints in writing to the ICC or LCC 'as appropriate', within three months of the incident of sexual harassment. 6 copies of the complaint along with supporting documents and the names and addresses of the witnesses need to be submitted.

However, this time line can be extended if the ICC / LCC is satisfied that circumstances were such that the aggrieved

person was prevented from filing a complaint.

If the aggrieved woman is unable to make the complaint due to physical or mental incapacity, then her legal heirs, friends, or relatives can do so. Further, if an aggrieved woman is unable to file a complaint for any other reason, any person who has knowledge of the incident (e.g. a colleague) may file a complaint on her behalf with her written consent.

Step 2

Upon receipt, ICC/LCC will inquire into the complaint and give both parties the chance to be heard, although neither party can bring their lawyers to the inquiry process. The inquiry must be completed within 90 days.

In cases of complaints brought by domestic workers, the LCC will forward the complaint to the police, within '7 days' to initiate criminal proceedings.

Step 3

In cases where the ICC/LCC finds that the allegation/ charges made in the complaint are proven, it shall prepare and submit a report to the employer within 10 days of the completion of the inquiry to take action. Action that the ICC can recommend⁴ are:

1. Action against the respondent such as
 - a. Furnishing a written apology to the aggrieved person;
 - b. Warnings, reprimands or censure;
 - c. Withholding promotion or pay rises/ increments of the respondent;
 - d. Terminating the respondent from service;
 - e. Counselling sessions or community service for respondents.
2. Deductions from the respondent's salary to be paid to the aggrieved woman as compensation.

Step 4

The employer must act on the ICC / LCC recommendations within 60 days. If the employer fails to take any action on the ICC / LCC's recommendations, s/he may be fined (upto ₹ 50,000/-). Repeated violations may result in the employer losing his / her license or registration to function.

Step 5

If the aggrieved woman does not agree with the ICC / LCC's recommendations, or the employer fails to take any action based on the recommendation, she may file an appeal in accordance with applicable service rules to the court or any specified appellate authority. In the absence of service rules, she can file an appeal with the appellate authority notified under the Industrial Employment (Standing Orders) Act, 1946.

NB: Employers are required to disseminate information on the law and particularly on the grievance redressal

mechanism. This includes information on applicable service rules and notified appellate authorities. Hence, information on applicable service rules and appellate authorities should be available with the employer and explained in the organisation's anti-sexual harassment policy.

Is there any scope for conciliation and settlement under the SHWW (PPR) Act?

The aggrieved person may request the ICC/LCC to take steps to arrive at a settlement with the respondent before initiating the inquiry. However, no monetary settlements can be made on the basis of such conciliation processes.

On completing the process, the ICC has to record the settlement in writing and forward to the employer for further action if needed.

However, if no settlement is reached or the respondent fails to comply with the terms of the settlement, then ICC / LCC

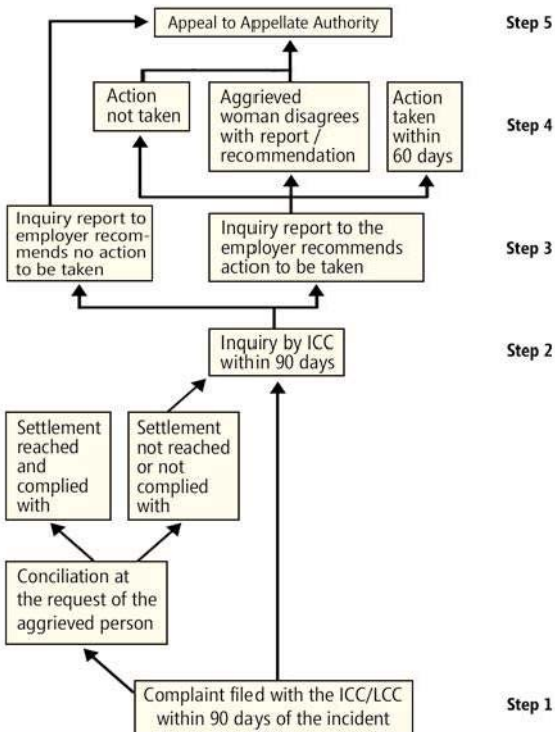
may initiate an inquiry into the complaint.

Can the aggrieved person ask for any reliefs while the inquiry proceedings are going on?

The aggrieved woman can make a request in writing to the ICC for temporary relief, while the inquiry is going on. Temporary reliefs she is entitled to include:

- Transfer of either party;
- Granting leave of up to 3 months to the aggrieved woman;
- Restrain the respondent from reporting on the work performance of the aggrieved woman or write any confidential reports or assign her to another office;
- In cases involving educational institutions – restrain the respondent from supervising any academic activity of the aggrieved woman.

Grievance Redressal Mechanism under the SHWW(PPR) Act.



What happens if the ICC is of the view that the complaint is false or malicious?

If after completing an inquiry the ICC / LCC is of the opinion that a complaint is either false or malicious, it may recommend action to be taken against the aggrieved person in accordance with applicable service rules.

In the absence of service rules, it may recommend the following actions, which are the same as the actions recommended if a person is found guilty of sexual harassment:

- Furnishing a written apology to the respondent;
- Warnings, reprimands or censure to the aggrieved woman;
- Withholding promotion or pay rises/ increments of the aggrieved woman;
- Terminating the aggrieved person from service;
- Counselling sessions or community service for the aggrieved woman.

However, these penalties are not attracted merely because the aggrieved woman is unable to substantiate her claims. For e.g. in case she is not able to provide adequate evidence to back her claims, the ICC / LCC will have to prove that she had malicious intent.

An aggrieved woman can file an appeal against findings of false / malicious complaints before the appropriate appellate authority.

Women's rights advocates and the Verma Committee, a high level committee established to review laws on sexual violence against women in India in 2012, have strongly critiqued this provision, as it may deter women from filing sexual harassment complaints. However, as this provision exists, it is essential for women to draft their complaints carefully to avoid such allegations.

What is the compensation an aggrieved woman is entitled to?

There is no fixed amount provided for compensation, which is calculated on the basis of the following considerations:

- Mental trauma, pain, suffering and emotional distress caused to the aggrieved woman;
- Loss in career opportunity;
- Medical expenses incurred by the aggrieved woman for medical or psychiatric treatment;
- Income and financial status of the respondent;
- Whether the amount should be paid as a lump sum or in installments.

How does the SHWW(PPR) Act protect confidentiality of the parties involved?

Section 16 of the SHWW(PPR) Act, prohibits any person from disclosing any information related to the parties (aggrieved person and respondent),

the proceedings and their outcomes. Persons guilty of such disclosure may be penalised with an amount of ₹ 5000.

What other legal provisions can be used to address sexual harassment of women at the workplace?

An aggrieved woman can use IPC provisions mentioned below in addition to Section 354A, if the conduct she faces amounts to any of these offences.

Provision	Content	Sentence / Penalty
Section 294 -	singing obscene songs or performing obscene acts in public	Imprisonment upto 3 months and / or fine
Section 354 - and 509	on outraging the modesty of a woman. A woman may also claim compensation from the respondent under Section 509	Imprisonment upto 2 years and/or fine

Section 354 B - on forcing the woman to disrobe	Imprisonment of not less than 3 years and upto 7 years and/or fine
Section 354 C - on voyeurism, which includes watching or filming a woman when she is conducting a private act, such as using the toilet, bathing, etc.	Imprisonment of not less than 1 year and upto 3 years and/ or fine for first offences and imprisonment of not less than 3 years and upto 7 years and penalties for subsequent offences
Section 354 D - on stalking, which includes- following a woman or trying to communicate with a woman physically or electronically even if she objects, monitoring a woman's movement, etc.	Imprisonment upto 3 years and fine for first offences and imprisonment of up to 5 years for subsequent offences

Section 375 -	on rape, which includes all non-consensual penetrative acts. Attempts to rape are also punishable	Imprisonment of not less than 7 years
---------------	---	---------------------------------------

An aggrieved woman can initiate proceedings under the IPC and SHWW (PPR) Act simultaneously. She can also seek the employer's help in filing a criminal complaint under the IPC, as it is the duty of the employer to provide such assistance. It is also the employers' duty to initiate criminal proceedings in cases where the abuser is not an employee, e.g. where the abuser is a client of the employer.

What measures should employers take to comply with their responsibilities under the SHWW(PPR) Act?

The SHWW(PPR) Act lists a number of duties for employers. These may be categorised as follows:

1. Prevent sexual harassment at the workplace

(a) SHW Policy: Employers have a responsibility to provide a safe and healthy workplace, and formulate an anti-sexual harassment policy as an explicit and clear statement of this responsibility. The law requires every employer to prepare and formulate such policies.

While employers can make their own policy, minimum information that should be included is⁵ :

- An express commitment to remove or stop and prevent sexual harassment at the workplace, not only by employees but all those visiting the workplace.
- An explanation of the law on sexual harassment and the role and responsibilities of the employer.
- Explanation of the grievance redressal mechanism including the names of ICC members,

service rules as applicable and appeal procedures.

- Resources or contact persons to advise women on sexual harassment.
- A commitment to keep all information on complaints and proceedings on sexual harassment confidential.
- Assurances that the employer will take immediate and appropriate corrective action to redress and prevent sexual harassment.

2. Ensure redress for aggrieved women

- The first responsibility of employers under this category is to put in place an ICC and take action on the basis of its recommendations in a timely manner.
- Employers are also obligated to provide the ICC all necessary support, as well as develop their capacity in dealing with complaints. The employer must declare the names, responsibilities

and contact details of ICC members.

- All employers are required to provide assistance to aggrieved persons in initiating criminal proceedings if the aggrieved person wants to do so.
- All employers are required to amend their service rules to include sexual harassment as a form of misconduct and prescribe action for such misconduct.

3. Statutory report of cases filed and actions taken

The employer must ensure that the ICC reports regularly on cases of sexual harassment and include such information in the organisation's annual report.

If the employer fails to comply with any of its responsibilities, s/he may be fined with an amount of ₹ 50,000/- for the first violation. Subsequent failures to comply with the law may lead to the loss of the employer's license / registration to operate.

Do's and Don'ts for women⁶

Recognise sexual harassment:

Anything that makes you feel uncomfortable, humiliated or intimidated is harassment. It is not what the other person intends but what you feel and what a reasonable person may have felt in a similar situation that matters.

Don't blame yourself for sexual harassment:

Sexual harassment is an expression of power and masculinity by men over women. The way you dress or your attitude is not an invitation to sexual harassment or any form of unwelcome behaviour.

Socialise and support:

Isolation can make you feel vulnerable. Friends and associates who could be supportive and reachable might go a long way in checking harassment. They may also help in substantiating and

strengthening your claims before inquiry processes. Also, always be prepared to respond and support anyone facing sexual harassment.

Say NO firmly and clearly:

Tell the harasser to stop firmly and clearly. It might help to prepare a few statements on how to confront the harasser and ask him to stop such as 'I don't like this', 'You are making me feel uncomfortable'. Keep a record of instances (date, time, place, etc.) where you have asked the harasser to stop, it will be useful in preparing your complaint.

Report the incident:

You have a right to report incidents of sexual harassment and seek redress. Sexual harassment is a violation of your human rights and should be reported. While preparing complaints to the ICC try to include as many as the following details as possible:

- The date of the complaint;

- A clear statement of the names and designation of the person(s) causing the harassment;
- Details of the incident, with dates, time, place of occurrences, context, etc. in chronological order. If the exact dates are not known, then mention the month and year, the post you were holding and the post the respondent was holding;
- If the harassment has been going on for several months, begin from its origin and explain the events leading to the current period;
- If there is any witness to the incident, or any person you had spoken to about the incident immediately after it happened, mention their names after checking with them;
- Mention whether the respondent is your immediate superior or has any direct control over you in the workplace;

- Mention instances where you have repulsed any advances;
- Mention any consequences you have faced or been threatened with when you refused to fulfill demands for sexual favours;
- Mention specifically if you want to attempt a settlement through conciliation or if you want to directly proceed with the inquiry;
- Make sure to include as many details as possible in the complaint as failure to say something in the first instance and subsequently add information may be considered to be an afterthought and hence, false.

Myths and Facts

Myth: Women ask to be sexually harassed by dressing or acting provocatively.

Fact: Sexual harassment is painful, threatening and humiliating. Even women wearing burqas / dokhonas / saris may face harassment. It is not the clothes of the woman but men's mindset, which is the cause of harassment. No person asks to be harassed.

Myth: Sexual harassment is inevitable when men and women are working together.

Fact: While interactions between men and women working together are inevitable, unwelcome sexual behaviour is not.

Myth: Sexual harassment is not really that serious, most of it is harmless flirtation.

Fact: Sexual harassment has nothing to do with flirtation or sincere sexual or

social interest. It is an abuse of power and an expression of deep-rooted and unequal gender relationships.

Myth: A harasser has to have sexual intentions towards his target for the behaviour to count as sexual harassment.

Fact: Sexual harassment is a form of abuse and any unwelcome sexual attention constitutes sexual harassment. The harasser's intentions are not relevant. The experiential effect on the woman or what the woman experiences is important.

Myth: When women do not complain about sexual harassment, it means they like it.

Fact: There are a number of reasons why women do not complain about sexual harassment, such as fear of stigmatisation or being made the subject of gossip, fear that their complaints will not be taken seriously, fear that the abuser may retaliate or become vengeful, fear of unfavourable entries in confidential

reports and of facing further harassment, as well as the fear of losing her job or job related benefits. It is these fears that stop women from making complaints and not because they like it.

Sexual harassment is not about sexual attraction; it is about power dynamics in the work place

Useful Contacts		
Organisation / Individual	Contact Details	Nature of assistance the organisation / individual can provide
Assam State Commission for Women	Near Lakhi Mandir, Beltola Guwahati, 781028 ☎ 0361-2220150 ✉ ascwguwahatia@gmail.com	To raise the issues with appropriate authorities, particularly if legal provisions are not being complied with
Assam Legal Services Authority	2nd Floor, New Court Building of the District and Sessions Judge, Dighalipukhuri, Guwahati-781001 ☎ 0361-2516367 ✉ assamlsa@gmail.com	For legal advice and action
Labour Commissioner, Assam	Gopinath Nagar, B.K. Kakoti Road, Guwahati-16, Assam ☎ 0361-2547406 ✉ labourcommissionerassam@yahoo.com	For information on service and labour laws and rules
Public Prosecutor Ms Baharun Saikia, Guwahati	☎ 09864037333	For taking forward criminal proceedings
Directorate of Social Welfare	M.G. Road, Uzanbazar, Guwahati-1 ☎ 0361-2541169 ✉ directorsocialwelfareassam@yahoo.com	For information on LCC and state action plan to implement the Act
Police Helpline	☎ 100	For further information, assistance and /action
North East Network Assam	☎ 0361-2631582	For further information, advocacy and trainings

End notes

- 1 This case law has immense value for interpreting the current law and amendments.
- 2 Sexual harassment may take different forms, hence women can use a number of provisions under the IPC including those related to disrobing, stalking, voyeurism, etc. However, it is not necessary for women to know or quote appropriate provisions while complaining to the police (i.e. registering an FIR).
- 3 Module II on Understanding Sexual Harassment at the Indian Workplace, PRIA (http://www.pria-academy.org/pdf/PSHW_M-2_Course_Content.pdf).
- 4 In case service rules are applicable, the employer will have to act on ICC recommendations in accordance such rules.

In the Medha Kotwal case, the Supreme Court had directed all employers to amend their service rules to include sexual harassment as a form of misconduct; and treat ICC reports at par with inquiry reports under service rules. However, most companies have not amended their service rules and complied with the judgement. In such cases, a separate inquiry under service rules will have to be done prior to taking any action, as ICC reports do not have the same status as inquiry reports under service laws/rules. This means that a woman may have to go through two inquiry proceedings.

- 5 Laws relating to sexual harassment at the workplace; Lawyers Collective, Universal, New Delhi, 2006
- 6 Sexual Harassment – Tips for Teenagers and Young Adults; Jagori, 2013

Personal Space

NEN acknowledges Asmita Basu, legal researcher and consultant, New Delhi, for compiling this document with conceptual inputs from Anurita Pathak Hazarika of NEN and support of BfdW-EED-Misereor, Germany, towards this guidebook.



www.northeastnetwork.org