

Bill No. XXVIII of 2009

THE PREVENTION OF SEXUAL HARASSMENT OF WOMEN
EMPLOYEES, GIRL STUDENTS, INMATES OF WOMEN
PROTECTION HOMES, HOUSEWIVES AND
GIRLS BILL, 2009

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BILL

to provide for the prevention of sexual harassment and exploitation of women employees at their work places by their employers, superiors, or colleagues and of girl students in schools, colleges, universities by their teachers or by the employees or research guides and of inmates of women protection homes or naari niketans by their in charges and employees and of housewives and girls at homes by their near and dear ones through deterrent punishment and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Prevention of Sexual Harassment of Women Employees, Girl Students, Inmates of Women Protection Homes, Housewives and Girls Act, 2009.

(2) It extends to the whole of India.

5 (3) It shall come into force with immediate effect.

Short title,
extent and
commence-
ment.

Definitions.

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

(a) “appropriate Government” means in the case of a State, the Government of that State and in other cases, the Central Government;

(b) “educational institution” includes all schools, colleges, universities institutes, vocational training centres and other centres where education or any kind of training is imparted to the girl students;

(c) “employer” means,—

(i) in relation to an establishment under the control of the appropriate Government, the Secretary or head of the Department or the Chairman and Managing Director, as the case may be;

(ii) In relation to an establishment under any local Authority or local self Government, the Chief Executive Officer by whatever designation called;

(iii) in relation to other cases, the person or the authority who has the ultimate control over the affairs of the work place;

(iv) in relation to a household the head of the family or Karta of the family;

(d) “establishment” includes a factory, plantation, mine, agriculture field, orchard, livestock rearing site including poultry, shop or business establishment, hospital or nursing home, brick kiln, construction site, banks, financial institutions, cooperatives, Government, semi-Government, local-self Government organizations including Post office and telecom centres, private office or service provider, cyber cafes and call centres, mobile phone companies, firms and such other establishments wherein persons are employed for various performances, airlines, film industry and other places where a woman is employed for any work;

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

(f) “sexual harassment or exploitation” include any unwanted or unwarranted gesture or sexual advances, avoidable and unwarranted physical contacts, sexually explicit and derogatory statements or remarks, willfully touching or patting, suggestive sexual remarks, sexually slanted and obscene jokes, vulgar comments about physical appearance of the woman, indecent invitation, showing pornographic material, demand for sexual favours either in person or through telephonic call or SMS, threat of physical assault or molestation on refusal by the women employee by their male superiors, colleagues, employer or any one who for the time being is in a position to sexually exploit or harass the working woman at any establishment including a house or demanding sexual favour from a girl student by her male teacher by promising her to pass the examination or increase her marks or by her male research guide or professor by promising her to clear her research thesis or helping her in preparing her research paper or thesis and such other acts of male teacher towards his girl students;

(g) “Woman employee” means any woman who is employed, whether directly or through any agency for wages or for similar other considerations at any establishment or household as the case may be.

Prohibition of sexual harassment of women employees, girl students, research scholars etc.

3. (1) Sexual harassment of any working woman at an establishment including household or of a girl student in any school, college or university or research centre in any manner whatsoever is hereby prohibited.

(2) Whoever contravenes the provisions of sub-section (1) shall be guilty of an offence under this Act.

Prohibition of Sexual harassment of housewife or girl.

4. (1) No housewife or a girl shall be subjected to sexual exploitation or harassment by husband and near and dear relation.

(2) Whoever contravenes the provision of sub-section (1) shall be guilty of an offence under this Act.

1 of 1872.	<p>5. Notwithstanding anything contained in any other law for the time being in force whoever contravenes the provisions of section 3 shall be punished with imprisonment for a term which shall not be less than five years but may extend to seven years and also with fine which shall not be less than two lakh rupees but may extend to five lakh rupees.</p>	Penalty.
	<p>6. (1) Notwithstanding anything contained in the Evidence Act, 1872, the onus of proving innocence shall be on the accused and the sexually harassed woman employee, girl student or research scholar, as the case may be, shall have the right to lead evidence in rebuttal.</p>	Burden of proof, etc.
	<p>(2) The trial of an offence committed under this Act shall be held in camera.</p>	
	<p>(3) Notwithstanding anything contained in any other law for the time being force, the case of a sexually harassed woman employee shall be pleaded either by herself or by her counsel or with her consent by any Women’s Organisation or the trade union of which she is a member and in case of a girl student either by herself, or by her counsel or by her parents, relatives or friends as the case may be with her consent.</p>	
	<p>7. (1) The appropriate Government shall, as soon as may be, set up or cause to be set up sufficient number of Complaint Committees in all its Ministries and Departments, Subordinate offices, Public Sector Enterprises, Semi-Government Organisations, Banking and Financial Institutions, Trusts and local bodies, Constitutional and autonomous bodies, educational institutions, colleges, universities, institutes and in all the district headquarters and block levels for redressal of complaints made by sexually harassed housewife, woman employee, girl student or research scholar, as the case may be within a time frame.</p>	Provision of Complaint Committees.
	<p>(2) The Complaint Committee set up under sub-section (1) shall consist of such members and shall follow such procedure as may be prescribed.</p>	
	<p>(3) The findings and recommendation of the Committee shall be implemented in such manner as may be prescribed.</p>	
	<p>8. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.</p>	Act to have overriding effect.
	<p>9. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force regulating any of the matters dealt with in this Act.</p>	Act to supplement other laws.
	<p>10. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.</p>	Power to make rules.

STATEMENT OF OBJECTS AND REASONS

Women and girls are nearly fifty per cent of our population and have remained an exploited lot due to various customs, traditions and beliefs prevailing in the country. Now, there is a visible change and with the spread of education amongst them they form a large part of the nations workforce and their number is increasing very fast. Despite this positive trend, unfortunately, the women employees have to work under the most disadvantageous service conditions in many of the establishments and due to this, cases of their sexual harassment are also increasing day by day. They are sexually harassed very often by their male colleagues, bosses, employers and others but in most of the cases the harassed women do not complain due to fear of social ostracism, family pressure or reprisal through threats and discriminatory treatment of late, there have also been incidents of sexual harassment of housewives and girls at homes by husband and near and dear relations. Such cases of harassment are generally not reported in the first instance unless they become intolerable. Though the offences like physical assault and molestation are punishable under the Indian Penal Code but all aspects of sexual harassment have not been covered by the Indian Penal Code. As a result, the working women feel insecure at their workplaces. The Supreme Court has taken this issue very seriously and in the case of Vishaka and Others vs State of Rajasthan and Others the Supreme Court has laid down norms and guidelines to be followed by employers to prevent cases of sexual harassment and also to provide the procedures for resolution, settlement or prosecution of acts of sexual harassment by taking all steps required including setting up of Complaint Committees for redressal of the complaints made by the victims. The National Commission for Women and various Women's Organisations have also taken up this issue very seriously. However, despite the seriousness of the issue, unfortunately, Complaint Committees do not exist in most of the Government establishments let alone the private ones.

Of late, cases of sexual harassment of girl students by their teachers in schools, colleges and universities have made headlines. Some characterless teachers ask for sexual favour from their girl students promising good marks in examination, get them passed or make such other pretexts. Such cases of sexual harassment need to be dealt with strictly by providing deterrent punishment for the offenders.

Despite the judgment of the Supreme Court, no law has been enacted to prevent sexual harassment of girls and women in establishments and educational institutions.

Hence this Bill.

JAYANTHI NATARAJAN

FINANCIAL MEMORANDUM

Clause 7 of the Bill provides for setting up of Complaint Committees in all the district headquarters and Block levels. The Bill, if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupee seventy crore may involve as recurring expenditure per annum.

No non-recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

RAJYA SABHA

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(Smt. Jayanthi Natarajan, M.P.)