

Know Your Rights: Protect Yourself at Work Place

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Safety is the fundamental right of all the habitants on this earth. In the last few years, it has been observed that the cases of sexual harassment are increasing in leaps and bounds across the world. Workplace sexual harassment is trending now-a-days, earlier these incidents were common in different industries and factories. Now, the most sacred educational institutions have not even escaped from this evil. In most of the cases women are the victim of harassment by the men, nevertheless, in our so-called modern society even the males are getting sexually harassed. The major issue of concern is the awareness in our society; mostly people are not able to identify that a particular behavior is included in the sexual harassment; another, they are resistant in making complaint against such actions or behaviors due to the fear of retaliation. Most of the times these incidences exist in the organization but ignored or hidden, these might exist in any relationship be it student-teacher, employees-supervisor, colleague-colleague, student-student etc. Therefore, it becomes the need of the hour to bring such regulation into the highlight via various media resources like publishing articles, conducting events in the organizations etc. This article aims to provide insight about these important aspects; how to identify and protect themselves from sexual harassment and lays emphasis on role of Internal Complaint Committee.

Workplace sexual harassment is trending now-a-days, earlier these incidents were common in factories. However, unfortunately, the most sacred educational institutions have not even escaped from this evil. Workplace harassment can take many different forms. Sometimes it's obvious. It can be blatant sexual or personal requests from a colleague, client, or boss.

Examples of this type of harassment could include:

- Telling dirty or inappropriate jokes at work;
- Commenting on physical attributes;
- Making suggestive comments in emails or on social media;

- Displaying suggestive pictures or websites;
- Making sexual innuendos;
- Unnecessary touching without consent;
- Unwelcome sexual advances, or persistent requests for dates or other personal favors;
- Personal ridicule or mockery;
- Sabotaging others' work or otherwise interfering with work performance; and
- Open discrimination or commentary based on gender, race, sexual preference, or other personal attributes.

This kind of harassment isn't necessarily always sexual—it can also be considered workplace bullying. Whether there's a sexual component or not, personal harassment is never okay. Essentially, if someone is being singled out or targeted for personal reasons and not professional, it could be harassment. And even if someone is being singled out for ostensibly professional reasons, there's still a line of professionalism that companies and employees are required to follow. Once that commentary or behavior crosses into the personal, it could qualify as harassment. If you feel uncomfortable with the behavior of someone in the workplace, that's usually a red flag. The paper describes the role of Internal complaint committee and its mechanism to handle complaint.

Regulation Regarding Sexual Harassment in Higher Education Institution

Sexual Harassment Act, 2013, The act applies to enterprises having more than 10 employees. The main purpose for the formation of the act was to provide a safer working environment for women and to form a swift and easy complaint mechanism at the work place itself instead of involving the police, all the time.

Section 2(n) of the Act defines sexual harassment as, physical contact and advances, demand or request for sexual favours, showing pornography and any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

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Every employer is bound to constitute an Internal Complaints Committee (ICC), to constitute;

(i) a Presiding Officer (who shall be a woman employee),

(ii) minimum of two employee members having experience in social work or a legal knowledge.

(iii) There shall be at least one independent member from outside the organization who has been committed to the cause of women or is familiar with the issues relating to Sexual Harassment.

The University Grants Commission (UGC) has directed universities and higher educational institutions to submit data about the number of sexual harassment complaints received by them and their status.

The commission has also sought a report on the constitution of Internal Complaints Committee (ICC) to deal with complaints of these nature. The regulatory body has directed all higher education institutes and Universities to submit details of sexual harassment complaints received till March 31, 2019 and their status by July 31, 2019 to enable UGC to compile the data and furnish it to the government. It has further emphasized institutions to conduct gender sensitisation programmes.

Mechanism of Handling Complaints

Making a Complaint

A complaint of sexual harassment shall be made in writing to ICC within a period of 3 months from the date of incident, extendable by 3 months by ICC, under special circumstances but the reasons must be recorded in writing. ICC may request for conciliation, and request the aggrieved women to settle the matter with respondent through conciliation. Failing conciliation, the ICC shall initiate inquiry as per service rules.

The given time period may be extended by the Committee ('ICC') if to the satisfaction of the Committee, if it is proved that circumstances were such which prevented the woman from filing the complaint previously. It is also provided that the Committee may reasonably assist the woman in making the complaint in writing if she is unable to do so whereas if she becomes incompetent to file the complaint on account

of her physical incapacity or mental incapacity or death or due to any other reason, the complaint may be made by her legal heir or any other person.

Disposal of Complaint

Complaint needs to be handled within 90 days. In case ICC is not able to handle it or the complainant is not satisfied by the report of ICC. Involvement of Police can take place; it is open to ICC to refer the matter to police under section 509 of the Indian Penal Code or any other provision within a period of seven days if prima facie case exists. It is clarified that all matters are not required to be reported to police, except for cases of serious nature, where crime committed is apparent and deserves to be tried under the respective criminal Laws.

The ICC may recommend to the employer, transfer of aggrieved women or respondent to other workplace, grant leave to aggrieved women or grant relief.

Allegations Not Proved: No Action Required

The law provides that where ICC arrives at a conclusion that the allegations are not proved, it shall recommend to the employer that no action is required to be taken, and hence, close the matter. However, in case allegations are proved, the ICC shall recommend to act in accordance with service rules, and deduct from the salary of respondent a reasonable sum of money to be paid to the aggrieved person. In case a Contractual employee his services may be terminated.

Punishment for False Complaint or False Evidence

Although this Act seems to have been a boon to the cries of women, it has often been misused. Section 14 of the Act talks about, "punishment for false complaints", and where ICC arrives at a conclusion that the allegations against respondent is malicious and the complaint is a false complaint or has produced false or misleading document, the ICC may recommend to act against the woman in accordance with service rules of the organization. The work of the Internal Complain Committee should to inquire first on every complaint received rather to immediately act upon it because the consequence suffered is hard to overcome.

Disposal of Complaint

Sec 16 of the Act, provides that following shall not be published, communicated, made known to the public, press and media in any manner:

- the contents of the complaint,
- the identity and addresses of the aggrieved woman, respondent and witnesses,
- any information relating to conciliation and inquiry proceedings,
- recommendations of the Committee, as the case may be, and
- action taken by the employer.

However, the information may be disseminated regarding the justice secured to any victim of sexual harassment without disclosing the name, address, identity or any other particulars calculated to lead to the identification of the aggrieved women and witnesses. The provision for appeal against the recommendation of the Committee has been provided under sec 18 of the Act. Any person aggrieved from the or non-implementation of such recommendations may prefer an appeal to the court or tribunal in accordance with the provisions of Law. The given period for preferring an appeal is within 90 days of the recommendations.

Table-1 Timelines to be Followed for Handling Complaint under ICC

Particulars	Time
Complaint to ICC (from the date of incident)	3 months
Forwarding the complaint to police, if required (not all complaints are required to be made to police)	7 days
Grant leave to the aggrieved women (upon request and upon recommendation to the employer by ICC)	3 months

Particulars	Time
Report on the inquiry by the Committee (ICC)	10 days
Completion of inquiry	90 days
Action upon recommendation of the Committee by the Employer	60 days
Appeal to the District Court	90 days

Purview of ICC

Although the regulations as stated by the UGC do not explicitly state the role of the ICC in curbing cases of women being harassed only, they do point out the administration's duty to "act decisively against all gender violence perpetrated against employees and students of all sexes." In section 3(1)-(d), the regulations also point out the vulnerability of "women employees and students and some male students and students of the third gender."

As a result, cases of gender violence against male students and students from the transgender community may be dealt with appropriate measures and not be considered under the purview of the ICC.

Conclusion

In nutshell, awareness is a bliss. Workplace harassment can take many different forms. For protection against sexual harassment at work place UGC has directed all Higher Education Institutes (HEIs) to frame an Internal Complaint Committee for (Prevention, Prohibition and Redressal of Sexual Harassment of Women Employees and Students in Higher Educational Institutions) Regulations 2015. All the institutes of higher education need to have an Internal Complaint Committee which is actually giving a platform for women to come up and speak of their problems. This independent body will surely help in improving the situation and will make women be heard without any sort of fear. □