CHAPTER II

LAW

Law can be an effective instrument for bringing social change. Law encodes power. It has been used successfully to achieve equilibrium by regulating socio-legal relationships, particularly, by enacting specific laws for women employees. Protection against sexual harassment and right to work with dignity, are universally recognized as human rights by International Conventions and Instruments such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). The Beijing Platform for Action was adopted at the United Nations Fourth World Conference on Women in Beijing in 1995. It calls on Governments, the international community and civil society to take strategic action in twelve critical areas of concern which include the area of violence against women (including the prevention of sexual harassment in the workplace). The United Nations (UN) has actively advocated the development of international feminism by constituting national and international forums for operation. International Year of Women (1975), Decade for Women (1976-85), and United Nations Conferences held in Mexico City (1975), Copenhagen (1980), Nairobi (1985), Beijing (1995), Beijing+5 (2000), Beijing + 10 (2005) - all nurtured new relationship between women from different parts of the world. On July 2, 2010, in a historic moment, the UN General Assembly voted unanimously for the establishment of the UN Entity for Gender Equality and Empowerment, to be known as “UN Women” This was the result of years of negotiations between United Nations Member States and active advocacy of women’s groups and civil society. With the establishment of UN Women, Secretary-General Ban Ki-moon stated that the world has entered a new era in the UN’s work for women. UN Women became operational in January 2011. The United Nations General Assembly unanimously voted to create a single UN body tasked with accelerating progress in achieving gender equality and women’s empowerment.

The new UN Entity for Gender Equality and the Empowerment of Women (UN Women) merged four of the world body’s agencies and offices: the UN Development Fund for Women (UNIFEM), the Division for the Advancement of Women (DAW), the Office of the Special Adviser on Gender Issues, and the UN
International Research and Training Institute for the Advancement of Women (UN-INSTRAW).

United Nations has adopted a series of international instruments from time to time, wherein rights of women are enshrined. These instruments include Universal Declaration of Human Rights, 1948 adopted by UN General Assembly on December 10, 1948; Convention on the Political Rights of Women, which came into force in 1954; International Covenant on Civil and Political Rights, passed by the General Assembly in 1966, which came into force in 1976; International Covenant on Economic, Social and Cultural Rights, which was also passed by the General Assembly in 1966, and it came into force in 1976; Declaration on the Elimination of Discrimination Against Women, 1979 and others.

In 1993, forty-five years after the Universal Declaration of Human Rights was adopted, and eight years after CEDAW entered into force, the UN World Conference on Human Rights in Vienna confirmed that women’s rights were human rights. In 1994, the International Conference on Population and Development in Cairo articulated and affirmed the relationship between advancement and fulfilment of rights and gender equality and equity. In 1995, the Fourth World Conference on Women in Beijing generated global commitments to advance a wider range of women’s rights. The inclusion of gender equality and women’s empowerment, as one of the eight Millennium Development Goals, was a reminder that many of those promises, are yet to be kept.

Legislatures of several countries have enacted legislation, or amended existing provisions, to specifically prohibit workplace sexual harassment. Almost fifty countries directly prohibit it in legislation. They are Argentina, Australia, Austria, Bangladesh, Belgium, Belize, Canada, Costa Rica, Croatia, the Czech Republic, Denmark, Dominican Republic, Fiji, Finland, France, Germany, Guyana, Honduras, Iceland, Ireland, Israel, Japan, the Republic of Korea, Latvia, Lesotho, Lithuania, Luxembourg, Malta, Mauritius, Namibia, the Netherlands, New Zealand, Norway, Panama, Paraguay, the Philippines, Poland, Portugal, Romania, Slovakia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Thailand, the United Republic of Tanzania, Uruguay, Venezuela. At least thirty five countries have legislated against sexual harassment since 1995. They are Costa Rica, Finland, Panama, Paraguay, the Philippines, Sri Lanka, Switzerland (1995); Belize (1996); Guyana, Japan, Uruguay
(1997); Honduras, Ireland, Israel, Lithuania, Mauritius, Portugal, South Africa, the United Republic of Tanzania, Thailand (1998); Fiji, Japan, Venezuela (1999); Bangladesh, Iceland, Luxembourg (2000); Denmark (2001); Norway, Romania (2002); Croatia, Malta, Poland, Slovakia (2003); the Czech Republic, Latvia (2004); China (2007) iii iv have all initiated fight against sexual harassment in workplace.

POSITION IN UNITED STATES, UNITED KINGDOM, FRANCE, JAPAN, THAILAND AND CHINA

UNITED STATES

In the United States (US), sexual harassment is basically viewed as a wrongful conduct, for which legal remedies are available for the individual. The Courts and employers in the US are generally guided by the definition of sexual harassment, as in the guidelines of the US Equal Employment Opportunity Commission (EEOC). Sexual harassment, which includes demands for sexual favours, and workplace conditions, creating a hostile environment, are banned under the Civil Rights Act, 1964. 1

In Meritor Savings Bank v. Vinson, 1986, the Courts stated that the hostile working environment was a result of conditions, created for which the employer will be held liable to pay for it. It reinforces in Harris v. Forklift Sys, 1993, that sexual harassment is actionable if it is sufficiently severe or pervasive, to change the service conditions of the plaintiff's employment. In this case, the Court observed that an ‘objectively hostile or abusive work environment’ is created, when ‘a responsible person would find it hostile or abusive’ and the victim subjectively perceives it as such.

In the United States, the Civil Rights Act, 1991, added provisions to Title VII protections, including furthering the rights of women to sue and collect compensatory (punitive) damages for sexual discrimination or harassment. Here, the US Court treats sexual discrimination also as sexual harassment. The Court held in Burlington Industries v. Ellerth, 1998 that an employer may be vicariously liable, when a supervisor generates a hostile work environment by an explicit threat to change the

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subordinates’ terms of employment based on sex, but does not go to the extent of executing the threat.

Also in the case of Beth Ann Faragher v. City of Boca Raton, 1998, the Court decided that the employer is vicariously liable for actionable discrimination, caused by the supervisor, but subject to the affirmative defence, based on the reasonableness of an employer’s conduct and of victim.

In 1996, a sexual harassment case was brought by the US Equal Employment Opportunity Commission (EEOC) as a class action suit, against a Japanese Company functioning in the U.S., Mitsubishi Motor Manufacturing of America. The case involved widespread and longstanding sexual harassment in the Company. It started as a civil action suit, by a group of women working for the Company in 1994. The EEOC case bled the defending Company US $ 34 million in compensation, for more than 350 women workers, in addition to the hefty amount of compensation to 27 women, who joined the civil action suit. The Mitsubishi case was an object lesson to the Company, that negligence towards a sexual harassment case, could cause extreme financial burden as well as bad reputation.

**Quid pro quo and hostile working environment harassment**

Sexually harassing behaviour is often categorized as either “*quid pro quo*” or “hostile working environment” harassment, a distinction stemming from the jurisprudence of the American courts. *Quid pro quo* sexual harassment takes place when a job benefit — a pay rise, a promotion, or even continuing employment — is made dependent on the victim, acceding to demands to engage in some form of sexual behaviour. It was the first kind of sexual harassment to be prohibited when it was recognized by the US District Court for the District of Columbia in 1976.

The second category, hostile working environment harassment, covers conduct that creates a working environment which is unwelcome and offensive to the victim. It encompasses the range of sexually harassing behaviour, which does involve sexual blackmail: sex-based comments, disparaging remarks about the sex of the target, innuendos, the display of sexually suggestive or explicit material, etc. Hostile working environment harassment was also initially identified, legally recognized, and prohibited in the United States, first in guidelines issued by the U.S. Equal Employment Opportunities Commission (EEOC), and subsequently by the Courts.
Hostile working environment harassment was recognized by the U.S. Supreme Court in 1986\(^2\).

The Court held that employers are strictly liable for quid pro quo harassment, so that they are liable, even if they did not know the harassment was occurring and had an anti-harassment policy in place. In the Meritor Savings Bank case, however, the Court found not the quid pro quo type of harassment but the more subtle claim of “hostile working environment” harassment.\(^vii\)

Other countries have followed the United States, by drawing a distinction between quid pro quo and hostile working environment sexual harassments. Most of the legislations which define sexual harassment can be convincingly interpreted as prohibiting both forms. Despite the widespread adoption of a distinction between quid pro quo and hostile working environment harassment, it is possible to define sexual harassment in a way which captures all of its forms, for example, by viewing quid pro quo harassment, as one of the types of behaviour, which create a hostile working environment. This unified approach has been adopted in Canada, where the courts have downplayed the two-fold distinction developed in the United States.\(^viii\)

Sexual harassment is no longer a violation of private rights. It is a public legal right. Sexual harassment is no longer between two people only. ‘Reasonable Woman Standard’, according to the United States’ Court case, Ellison v. Brady, 1990, observed that men and women have very different views of the conduct, that may constitute sexual harassment. Women are more frequently targeted by sexual violence. The Court stated that it would prefer to analyze harassment from the victim's perspective. A complete understanding of the victim's view requires, among other things, an analysis of the different perspectives of men and women. Conduct that many men consider unobjectionable, may offend many women.

*Ellison vs. Brady* was a landmark sexual harassment case that set the "Reasonable Woman" standard (later called the "Reasonable Worker" standard) in sexual harassment law, and has helped to discount the notion that all sexual harassment, is little more than harmless flirting, or all in fun, with those who complain about it being overly sensitive or histrionic. Kerry Ellison had been stalked by a coworker, and her complaints to her employers fell on deaf ears. Her case was

tossed out both by the EEOC and a district court, with the harassing behaviour, being dubbed an "isolated" incident, and "genuinely trivial." However, this judgement was reached based on the perspective of people (mostly men), who might not have viewed the defendant's behaviour, as damaging or threatening. Ellison took her case to the Court of Appeals, which reversed the decision, stating: "We realize that there is a broad range of viewpoints among women as a group, but we believe that many women share common concerns which men do not necessarily share. For example, because women are disproportionately victims of rape and sexual assault, women have a stronger incentive to be concerned with sexual behaviour. Women, who are victims of mild forms of sexual harassment, may understandably worry whether a harassment conduct, is merely a prelude to violent sexual assault. Men may view sexual conduct in a vacuum, without a full appreciation of the social setting or the underlying threat of violence that a woman may perceive.... We cannot say a matter of law that Ellison’s reaction was idiosyncratic or hyper-sensitive. We believe that a reasonable woman could have had a similar reaction." The judge's decision was important because it set the "Reasonable Woman" precedent which stipulated that harassment cases should be evaluated based on the perspective of the harassment or stalking victim. And harassers saying that they “meant no harm” do not discount the experience of the harassment target, or any damage that may have occurred because of the harasser's behaviour. In subsequent years, the "Reasonable Worker" standard has been developed to include any type of harassment or stalking, regardless of the gender of the victim or harasser.

UNITED KINGDOM

In the United Kingdom, it is an age-old principle that sexual harassment is a form of ‘sex discrimination’. The Sex Discrimination Act, 1975, of the United Kingdom makes a person liable, who discriminates against a woman in any situation, relevant for any section of this Act, on the ground of her gender. The same offence is continued if he treats her less favourably than he would treat a man. Sexual harassment is actionable in England, under the Protection from Harassment Act, 1997 and under the Employment Equality (Sexual Orientation) Regulations, 2003. The Protection from Harassment Act provides civil and criminal liability for conduct, amounting to sexual harassment.\textsuperscript{ix}

\textsuperscript{xiii} Section 1(1), Sex Discrimination Act, 1975, United Kingdom
In *Stubbs v. Chief Constable Lincolnshire Police and Others*, 1999 a police woman was sexually harassed repeatedly, by a male officer in a public house, after work. The Tribunal held that since the incidents were in the course of employment, the Chief Constable was vicariously liable.

In *Strathclyde Regional Council v. Porcelli*, conduct amounting to sexual harassment was held to form direct discrimination. The sexual remarks and other offensive conduct, indulged by two male colleagues, were in an effort to make Mrs Porcelli, leave her post. The Court observed that if a form of unfavourable treatment is meted out to a woman, she has been discriminated against.

Also, in *Bracebridge Engineering Ltd v. Darby*, Darby resigned after a single, very undesirable incident of sexual harassment. The Employment Appeal Tribunal decided that a single action that was sufficiently serious, could form sexual harassment and give rise to an action for sex discrimination. Apart from a successful claim for sex discrimination, Mrs Darby could recover compensation for unfair dismissal.\(^x\)

In October, 2005, as a result of the Employment Equality (Sex Discrimination) Regulation, 2005 a new Section 4A was inducted into the Sex Discrimination Act, 1975. This means that a person subjects a woman to harassment if, on the grounds of her gender, he engages in unwanted conduct, having the purpose and effect of violating her dignity or of creating a hostile, humiliating, or offensive environment for her. Moreover, a person commits sexual harassment, if he engages in any form of unwanted verbal, non-verbal or physical conduct of a sexual nature, leading to the same effect. So, the Act now covers both harassment on the grounds of gender and conduct of a sexual nature.\(^x\)

**FRANCE**

The most important development in Europe, concerns the passage in France of a law on abuse of authority, and sexual matters in employment relations to apply the Act in the public service. The new law specifically refers to sexual harassment in the workplace as a penal offence. Articles 222 to 233 of the Labour Code, 1973 condemns sexual harassment. It provides a term of imprisonment, not exceeding one year and /or a fine not exceeding French Francs 100,000. In France, the employer must take all necessary steps to prevent acts of sexual harassment. If he fails in his
duties, he is liable for the acts or omissions of the supervisors. Under the Labour Code, a court can award an employee, a victim of sexual harassment, damages and with certain conditions, reinstatement etc.

**JAPAN**

In Japan, until recently, sexual harassment was not taken seriously and rather ridiculed in the media. However, Japan’s Equal Employment Opportunity Law was revised, coming into effect from 1st April, 1999, to include a section covering sexual harassment and discrimination. Article 21 of the Equal Employment Opportunity Law provides that company management should take steps against sexual harassment. This means that the company is responsible for prevention of sexual harassment at the workplace.

In Japan, starting with the landmark Fukuoka Case, there have been about 100 sexual harassment cases, brought to the Court by women, in a country where a lawsuit is now the most adopted means of solving disputes. In the Fukuoka Case, it was decided that sexual harassment violated the dignity and sexual equality that form the personal rights of the plaintiff. The case also recognized the equality of sexes in the workplace and held that the employers responsible for maintaining this service conditions.

In 1995, an Osaka Court, ordered a Company President to pay 1.5 million Yen in compensation, to a 19 year old female employee, from whom he wanted sexual favours. This is the first time a Japanese women, won a suit for sexual harassment, that did not involve touching or defamation. xii

**THAILAND**

The Thai Labour Protection Law categorizes sexual harassment as illegal, but it only covers those working in the private sector. As per Section 16 of the Labour Protection Act, 1998, it is forbidden for an employer or supervisor or inspector, to sexually harass women employees. In Thailand, when sexual harassment occurs, and a woman wants to report it, she has to file a case at the police station and wait for the police to lodge a complaint to a criminal court.
As in India, in Thailand also, most women who are victims of sexual harassment at the workplace feel shy in reporting. They are apprehensive about losing their reputation and even their jobs.

CHINA

In 2005, China’s legislature has passed amendments to the Law on Women’s Rights Protection, which ‘prohibits sexual harassment of women and empowers women to lodge complaints’ to relevant organizations. Now, in China, no one is permitted to commit sexual harassment on women in the workplace. The amended law empowers the victim the right to complain to her employer, seek punishment by the police under regulations, and lodge a civil suit for compensation.

PLACE OF INDIAN WOMEN IN THE PANORAMA OF THE INDIAN CONSTITUTION

The history of suppression of women in India is centuries old. Now, there is an awakening among them, to wriggle out of the bondage of subordination and suppression. In the present era of Judicial Activism and the State’s declared policy to protect women’s rights, analysis of the concerned Indian laws, so far enacted and implemented, may be tried out. Article 253 of the Indian Constitution empowers the State to pass laws, on the lines of the provisions of International Instruments or Treaties, ratified by India.

The Indian Constitution with its mandate of equality brought in visions of gender justice. Fundamental Rights and Directive Principles of State Policy of the Indian Constitution protect women against sexual harassment at the workplace. Article 14 of the Constitution provides that the State will not deny any person equality before law and equal protection before law. Article 15(1) of the Constitution provides that the State shall not discriminate against any citizen on grounds of religion, caste, sex or place of birth. Article 15(3) of the Constitution specially provides that the State is permitted to make special provisions for the benefit of women. Article 16 (1) and (2) prohibit discrimination in general, and also discrimination on the basis of sex, in the offices and those employed under the State. Article 19 (1) (g) of the Constitution provides space ‘to practice any profession or to carry out any occupation, trade or business’. Article 20 offers protection in respect of conviction for certain offences. Article 21 of the Indian Constitution reads as: “No one shall be deprived of his life or
personal liberty except according to the procedure established by law.” Right to life and liberty includes right to live with dignity and in a profession of one’s choice. Sexual harassment at workplace, means, as good as being deprived of one’s precious right to life and liberty. Article 39 supports certain principles which are to be followed by the State. It should direct its policy towards securing that the citizens, men and women equally, have the right to an adequate means to livelihood; that there is equal pay for equal work for both men and women; that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength. Article 39A deals with equal justice and free legal aid. Article 42 supports just and humane condition of work and maternity reliefs. Fundamental Duty in Article 51 (A) (e) specifically mentions that it is the duty of every citizen to renounce practices derogatory to the dignity of women. Government of India has also ratified Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) on 25th June, 1993.

EXISTING LAWS IN INDIA

INDIAN PENAL CODE, 1860

There are sections under the Indian Penal Code, (IPC) for dealing with eve-teasing and sexual abuses.

Section 294 includes : Whoever, to the annoyance of others, (a) does any obscene act in any public place, or (b) sings, recites or utters any obscene songs, ballads or words in or near any public space shall be punished for 3 months with fine.

Section 354 includes: Whoever assaults or uses criminal force to any woman intending to outrage or knowing it to be likely that he shall thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to 2 years or fine or both.

Section 509 includes: Whoever intending to insult the modesty of any woman, utters any word, makes any sound or gesture or exhibits any object, intending that such gesture or object shall be seen by such woman or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year or fine or with both. First Information Report (FIR) can be lodged with the police.
B. INDUSTRIAL DISPUTES ACT, 1947 – RULE 5, SCHEDULE 5

Cases can be and have been argued, on the basis of unfair labour practices. Such cases can be filed if an employee suffers unfair dismissal or denial of employment benefits, as a consequence to the rejection of sexual advances. In a case, *Shehnaz Mudbhatkal (Ms) and Another v. Saudi Arabian Airlines*, Mumbai 1998, Shehnaz was subjected to sexual harassment by her boss in 1985, and dismissed when she complained to higher authorities. Her case was won in 1996, when the Bombay Labour Court judged it, to have been a case of unfair dismissal, under the Industrial Disputes Act. It ordered her reinstatement with full back payment, perks and promotions.

C. CIVIL SUIT

It can be filed for damages under tort laws. The basis for filing the case would be mental anguish, physical harassment, loss of income and employment, caused by sexual harassment.

D. INDECENT REPRESENTATION OF WOMEN (PROHIBITION) ACT, 1986

The provisions of this Act can be used in two ways. First, if an individual harasses another with books, photographs, paintings, films, pamphlets, packages, etc, containing indecent representation of women, they are liable for a minimum sentence of two years. Second, a ‘hostile working environment’ type of argument can be made out, under this Act. Section 7 (Offences by Companies) holds companies responsible, where there has been ‘indecent representation of women’ (such as the display of pornography) on the premises. The offences under this Act are cognizable, bailable offence, with a minimum sentence of two years.

VISHAKA vs STATE OF RAJASTHAN (AIR 1997, SCC 241)

In a landmark judgement in India’s history of gender justice, the Supreme Court of India on August 13, 1997, recognized sexual harassment of women in workplace has a widespread experience and brought the violation within the scope of human rights law. International agreements and documents such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), were referred to, by the Hon’ble Supreme Court, to promote the object of the constitutional guarantee. By viewing sexual harassment as gender-specific discrimination, the Court
has expanded the scope and understanding of human rights, within workplaces, in a positive manner. The shift is at two levels—one that in the focus from a criminal wrong, committed by an individual, to systematic discriminatory conduct. This requires to be eliminated through attitudinal changes. Secondly, shift from an earlier concept linking sexual violence with concepts of female sexual morality, such as “outraging the modesty” of women, to violation of human rights of women workers.

The Supreme Court invokes its own inherent power for enforcement of fundamental rights like Article 21, and the role of the State, to meet the challenge, to protect the working women from sexual harassment, and to make their fundamental rights substantial and meaningful. xv

The Hon’ble Supreme Court of India issued guidelines which recognize the long existent but mostly unspoken harassment that women face at the workplace. These guidelines are commonly referred to as the Vishaka Guidelines. It is mandatory that the Vishaka judgement, which is in form of guidelines, be implemented all over the country. xvi

The Supreme Court, in the matter of Vishaka v State of Rajasthan, recognized the international Conventions and norms, interpreted gender equality of women, in relation to work and held that sexual harassment of women at the workplace, is violative of Articles 14, 15 (1), 19 (1( (g) and 21 of the Indian Constitution. Right to life means to live with dignity. The Supreme Court of India has recognized, acknowledged and defined sexual harassment of women at workplace as systemic discrimination against women and as violation of human rights. The Supreme Court clearly states that in the absence of enacted law to provide recourse against sexual harassment at workplaces, the Vishaka Guidelines ‘would be treated as law’ under Article 141 of the Indian Constitution. xvii

The Supreme Court ruling came in response to two writ petitions. The first petition was filed a few years ago after Bhanwari Devi, a social worker in Rajasthan was gang raped, as she had tried to prevent a child marriage. In this writ petition, it was prayed that the Supreme Court should formulate guidelines for checking sexual abuse. The second petition was that where Supreme Court awarded five years jail term to a school headmaster, Madan Lal who had raped a teacher of his school. The headmaster had called the teacher to prepare food for him.
In the aforesaid cases a Bench headed by the then Chief Justice of India, Justice J.S. Verma issued a set of guidelines in view of the inadequate laws to deal with the growing sexual exploitation of women at their workplace. The Apex Court stated that its directions would be binding and enforceable in law until a suitable legislation is enacted. Vishaka Guidelines were based on problems of women working in rural India; the Supreme Court judgement was beneficial to women in both rural and urban areas. xviii

The Hon’ble Supreme Court of India defines Sexual Harassment as including UNWELCOME sexually determined behaviour (whether directly or by implication) as:

- Physical Contact and Advances
- Demand or Request for Sexual Favours
- Sexually Coloured Remark
- Showing Pornography
- Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

Quid pro quo and hostile work environment are the two broad types of sexual harassment.

UNWELCOME is the key in defining sexual harassment. Harassment is only harassment if it is felt to be so by the recipient woman. xix The U.S. courts have acknowledged that gender differences exist in the interpretation of which behaviours constitute sexual harassment. This has been demonstrated by the shift in the courts from using the “reasonable person” standard when judging sexual harassment cases to the use of the “reasonable woman” standard. xx The sensitivity and attitude of the judges are also factors guiding the judgements.

The Vishaka Guidelines are applicable to both organized and unorganized sectors, government and public organizations including private and public institutions like schools, colleges, universities. All women employees irrespective of their posts and earning pattern, are covered within these Guidelines, including those drawing a regular salary or receiving an honorarium or working in a voluntary capacity.
DUTY OF THE EMPLOYER

Vishaka Guidelines pronounce that it is the duty of the employer and other responsible persons in the workplace to prevent sexual harassment, and to provide procedures for resolution of complaints through setting up effective mechanisms like:

Notification: Prohibition of Sexual Harassment must be notified, published and circulated in appropriate ways.

Rules and Regulations of Workplaces related to conduct and discipline should include and prohibit sexual harassment and provide for appropriate penalties against the offender.

Appropriate work conditions should be provided in respect of work, leisure, health, hygiene to further ensure that there is no hostile environment towards women at workplaces.

Recognize the liability of the organization for sexual harassment by the employees or management. Employers are not necessarily insulated from that liability as they are not aware of sexual harassment by the staff.

Every employer should set up a mechanism to redress complaints of sexual harassment. Such complaints should ensure time bound treatment.

Formulate an anti-sexual harassment policy. This should include

-A clear statement of the employer’s commitment to a workplace free of unlawful discrimination and harassment

-Clear definition of sexual harassment (using examples), and prohibition of such behavior as an offence

-Constitution of a Complaints Committee to investigate, mediate, counsel and resolve cases of sexual harassment. The Supreme Court Guidelines envisage a proactive role for the complaints committee and prevention of sexual harassment at workplace is a crucial role. It is thus imperative that the committee must consist of persons who are sensitive and open to the issues faced by women.

- A statement that anyone found guilty of harassment after investigation will be subject to disciplinary action.
- The range of penalties that the complaints committee can levy against the offender.

This should include

- Explicit protection of the confidentiality of the victim of harassment and of the witnesses. Rumour mongering is an offence.

- A guarantee that neither complainant nor witnesses will be subjected to retaliation.

Publish the policy and make copies available at the workplace. Discuss the policy with all new recruits and existing employees. Third party suppliers and clients should also be aware of the policy.

Conduct periodic training for all employees, with active involvement of the complaints committee.

**COMPLAINTS COMMITTEE**

The Guidelines stipulate the constitution of a Complaints Committee. It should:

- Be headed by a woman
- Not less than half of the members be women
- Involve a third party member (either NGO or other body, familiar with the issue)
- Maintain Confidentiality
- Send an annual report to the concerned department

**BURDEN OF PROOF**

The onus of proving the innocence shall be on the accused and the victim shall have the right to lead evidence in rebuttal.

Trial could be held in camera.

**CONDUCTING ENQUIRY BY THE COMPLAINTS COMMITTEE**

Any person aggrieved shall refer to a complaint before the Complaints Committee at the earliest point of time and in any case within 15 days from the date of occurrence of the alleged incident.
The complaint shall contain all the material and relevant details concerning the alleged sexual harassment including the names of the contravener and complaint shall be addressed to the Complaints Committee.

If the complainant feels that she cannot disclose her identity for any particular reason the complainant shall address the complaint to the head of the organization and hand over the same in person or in sealed cover. Upon receipt of such complaint the head of the organization shall retain the original complaint with himself and send to the Complaints Committee a gist of the complaint containing all material and relevant details other than the name of the complainant and other details which might disclose the identity of the complainant.

The Complaints Committee shall take immediate necessary action to cause an enquiry to be made discreetly or hold an enquiry, if necessary.

The Complaints Committee shall after examination of the complaint submit its recommendations to the head of the organization recommending the penalty to be imposed.

The head of the organization, upon receipt of the report from the Complaints Committee shall after giving an opportunity of being heard to the person complained against submit the case with the Committee’s recommendations to the management.

The Management of the organization shall confirm with or without modification the penalty recommended after duly following the prescribed procedure.

When the conduct of an employee amounts to misconduct in employment, as defined in the relevant rules, the employer should initiate appropriate disciplinary action in accordance with the relevant rules.

The Complaints Committee shall prepare an annual Report giving a full account of its activities during the previous year and forward a copy to the head of the organization concerned who shall forward the same to the government department concerned with its comments.

The Supreme Court directive has provided a legitimate space for surfacing of hidden realities of sexual harassment at workplace.
The Apex Court has put the onus on the employers to provide harassment-free work environment by taking preventive measures and providing complaint resolution mechanisms for redressal of complaints.

However, Vishaka Guidelines had lacunae, like, non-provision of punishment to the accused or penalties to the employer or procedure of enquiry not made clear, leading to criticism and isolation of the victim by other lady workers.xxxi

JUSTICE VERMA COMMITTEE RECOMMENDATIONS

The Delhi gangrape case in December, 2012, brought in a huge uproar which shook the conscience of the nation and impelled the Government of India to appoint the Justice Verma Committee. Justice Verma Committee has devoted a complete chapter in analyzing the Bill in preventing sexual harassment of women in workplaces. Justice Verma Committee, headed by Justice J.S. Verma, advocated far-reaching changes in rules that govern sexual harassment in workplaces. It has criticized the law makers for having passed the Bill without any debate in the Lok Sabha. The Report has criticized the Bill for having excluded the students from the category of those sought to be protected from sexual harassment.4

The Report stated that employers must not attempt conciliation proceedings in cases of complaints about sexual harassment, and that firms be made liable if they have permitted the creation of a workplace environment where acts of a workplace environment where sexual harassment have become systemic. Conciliation is in violation of the mandate prescribed by the Supreme Court in Vishaka verdict, which stated that in matters of harassment and humiliation, any attempt to compromise is another way of undermining the dignity of women. The Committee had recommended that no action should be taken against a woman if her complaint is found to be false, but she may be reprimanded. The panel has requested for compensation to be paid by the Company, to the victim of sexual harassment, if her complaint is substantiated. Instead of internal complaint committees in companies, an Employment Tribunal, comprising two retired judges, two sociologists and a social activist, must be set up in each State to investigate such complaints. This Tribunal could review Company premises to assess steps taken to prevent sexual harassment. The recommendation

included removal of the three-month time-limit for making a complaint after an incident of sexual harassment.\textsuperscript{5}

Complainant must not be transferred or sent on leave during pendency of inquiry, without her express consent. Justice Verma Committee also stated that evidence related to “character” or “her previous sexual experience with any person”, “shall not be relevant” to determine the defence of consent in the entire gamut of rape, molestation or sexual harassment cases. There should be right to seek prosecution of the police officer who does not register an FIR on a complaint of rape, molestation or sexual harassment (eve-teasing). Such an errant officer will be liable to imprisonment up to five years.\textsuperscript{6}

The United Nations High Commissioner for Human Rights welcomed the Verma Committee Report. The recommendations of the Verma Committee have evoked mixed responses by the private sector.\textsuperscript{7} One Company has supported the suggestion regarding the conciliation proceedings. But, that Company is apprehensive regarding the suggestion that the Company will be held liable for violation of norms regarding sexual harassment at the workplace. This may provide hurdles for the Company where the sexual harassment is frequent. According to the Company, no Company is in favour of sexual harassment at the workplace. There is also widespread dispute how the offence is defined at the workplace. To the same Company, false complaints should be punished as an example value also. Another Company finds that if the allegations are proved to be false, legal action should be taken. Nobody should be spared, male or female, in case of false charges. Companies generally felt that the complaint redressal mechanisms within Companies were a better option than external Tribunals. The complaint committee system could be much faster and practical. However, the Companies felt that every corporate is under an obligation to create a deterrent for sexual harassment at workplace. Then, the menace of sexual harassment at the workplace could be countered. Entrusting the proceedings to an external Employment Tribunal may not be realistic. Instead, a proper delivery of complaint-handling mechanism may do the trick.


The Verma panel also suggested that in case of an aggrieved woman, lodging a complaint, it is possible that she will be faced with opposition from the employer, as well. In such cases, it is often possible that evidence may be manipulated by the employer or the management in collusion with the employer, to join hands and to prove the charges false against the harasser.

For the first time, the new anti-rape law also imposes various penalties for stalking, voyeurism and acid attacks. Acid attacks, stalking, voyeurism and the trafficking of women are punishable under criminal law. The President of India has accorded his assent to the Bill on 2nd April, 2013 and it will now be called the Criminal Law [Amendment] Act, 2013. For the first time, stalking and voyeurism have been defined as non-bailable offences if repeated for a second time.

As a result of the Justice Verma Committee recommendations, two offences have been accepted in the new law. In Section 354 B of the Indian Penal Code, 1860, voyeurism has been entirely accepted. Moreover, the recommendation regarding stalking has been entirely accepted and included in the Section 354 C (1), Indian Penal Code, 1860. Lewd Short Message Service, e-mail would henceforth amount to stalking. This has been made punishable with 1 to 3 years in prison. Those found guilty of making unwanted telephone calls, sending derogatory Short Message Services and e-mail messages, disturbing the peace of mind of an individual, now face a jail term.

The Verma panel had concluded that offences, such as stalking, voyeurism and eve-teasing are perceived as minor offences, if not countered for the first time, these lead to a growing culture towards more serious offences against women. The panel also stressed the immediate need to curb the misuse of modern technology for harassment of women and the government accepted the recommendation. The definition of stalking is not confined merely to the traditional ways of causing distress to girls and women. Anybody trying to do the same, through the internet, e-mail or any other form of electronic communication that results in a fear of violence, or interferes with the mental peace of such a person, commits the offence of stalking. This is the new definition of the crime in the Indian Penal Code.

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

After sixteen years of the Vishakha Guidelines by the Supreme Court, Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 has now been published in the Gazette of India, Extraordinary, Part-II, Section-1, dated the 23rd April 2013 as Act No. 14 of 2013. It defines sexual harassment at workplace and makes legal provisions for its prevention and for expediting disciplinary action against offenders. It covers not just employees but also clients, customers, apprentices and daily wage workers and applies to private organizations, trusts, societies, educational institutions, non government organizations and service providers. In that sense it is quite comprehensive. Sexual Harassment includes any one or more of the following unwelcome 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

Definition of ‘Workplace’ has been widely defined. It includes

i. Any department, organization, 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 or a corporation or a co-operative society;

ii. Any private sector or a private venture undertaking, institution, establishment, society, trust, non-governmental organization, unit or service provider carrying on commercial, professional, vocational,

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educational, entertainmental, 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.

The Act seeks to provide protection to women in unorganized and organized sectors including the private sector. The Bill covers sexual harassment of domestic help and agricultural workers. Cases of sexual harassment of women at workplace will have to be disposed of by in-house committees (that must be set up) within a period of 90 days failing which a penalty of Rs. 50,000 would be imposed. Repeated non-compliance with the provisions of the Bill can attract higher penalties and may lead to cancellation of licence or registration to conduct business. 11

The Act also stated the following circumstances, which may amount to sexual harassment-

1. Implied or explicit promise of preferential treatment in her employment; or

2. Implied or explicit threat of detrimental treatment in her employment; or

3. Implied or explicit threat about her present or future employment status; or

4. Interference with her work or creating an intimidating or offensive or hostile work environment for her; or

5. Humiliating treatment likely to affect her health and safety.

INTERNAL COMPLAINTS COMMITTEE

Every employer of a workforce shall, by an order in writing, constitute a Committee to be known as ‘Internal Complaints Committee’. It 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;

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 organizations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment

-One-half of the total members so nominated should be women

-Presiding officer and every member of the Internal Committee shall hold office for such period, not exceeding three years, from the date of the nomination as may be specified by the employer.

LOCAL COMPLAINTS COMMITTEE

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.

The District Officer shall designate one nodal officer in every block, taluka, tehsil or 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.

Local Complaints Committee shall consist of the following members to be nominated by the District Officer, namely-

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, 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 organizations committed to the cause of women or a person familiar with the issues relating to sexual harassment, which may be prescribed.

Atleast 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*.

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.

The Internal Complaints 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-

a. Summoning and enforcing the attendance of any person and examining him an oath;

b. Requiring the discovery and production of documents;

c. Any other matter, which may be prescribed.

For the purpose of determining the sums to be paid to the aggrieved woman, Internal Committee or Local Committee, as the case may be, shall have regard to-

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 respondents;

e. Feasibility of such payment in lump sum or in installments.

The Act has provided prohibition of publication or making known contents of complaint and inquiry proceedings. There is penalty for publication or making known contents of complaint and inquiry proceedings.\textsuperscript{xxii}

The procedure to be followed by the victim, according to the \textit{Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013} is provided in the following diagram.
SOME GLARING GAPS OF THE LAW

Women in armed forces are not under this purview of the law. Women in the armed forces must be covered, as there is a high rate of sexual harassment in the armed forces, judging from complaints that have come to court in the last decade. In the unorganized sector, the restriction in the number of workers to less
than ten should be done away with. The clause regarding penal action against the complainant with ‘complaint with malicious intent’ has been highly criticized. It goes against the Vishaka Guidelines, which explicitly state that the complainant should not be victimized in any manner. It completely undermines the victims’ ability to file complaints of sexual harassment. A complaint not proved does not mean it is false. As it is, sexual harassment at workplace, like many other crimes against women, are underreported. Years of struggle by women’s group will go waste. It is time for the law makers to be aware that in the 21st century, more and more women are participating in the workforce and defending the perpetrators will create a hostile environment for the victim. However, it is very necessary to weed off false allegations. This Act retains the contentious provision for action against the complainant in case 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...” The danger in this is that the entire purpose of Vishaka and this law is defeated. Complaint ‘not proved’ does not mean that the complaint is false. There are remedies under the ordinary law (e.g. defamation) to resort to, if the complaint is found to be ‘false’.

Secondly, a question has arisen about how the malice is to be determined. Members of complaints committee may not be competent to measure if complaints are made ‘maliciously’ or not. Such provision will have a negative effect and woman will find it hard to make a complaint against sexual harassment. An Act seeking to remedy complaints of the crime needs to do away with such provision. Acts of sexual harassment are often conducted in an implicit or clandestine manner, concealed in vague words of actions, pregnant with covert meaning. It is difficult to prove such acts beyond reasonable doubt as may be possible with physical injury or other crimes. To level a charge with no proof as weak, or as bogus or fake, is insulting to the victim.12

To many, the false complaint clause operates on the misogynistic presupposition that women will file wrong cases to settle scores with male seniors or colleagues. However, it must be kept in mind that in a society where ‘honour’ is a woman’s most prized asset, women think a thousand times, before placing themselves

in the public eye over an issue with sexual underpinnings. The culture and legal milieu of the Indian setting prompts the female victim to be always on trial (instead of the accused). The criminal justice system requires a change in attitude.

This ‘particularly regressive provision’ can create enormous space for employers to manipulate the committee against the woman.

Moreover, there is a general perjury provision in the Indian Penal Code, which could be used to cover situations of a false or malicious prosecution, or of giving false evidence. Section 191 of the Indian Penal Code reads: ‘Giving false evidence. -- Whoever, being legally bound by an oath or by an express provision of law to state the truth, or being bound by law to make a declaration upon any subject, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, is said to give false evidence’. Similarly, forgery and misrepresentation are also offences under the Indian Penal Code.

Furthermore, non-governmental/public interest organizations should also be permitted to make a complaint on behalf of the aggrieved woman, by including them within the meaning of the aggrieved woman should be permitted representation (legal or otherwise) to aid her in an inquiry, before the Internal or Local Complaints Committees. The establishment of a permanent body to provide such aid should be considered.

SOME CASES OF SEXUAL HARASSMENT AT THE WORKPLACE

RUPAN DEOL BAJAJ CASE

This case shook up the Indian bureaucracy. This is the most well-known instance of a sexually harassed woman protesting against a powerful individual and system. Rupan Deol Bajaj is a senior bureaucrat of the Indian Administrative Service. She was slapped on the posterior in a public function by the then DGP of Punjab, K P S Gill, a senior Indian Police Service Officer, in a dinner party. Accusing him of indecent behaviour, Bajaj fought a long legal battle. The hard work paid off. Gill was convicted and sentenced to three months RI. But, ultimately, he was let off with a fine only. The case had received excessive media coverage, since it involved two senior officers.

But for Bajaj, the decision to file an FIR against Gill was the most difficult question of her life. She was pitted against a senior officer, who was the favourite of
the town, for his anti-terrorist operations in Punjab. On the other hand, Gill did not stand to lose much. Despite the allegations, he was entrusted with crucial assignments and was even invited to preside over important functions.

No Court in Punjab or administration wing was willing to judge the case on its merits. The High Court of Punjab quashed a First Information Report, in which the officer had alleged outraging of modesty and lacunae in procedures at the level of lower courts or police.\[\text{xxvi}\]

The verdict of the Supreme Court came as a breather not just for Bajaj, but also for the women in India, who now have the support of a successful precedence. Indira Jaisingh who pleaded Bajaj’s case observed that for most Indians, Bajaj’s honour was less important, than the services of Gill, who was described as the ‘distinguished son of India’. Rupan Deol Bajaj proved to be a very tough lady, who had the courage to fight against Gill. Being a bureaucrat, she is an empowered lady and could take the decisions herself. Her husband and family also supported her. Even then, it took a long time for her to fight the battle against sexual harassment legally and socially. The Supreme Court had held:

“The accused being a police officer of the highest rank should have been exceedingly careful and failure to do so, and by touching the body of the complainant, with culpable intention, has committed the offence punishable under Sections 354 and 359 of the IPC.” \[\text{xxvii}\]

NALINI NETTO CASE

Similarly in Nalini Netto case, the perpetrator was a Minister and the victim was a bureaucrat. Power dynamics played an important role. The Kerala High Court admitted a writ petition challenging the Government Order winding up the Justice G. Sasidharan Commission inquiring into the allegation of sexual harassment levelled by Nalini Netto, senior IAS officer, against a former Minister, Neelalohithadasan Nadar. In her complaint to the former Chief Minister, Mr. E. K. Nayanar, in February 2000, Ms Netto had alleged that she was sexually harassed by Dr. Nadar in his office room, in the Legislative Assembly Complex on December 21, 1999.

Mr. Nadar has strongly denied the allegations, but he was forced to resign following a political furore and protests from various quarters, including women’s groups. The same minister is also accused of harassing a woman Indian Forest Service
officer, Prakriti Srivastava. This was prior to the assault on Nalini. Prakriti has now lodged a complaint with the police about the harassment perpetrated by the minister. She was summoned by the Crime Branch in the enquiry relating to Nalini Netto, and she has given evidence. Her case has also been taken up by the Human Rights Commission. In all these cases, we find that the harasser is hierarchically in a position of strength. They all entertain male domination and have treated women with scant respect. In all these situations, the chauvinists had no respect for law or dignity of the women. To them, women were merely a commodity, meant for enjoyment. The problem with all these instances has a deeper significance. All these incidents send wrong signals down the line.

APPAREL EXPORT PROMOTION COUNCIL CASE

After the judgement of the Supreme Court in the case of Vishaka, a second case came for hearing before the Supreme Court regarding the powers of the enquiry committee. In this case, the High Court had set aside the conviction on the ground that physical contact had not been established. The High Court had held that as the offence was under Section 354 IPC, for an attempt to “outrage the modesty” of a woman (an offence that can be brought regardless of whether the conduct takes place within an employment context) it necessitates the establishment of physical contact. The Supreme Court reversed the High Court decision and reinstated the sentence imposed by the lower Court, holding that sexual harassment does not necessarily involve physical contact. Where a supervisor has harassed and made unwelcome sexual advances to his clerk, a reduction of sentence merely because the supervisor made no physical contact is inappropriate, when there is no factual dispute. In the Court’s words, the supervisor’s conduct “did not cease to be outrageous for want of an actual assault or touch….” It matters whether the conduct is “unwanted”. While the conduct must be assessed from the victim’s standpoint, in the Indian context there is danger of underprotection when determining whether a certain conduct was “unwanted”, as a victim’s past sexual history and conduct, may be introduced as relevant evidence to erode her credibility. This case highlighted the fact that sexual harassment may not necessarily involve physical contact.
MEDHA KOTWAL LELE CASE

Writing the judgment in the petition filed by Medha Kotwal Lele seeking enforcement of Vishaka guidelines, a three-judge Bench of Justices R.M. Lodha, Anil R. Dave and Ranjan Gogoi of the Supreme Court said: “The implementation of the guidelines in Vishaka has to be not only in form but also substance and spirit so as to make available safe and secure environment to women at the workplace in every aspect and thereby enabling the working women to work with dignity, decency and due respect.” The Bench said: “There is still no proper mechanism in place to address the complaints of sexual harassment of the women lawyers in Bar Associations, lady doctors and nurses in the medical clinics and nursing homes, women architects working in the offices of the engineers and architects and so on and so forth.”13. The present case arose when Medha Kotwal Lele, coordinator of Aalochna, a centre for documentation and research on women and other women’s rights groups, together with others, petitioned the Court, highlighting a number of individual cases of sexual harassment and arguing that the Vishaka Guidelines were not being effectively implemented. In particular, the petitioners argued that, despite the guidelines, women continued to be harassed in the workplace because the Vishaka Guidelines were being breached in both substance and spirit by State functionaries, who harass women workers via legal and extra-legal means, making them suffer and by insulting their dignity.

In this case, the Supreme Court directed the Chief Secretaries of all Indian States, to report on whether they have set Committees to deal with such complaints, in all departments and institutions, employing over 50 people. The Court further directed the Labour Commissioners of all States, to take effective steps to implement its directives on checking sexual harassment in the workplace, since it observed that its directions in Vishaka were not properly implemented by various States. The Court directed that there should be a State-level officer, to coordinate efforts at the State-level. Taking further account of the reality that factories, shops and commercial establishments, were yet to fully comply with the Supreme Court’s directions, the Court further directed the Labour Commissioners, to act as nodal agencies and collect details regarding complaints and details of implementation by these bodies. With

these the Supreme Court has taken yet another concrete step to monitor the situation and invoked its powers.

The situation for a number of years post-Vishaka, was such that the Guidelines were followed more in its violation-few Complaints Committees were set up, service rules were not completely revised and the judgement was widely ignored, both by the public and private employers. Along with this, many human rights organizations were increasingly pointing out the need for its proper implementation. The scenario disclosed widespread refusal, regarding the incidents of sexual harassment, from all levels. Workplaces came up with the excuse that sexual harassment was not an issue in their workplaces. This form of denial was asserted by authorities, associations and unions of employees to women themselves. Thus, the chain of denial seemed universal and unbroken. Sanhita, a non-governmental organization in Kolkata, discovered that the government or public authorities, disown such incidents of sexual harassment.

The inability of the legal systems to deliver justice in the case of women and the reliance on the prosecution arm of the State has created unease among some women’s rights activists. They argue that reliance on the legal strategy alone is not enough and that a more broad-based approach, aimed at transforming attitudes and social structures, is necessary.

Harassment vitiates the working environment. There is no protecting Act for the witnesses or the whistle blowers. This is a real hazard and a deterrent for the victim to lodge complaints. As such, incidents of sexual harassment will grow, rather than lessen. Law is a tool of social re-engineering, to build the edifice of justice, brick by brick. But, somebody is behind activation of the law. That person must be progressive, imaginative, sensitive and far-looking, to bring in a culture of justice, among the players. Law should be supported by progressive social outlook, to uproot sexual harassment in workplace.
REFERENCES


ii  *Report On Sexual Harassment In The Workplace In EU Member States*, (Dublin: Government Of Ireland 2004), 1.


Chapter XVIII, Indian Penal Code, 1860.


