

**Guidelines of Permanent Women Cell
For
"Combating Sexual Harassment"
And
Creation of Healthy Environment in University
Campus and Other Institutions**



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- ❖ Introduction
- ❖ Historical Background
 - Vishakha versus the State of Rajasthan Case
 - Decision of High Court
 - Directions of the University Grants Commission
 - Definition of Women Harassment
 - Establishment of the Permanent Women Cell in the University
- ❖ Purpose and the Effective Measures to Curb Sexual Harassment of Women
 - General Setup
 - Means to Curb Ragging
- ❖ How to Register a Complaint
- ❖ Internal Complaints Committee
- ❖ Description of the Activities of the Permanent Women Cell
- ❖ Members of the Women Cell
- ❖ Appendix
- ❖ The Related Articles of the Constitution of India

Introduction

The effort to provide equal status for women in the Indian Society began with the formation of our Constitution. It has been clearly written in the preamble of the Indian Constitution that there would be no disparity and discrimination on the basis of sex or gender of a person living in India. The Fundamental Rights, Duties and the Directive Principles which are described in our Constitution also repeat the above mentioned feelings and vision. The Indian Constitution not only satisfies by giving equal rights to the women but also empowers the states by giving them the right to provide some special rights to the women for their empowerment. The main purpose of our laws, developmental policies, planning and programmes in our democratic set-up is to empower women and to ascertain their participation in all activities. Keeping this purpose in mind at the international level too, India has always supported the declarations to end the disparities and discriminations against women. A clear difference can be seen between the theoretical and practical attitude in the context of women because women on account of being women, have to face harassment on several accounts. Domestic violence and sexual harassment are considered as major violence against women throughout the world. Due to these reasons in the national and international platforms the agenda to check violence against women always remains one of the most important items of any discussions. In different seminars and programmes that have their focus on the women's issues, the discussions always revolve around the ways and means of making women more capable and competent so that they do not have to face any types of mental, physical and emotional difficulty at their work places. As a result of enhancing educational level, women are coming forward out of the confines and security of their home to work in different institutions and organisations. With this the numbers of cases of harassment of women also are increasing. In most of the cases due to the lack of any helping institution, women have to quietly bear the sexual harassment. As a matter of fact, the protection of women's rights at her working place is directly related to the growth of her work efficiency: both mental as well as physical. Hence, the creation of a healthy environment in the institutions, where women also work, has become inevitable. Keeping this in mind, to check the incidents of the harassment of women at their working place, as per the directives gives by our Hon'ble Supreme Court, the Government of India's Human Resource Ministry has made it compulsory for all the institutions to create and establish special women cells. To fulfill this purpose all the Universities and their affiliated colleges have also been directed by the University Grants Commission (UGC) to create a healthy work environment and also to check sexual harassment of the women. For checking the sexual harassment in these institutions women cells have been created in these institutions. Following Central Government's and University Grant Commission's directives, a Permanent Women Cell for looking after the problems and complaints regarding women harassment has been established in the H.N.B. Garhwal University, since March 2003.

Historical Background and the Need for Establishing Women Cells in the Institutions:

Even though the Constitution of India has given equal status to men and women and despite the provision for special rights to be given by the states to the empowerment of women, the incidents of women harassment are being constantly reported. In this regard in 1997 the High Court's decision in the case of Vishakha versus Rajasthan Government and the directives given to Central and State Governments to check the sexual harassment incidents have attracted the attention of policy makers at the national and international level. On the basis of International Women Conference's Declaration, in 1993, to which India was also a participant, the Supreme Court of India made it clear that for getting a job or work or in the working place there should not be any discrimination against the women on account of her sex. If any woman is being harassed at the working place and if she feels that being a woman, she is being subjected to inhumane behavior and exploitation, she is entitled to file a complaint. Due to such treatment if she not only finds herself unable to fulfill her duties properly but also not to deliver her best or use her working skills up to their fullest she can file a complaint. The Supreme Court in view of this made it clear that if women are discriminated on account of their sex/gender or they are subjected to any type of harassment then it would be considered as denial of the fundamental rights to them. It would also be considered that women are being denied the equality and freedom for which they are entitled.

Vishakha versus The State of Rajasthan Case

According to Vishakha versus the State of Rajasthan Case, the Supreme Court issued many directives and ordered that they need to be strictly followed like law. In view of this it becomes necessary to know about all the directives given by the Supreme Court to the Central and the State Governments and to all the Universities and other institutions to take positive and concrete steps in this regard. In fact, it has been made clear in the Fundamental Rights given by articles 14, 19 and 21 of the Indian Constitution that working women shall be given due and equal conditions and environment at their working place and there must be a women friendly atmosphere at the women's working places, but unfortunately, in reality in several places and offices this condition is not followed and sexual harassment generally emerges as a common problem. Such atmosphere not only creates problems for the women, demoralizes them but also leads to the violation and denial of their fundamental rights. In this context the writ filed in Vishakha case was meant to defining the meaning of gender equality and how sexual harassment of the women could be checked at the working place. It was also meant to highlight the judicial grounds on which it can be done.

Decision of the High Court

In the case of Vishakha versus the State of Rajasthan the Court not only expressed its concern and anxiety towards the rights of the women but also accepted that basically it was a case of denial and violation of the Fundamental Rights.

The following Fundamental Rights were taken into consideration in this case:

Right to Equality given under Articles 14-18, provides that "In the state of India any individual shall not be denied equality before law or equal protection in legal methods"

- According to Article 15(1), the state shall not discriminate against any citizen on grounds of religion, race, caste, sex or place of birth or any of them. However, nothing in this shall prevent the state from making any special provision for women and children.
- Article 16, provides for equality of opportunity in matters of public employment and Article 17 and 18 provide for the abolition of untouchability and abolition of titles
- Article 21 of the constitution says that nobody shall be deprived of one's life or of bodily freedom except according to the process established by law.
- The article 32 of the Constitution gives the Right of the Constitutional Remedies and provides that if any Act of the Executive or of the Legislature which takes away any of the Fundamental Rights shall be void and the Courts are empowered to declare it as void.

The Judiciary has also been given power by the Constitution to issue the writs (habeas corpus, mandamus, prohibition, and certiorari and quo warranto) for the enforcement of the Fundamental Rights.

- Article 32 is thus the cornerstone of the entire edifice set by the Constitution for the protection of the Fundamental Rights. It is a guaranteed remedy for the enforcement of these rights because the remedial right is itself a fundamental right.
- Article 51(A) is regarding our Fundamental Duties, it has been described that (1) to abide by the Constitution and respect its ideal, institutions, national flag and national anthem. (2) To promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practice derogatory to the dignity of women.
- Under article (51) States have been directed to make efforts in the direction of increasing international peace and safety as well as to honour the international law and treaties.

Directives of University Grants Commission (U.G.C)

The Ministry of Human Resource and Development accepted the directives given by the High Court in 1997, in the context of Vishakha versus the state of Rajasthan Case, as a Government order and a committee was formed under the chairpersonship of Ms. Shalini Prasad. After this under the chairpersonship of Justice J.S. Verma, who was also the Chairperson of the National Human Rights Commission, a high level committee was formed. In this committee the means which could be useful in checking women's harassment in the Universities and other educational institutions were also discussed.

Following this and the important decision taken by the Committee, the UGC circulated the directives for compulsorily establishing Permanent Women Cells to check the sexual harassment in all the Universities of India.

Definition of Women Harassment

The Supreme Court questioned whether there is a need to make more laws for women's protection and providing justice to them despite all the provisions given by the Constitution? and also what shall be taken as women harassment?

The Court directed that the following shall fall under the category of women harassment:-

1. Direct physical contact and advances.
2. A demand or request for sexual favours.
3. Sexually coloured remarks.
4. Showing pornographic material.
5. Any other unwelcome physical, verbal or non verbal conduct of sexual nature.
6. Unwelcome, filthy and pornographic gestures through eyes or body language.
7. Forcing one against ones' wish for some unwanted act.

Establishment of Permanent Women Cell in the HNB Garhwal University

Following the directives of UGC for the creation of healthy environment and to check sexual harassment of women, a Permanent Cell was formed on March 28, 2003 in the HNB Garhwal University's Srinagar Campus. Right from the beginning the Permanent Cell besides looking after the complaints and the cases of the sexual harassment, has been actively organizing many programmes which aim towards enhancing the self confidence, spirit and morale of the female students, teachers and employees of the campus.

Main Aims of the Permanent Cell and the Effective Measures to Check Women Harassment

In accordance with the Hon'ble High Court's decision and the UGC's directives, the University campus has been taken as a working place and to understand and explain the meaning of the sexual harassment of the women in the University campus the Permanent Women Cell has divided it into two parts :-

1. Normal cases of women harassment
2. Ragging in the educational campus

To tackle the normal cases of sexual/ women harassment the cell has established a complaints committee where the complaints of such harassment can be registered in writing for further action and for the resolution of such complaints. The following steps have been taken in this regard:

- Complaints made in any case of sexual harassment whether it is through words, expression or direct physical activity shall be taken seriously.
- Action shall be taken by the Permanent women Cell on receiving complaints by the female students and other women employees.
- Effort shall be made to create an atmosphere where every teacher, employee and student can work freely without any mental pressure.
- In University or its colleges gender bias shall not be given any place

There shall be complete prohibition on men is disgraceful and objectionable activities and on complaint; the related person shall be punished as per the rules.

- In University Campus, affiliated college, other educational centres and near the girls hostel, any sort of loose comments/remarks or disgraceful behaviour shall be completely prohibited.
- The Central government has already implemented domestic violence act, 2005, from 26 October 2006 to provide security to women.
- As Ragging has been declared punishable offence in the Universities, its affiliated colleges and hostels therefore, it has been totally prohibited.
- The students have been issued clear instructions that stern action shall be taken against such complaints. They are also required to produce affidavit in this regard.

In accordance with the decision of the High Court the following directives have been prepared for dealing with the menace of ragging:

- Ragging in any form inside or outside the campus shall be banned.
- Senior students found indulging in ragging shall be summarily expelled from the institution/University.
- The parents/guardians of students in senior classes shall be informed before the start of the new session, about the possible consequences of ragging. They would also be advised to instruct their wards against getting involved in ragging.
- Full publicity shall be given to the punishments for ragging through open circulars to students by suitable posters in halls of residence.
- The students shall also have to submit affidavit in this regard on his/her behalf as well as parent's behalf.
- Telephone number of senior/administrative officers shall be given to every new entrant with the advice that they may report all incidents of ragging through these numbers even anonymously, if circumstances warranted.
- Senior students of the halls of residence may be invited to cooperate with the faculty and the administration in combating this evil.
- Squads consisting of wardens, other senior faculty, senior students and security/staff shall do regular patrolling throughout the night in the halls of residence where new entrants live, at least for the first month of the opening of the term.
- A programme of extra-mural activities, e.g., drama, debates, quizzes etc. should be planned for every evening of the first month of the opening of the term so that students shall remain engaged in constructive activities and shall have little time for pranks. These activities will also help new comers to get adjusted to the new environment.
- All the new entrants shall be attached in small groups to a senior faculty member who should help in the process of adjustment of students to the new environment and serve as an academic and personal tutor.

- A high level standing committee consisting of faculty and senior and administration officers shall be set up with the head of the institution/university as chairman to keep a periodical watch on the situation.

Complaint Mechanism: How and to Whom?

In University and its other Institutions, in every category that i.e. students, teachers and employees many women have been working. Hence the permanent women cell has been formed to carry out the directives of the Supreme Court. In University or its other institutions any case related with women harassment can be reported in this cell. A complaint can only be given cognizance if it is made in writing. In the complaint it should also be made clear that how she was sexually harassed or how her harassment could be determined according to the parameters fixed by the Supreme Court and which matter has to be taken into consideration or as a violation of her rights. On receiving such complaints any action shall be taken by the cell to resolve the issue.

Formation of Internal Complaints Committee

As per the provision of the Section 4 (20 of the Sexual Harassment of Women at the Workplace (Prevention, Prohibition and Redressal) Act 2013, the following internal complaints committee has been constituted by the University to look into the complaints of sexual harassment.

- a) Presiding Officer - Prof. Annpurna Nautiyal, Department of Political Science
(Two Members from amongst employees committed to the cause of women)
- b) Prof. Surekha Dangwal- Assistant Dean Student Welfare, Department of English
- c) Prof. Himanshu Bourai- Coordinator Women Studies Centre, Dept. of Political Science.

One Member form Non Governmental Organisation:

- e) Shri Girish Dimri : Project Head, Sri Bhuvneshwari Mahila Ashram, Nai Zameen, Silyana Band Gairsain, Chamioli Garhwal, Uttarakhand, India

Other Members :

- f) Prof. Vineet Ghildial Sharma- Women's Hostel Warden
- g) Prof. Manju Gusain- Department of Zoology
- h) Dr. Indu Pandey Khanduri- Department of Philosophy
- i) Deputy Registrar; Administration

The Activities of the Permanent Cell

The cell which is related with checking sexual harassment of the women employees has taken the following actions since its establishment in 2003:

Due to the negligible incidents or complaints of women harassment, this cell has promoted such programmes and activities which are helpful not only in creating healthy dialogue and interaction between male and female students but it is also working towards building a healthy and creative environment for them. In the year 2003-2004 in order to increase self

confidence among the students Judo and Karate camps were organized for the first time in the University. First camp was organized in the Srinagar campus of H.N.B. Garhwal University, under the Chairmanship of the then Vice Chancellor Dr. N. Natarajan. In this camp forty female students participated. The aim of the camp was to enhance confidence, self-esteem and the feeling of self-protection among the students. This camp proved to be completely successful. Trainee students agreed that by attending such camps the level of their self-confidence increased and promoted a better understanding about the challenges of life. They also felt more capable of facing and handling the incidents of eve-teasing. After taking into consideration the successful impact of these camps, the Cell has given more emphasis on organizing such camps and more and more female students are encouraged for undergoing a training of the self defense mechanism through these camps.

In this regard, the Cell has also been distributing and disseminating the guideline for the creation of healthy environment in all the colleges affiliated to the H.N.B.Garhwal University. Consequently, in most of the colleges, the complaints committee has been formed and the list of the members submitted to the University.

Art exhibition and articles related to the aim and activities of the cell have also been organized. Different mediums are also used to propagate its purpose and also to enable maximum number of students to become aware about this cell.

Debates, seminars, workshops and discussions are organized regarding the problem of women harassment and its solutions. Students are encouraged to participate in these discussions. Teachers from different departments are also invited to express their views. Students of N.S.S, are also addressed by the cell members to highlight the activities and the importance of this Cell for their welfare.

In November 2004, the Cell organized a programme in which State's former and first women Director General of Police Smt. Kanchan Chaudhary Bhattacharya addressed the students. Smt. Bhattacharya addressing the students said that the women should know their rights and they should never consider themselves weak.

In March 2005 and 2015 the cell organized career counseling workshops with the assistance of United States Educational Foundation in India, New Delhi. Through this workshop information about the other opportunities for higher education in the United States was provided to the students. Students from the professional courses as well as other subjects participated in the programme. The Cell also took action on a few complaints received.

Organization of seminars and workshops by the Cell from time to time have been helping in creating awareness among the students about their rights and also for promoting a healthy atmosphere in the University. This is the ultimate effort of the cell that the students, teachers and employee shall create a healthy environment, and the incidents of women harassment shall not occur.

In the year 2006-2007, to curb ragging and the incidents of harassment towards female students and to create awareness for women's rights, the members of the cell organized panel discussions for the students of the Chauras and Birla campus. The students of the N.S.S were also addressed by the members of the cell. For the hostel students of the Chauras Campus, Judo, Karate and Yoga training Camps were organized from January 14, 2007 to March 14, 2007 by the cell and in 2008-09 also such camps were organized by the cell.

During 2010-11 the cell received complaints of harassment from the teachers and students of the colleges affiliated to it. Two such complaints were received from BSM College Roorkee and Sushna Methodist Girls B.Ed College Roorkee. Both the complaints were directed by the state women commission and a committee constituted by the cell visited both the college to verify the facts. A report containing observation and recommendation was submitted to the University and the State Women Commission both. The Cell also took action on a complaint received from Tehri Campus.

The cell also received complaints from its affiliated colleges during 2011-13 and these complaints were looked into and resolved by the committee constituted by it. In some cases the complaints were filed without understanding the meaning of sexual harassment. Therefore it is felt that the educational institutions need to be made aware of meaning of sexual harassment by publicizing it in every forum.

As the complaints of sexual harassment are negligible therefore, the platform of the cell is being used for other constructive activities. A number of students have been trained in judo and karate. These training programmes are being conducted by Dr. Rakesh Nautiyal the Judo Karate Trainer of the Cell. It is a service that is being provided by the cell free of cost to all the University students, children of University employees and other children. Commendable results have been produced through these training camps as the students have brought laurels in terms of shields, gold medals by participating in the competitions organized from time to time in different places.

The trainees of the cell also participated in the Junior National Judo championship and won the Sub Junior National Judo Championship. In the academic year 2009-10, 35 Students were trained by the cell, and in the ninth state Judo championship organized in Haridwar the trainees of the cell won three gold, four silver and three Bronze medals. In the academic year 2010-11, 50 students were trained by the cell and as their performance was outstanding it was appreciated by all the members and dignitaries who witnessed their programmes organized on International Women's Day. During 2011-2013 also 40 students were trained by the cell. In 2014-15 35 students were trained by the cell. The cell also resolved the complaints of sexual harassment received by it. From 2010-2015 around 150 students have been trained by the cell in self defense mechanism. Besides sports, the trainees of the

permanent cell have also become successful in different fields and also got selected in the Indian army, Indian Air Force, Police and other security services.

The cell also organises programmes on women's day and also to discuss contemporary issues with the help and assistance of the other faculty members and students.

The cell has plans to extend its activities by arranging workshops/ training camps for skill training, entrepreneurship development among the women students.

Name of the Members of the Permanent cell

Prof. Annpurna Nautiyal	Nodal Officer/Chairperson (Ph.: 250267)
Dean Student Welfare	Permanent Member
Prof. Hiamanshu Baurai	Member
Pol. Science Department	
Prof. Vineet Ghildiyal Sharma	Member
Hostel Superintendent	
Dr. Indoo (Pandey) Khanduri	Member
Department of Philosophy	
Prof. Manju Gusain	Member
Department of Zoology	
Dr. Prabha Tewari	Member
Department of Botany	
Dr. Rajni Nautiyal	Member
Yoga Trainer	
Dr. Rakesh Nautiyal	Member
Judo-Karate Trainer, Department of, Psychology	
Student's Representative	Member
Dr. Vijay Bala Joshi	Member
University Administration	

Appendix - I
GUIDELINES AND NORMS LAID DOWN BY THE HON'BLE
SUPREME COURT IN VISHAKA AND ORS. V.
RAJASTHAN & ORS. (JT 1997 (7) SC 384)

HAVING REGARD to definition of 'human rights' in Section 2 (d) of the Protection of Human Right Act, 1993, taking note of the fact that the present civil and penal laws in India do not adequately provide for specific protection of women from sexual harassment in work places and that enactment of such legislation will take considerable time.

It is necessary and expedient for employers in work places as well as other responsible persons of Institutions to observe certain guidelines to ensure the prevention of sexual harassment of women:

1. Duty of the Employer or other responsible person in work places or other institutions

It shall be the duty of the employer or other responsible persons in work places or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, settlement of prosecution of acts of sexual harassment by taking all steps required.

2. Definition

For this purpose, sexual harassment includes such unwelcome sexually determined behaviour (whether directly or by implication) as:-

- (a) Physical contact and advances;
- (b) A demand or request for sexual favours;
- (c) Sexually coloured remarks;
- (d) Showing pornography;
- (e) Any other unwelcome physical, verbal or non-verbal sexual nature.

Where any of these acts are committed in circumstances, where under the victim of such conduct has a reasonable apprehension that in relation to the victim's employment or work, whether she is drawing salary, or honorarium or voluntary, whether in government, public or private enterprise such conduct can be humiliating and may constitute a health and safety problem. It is discriminatory for instance when the women has reasonable grounds to believe that her objection would disadvantage her in connection with her employment or work including recruiting or promotion or when it creates a hostile work environment. Adverse consequences might be visited if the victim does not consent to the conduct in question or raises any objection thereto.

3. Preventive Steps

All employers of persons in charge of work place whether in public or private sector should take appropriate steps to prevent sexual harassment. Without prejudice to the generality of this obligation they should take the following steps:-

- (a) Express prohibition of sexual harassment as defined above at the work place should be notified, published and circulated in appropriate ways.
- (b) The Rules/Regulations of Government and Public Sector bodies relating to conduct and discipline should include rules/regulations prohibiting sexual harassment and provide for appropriate penalties in such rules against the offender.
- (c) As regards to private employers, steps should be taken to include the aforesaid prohibitions in the standing orders under the Industrial Employment (Standing Orders) Act, 1946.
- (d) Appropriate work conditions should be provided in respect of work, Leisure, health and hygiene to further ensure that there is no hostile environment towards women at work places and no employee woman should have reasonable grounds to believe that she is disadvantaged in connection with her employment.

4. Criminal Proceedings

Where such conduct amounts to a specific offence under the India Penal Code or under any other law the employer shall initiate appropriate action in accordance with law by making complaint with the appropriate authority in particular, it should ensure that victims or witnesses are not victimized or discriminated against while dealing with complaints of sexual harassment. The victims of sexual harassment should have the option to seek transfer of the perpetrator or their own transfer.

5. Disciplinary Action

Where such conduct amounts to misconduct in employment as defined by the relevant service rules, appropriate disciplinary action should be initiated by the employer in accordance with those rules.

6. Complaint Mechanism

Whether or not such conduct constitutes an offence under law or a breach of the service rules, an appropriate complaint mechanism should be created in the employer's organization for redress of the complaint made by the victim. Such complaint mechanism should ensure time bound treatment of complaints.

7. Complaints Committee

The Complaint mechanism, referred to in (6) above, should be adequate to provide, where necessary, a Complaints Committee, a special counsellor or other support service including the maintenance of confidentiality.

The Complaints Committee should be headed by a woman and not less than half of its member should be women. Further to prevent the possibility of any undue pressure of

influence from senior levels, such Complaints Committee should involve a third party, either NGO or other body who is familiar with the issue of sexual harassment.

The Complaints Committee must make an annual report to the Government department concerned of the complaints and action taken by them.

The employers and person in charge will also report on the compliance with the aforesaid guidelines including on the reports or the Complaints Committee to the Government department.

8. Worker's Initiative

Employees should be allowed to raise issues of sexual harassment at worker's meeting and in other appropriate forum and it should be affirmatively discussed in Employer-Employee Meetings.

9. Awareness

Awareness of the rights of female employees in this regard should be created in particular by prominently notifying the guidelines (and appropriate legislation when enacted on the subject) in a suitable manner.

10. Third Party Harassment

Where sexual harassment occurs as a result of an act or omission by any third party or outsider, the employer and person in charge will take all steps necessary and reasonable to assist the affected person in terms of support and preventive action.

11. The Central/State Governments are requested to consider adopting suitable measures including legislation to ensure that the guidelines laid down by this order are also observed by the employers in Private Sector.
12. These guidelines will not prejudice any rights available under the Protection of Human Right Act, 1993.

Suggested Steps for Fighting "Ragging" in Educational Institutions

1. Ragging in any form inside or outside the campus should be banned by executive order of the head of the institution/university.
2. Senior students found indulging in ragging junior students should be summarily expelled from the institution/university.
3. The head of the institution/university should write before the start of the new session, to the parents/guardians of students in senior classes informing them of the possible consequences of ragging and requesting them to instruct their wards against getting involved in ragging.
4. Full publicity should be given to the punishment for ragging through open circulars to students and suitable posters in halls of residence.

5. Telephone number of senior faculty/administrative officers be given to every new entrant with the advice that they should report all incidents of ragging through these numbers even anonymously, if circumstances warranted.
6. Senior students of hall of residence should be invited to cooperate with the faculty and the administration in combating this evil.
7. Squads consisting of wardens, other senior faculty, senior students and security/staff should do regular patrolling throughout the night in the halls of residence where new entrants live, at least for the first month of the opening of the term.
8. A programme of extra-mural activities, e.g. drama, debates, quizzes, etc. should be planned for every evening of the first month of the opening of the term so that student will be engaged in constructive activities and will have little time for pranks. These activities will also help new comers to get adjusted to the new environment.
9. All new entrants should be attached in small groups to a senior faculty member who should help in the process of adjustment of students to the law environment and serve as an academic and personal tutor.
10. A high level standing committee consisting of faculty and senior students and administrative officers be set up with the head of the institute/univerisity as chairman to keep a periodical watch on the situation.

Appendix- II

Criminal Law (Amendment) Act, 2013

The Criminal Law (Amendment) Act, 2013 is an Indian legislation passed by the Lok Sabha on 19 March 2013, and by the Rajya Sabha on 21 March 2013, which provides for amendment of Indian Penal Code, Indian Evidence Act, , and Code of Criminal Procedure, 1973 on laws related to sexual offences. The Bill received Presidential assent on 2 April 2013 and came into force from 3 February 2013. It was originally an Ordinance promulgated by the President of India, Pranab Mukherjee, on 3 February 2013, in light of the protests in the 2012 Delhi gang rape case.

Background

On 16 December 2012 a female physiotherapy intern was beaten and gang raped in Delhi. She died from her injuries thirteen days later, despite receiving treatment in India and Singapore. The incident generated international coverage and was condemned by the United Nations Entity for gender Equality and the Empowerment of Women who called on the Government of India and the Government of Delhi "to do everything in their power to take up radical reforms, ensure justice and reach out with robust public services to make women's lives more safe and secure". Public protests took place in Delhi, where thousands of protesters clashed with security forces. Similar protests took place in major cities throughout the country.

Six days after the incident, on 22 December 2012, the central government appointed a judicial committee headed by J. S. Verma, a former Chief Justice of India, to suggest amendments to criminal law to sternly deal with sexual assault cases. The committee, which also included retired judge Leila Seth and leading advocate Gopal Subramaniam, was given a month to submit its report. The Committee submitted its report within 29 days, on 23 January 2013, supposedly after considering the 80,000 suggestions and petitions received by them during that same period from the public in general and particularly from jurists, lawyers, NGOs and women's groups. The report indicated that failures on the part of the Government and Police were the root cause behind crimes against women. Major suggestions of the report included the need to review AFSPA in conflict areas, maximum punishment for rape as life imprisonment and not death penalty, clear ambiguity over control of Delhi Police etc.

The Cabinet Ministers on 1 February 2013 approved for bringing an ordinance, for giving effect to the changes in law as suggested by the Verma Committee Report. According to former Minister of Law and Justice, Ashwani Kumar, 90 percent of the suggestions given by the Verma Committee Report have been incorporated into the Ordinance. The ordinance was subsequently replaced by a Bill with numerous changes, which was passed by the Lok Sabha on 19 March 2013.

The Criminal Law (Amendment) Ordinance, 2013

New offences [

This new Act has expressly recognized certain acts as offences which were dealt under related laws. These new offences like, acid attack, sexual harassment, voyeurism, stalking have been incorporated into the Indian Penal Code:

Section	Offence	Punishment	Notes
326A	Acid attack	Imprisonment not less than ten years but	Gender neutral

		which may extend to imprisonment for life and with fine which shall be just and reasonable to meet the medical expenses and it shall be paid to the victim	
326B	Attempt to Acid attack	Imprisonment not less than five years but which may extend to seven years, and shall also be liable to fine	Gender neutral
354A	Sexual harassment	Rigorous imprisonment up to five years, or with fine, or with both in case of offence described in clauses (i) & (ii) Imprisonment up to one year, or with fine, or with both in other cases	Only protects women. Provisions are: i. physical contact and advances involving unwelcome and explicit sexual overtures; or ii. a demand or request for sexual favours; or iii. making sexually coloured remarks; or iv. forcibly showing pornography; or v. any other unwelcome physical, verbal or non-verbal conduct of sexual nature.
354B	Act with intent to disrobe a woman	Imprisonment not less than three years but which may extend to seven years and with fine.	Only protects women against anyone who "Assaults or uses criminal force to any woman or abets such act with the intention of disrobing or compelling her to be naked."
354C	Voyeurism	In case of first conviction, imprisonment not less than one year, but which may extend to three years, and shall also be liable to fine, and be punished on a second or subsequent conviction, with imprisonment of either description for a term which shall not be less than three years, but which may extend to seven years, and shall also be liable to fine.	Only protects women. By implication, women may prey voyeuristically upon men with impunity. The prohibited action is defines thus: "Watching or capturing a woman in õprivate actõ, which includes an act of watching carried out in a place which, in the circumstances, would reasonably be expected to provide privacy, and where the victim's genitals, buttocks or breasts are exposed or covered only in underwear; or the victim is using a lavatory; or the person is doing a sexual act that is not of a kind ordinarily done in public."
354D	Stalking	Imprisonment not less than one year but which may extend to three years, and shall also be liable to fine	Only protects women from being stalked by men. By implication,

			<p>women may stalk men with impunity. The prohibited action is defined thus: "To follow a woman and contact, or attempt to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or monitor the use by a woman of the internet, email or any other form of electronic communication. There are exceptions to this section which include such act being in course of preventing or detecting a crime authorised by State or in compliance of certain law or was reasonable and justified."</p>
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Changes in law

Section 370 of Indian Penal Code (IPC) has been substituted with new sections, 370 and 370A which deals with trafficking of person for exploitation. If a person (a) recruits, (b) transports, (c) harbours, (d) transfers, or (e) receives, a person, by using threats, or force, or coercion, or abduction, or fraud, or deception, or by abuse of power, or inducement for exploitation including prostitution, slavery, forced organ removal, etc. will be punished with imprisonment ranging from at least 7 years to imprisonment for the remainder of that person's natural life depending on the number or category of persons trafficked. Employment of a trafficked person will attract penal provision as well.

T

he most important change that has been made is the change in definition of rape under IPC. Although the Ordinance sought to change the word *rape* to sexual assault, in the Act the word 'rape' has been retained in Section 375, and was extended to include acts in addition to vaginal penetration. The definition is broadly worded with acts like penetration of penis, or any object or any part of body to any extent, into the vagina, mouth, urethra or anus of another person or making another person do so, apply of mouth or touching private parts constitutes the offence of sexual assault. The section has also clarified that penetration means "penetration to any extent", and lack of physical resistance is immaterial for constituting an offence. Except in certain aggravated situation the punishment will be imprisonment not less than seven years but which may extend to imprisonment for life, and shall also be liable to fine. In aggravated situations, punishment will be rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life, and shall also be liable to fine.

A new section, 376A has been added which states that if a person committing the offence of sexual assault, "inflicts an injury which causes the death of the person or causes the person to be in a persistent vegetative state, shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean the remainder of that person's natural life, or with death." In case of "gang rape", persons involved

regardless of their gender shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to life and shall pay compensation to the victim who shall be reasonable to meet the medical expenses and rehabilitation of the victim. The age of consent in India has been increased to 18 years, which means any sexual activity irrespective of presence of consent with a woman below the age of 18 will constitute statutory rape.

Certain changes has been introduced in the CrPC and Evidence Act, like the process of recording the statement of the victim has been made more victim friendly and easy but the two critical changes are: 1. the 'character of the victim' is now rendered totally irrelevant, and 2. there is now a presumption of 'no consent' in a case where sexual intercourse is proved and the victim states in the court that she did not consent.

Some Provisions in Constitution of India for Equality of Genders

Article 15:

Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth:

- (1) The state shall not discriminate against any citizen on grounds of religion, race, caste, sex or place of birth or any of them.
- (2) Nothing in this shall prevent the State from making any Special Provision for women and children.

Article 42:

Provision for just and humane conditions of work and maternity relief-

The state shall make provisions for securing just and humane conditions of work and for maternity relief.

Article 51 A:

Fundamental duties.- It shall be the duty of every citizens of India:-

- (a) to abide by the Constitution and respect its ideals and institutions.
- (b) To promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women'

Article 253:

Legislation for giving effect to international agreement-

"Parliament has power to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any other country or countries or any international conference, association or other body."

उपर्युक्त सन्दर्भ में भारतीय संविधान की धाराएँ

भारतीय संविधान की धारा 14, 15, 16, 19, व 21 में यह प्रावधान है कि प्रत्येक नागरिक को कार्य-स्थल पर समान अवसर बिना किसी भेद-भाव के प्रदान किये जायेंगे।

14. विधि के समक्ष समता-भारत के राज्यक्षेत्र में किसी व्यक्ति को विधि के समक्ष समानता से या विधियों के समान संरक्षण से वंचित नहीं किया जायेगा।

15. धर्म, मूलवंश, जाति, लिंग या जन्म-स्थान के आधार पर विभेद का प्रतिषेध- (1) किसी नागरिक के विरुद्ध केवल धर्म, मूलवंश, जाति, लिंग जन्म स्थान या इनमें से किसी के आधार पर कोई विभेद नहीं करेगा।
16. लोक नियोजन के विषय में अवसर की समता-(1) राज्य के अधीन किसी पद पर नियोजन या नियुक्ति से सम्बन्धित विषयों में सभी नागरिकों के लिए अवसर की समता होगी।
19. वाक्-स्वातन्त्र्य आदि विषयक कुछ अधिकारों का संरक्षण-(1) सभी नागरिकों को-
 - क) वाक्-स्वातन्त्र्य, ख) शान्तिपूर्वक और निरायुध सम्मेलन, ग) संगम या संघ बनाने,
 - घ) भारत के राज्य-क्षेत्र में सर्वत्र अबाध संचरण,
 - ङ) भारत के राज्य-क्षेत्र के किसी भाग में निवास करने और बस जाने का तथा
 - छ) कोई वृत्ति, उपजीविका, व्यापार या कारोबार करने का अधिकार होगा।
21. प्राण और दैहिक स्वतन्त्रता का संरक्षण-किसी व्यक्ति को उसके प्राण या दैहिक स्वतन्त्रता से विधि द्वारा स्थापित प्रक्रिया के अनुसार ही वंचित किया जाएगा, अन्यथा नहीं।