Internal Complaints Committee (ICC)
“...the time has come when women must be able to feel liberated and emancipated from what could be fundamentally oppressive conditions against which an autonomous choice of freedom can be exercised and made available by women.

This is sexual autonomy in the fullest degree”
It is important to note that the Sexual Harassment against women at Workplace Act provides a civil remedy to women and is in addition to other laws that are currently in force.

Consequently, any woman who wishes to report instances of sexual harassment at the workplace has the right to take the recourse of both civil and criminal proceedings.
Some examples of behaviour that constitute sexual harassment at the workplace

• Making sexually suggestive remarks or innuendos.
• Serious or repeated offensive remarks, such as teasing related to a person’s body or appearance.
• Offensive comments or jokes.
• Inappropriate questions, suggestions or remarks about a person’s sex life.
• Displaying sexist or other offensive pictures, posters, mms, sms, whatsapp, or e-mails.
• Intimidation, threats, blackmail around sexual favours.
• Threats, intimidation or retaliation against an employee who speaks up about unwelcome behaviour with sexual overtones.
• Unwelcome social invitations, with sexual overtones commonly understood as flirting.
• Unwelcome sexual advances which may or may not be accompanied by promises or threats, explicit or implicit.
Some examples of behaviour that constitute sexual harassment at the workplace

- Physical contact such as touching or pinching.
- Caressing, kissing or fondling someone against her will (could be considered assault).
- Invasion of personal space (getting too close for no reason, brushing against or cornering someone).
- Persistently asking someone out, despite being turned down.
- Stalking an individual.
- Abuse of authority or power to threaten a person’s job or undermine her performance against sexual favours.
- Falsely accusing and undermining a person behind closed doors for sexual favours.
- Controlling a person’s reputation by rumour-mongering about her private life.
Some behaviours that indicate underlying workplace sexual harassment and merit inquiry:

<table>
<thead>
<tr>
<th>Behaviour</th>
<th>Repeatedly singling out an employee by assigning her with demeaning and belittling jobs that are not part of her regular duties</th>
</tr>
</thead>
<tbody>
<tr>
<td>Criticizing, insulting, blaming, reprimanding or condemning an employee in public</td>
<td></td>
</tr>
<tr>
<td>Exclusion from group activities or assignments without a valid reason.</td>
<td>Insults or humiliations, repeated attempts to exclude or isolate a person.</td>
</tr>
<tr>
<td>Statements damaging a person’s reputation or career</td>
<td>Systematically interfering with normal work conditions, sabotaging places or instruments of work.</td>
</tr>
<tr>
<td>Removing areas of responsibility, unjustifiably.</td>
<td>Humiliating a person in front of colleagues, engaging in smear campaigns.</td>
</tr>
<tr>
<td>Inappropriately giving too little or too much work</td>
<td>Arbitrarily taking disciplinary action against an employee.</td>
</tr>
<tr>
<td>Constantly overruling authority without just cause.</td>
<td>Controlling the person by withholding resources (time, budget, autonomy, and training) necessary to succeed.</td>
</tr>
<tr>
<td>. Unjustifiably monitoring everything that is done</td>
<td>Blaming an individual constantly for errors without just cause.</td>
</tr>
</tbody>
</table>
that may not constitute sexual harassment:

1. Following-up on work absences
2. Requiring performance to job standards.
3. The normal exercise of management rights.
4. Work-related stress e.g. meeting deadlines or quality standards.
5. Conditions of works.
6. Constructive feedback about the work mistake and not the person. Requiring performance to job standards.
Some Cases

• Senior officer giving Porno CDs to newly appointed female employee...

• Capturing the movements of a woman employee through Secret Camera ....

• Abusive words in Bus on a woman employee..

• Female Patient abused by a Male doctor....
Every employer is obliged to constitute an ICC through a written order

The ICC will be composed of the following members:

1) One Chairperson Women working at senior level as employee; if not available then

2) nominated from other office/units/ department/ workplace of the same employer

3) Two Members (minimum) From amongst employees committed to the cause of women/having legal knowledge/experience in social work

4) One Member From amongst NGO/associations committed to the cause of women or a person familiar with the issue of Sexual Harassment
Setup at every Administrative office

Where the office or administrative units of a workplace are located in different places, division or sub-division, an ICC has to be set up at every administrative unit and office.
ICC is Mandatory

The employee who had a fundamental right to a workplace free of sexual harassment, had complained about sexual harassment. According to the Court, had the organisation complied with the Vishaka Guidelines and set up such a Complaints Committee, the preventative benefit would have been three-fold:

1. **Ensured a place where women employees could seek redress**;

2. **Sent a clear message to the workplace that such complaints would be enquired into by a specially designated committee with external expertise**;

3. **Prevented a series of litigation that followed**.

Hence, the Madras High Court awarded Rs. 1.68 crores in damages to an employee for the no constitution of a Complaints Committee by the employer, as per the Vishaka Guidelines (at the time of the complaint, the Sexual Harassment of Women at Workplace Act 2013 had not been enacted).

Criteria for the External Member

A ‘person familiar with issues relating to women’ would mean such persons who have expertise
in issues related to sexual harassment and may include any of the following:

At least 5 years of experience as a social worker, working towards women’s empowerment
and in particular, addressing workplace sexual harassment;
Familiarity with labour, service, civil or criminal law.
WHO CAN COMPLAIN AND WHERE?

**COMPLAINTS COMMITTEE**

**In case of physical incapacity:**
- Complainant’s relative
- Complainant’s friend
- Co worker
- Officer of NCW or SCW
- Any person who has knowledge of the incident with the written consent of the complainant

**In case of mental incapacity:**
- Complainant’s relative
- Complainant’s friend
- Special educator
- Qualified psychiatrist/psychologist
- Guardian/authority under whose care the complainant is receiving treatment/care
- Any person with knowledge of the incident, jointly with any person mentioned above

**In case of Complainant's death:**
Any person with knowledge of the incident with the written consent of her legal heir

**In case Complainant is unable to file the complaint for any other reason:**
By any person who has knowledge of the incident with her written consent

The Complainant
WHAT SHOULD BE THE COMPLAINT CONTAIN?

- Description of Incident(s)
  - Date(s)
  - Timings
  - Respondent's Name
  - Parties Working Relationships
WHAT CAN AN EMPLOYEE/WORKER EXPECT?

When it comes to redress for workplace sexual harassment, employee/worker has a right to expect

-a *trained, skilled* and *competent* Complaints Committee, a time bound process, information confidentiality, assurance of non-retaliation, counselling or other enabling support where needed and assistance if the complainant opts for criminal proceedings.
RIGHTS OF THE COMPLAINANT

An empathetic attitude from the Complaints Committee so that she can state her grievance in a fearless environment

• A copy of the statement along with all the evidence and a list of witnesses submitted by the respondent

• Keeping her identity confidential throughout the process

• Support, in lodging FIR in case she chooses to lodge criminal proceedings

• In case of fear of intimidation from the respondent, her statement can be recorded in absence of the respondent

• Right to appeal, in case, not satisfied with the recommendations/findings of the Complaints Committee
RIGHTS OF THE RESPONDENT

A patient hearing to present his case in a non-biased manner

• A copy of the statement along with all the evidence and a list of witnesses submitted by the complainant

• Keeping his identity confidential throughout the process

• Right to appeal in case not satisfied with the recommendations/findings of the Complaints Committee
KEY RESPONSIBILITIES of ICC

1. Be thoroughly prepared
2. Know the Act, Policy and/or relevant Service Rules
3. Gather and record all relevant information
4. Determine the main issues in the complaint
5. Prepare relevant interview questions
6. Conduct necessary interviews
7. Ensure parties are made aware of the process and their rights/responsibilities within it
8. Analyse information gathered
9. Prepare the report with findings/recommendations
KNOWLEDGE, SKILLS, TRAINING

Dealing with workplace sexual harassment complaints is often complex. Hence Complaints Committee/s must possess critical skills/capacity to effectively carry out their role.

That includes a sound grasp of the Act, Vishaka Guidelines, applicable Service Rules, relevant laws and an understanding of workplace sexual harassment and related issues.

Complaints Committee skills must include an ability to synthesise information i.e. relevant documents, the law and interviews.

They should also be able to communicate effectively, write clearly, listen actively and conduct interviews.

They should be competent at showing empathy, being impartial and being thorough.

They should be able to identify sexual harassment and its impact.

A Complaints Committee/s is required to be trained in both skill and capacity to carry out a fair and informed inquiry into a complaint of workplace sexual harassment.

An absence of such training will lead to unequal and unfair results, which can cost employers, employees, complainants as well as respondents.
FAIR AND INFORMED INQUIRY

Within 6 months of joining The Statesman newspaper, Rina Mukerhjee lost her job.

While the company alleged that her work was “tardy” and “lacking in quality” it suppressed Rina’s complaint of sexual harassment against the news coordinator, Ishan Joshi.

Within her first month of work, Rina had taken her complaint directly to the Managing Director, Ravinder Kumar.

Time passed, nothing happened and Rina was fired.

In a rare display of social context insight and clarity, the Industrial Tribunal (West Bengal) rejected the Statesman’s claim that Rina only referred to “professional” harassment in her complaint to Mr. Kumar.

In the Tribunal’s view, Mr. Kumar’s failure to dig deeper was clearly suspect- “... it becomes clear that there was no Committee on Sexual Harassment, as per the Honb’le Supreme Court’s direction in Vishaka vs State of Rajasthan, existing in The Statesman, at that relevant time. ...to expect-the lady workman to file a written complaint and not to believe the same, when it has been filed ‘at a later date’ is sheer bias.”

The Statesman was ordered to reinstate Rina and grant her full back wages. M/s The Statesmen Ltd. and Smt. Rina Mukherjee. Order of K.K. Kumai, Judge, dated 06.02.2013, Fourth Industrial Labour Tribunal (West Bengal).
DO’S AND DON’TS FOR COMPLAINTS COMMITTEE

DO’S

1. Create an enabling meeting environment.
2. Use body language that communicates complete attention to the parties.
3. Treat the complainant with respect.
4. Discard pre-determined ideas.
5. Determine the harm.
Don’ts

1. Get aggressive.
2. Insist on a graphic description of the sexual harassment.
3. Interrupt.
4. Discuss the complaint in the presence of the complainant or the respondent.
NON-NEGOTIABLES DURING THE INQUIRY PROCESS

During a redress process the Complaints Committee/s are required to assure confidentiality, non retaliation and recommend interim measures as needed to conduct a fair inquiry.
THE SEXUAL HARASSMENT COMPLAINT PROCESS

Stage One: Receipt of the Complaint
Step 1: Receive and acknowledge receipt of the complaint
Step 2: Meet and talk to the complainant to explore options for formal and informal resolution
Step 3: Informal mechanism
Step 4: Formal mechanism
Step 5: Respondent and response

Stage Two: Planning Carefully
Step 6: Prepare the file
Step 7: Consideration

Stage Three: Interviews
Step 8: Prepare an interview plan for the hearing: Complainant, Witnesses and Respondent.
Step 9: Assess the completeness of the information collected.

Stage Four: Reasoning
Step 10: Analyse and assess the information gathered during the inquiry.
Step 11: Create a timeline to help establish the sequence of events related to the complaints.
Step 12: Compare similarities and differences within each of the statements made by interviewees.

Stage Five: Finding and Recommendation
Step 13: Finding
Step 14: Recommendations

Stage Six: Report
Step 15: Writing the Report
It is important that both the Committee and any other person designated by the organization/

District Officer to receive or otherwise handle a sexual harassment complaint has there quired competency and skill building training for managing a complaint and/or any concern related to workplace sexual harassment.
Stage 1

Step 1: Receive and Acknowledge Receipt of the Complaint

A fair, prompt, and impartial inquiry process starts with a Complaints Committee capable of creating an environment of trust and confidence throughout the inquiry.

The complainant submits a sexual harassment complaint in writing within three months of the last alleged incident to the Complaints Committee or any other person designated by the organization/District Officer (i.e. Nodal Officer) to receive and manage complaints of sexual harassment.

Upon receipt, the complaint should be reviewed for:

1. In the context of workplace that the sexual harassment complaint is to be met with under the Act, such as, Service Rules, Workplace Policy, Vishaka Guidelines and related laws.

2. Clarity in the complaint.

3. Additional information needed from the complainant.

The complainant will be notified in writing to acknowledge receipt.
Elements of Behaviour

The complaint needs to satisfy the following elements:

1. The respondent displayed a potentially improper and/or offensive conduct which may come within workplace sexual harassment;
2. The behaviour was directed at the complainant;
3. The complainant experienced harm.
4. The behavior occurred in the workplace or at any location/any event related to work.
Step 2: Meet and Talk to the Complainant to Explore Options for Formal and Informal Resolution

The complainant needs to be informed about the ensuing process and the informal or formal options available for the redress.
Step 3: Informal Mechanism

If the complainant chooses to adopt the informal process to resolve her complaint/experience of workplace sexual harassment, then it is the responsibility of the person designated to receive and manage the Complaints Committee to explore enabling ways to address the complaint.

This can include counselling, educating, orienting, or warning the respondent to promptly stop the unwelcome behaviour or appointing a neutral person to act as a conciliator between the parties to resolve the complaint through conciliation.

However, before recommending conciliation, the Committee must assess the severity of the situation and if necessary, advise and enable the complainant to opt for the formal route.

At no point, the Complaints Committee will advise the complainant to resolve the matter directly with the respondent.

Where such an informal process is successful, such resolution is to be recorded by the conciliator and forwarded to the ICC/LCC who in turn will forward the same to the employer/District Officer for further action based on the resolution.

Employers/District Officers are responsible for taking steps to ensure that the complainant is not subject to any backlash.

The choice of a formal process rests with the complainant even if the person responsible for managing the complaint believes that this can be resolved through an informal process.
Step 4: Formal Mechanism

If the complainant opts for formal redress, or the nature of the complaint is serious which calls for formal redress, then the Complaints Committee responds to the complaint.

Complaints Committee/s members must be free of any conflict of interest with either the concerned parties or with the outcome.

Ensure that the independent third party member has sound knowledge, skill, and experience in dealing with workplace sexual harassment complaints.
Step 5: Respondent and Response

As per the procedure provided in the Service Rule; or in absence of the same

Within seven days of receiving a complaint, the Complaints Committee will inform the respondent in writing that a complaint has been received.

The respondent will have an opportunity to respond to the complaint in writing within ten days thereafter.
STAGE TWO: PLANNING CAREFULLY

Step 6: Prepare the File
A sound inquiry relies on sound preparation. This includes taking into account the following steps:

1. Documentation
Create an independent confidential file of the complaint and all subsequent related documentation.

2. Review Law & Policy
Have a clear knowledge and understanding of the Act/Rules as well as the relevant Service Rules, Workplace Policy, Vishaka Guidelines, existing practices and related laws.

3. Make a List
Make a list of all the dates and events relating to the written complaint as well as the names of witnesses, where applicable.
PLANNING

4. Supporting Documents

Obtain and review all supporting documents relevant to the complaint, including those presented by the complainant and the respondent.

5. Act Quickly

Create a plan. This can be used as an initial checklist to ensure that all of the critical elements are covered. It includes:

a. The names of the parties and witnesses to be interviewed
b. Any documentary support that needs to be examined
c. Timeline
Relevant Witnesses

The complaint may include the names of people believed to have witnessed the alleged incidents or those who may have been aware of other information directly related to the complaint.

The respondent may also include the names of witnesses. In addition, the Complaints Committee also has the discretion to call any person as a witness, who it believes, has something to contribute to the inquiry process.
Preparing the Plan - Key Elements to Consider

1. Defining the Issues
   • What is the complaint
   • Questions or points that require clarification

2. Determining a violation of the Policy/Act
   • What information is needed to determine that there has been a violation

3. Logistics
   • Venue for conducting the interviews. Are special logistics required
   • Creating timelines for each

4. Critical Information
   • What documents need to be looked at
   • Witnesses to be questioned and in what order

5. Areas of Questioning
   • Questions for each specific incident and party/witness
   • Questions for each particular issue
   • Issues likely to require follow-up
Step 7: Consideration

1. Interim Measures

While a complaint is pending inquiry, a complainant can make a written request for her transfer or the transfer of the respondent, or for leave (up to 3 months). She can also request the Complaints Committee to restrain the respondent from reporting on her work performance or writing her confidential report or supervising her academic activities (in case she is in an educational institution). Even in the absence of such a request, the Complaints Committee must take corrective action. It is essential to take these actions in order to prevent potential ongoing sexual harassment.

2. Support

Maintain clear, timely communication with the parties throughout the process. Provide complainants with any specific assistance they may require, such as counselling, addressing health related concerns or sanctioning of leave.
Step 8: Prepare an Interview Plan for the Hearing: Complainant, Witnesses, Respondent

Based on the results of the previous steps and before conducting interviews, the Complaints Committee should decide which issues need to be pursued for questioning.

Interviews are meant to obtain information that is relevant to the complaint from individuals.

Interviews should be conducted with each person separately and in confidence. The complainant and the respondent should not be brought face to face with each other.
### Interviewing Tips

<table>
<thead>
<tr>
<th>1. Introduction</th>
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<tbody>
<tr>
<td>Questioning the parties and witnesses in a situation of workplace sexual harassment is a sensitive task. The Complaints Committee must therefore proceed with empathy, while appreciating at times, a different version of the facts.</td>
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<table>
<thead>
<tr>
<th>2. Questioning</th>
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<tr>
<td>Determine beforehand the following:</td>
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<tr>
<td>- Date, time, place and order of interviews</td>
</tr>
<tr>
<td>- Questions and their order</td>
</tr>
<tr>
<td>- Time for each interview</td>
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<tr>
<td>Generally rely on questions related to <strong>who, what, where, when and how</strong>. Remember:</td>
</tr>
<tr>
<td>- Questions ought to be clear and focused.</td>
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<tr>
<td>- Obtain as much information as possible through the interview.</td>
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<tr>
<td>- Do not share information gathered from other sources.</td>
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<tr>
<th>3. Choose an Appropriate Location</th>
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<tr>
<td>To create trust, comfort and openness</td>
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<tr>
<th>4. Explain the Interview Process</th>
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<tbody>
<tr>
<td>Explain how the interview will be conducted and what is expected</td>
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</table>

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<th>5. Records of the Interview</th>
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<tbody>
<tr>
<td>Take notes and explain the need for a proper record</td>
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<table>
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<tr>
<th>6. Manage the Interview</th>
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<tbody>
<tr>
<td>The Chairperson of the Complaints Committee is responsible for ensuring the interviews are correctly carried out and due process followed</td>
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</table>

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<tr>
<th>7. Sign Statements</th>
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<tr>
<td>At the conclusion of the interview, have those interviewed, sign and date statements made and recorded before the Complaints Committee</td>
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</tbody>
</table>
Step 9: Assess the Completeness of the Information Collected

At this stage, the Complaints Committee should review the information gathered and their factual relevance to each aspect of the complaint. This will help determine whether there is enough information to make a finding on the complaint.
Once the information and review is complete, the Complaints Committee will make its reasoned finding(s), which involves having to:

- Identify the substance of each aspect of the complaint.
- Determine, whether or not, on a balance of probability, the unwelcome sexual harassment took place.
- Check that such behaviour/conduct falls within the definition of sexual harassment set out in the relevant Act/Rules, Policy, Service Rules or law.
- Comment on any underlying factor(s) that may have contributed to the incident.
REASONING

**Step 11:** Create a timeline to help establish the sequence of events related to the complaint.

**Step 12:** Compare similarities and differences within each of the statements made by the interviewees.
STAGE FIVE: FINDING AND RECOMMENDATION

Step 13: Finding

Based on the above, the Complaints Committee must arrive at a finding of whether the complaint is upheld, not upheld or inconclusive.

Provided, where both the parties are employees, before finalising the findings, the ICC/LCC shall share its finding with both the parties and provide them an opportunity to make representation against it before the Committee.
Step 14: Recommendations

Based on its findings, the Complaints Committee shall then make appropriate recommendations which may include:

1. Where the Complaints Committee is unable to uphold the complaint, it shall recommend no action.

2. Where the Complaints Committee upholds the Complaint, it may recommend such action as stated within the relevant Policy or Service Rules, which may include a warning to terminate.
In case service rules do not exist, recommended action may include:

Disciplinary action, including a written apology, reprimand, warning, censure;

• Withholding promotion/ pay raise/ increment;
• Termination;
• Counselling;
• Community service.
The Complaints Committee may also recommend financial damages to the complainant, while deciding the amount they shall take into consideration:

- Mental trauma, pain, suffering and emotional distress caused;
- Medical expenses incurred;
- Loss of career opportunity;
- Income and financial status of the respondent.

If the amount is not paid it can be recovered as an arrear of land revenue.

The Complaints Committee can also give additional recommendations to address the underlying factors contributing to sexual harassment at the workplace.
STAGE SIX: REPORT
Step 15: Writing the Report

The Complaints Committee will prepare a final report that contains the following elements:

• A description of the different aspects of the complaint;
• A description of the process followed;
• A description of the background information and documents that support or refute each aspect of the complaint;
• An analysis of the information obtained;
• Findings as stated above;
• Recommendations.
Procedure of Enquiry

An inquiry must be completed within 90 days and a final report submitted to the Employer or District Officer (as the case may be) within ten days thereafter. Such report will also be made available to the concerned parties.

The Employer or District Officer is obliged to act on the recommendations within 60 days.

Any person not satisfied with the findings or recommendations of the Complaints Committee or non-implementation of the recommendations, may appeal in an appropriate court or tribunal, as prescribed under the Service Rules or where no such service rules exist, in such manner as may be prescribed.

Given that most workspaces today are gender unequal and male-dominated, it is important that complaints by women be treated fairly and not dismissed. The mere inability to substantiate a complaint or provide adequate proof will not attract legal action against the complainant.

However, making a false or malicious complaint or producing a forged or misleading document is an offence.
AT A GLANCE: Complaints Committee’s Checklist

• Review the written complaints and response to complaints
• Review the applicable policy, the Act/Rules, Vishaka Guidelines and other relevant laws
• Develop a plan
• Meet with the complainant
• Meet with the respondent
• Meet with the witnesses
• Record statements and have them dated and signed
• Review and adapt the plan, as needed
• Proceed with further interviews, as needed
• Analyze all the facts to develop reasoning
• Arrive at the findings
• Give recommendations and Prepare the report
• Submit the file to the organization or District Officer for implementation of the recommendations and for safe keeping.
INQUIRY PROCESS AT A GLANCE

INCIDENCE OF WORKPLACE SEXUAL HARASSMENT TO BE REPORTED WITHIN 3 MONTHS

The respondent fulfills his obligations as agreed upon: the case is closed

INFORMAL

The respondent fails to fulfill his obligations as agreed upon: an inquiry will commence

CONCILIATION

FORMAL

One copy of the complaint to be submitted to the respondent, to which the respondent needs to reply within 10 days

ICC

NODAL OFFICER

LCC

COMPLAINT NOT UPHELD:
INCONCLUSIVE
Recommend to employer/DO that no action is required to be taken

Inquiry report to be completed within 90 days by the ICC/LCC

If not satisfied by the recommendations or non-implementation of such recommendations, the complainant and the respondent can appeal to a tribunal/court within 90 days

COMPLAINT UPHELD:
Recommendations to be implemented by the employer/DO within 60 days on receipt of the report

Report of the findings to be submitted to the employer or district officer (DO) and concerned parties within 10 days of completion of the inquiry
## Timelines as per the Act

<table>
<thead>
<tr>
<th>Event</th>
<th>Timeline</th>
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<tbody>
<tr>
<td>Submission of Complaint</td>
<td>Within 3 months of the last incident</td>
</tr>
<tr>
<td>Notice to the Respondent</td>
<td>Within 7 days of receiving copy of the complaint</td>
</tr>
<tr>
<td>Completion of Inquiry</td>
<td>Within 90 days</td>
</tr>
<tr>
<td>Submission of Report by ICC/LCC to employer/DO</td>
<td>Within 10 days of completion of the inquiry</td>
</tr>
<tr>
<td>Implementation of Recommendations</td>
<td>Within 60 days</td>
</tr>
<tr>
<td>Appeal</td>
<td>Within 90 days of the recommendations</td>
</tr>
</tbody>
</table>
Confidentiality

The Act prohibits the publication or making known the contents of a complaint and the inquiry proceedings. Any breach of confidentiality will result in specific consequences.

The Act prohibits the disclosure of:

- Contents of the complaint;
- Identity and address of complainant, respondent and witnesses; Information pertaining to conciliatory/inquiry proceedings or recommendations of the ICC/LCC;
- Action taken by the employer/DO.
Accountability, Consequences, Exception

**Accountability:** Any person entrusted with the duty to handle or deal with the complaint, inquiry or any recommendations or action taken under the provisions of this Act.

**Consequences:** As per the Service Rules or Rs.5,000/ to be collected by the employer.

**Exception:** Dissemination of information regarding the justice secured without disclosure of name, address, identity and particulars of complainant or witnesses.

Section 4 completes the details of the Complaints Committee process in addressing formal complaints. It serves as a guideline to action in providing appropriate redress. The manner in which a complaint is addressed will make all the difference to the equal rights of working women as well as the kind of workplace culture being promoted.
Monitoring: “Vishaka was a victory for all women” Bhanwari Devi

This section refers to ways in which application of the Act at all workplaces is monitored.

Monitoring is a way to ensure compliance of the Act on the ground. As an additional means of monitoring, the Act mandates the submission of Annual Reports with specific information as well as specific consequences where compliance is lacking.
Monitoring

The Act authorizes Appropriate Government to monitor the implementation of the Act. It means:

i. In relation to a workplace which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly.

   a. By the Central Government or the Union Territory administration, the Central Government;
   
   b. By the State Government, the State Government;

ii. In relation to any workplace not covered under sub-clause (i) and falling within its territory, the State Government;

Thus to monitor the Act, the Appropriate Government has the authority to undertake any of the following measures:
Inspection

In relation to workplace sexual harassment, when it is in the public interest or in the interest of women employees, every employer/District Officer can be ordered by the Appropriate Government i.e. State and Central Government, to make available any information, record or document, including opening its workplace for inspection relating to the same.
Annual Report

The Appropriate Government is entrusted with the monitoring of the implementation of this Act and for maintaining the data on the number of cases filed and disposed of under it. In particular, the Act mandates submission of an Annual Report by the ICC to the employer/District Officer.

The District Officer will forward a brief report on the annual reports to the appropriate State Government. Such reports must include the following information:

a. No. of complaints received;
b. No. of complaints disposed of;
c. No. of cases pending for more than 90 days;
d. No. of workshops/awareness programmes carried out;
e. Nature of action taken by the employer/DO;

The Report of ICC will be forwarded to the DO through the employer.
Penalties

An employer can be subjected to a penalty of up to INR 50,000 for:

• Failure to constitute Internal Complaints Committee
• Failure to act upon recommendations of the Complaints Committee; or
• Failure to file an annual report to the District Officer where required; or
• Contravening or attempting to contravene or abetting contravention of the Act or Rules.

Where an employer repeats a breach under the Act, they shall be subject to:

• Twice the punishment or higher punishment if prescribed under any other law for the same offence.
• Cancellation/Withdrawal/Non-renewal of registration/license required for carrying on business or activities
Importance of Monitoring

Monitoring is a critical yardstick to measure success in terms of compliance with the Act. Additionally, it highlights those areas, in terms of law and practice, which may require improvement and/or additional information and guidance at both the State as well as the workplace levels.
VMM ON SOCIAL MEDIA

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