

The Protection of Women Against Sexual Harassment at Work Place Bill, 2010, introduced on December 07, 2010 in the Lok Sabha was referred to the Standing Committee on Human Resource Development. The Committee made a number of recommendations in its report which was submitted on November 30, 2011. The Bill was passed by the Lok Sabha on September 3, 2012 and the Rajya Sabha on February 27, 2013. While a number of amendments were made to the Bill when it was passed in the Lok Sabha, the Rajya Sabha did not have any substantial amendment to the Bill as passed in the Lok Sabha. This table compares the changes from the Bill as introduced and the Bill as passed and the key recommendations made by the Standing Committee.

**Table 1: Comparison of the provisions of the Bill as introduced and as passed by Parliament with the recommendations of the Standing Committee**

Bill as introduced	Standing Committee Recommendations	Bill as passed by Parliament
The Bill protects women from sexual harassment but excludes men from its purview.	An enabling provision to look at cases of sexual harassment against men may be explored.	No provision
<b>Clause 2: Definitions</b>		
<p>Definition of 'aggrieved woman'</p> <p>The Bill defines an 'aggrieved woman' as a woman who alleges to have been subjected to any act of sexual harassment. It covers every woman at the work place (whether employed or not).</p>	<p>The definition be modified to (i) include situations involving 'victimization'; (ii) cover domestic workers.</p> <p>On 'victimization', the Committee noted that in the event of an employee raising a complaint, there may be a tendency of employers to dismiss the employee on some ground. The definition of 'aggrieved woman' should also include a woman who has been victimized.</p> <p>In the case of domestic workers, the definition of 'aggrieved woman' should cover only the employee. In the event of any untoward incident happening with a friend/ acquaintance of a domestic worker, a separate judicial intervention may be sought.</p>	<p>Includes domestic worker. Does not include victimisation.</p> <p>Definition of 'domestic worker' only includes employee.</p>
<p>Definition of 'employee'</p> <p>The Bill defines 'employee' as a person employed at a workplace (on a regular or ad hoc basis), either directly or through an agent and irrespective of the amount of remuneration paid, except a domestic worker working at home.</p>	<p>A separate definition of 'domestic worker' should be added.</p> <p>In the definition of 'employee' add the words 'for any third party encountered in the course of work', to enable employers to act on behalf of casual workers or employees employed through contractors.</p>	<p>Includes a definition of 'domestic worker' and deletes 'except a domestic worker working at home' from the definition of 'employee'. No other change.</p>
<p>Definition of employer'</p> <p>In the context of workplaces falling under government, the Bill defines 'employer' as the head of the workplace or an authorized officer. In other cases, the employer has been defined as the person responsible for the management,</p>	<p>Include an explanatory clause about contractors. Also, similar provisions should be prescribed for both the government and the private sector. Like in the case of government workplaces, the heads of private workplaces should also be held liable.</p> <p>The Committee pointed out that if domestic workers are included under the Bill, the definition of 'employer' will need to be expanded</p>	<p>Adds an explanation of the term 'management'. It includes the person or board or committee responsible for formulation and administration of policies of the organisation. 'Employer' also includes a person discharging contractual obligations with respect to his employees and a person or a</p>

supervision and control of the workplace.	by adding house owners under it.	household who employs a domestic worker.
Definition of 'sexual harassment' The Bill defines 'sexual harassment' to include unwelcome sexually determined behaviour such as physical contact, verbal or non-verbal conduct of sexual nature, request for sexual favours, sexually coloured remarks, screening of pornography, or any other conduct of sexual nature.	Agreed with the definition of sexual harassment. However, the words 'verbal, textual, physical, graphic or electronic actions' should be added in the definition to cover latest technological developments.	No amendment.  Amends the definition to clarify that one or more of the unwelcome acts or behaviour would be construed as sexual harassment.
Definition of 'workplace' The Bill defines a 'workplace' to include all organizations, and any place visited by an employee during the course of work.	Vehicles being provided by the employer should also be covered under the definition of 'workplace'. Also, if domestic workers are included within the ambit of the Bill, a house or dwelling place should be added to the definition of workplace.	Expands the definition of the 'workplace' to include sports institutes, stadiums, transportation provided by the employer for visiting places in the course of employment and a house.
Definition of 'hostile work environment' The Bill does not define 'hostile work environment'	Include a specific definition of a 'hostile work environment'.	No definition added.
<b>Clause 3: Prohibition of sexual harassment</b>		
The Bill prohibits sexual harassment at the work place which may include promise of preferential treatment, threat of detrimental treatment, hostile work environment, or humiliating conduct constituting health and safety problems.	This clause should be modified to say that '(1) No woman shall be subjected to sexual harassment at the workplace; (2) Sexual harassment and victimization in relation to any act of sexual harassment shall constitute a misconduct'.  A specific clause on victimization should be added, which should include circumstances such as promise of preferential treatment, threat of detrimental treatment, hostile work environment, or humiliating conduct constituting health and safety problems.	Clarifies that if certain circumstances are present with any act of sexual harassment, it may amount to sexual harassment. The circumstances includes implied or explicit promise of preferential treatment, implied or explicit threat of detrimental treatment and threat about her present or future employment status.
<b>Clause 4: Constitution of Internal Complaints Committee (ICC)</b>		
Every employer is required to constitute an 'Internal Complaints Committee' at all offices and branches with staff strength of 10 or more employees.	The clause should be reconsidered. Since it may not be feasible to form an ICC at each unit, circumstances where companies can be exempted from such a provision should be included.	No amendment.
Members of the committee shall include a senior woman employee, two or more employees and one member from an NGO committed to the cause of women. A member of this Committee may not engage in any paid employment outside the duties of the office.	The strength of ICC should be increased from four to at least five (or an odd number) to facilitate decisions in cases where the bench is evenly divided. Also, disallowing paid employment outside the duties of office goes against NGO members who may be employed elsewhere. This clause must be edited.	Deletes the provision that disallows NGO members to engage in paid employment outside. Adds a specific provision to pay fees or allowances to the NGO member of ICC.  Disqualifies a member if (a) he has been convicted of an offence or an inquiry under any law is pending

		against him or (b) he is found guilty in disciplinary proceedings or a disciplinary proceeding is pending against him.
In case a senior level woman employee is not available, the District Officer shall nominate a member of the Local Complaints Committee in the area.	In case a senior level woman employee is not available, a senior woman officer from a sister organization or other organisations should be nominated to the ICC. This will give the employer more flexibility and reduce the delay in setting up the committee.	Accepts the recommendation. Presiding officer from any other workplace of the same employer or department can be nominated.
Each ICC must have one member from an NGO committed to the cause of women.	There may be operational difficulties in the functioning of ICC in case of non-availability of NGO member. Also, the Ministry should explore the possibility of including representatives from trade unions/ employee associations etc.	Accepts recommendation. Either a member of an NGO or a person familiar with the issues relating to sexual harassment may become a member of ICC.
The Bill does not lay down provisions for reconstitution of ICCs	Provisions for the reconstitution of ICCs on completion of their term should be laid down in the Bill. Also, terms of individual members should be restricted to a maximum of two.	No amendment.
The ICC has been given the powers of a civil court. However, the Bill does not require any member to have a legal background. (There is no requirement for training either).	Training of the members should be made an essential component of the Bill so as to ensure that ICC members are well aware of legal provisions required for handling cases.	In the duties of employer, adds that orientation programmes for members of ICC should be provided.

#### **Clause 6: Constitution and jurisdiction of Local Complaints Committee (LCC)**

A 'Local Complaints Committee' (LCC) is required to be constituted in every district. An additional LCC shall also be constituted at the block level to address complaints in situations where the complainant does not have recourse to an ICC or where the complaint is against the employer himself.	The District Officer has a number of responsibilities and therefore, the LCC may not be a priority for him.  The functions of the district level and the block level LCCs are not delineated clearly and may lead to ambiguity. It is also unclear whether the block level LCCs are permanent committees or temporary ad hoc committees constituted for dealing with specific cases. Instead of creating of additional LCCs at the block level, the District level LCC may be allowed to handle cases. A local member from the block may be co-opted as a member to aid the LCC in its task.  For handling cases against employers, State Commissions for Women should be involved. In this case, the district level LCC with a representative from the State Commission for Women can be the best option.	No amendment.  Accepted. The District Officer shall constitute a LCC at the district level to receive complaints from workplaces which do not have ICC (less than 10 workers) or if the complaint is against the employer. The District Officer shall designate one nodal officer in every block, taluka and tehsil to receive complaints and forward it to the concerned LCC within seven days.  No amendment.
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#### **Clause 7: Composition, tenure and other terms and conditions of Local Complaints Committee (LCC)**

The LCC, to be constituted by the District Officer, shall include an eminent woman as the Chairperson, a woman working in the area, two members from an NGO committed to the cause of women, and a Protection Officer appointed under the Protection of Women from Domestic Violence Act, 2005.	The Committee recommended that appropriate provisions be included to give representation to women from SC/ ST/ OBC and Minorities in the LCC. The Committee also supported the inclusion of representatives of trade unions or employee associations in the LCC. The Committee asked the Ministry to review the viability of having Protection Officers as members of LCCs. Since Protection Officers already have a well-defined mandate under the DV Act, 2005, additional responsibility on these officers would not be advisable.	In addition to a member from an NGO, a person familiar with the issues relating to sexual harassment can become a member of LCC. Also, at least one of the NGO members shall be a woman belonging to SC/ST/OBC category or a minority group. It also substitutes a Protection Officer appointed under the Domestic Violence Act with a concerned officer dealing with social welfare or women and child development in the district. Adds that such member shall be ex-officio. Adds circumstances under which a member of LCC may be removed (abuses his position, convicted of an offence, inquiry pending against him).
<b>Clause 9: Complaint of sexual harassment</b>		
An aggrieved woman may complain to the ICC. In the absence of such a committee, she may file a complaint with the LCC.	A complainant should be given the option to approach the State Women Commission when the complaint is against the employer.	No amendment.
Does not prescribe time limit for filing complaints.	A reasonable time limit should be included in the Bill.	The complaint has to be filed within three months from the date of the incident. The time-limit may be extended by maximum of three months for reasons recorded in writing.
Prescribes that all complaints should be made in writing by the aggrieved woman. In case of incapacity or death, the complaint may be made by a legal heir or an authorized person.	In cases where sexual harassment of a very serious nature has occurred, the Complaints Committee may be authorized to take suo motu cognizance of such incidents.	No amendment.
<b>Clause 10: Conciliation</b>		
The ICC/ LCC shall provide for conciliation if requested by the complainant. Otherwise, it shall initiate an inquiry.	Distinction should be made between minor and major offences. Conciliation should be allowed for minor offences only.	Added a proviso that monetary settlement shall not be the basis on which conciliation is made.
<b>Clause 11: Inquiry into Complaint</b>		
The inquiry shall be completed within a period of ninety days.	In the event of the inquiry not being completed within the stipulated period, no liability has been fixed on the employer. An appropriate clause to call for action or fix liability should be included in the Bill.	No amendment.
ICC/LCC shall proceed to make inquiry into a	No suggestion.	The ICC/LCC shall proceed to inquire into the

complaint in such manner as may be prescribed.		complaint of an employee in accordance with service rules or in case of no rules in such manner as may be prescribed. In case of domestic workers, the LCC shall forward the complaint to the police within seven days if a prima facie case exists. The case shall be registered under section 509 of Indian Penal Code (word, gesture or act intended to insult the modesty of a woman). If the terms of the conciliation have not been complied with, the ICC/LCC shall proceed to make an inquiry into the complaint. If the respondent is convicted of an offence, the court may order payment of appropriate sums to the aggrieved woman.
<b>Clause 13: Inquiry report</b>		
On completion of inquiry, ICC or LCC has to provide report to the employer or District Officer.	No suggestion.	The inquiry report has to be provided within 10 days from the date of completion of the inquiry. If compensation is not paid, then the ICC or LCC may forward the order for recovery of the sum as an arrear of land revenue to the concerned District Officer.
<b>Clause 14: Punishment for false or malicious complaint and false evidence</b>		
If the allegation is proved to be false or malicious, the Committee may recommend action against the complainant. However, action may not be taken against a complainant merely on the inability to substantiate a complaint or provide adequate proof.	A distinction needs to be made between false and malicious complaints. For any false complaint, no punishment should be prescribed. However, if it is proved that a complaint has been filed with malicious intent, action may be considered.	Amends clause to include penalty for malicious complaints or if a person makes a complaint knowing it to be false.
<b>Clause 18: Appeal</b>		
Appeal can be made within 30 days of the recommendation of the ICC or LCC.	No suggestion.	Appeal can be made within 90 days.
The Bill assigns certain duties to each employer. These include (a) providing a safe working environment; (b) constituting an ICC and conspicuously displaying the order constituting the Committee; (c) undertaking workshops and training	No suggestion.	Adds other duties such as organising workshops and awareness programmes at regular intervals, cause to initiate action under the IPC or other laws against the perpetrator, treat sexual harassment as a misconduct under the service rules and monitor the

programmes at regular intervals for sensitizing employees; (d) providing assistance during an inquiry; and (e) initiating action against the perpetrator.		timely submission of reports by ICC.
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**Clause 20: Duties and power of District Officer**

The District Officer shall monitor the timely submission of reports furnished by the ICC or the LCC and take such measures as may be necessary for engaging NGOs for creation of awareness on sexual harassment and the rights of women.	As far as possible, the duties assigned to the District Officer should be on the same lines as those envisaged for the employer. The District Officer is mandated to set up LCCs responsible for conducting inquiries. In such a scenario, absence of duties such as providing necessary facilities to LCCs for conducting inquiries, assistance in securing attendances of respondents and witnesses etc. may result in denial of justice.	Deletes duty of District Officer to monitor ICC.  No amendment.
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**Clause 25: Penalty for non-compliance with provisions of Act**

Penalties have been prescribed for employers who fail to comply with the provisions of the Act. Noncompliance shall be punishable with a fine of up to Rs 50,000. Repeated violations may lead to higher penalties and cancellation of licence or registration required for carrying on the business.	The Committee, while commenting on the provision for cancellation or withdrawal of registration, recommended that the penalty provision should be modified in such a way so as to safeguard the interests of other employees or dependents of the organization.	No amendment.
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**New Clause 23A: Measures of appropriate government**

No provision.	No suggestion.	The appropriate government may develop relevant information, education and communication material to advance understanding of the Act; formulate training programmes for LCC members.
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Sources: The Protection of Women Against Sexual Harassment at Work Place Bill, 2010; 239<sup>th</sup> Standing Committee Report; Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (Bill as passed); PRS.

**Prepared by Kaushiki Sanyal on February 27, 2013.**

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