

# 2013 REPORT WANTED CHANGES TO SEXUAL HARASSMENT LAW

Relevant for: Indian Society | Topic: Role of Women and Women's Organization

The Centre recently announced its plan to set up a panel of judges to look into the legal and institutional framework to curb sexual harassment at workplaces following the #MeToo campaign on social media.

However, as early as 2013, the Justice J.S. Verma Committee, in its landmark report on gender laws, had recommended setting up of an employment tribunal instead of an internal complaints committee (ICC) in sweeping changes to the Sexual Harassment at the Workplace Bill.

The panel was formed in the aftermath of the December 16 Nirbhaya gangrape in 2012 and the ensuing nationwide protests, and submitted its report on January 23, 2013.

At that time of the submission of the report, the Sexual Harassment at Workplace (Prevention, Prohibition and Redressal) Bill had already been passed by the Lok Sabha and was awaiting the Rajya Sabha's nod. The Bill was passed unchanged by the Upper House a month later.

The Committee, chaired by Justice Verma and including Justice Leila Seth and senior lawyer Gopal Subramaniam, termed the Sexual Harassment Bill "unsatisfactory" and said it did not reflect the spirit of the Vishakha guidelines — framed by the Supreme Court in 1997 to curb sexual harassment at the workplace.

The report noted that an internal complaints committee as laid down under the then proposed law would be "counter-productive" as dealing with such complaints in-house could discourage women from filing complaints. Instead, the committee proposed forming an employment tribunal to receive and adjudicate all complaints.

To ensure speedy disposal of complaints, the Justice Verma Committee proposed that the tribunal should not function as a civil court but may choose its own procedure to deal with each complaint.

## **Onus on employer**

The Committee said any "unwelcome behaviour" should be seen from the subjective perception of the complainant, thus broadening the scope of the definition of sexual harassment.

The Verma panel said an employer could be held liable if he or she facilitated sexual harassment, permitted an environment where sexual misconduct becomes widespread and systemic, where the employer fails to disclose the company's policy on sexual harassment and ways in which workers can file a complaint as well as fails to forward a complaint to the tribunal. The company would also be liable to pay compensation to the complainant

The panel also made several suggestions to encourage women to come forward and file complaints. For instance, it opposed penalising women for false complaints and called it an "abusive provision intended to nullify the objective of the law".

The Verma panel also said that the time-limit of three months to file a complaint should be done away with and a complainant should not be transferred without her consent.

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