

## LAW ON SEXUAL HARASSMENT IN INDIA

General [The Constitution of India 1950, Indian Penal Code 1860 etc]					Specific	
Sec 209, IPC 'obscene acts and songs'	Sec 354, IPC 'outraging the modesty of a woman'; Sec 354-A 'sexual harassment by a man'; Sec 354-B 'assault or use of criminal force to woman with intent to disrobe'; Sec 354-C Voyeurism; Sec 354-D Stalking.	Sec 509, IPC 'insulting the modesty of a woman'	Indecent Representation of Women (Prohibition) Act (1987); regulating print and digital media.	Constitution, Part III Fundamental Rights, esp articles 14, 15, 19 and 21 on the right to equality, right to non-discrimination, right to freedom and right to life.	1996-2013	2013-now
					<i>Vishaka</i> Guidelines after the seminal decision in <i>Vishaka v State of Rajasthan</i> by the Supreme Court of India, concerning the gang-rape of Bhanwari Devi, a Dalit women, in 1992.	Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act  'SHe-Box': an online platform for reporting complaints of sexual harassment arising at the workplace.

Definition of sexual harassment, per *Vishaka* and the 2013 Act: 'such unwelcome sexually determined behaviour, whether directly or by implication, such as: physical contact and advances, a demand or request for sexual favours, sexually coloured remarks, showing pornography, and any other unwelcome physical, verbal or non-verbal conduct of sexual nature.'

The centrepiece of tackling sexual harassment in India is processual (under the Act): The constitution of the Internal Complaints Committee (ICC) by the employer at any office or branch, of an organization employing 10 or more employees, to hear and redress grievances pertaining to sexual harassment [section 4]; or the Local Complaints Committee (LCC) set up at the district level by the government, to investigate and redress complaints of sexual harassment from the unorganized sector or from establishments where the ICC has not been constituted on account of the establishment having less than 10 employees or if the complaint is against the employer [section 5].

Criticisms of the Act:

1. PROCESS: If an employer fails to constitute an ICC or does not comply with the requirements prescribed under the POSH Act, a monetary penalty of up to INR 50,000 (approx. US\$ 900) may be imposed [section 26], but no other real sanctions.
2. CULTURE: Understanding of sexual harassment as acceptable; merely 'eve-teasing'; entrenched impunity for unacceptable behaviour.
3. INTERSECTIONALITY: Not gender neutral; not just excluding men but also those with intersectional identities, trans, gay, Dalit, poor.
4. DUE PROCESS: Massive gaps in enforcement; raising Rule of Law concerns as India's response to #MeToo.