

Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

Frequently Asked Questions(FAQs)

***Courtesy: International Labour Organisation, 2014**

1. What is Sexual Harassment?

Sexual harassment is any unwelcome sexually defined behaviour which can range from misbehaviour of an irritating nature to the most serious forms such as sexual abuse and assault, including rape.

The *Sexual Harassment of Women (Prevention, Prohibition and Redressal) Act 2013* defines sexual harassment to include any one or more of the following unwelcome acts or behaviour (whether directly or by implication) namely:

- physical contact and advances
- A demand or request for sexual favour
- Making sexually coloured remarks
- Showing pornography
- Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

2. What is sexual harassment at workplace?

Sexual harassment at the workplace is any unwelcome sexually defined behaviour which has the purpose or effect of unreasonably interfering with the individual's work performance or creating an intimidating, hostile, abusive or offensive working environment.

The *Sexual Harassment of Women (Prevention, Prohibition and Redressal) Act 2013* states that if the following circumstances occur or are present in relation to, or connected with any act or behaviour of sexual harassment, it may amount to sexual harassment at the workplace:

- a. Implied or explicit promise of preferential treatment in her employment in her employment; or
- b. Implied or explicit threat of detrimental treatment in her employment; or
- c. Implied or explicit threat about her present or future employment status; or
- d. Interference with her work or creating an intimidating or offensive or hostile work environment for her; or
- e. Humiliating treatment likely to affect her health or safety.

3. Quick checklist: Is your work environment free from sexual harassment?

Most women themselves fail to recognize sexual harassment and treat it as trivial and routine. Take a look at the checklist below and fill a check mark (✓) to an appropriate box.

Check items	Y es	No
1. You have supervisors or colleagues that you want to avoid working together		
2. You feel that somebody is constantly staring at you		
3. The number of female and male workers is not well-balanced		
4. There are times when supervisors or colleagues touch your body		
5. There are uncomfortable incidences at my workplace but I tolerate it with my patience		
6. My supervisor sometimes asks me out for dinner		
7. I stay obedient to whatever my supervisor says as I do not want to lose my job		
8. I receive some jokes and comments related to my appearance		
9. My supervisor frequently asks me about my personal life		
10. I often receive emails irrelevant to my work from a colleague/supervisor		

If you have many check marks under “Yes”, your work environment may not be free from sexual harassment. If you are in doubt, discuss with trusted colleagues, and do not stay silent.

4. What should you do if you experience sexual harassment?

If you experience sexual harassment, take action to stop it.

Speak up at the time: Be sure to say "NO" clearly, firmly and without smiling when you experience sexual harassment as that is the best way to let the harasser know that his or her behaviour is offensive. If you are asked to go places, do things, respond to questions, or engage in situations that make you uncomfortable, say "NO" emphatically and clearly and do not worry about offending the other person or hurting his or her feelings. Objecting to the behaviour when it occurs helps if you decide to file charges later.

Keep records: Keep track of what happens in a journal or diary and keep any letters or notes or other documents you receive. Keep copies of any offensive material at the workplace. Write down the dates, times (including frequency of offensive encounters), places, and an account of what happened. Write down the names of any witnesses.

Every document that you use during trial must be authenticated by a witness. Keep this in mind during your depositions when the defense asks you where you obtained a document. If you are not clear about where you got the document, and who can authenticate it, you will not be able to use it during your trial.

Take all letters of commendation, awards, thanks you's and anything at all that will corroborate your positive job performance. Pay special attention to documents that your superiors have provided lauding you and your work. If possible, ask your clients, staff, and peers for letters of commendation.

Talk to someone you can trust: Being quiet or stoic about sexual harassment lets it continue. Talk to other co-workers, union members, family members or friends whom you can trust. You may not be the only one harassed by this person.

Create a witness: Inform a trusted colleague and try to insure that s/he is an eye or ear witness to a situation where you are being sexually harassed. This will be useful later if you chose to file a formal complaint.

Report sexual harassment to the appropriate person in the organization: Explore the different avenues available to you and file a formal complaint if necessary. If your organization does not have a policy, ensure that your employer formulates an anti-sexual harassment policy and carries out all the connected tasks.

Get a medical check-up: If you have been raped or physically assaulted, go for a medical check-up. Obtain a medical report. This is important, should you decide to pursue a legal case.

5. Can an aggrieved file a civil suit in a case of sexual harassment in the workplace?

Yes, a civil suit can be filed for damages under tort laws. The basis for filing the case would be mental anguish, physical harassment, loss of income and employment caused by the sexual harassment.

6. Under what circumstances can complaints be filed?

Complaints may be filed under the following circumstances:

- Cases involving individuals from the same organization
- Cases that concern third party harassment, which implies harassment from an outsider.

7. Where can I file a complaint?

- **Internal Complaints Committee** – if you are an aggrieved woman who has a relationship of work with that specific organization
- **Local Complaints Committee** – if you are an employee from an establishment where the Internal Complaints Committee has not been constituted due to having less than 10 workers. In the case that the complaint is against the employer himself/herself and the individual feels that the case may be compromised, she can also lodge the complaint in the LCC
- For instances where the LCC may not be immediately accessible, the Act instructs the District officer to designate one nodal officer in every block, taluka and tehsil in rural or tribal area and ward or municipality in the urban area, who will receive the complaint and forward it to the concerned LCC within 7 days.

- **Local police station**, in case provisions under the Indian Penal Code are applicable.