

Medical Council of India (Prevention and Prohibition of Ragging in Medical Colleges/Institutions) Regulations, 2009.

(AMENDED UPTO MARCH 2016)
MEDICAL COUNCIL OF INDIA
NOTIFICATION

New Delhi, the 3rd August, 2009

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No. MCI-34(1)/2009-Med./25453, In exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956 (102 of 1956) the Medical Council of India with the previous sanction of the Central Government hereby makes the following Regulations, namely:-

1. Short title, commencement and applicability

(i) These Regulations may be called the Medical Council of India (Prevention and Prohibition of Ragging in Medical Colleges/Institutions) Regulations, 2009.

(ii) They shall come into force on the date of their publication in the Official Gazette.

2. Objective:-

To root out ragging in all its forms from medical colleges/institutions in the country by prohibiting it by law, preventing its occurrence by following the provisions of these Regulations and punishing those who indulge in ragging as provided for in these Regulations and the appropriate law in force.

3. Definitions:- For the purpose of these Regulations:-

3.1 "Medical College" means an institution, whether known as such or by any other name, which provides for a programme, beyond 12 years of schooling, for obtaining recognized MBBS qualification from a university and which, in accordance with the rules and regulations of such university, is recognized as competent to provide for such programmes of study and present students undergoing such programmes of study for the examination for the award of recognized MBBS/PG Degree/Diploma qualifications.

3.2 "Head of the institution" means the Dean/Principal/Director of the concerned medical college/institution.

3.3 "Ragging" includes the following:

Any conduct whether by words spoken or written or by an act which has the effect of harassing, teasing, treating or handling with rudeness any other student, indulging in rowdy or undisciplined activities which causes or is likely to cause annoyance, hardship or psychological harm or to raise fear or apprehension thereof in a fresher or a junior student or asking the students to do any act or perform something which such student will not in the ordinary course and which has the effect of causing or generating a sense of shame or embarrassment so as to adversely affect the physique or psyche of a fresher or a junior student.

3.4 MCI means MCI constituted in terms of Section 3 of Indian Medical Council Act, 1956.

3.5 "University" means a university established or incorporated by or under a Central Act, a Provincial Act or a State Act, an institution deemed to be university under Section 3 of the UGC Act, 1956, or an institution specially empowered by an Act of Parliament to confer or grant degrees.

Punishable ingredients of Ragging:-

- Abetment to ragging;
- Criminal conspiracy to rag;
- Unlawful assembly and rioting while ragging;
- Public nuisance created during ragging;
- Violation of decency and morals through ragging;
- Injury to body, causing hurt or grievous hurt;
- Wrongful restraint;
- Wrongful confinement;
- Use of criminal force;
- Assault as well as sexual offences or even unnatural offences;
- Extortion;
- Criminal trespass;
- Offences against property;
- Criminal intimidation;
- Attempts to commit any or all of the above mentioned offences against the victim(s);
- Physical or psychological humiliation.
- All other offences following from the definition of "Ragging".

5. Measures for prohibition of ragging:-

5.1 The Medical College/Institution / University shall strictly observe the provisions of the Act of the Central Government and the State

Government(s), if any, or if any and / or for the time being in force, considering ragging as a cognizable offence under the law as per with rape and other atrocities against women and ill-treatment of persons belonging to the SC/ST and prohibiting ragging in all its forms in all institutions.

5.2 Ragging in all its forms shall be totally banned in the entire Medical College/Institution / University including its departments, constituent units, all its premises (academic, residential, sports, canteen, etc) whether located within the campus or outside and in all means of transportation of students whether public or private.

5.3 The Medical College/Institution / University shall take strict action against those found guilty of ragging and/or of abetting ragging.

6. Measures for prevention of ragging at the institution level:-

6.1 Before admissions:-

6.1.1 The advertisement for admissions shall clearly mention that ragging is totally banned / prohibited in the Medical College/Institution and anyone found guilty of ragging and/or abetting ragging is liable to be punished appropriately.

6.1.2 The brochure of admission/instruction booklet for candidates shall print in block letters these Regulations in full (including Annexures).

6.1.3 The 'Prospectus' and other admission related documents shall incorporate all directions of the Hon'ble Supreme Court and / or the Central or State Governments as applicable, so that the candidates and their parents/ guardians are sensitized in respect of the prohibition and consequences of ragging.

6.1.4 A Brochure or booklet/leaflet shall be distributed to each student at the beginning of each academic session for obtaining undertaking not to indulge or abet ragging and shall contain the blueprint of prevention and methods of redress.

The application form for admission/ enrolment shall have a printed undertaking, preferably both in English/Hindi and in one of the regional languages known to the institution and the applicant (English version given in Annexure I, Part I), to be filled up and signed by the candidate to the effect that he/she is aware of the law regarding prohibition of ragging as well as the punishments, and to the effect that he/she has not been expelled and/or debarred from admission by any institution and that he/she, if found guilty of the offence of ragging and/or abetting ragging, is liable to be punished appropriately.

6.1.5 The application form shall also contain a printed undertaking, preferably both in English/Hindi and in one of the regional languages known to the institution and the parent/ guardian (English version given in Annexure I, Part II), to be signed by the parent/ guardian of the applicant to the effect that he/ she is also aware of the law in this regard and agrees to abide by the punishment meted out to his/ her ward in case the latter is found guilty of ragging and/or abetting ragging.

A database shall be created out of affidavits affirmed by each student and his/her parents/guardians stored electronically, and shall contain the details of each student. The database shall also function as a record of ragging complaints received.

6.1.6 The application for admission shall be accompanied by a document in the form of the School Leaving Certificate/transfer certificate/migration certificate/ Character Certificate which shall include a report on the behavioral pattern of the applicant, so that the institution can thereafter keep intense watch upon a student who has a negative entry in this regard.

6.1.7 A student seeking admission to the hostel shall have to submit additional undertaking in the form of Annexure I (both Parts) along with his/her application for hostel accommodation.

6.1.8 At the commencement of the academic session the Head of the Institution shall convene and address a meeting of various functionaries/agencies, like Wardens, representatives of students, parents/ guardians, faculty, district administration including police, to discuss the measures to be taken to prevent ragging in the Institution and steps to be taken to identify the offenders and punish them suitably.

6.1.9 To make the community at large and the students in particular aware of the dehumanizing effect of ragging, and the approach of the institution towards those indulging in ragging, big posters (preferably multicolored with different colours for the provisions of law, punishments, etc.) shall be prominently displayed on all Notice Boards of all departments, hostels and other buildings as well as at vulnerable places. Some of such posters shall be of permanent nature in certain vulnerable places.

6.1.10 Apart from placing posters mentioned in sub-clause 6.1.9 above at strategic places, the Medical College/Institution shall undertake measures for extensive publicity against ragging by means of audio-visual aids, by holding counseling sessions, workshops, painting and design competitions among students and other methods as it deems fit.

6.1.11 The Medical College/Institution/University shall request the media to give adequate publicity to the law prohibiting ragging and the negative aspects of ragging and the institution's resolve to ban ragging and punish those found guilty without fear or favour.

6.1.12 The Medical College /Institution/ University shall identify, properly illuminate and man all vulnerable locations.

6.1.13 The Medical College/Institution/University shall tighten security in its premises, especially at the vulnerable places. If necessary, intense policing shall be resorted to at such points at odd hours during the early months of the academic session.

6.1.14 The Medical College/Institution/University shall utilize the vacation period before the start of the new academic year to launch wide publicity campaign against ragging through posters, leaflets, seminars, street plays, etc.

6.1.15 The faculties/ departments/ units of the Medical College/Institution /University shall have induction arrangements (including those which anticipate, identify and plan to meet any special needs of any specific section of students) in place well in advance of the beginning of the academic year with a clear sense of the main aims and objectives of the induction process.

The Principal or Head of the Institution/Department shall obtain an undertaking from every employee of the Institution including teaching and non-teaching members of staff, contract labour employed in the premises either for running canteen or its watch and ward staff or for cleaning or maintenance of the buildings/lawns etc. that he/she would report promptly any case of ragging which comes to his/her notice. A provision shall be made in the service rules for issuing certificates of appreciation to such members of the staff who report ragging which will form part of their service record.

6.2. On admission:-

6.2.1 Every fresher admitted to the Medical College/Institution/University shall be given a printed leaflet detailing when and to whom he/she has to turn to for help and guidance for various purposes (including Wardens, Head of the institution, members of the anti-ragging committees, relevant district and police authorities), addresses and telephone numbers of such persons/authorities, etc., so that the fresher need not look up to the seniors for help in such matters and get indebted to them and start doing things, right or wrong, at their behest. Such a step will reduce the freshers' dependence on their seniors.

Every institution should engage or seek the assistance of professional counselors at the time of admissions to counsel 'freshers' in order to prepare them for the life ahead, particularly for adjusting to the life in hostels.

6.2.2 The Medical College/Institution/University through the leaflet mentioned above shall explain to the new entrants the arrangements for their induction and orientation which promote efficient and effective means of integrating them fully as students.

6.2.3 The leaflet mentioned above shall also inform the freshers about their rights as bonafide students of the Institution and clearly instructing them that they should desist from doing anything against their will even if ordered by the seniors, and that they have nothing to fear as the Institution cares for them and shall not tolerate any atrocities against them.

6.2.4 The leaflet mentioned above shall contain a calendar of events and activities laid down by the institution to facilitate and complement familiarization of freshers with the academic environment of the Institution.

6.2.5 The Medical College/Institution/University shall also organize joint sensitization programmes of 'freshers' and seniors.

On the arrival of senior students after the first week or after the second week as the case may be, further orientation programmes must be scheduled as follows: (i) joint sensitization programme and counseling of both 'freshers' and senior by a Professional counselor; (ii) joint

orientation programmes for freshers' and seniors to be addressed by the principal/head of the institution, and the anti-ragging committee; (iii) organization on a large scale of cultural, sports and other activities to provide a platform for the 'freshers' and seniors to interact in the presence of faculty members; (iv) in the hostel, the warden should address all students; may request two junior colleagues from the college faculty to assist the warden by becoming resident tutors for a temporary duration.

6.2.4 Freshers shall be encouraged to report incidents of ragging, either as victims, or even as witnesses.

6.3. At the end of the academic year:-

6.3.1 At the end of every academic year the Dean/Principal/Director shall send a letter to the parents/guardians of the students who are completing the first year informing them about the law regarding ragging and the punishments, and appealing to them to impress upon their wards to desist from indulging in ragging when they come back at the beginning of the next academic session.

6.3.2 At the end of every academic year the Medical College/Institution /University shall form a 'Mentoring Cell' consisting of Mentors for the succeeding academic year. There shall be as many levels or tiers of Mentors as the number of batches in the institution, at the rate of 1 Mentor for 6 freshers and 1 Mentor of a higher level for 6 Mentors of the lower level.

Each batch of freshers should be divided into small groups and each such group shall be assigned to a member of the staff. Such staff member should interact individually with, each member of the group on a daily basis for ascertaining the problems/difficulties if any faced by the fresher in the institution and extending necessary help.

In the case of freshers admitted to a hostel it shall be the responsibility of the teacher in charge of the group to coordinate with the warden of the hostel and to make surprise visits to the rooms in the hostel where the members of the group are lodged.

6.4. Setting up of Committees and their functions:-

6.4.1 The Anti-Ragging Committee:- Every institution shall have an Anti-Ragging Committee and an Anti-Ragging Squad. The Anti-Ragging Committee shall be headed by the Head of the institution and shall consist of representatives of civil and police administration, local media, Non Government Organizations involved in youth activities, faculty members, parents, students belonging to the freshers' category as well as seniors and non-teaching staff. It shall monitor the Anti Ragging activities in the institution, consider the recommendations of the Anti-Ragging Squad and take appropriate decisions, including spelling out suitable punishments to those found guilty.

6.4.2 The Anti-Ragging Squad:- The Anti-Ragging Squad shall be nominated by the Head of the institution with such representation as considered necessary and shall exclusively consist of members belonging to the various sections of the campus community. The Squad shall have vigil, oversight and patrolling functions. It shall be kept mobile, alert and active at all times and shall be empowered to inspect places of potential ragging and make surprise raids on hostels and other hot spots. The Squad shall investigate incidents of ragging and make recommendations to the Anti-Ragging Committee and shall work under the overall guidance of the Anti-Ragging Committee.

All matters of discipline within teaching institutions must be resolved within the campus except those impinging on law and order or breach of peace or public tranquility, all of which should be dealt with under the penal laws of the land.

University Monitoring Cell At the level of the University, we recommend that there should be a Monitoring Cell on Ragging, which should coordinate with the affiliated colleges and institutions under its domain. The Cell should call for reports from the Heads of institutions in regard to the activities of the Anti-Ragging Committee, Anti-Ragging Squads, Monitoring Cells at the level of the institution, the compliance with instructions on conducting orientation programmes, counseling sessions, the incidents of ragging, the problems faced by wardens or other officials. It should also keep itself abreast of the decisions of the District level Anti-Ragging Committee. This Monitoring Cell should also review the efforts made by institutions to publicize anti-ragging measures, soliciting of undertaking from parents and students each year to abstain from ragging activities or willingness to be penalized for violations; and should function as the prime mover for initiating action on the part of the appropriate authorities of the university for amending the Statutes or Ordinances or Bye-laws to facilitate the implementation of anti-ragging measures at the level of the institution.

6.5. Other measures:-

6.5.1 The Annexures mentioned in 6.1.4, 6.1.5 and 6.1.7 of these Regulations shall be furnished at the beginning of each academic year by every student, that is, by freshers as well as seniors.

6.5.2 The Medical College/Institution /University shall arrange for regular and periodic psychological counseling and orientation for students (for freshers separately, as well as jointly with seniors) by professional counselors during the first three months of the new academic year. This shall be done at the institution and department/ course levels. Parents and teachers shall also be involved in such sessions.

6.5.3 Full-time warden shall be appointed as per the eligibility criteria laid down for the post reflecting both the command and control aspects of maintaining discipline, as well as the softer skills of counseling and communicating with the youth outside the class-room situations. Wardens shall be accessible at all hours and shall be provided with mobile phones and the details of their telephone number must be widely publicized. Similarly, the telephone numbers of the other important functionaries - Heads of institutions, faculty members, members of the anti-ragging committees, district and sub-divisional authorities and state authorities where relevant, should also be widely disseminated for the needy to get in touch or seek help in emergencies. The institution shall review and suitably enhance the powers and perquisites of Wardens and authorities involved in bringing the menace of ragging.

Further the institutions shall provide necessary incentives for the post of full-time warden, so as to attract suitable candidates.

6.5.4 Freshers shall be lodged in a separate hostel block, wherever possible, and where such facilities are not available, the college/institution shall ensure that seniors' access to freshers' accommodation is strictly monitored by wardens, security guards and college staff.

As ragging takes place mostly in the hostels after the classes are over in the college, a round the clock vigil against ragging in the hostel premises shall be provided. It is seen, that college canteens and hostel messes are also places where ragging often takes place. The employers/employees of the canteens/mess shall be given necessary instructions to keep strict vigil and to report the incidents of ragging to the college authorities if any.

The security personnel posted in hostels shall be under the direct control of the Wardens and assessed by them.

6.5.5 Private commercially managed lodges and hostels shall be registered with the local police authorities, and this shall be done necessarily on the recommendation of the Head of the institution. Local police, local administration and the institutional authorities shall ensure vigil on incidents that may come within the definition of ragging and shall be responsible for action in the event of ragging in such premises, just as they would be for incidents within the campus. Managements of such private hostels shall be responsible for action in the event of ragging in such premises, just as they would be for incidents within campuses.

6.5.6 Besides registering private hostels as stated above, the towns or cities where educational institutions are located should be apportioned as sectors among faculty members, as is being done by some institutions, so that they could maintain vigil and report any incidents of ragging outside campuses and en route while 'freshers' commute.

6.5.7 The Head of the institution shall take immediate action on receipt of the recommendations of the Anti-Ragging Squad. He/ She shall also take action suo motu if the circumstances so warrant.

6.5.8 Freshers who do not report the incidents of ragging either as victims or as witnesses shall also be punished suitably.

6.5.9 Anonymous random surveys shall be conducted across the 1st year batch of students (freshers) every fortnight during the first three months of the academic year to verify and cross-check whether the campus is indeed free of ragging or not. The institution may design its own methodology of conducting such surveys.

6.5.10 The burden of proof shall lie on the perpetrator of ragging and not on the victim.

6.5.11 The institution shall file an FIR with the police / local authorities whenever a case of ragging is reported, but continue with its own enquiry and other measures without waiting for action on the part of the police/ local authorities. Remedial action shall be initiated and completed within the one week of the incident itself.

Prevention of Ragging Regulation, 2009

6.5.12 The Register/Transfer Certificate issued to the student by the Medical College/Institution/University shall have an entry, apart from those relating to general conduct and behaviour, whether the student has been punished for the offence of committing or abetting ragging, or not, as also whether the student has displayed persistent violent or aggressive behaviour or any inclination to harm others.

6.5.13 Preventing or acting against ragging shall be the collective responsibility of all levels and sections of authorities or functionaries in the Medical College/Institution/University, including faculty, and not merely that of the specific body/committee constituted for prevention of ragging.

6.5.14 As such the college canteens and hostel messes are also places where ragging often takes place, hence the employers/employees of the canteens/mess shall be given necessary instructions to keep strict vigil and to report the incidents of ragging to the college authorities, if any.

Further access to mobile phones and public phones shall be unrestricted in hostels and campuses, except in class-rooms, seminar halls, library etc. where jammers shall be installed to restrict the use of mobile phones.

6.6 Measures for encouraging healthy interaction between freshers and seniors:-

6.6.1 The Medical College/Institution/University shall set up appropriate committees including the course-in-charge, student advisor, Warden and some senior students to actively monitor, promote and regulate healthy interaction between the freshers and senior students.

6.6.2 Freshers' welcome parties shall be organized in each department by the senior students and the faculty together soon after admissions, preferably within the first two weeks of the beginning of the academic session, for proper introduction to one another and where the talents of the freshers are brought out properly in the presence of the faculty, thus helping them to shed their inferiority complex, if any, and remove their inhibitions.

6.6.3 The Medical College/Institution/University shall enhance the student-faculty interaction by involving the students in all matters of the institution, except those relating to the actual processes of evaluation and of faculty appointments, so that the students shall feel that they are responsible partners in managing the affairs of the institution and consequently the credit due to the institution for good work/performance is due to them as well.

7. Regulatory Measures

The inspecting/visiting committees of MCI shall cross verify that the medical college/institution has strictly complied with the anti ragging measures and has a blemishless record in terms of there being no incident of ragging during the impending period (i.e. from earlier inspection) or otherwise.

8. Awardable Punishments.

At the Medical College/Institution level:

Depending upon the nature and gravity of the offence as established by the Anti-Ragging Committee of the institution, the possible punishments for those found guilty of ragging at the institution level shall be any one or any combination of the following:

8.1.1 Suspension from attending classes and academic privileges.

8.1.2 Withholding/withdrawing scholarship/fellowship and other benefits

8.1.3 Debarring from appearing in any test/examination or other evaluation Process.

8.1.4. Withholding results

8.1.5 Debarring from representing the institution in any regional, national or international meet, tournament, youth festival, etc.

8.1.6 Suspension/expulsion from the hostel

8.1.7 Cancellation of admission.

8.1.8 Rustication from the institution for period ranging from 1 to 4 semesters

8.1.9 Expulsion from the institution and consequent debarring from admission to any other institution for a specific period.

8.1.10 Fine of Rs. 25,000/- and Rs. 1 lakh.

8.1.11 Collective punishment: When the persons committing or abetting the crime of ragging are not identified, the institution shall resort to collective punishment.

8.2 Penal consequences for the heads of the institutions/administration of the institution who do not take timely steps in the prevention of ragging and punishing those who rag.

The authorities of the institution particularly the Head of the institution, shall be responsible to ensure that no incident of ragging takes place in the institution. In case any incident of ragging takes place, the Head shall take prompt and appropriate action against the person(s) whose dereliction of duty lead to the incident. The authority designated to appoint the Head shall, in its turn, take prompt and appropriate action against the Head.

In addition to penal consequences, departmental enquiries be initiated against such heads institutions / members of the administration / faculty members / non-teaching staff, who display an apathetic or insensitive attitude towards complaints of ragging.

8.3 At the MCI level

8.3.1 Impose an exemplary fine of Rs. 1 lakh for each incident of ragging payable by erring medical college/institution to such authority as may be designated by the appropriate Govt., as the case may be.

8.3.2 Declare the erring Medical College /Institution/ University as not having the minimum academic standards and warning the potential candidates for admission at such institution through public notice and posting on the MCI website.

8.3.3 Declare the erring Medical College /Institution/ University to be ineligible for preferring any application u/s 10A of the Indian Medical Council Act, 1956 for a minimum period of one year, extendable by such quantum by the Council as would be commensurate with the wrong.

(Lt. Col. (Retd.) Dr. A.R.N. Setalvad)

SECRETARY

ANNEXURE I, Part J

UNDERTAKING BY THE CANDIDATE/STUDENT

1. I, _____

S/o. D/o. of Mr./Mrs./Ms. _____, have carefully read and fully understood the law prohibiting ragging and the directions of the Supreme Court and the Central/State Government in this regard.

2. I have received a copy of the MCI Regulations on Curbing the Menace of Ragging in Higher Educational Institutions, 2009.

3. I hereby undertake that-

- I will not indulge in any behavior or act that may come under the definition of ragging,

VISHAKA GUIDELINES

The **Vishaka Guidelines** were a set of procedural guidelines for use in India in cases of sexual harassment. They were promulgated by the Indian Supreme Court in 1997 and were superseded in 2013 by the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act.

Background

Pre-1997 the person facing sexual harassment at workplace had to lodge a complaint under Section 354 of the Indian Penal Code 1860 that deals with the 'criminal assault of women to outrage women's modesty', and Section 509 that punishes an individual/individuals for using a 'word, gesture or act intended to insult the modesty of a woman.

During the 1990s, Rajasthan state government employee Bhanwari Devi who tried to prevent child marriage as part of her duties as a worker of the Women Development Programme was raped by the landlords of the community. The feudal patriarchs who were enraged by her (in their words: "a lowly woman from a poor and potter community") 'guts' decided to teach her a lesson and raped her repeatedly. The rape survivor did not get justice from Rajasthan High Court and the rapists were allowed to go free. This enraged a women's rights group called Vishaka that filed a public interest litigation in the Supreme Court of India.

This case brought to the attention of the Supreme Court of India, "the absence of domestic law occupying the field, to formulate effective measures to check the evil of sexual harassment of working women at all work places."

Vishakha vs. State of Rajasthan

In 1997, the Supreme Court passed a landmark judgment in the same Vishaka case laying down guidelines to be followed by establishments in dealing with complaints about sexual harassment. **Vishaka Guidelines** were stipulated by the Supreme Court of India, in Vishakha and others v State of Rajasthan case in 1997,



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regarding sexual harassment at workplace. The court stated that these guidelines were to be implemented until legislation is passed to deal with the issue.

The court decided that the consideration of "International Conventions and norms are significant for the purpose of interpretation of the guarantee of gender equality, right to work with human dignity in Articles 14, 15 19(1)(g) and 21 of the Constitution and the safeguards against sexual harassment implicit therein."

What is sexual harassment

Sexual harassment includes such unwelcome sexually determined behavior (whether directly or by implication) as:

a) physical contact and advances; b) a demand or request for sexual favors; c) sexually colored remarks; d) showing pornography; e) any other unwelcome physical verbal or non-verbal conduct of sexual nature.

Where any of these acts is committed in circumstances where the victim has a reasonable apprehension that in relation to the victim's employment or work whether she is drawing salary, or honorarium or voluntary, whether in government, public or private enterprise such conduct can be humiliating and may constitute a health and safety problem.

It is discriminatory for instance when the woman has reasonable grounds to believe that her objection would disadvantage her in connection with her employment or work including recruiting or promotion or when it creates a hostile work environment.

Adverse consequences might be visited if the victim does not consent to the conduct in question or raises any objection thereto.

Thus, sexual harassment need not involve physical contact. Any act that creates a hostile work environment - be it by virtue of cracking lewd jokes, verbal abuse, circulating lewd rumours etc. counts as sexual harassment.




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The creation of a hostile work environment through unwelcome physical verbal or non-verbal conduct of sexual nature may consist not of a single act but of a pattern of behavior comprising many such acts.

Thus, it is important that the victim report such behavior as soon as possible and not wait for it to become worse. In some cases, the psychological stigma of reporting the conduct of a co-worker might require a great deal of courage on the part of the victim and they may report such acts after a long period of time. The guidelines suggest that the complaint mechanism should ensure time bound treatment of complaints, but **they do not suggest that a report can only be made within a short period of time since the incident occurred.**

Often, the police refuse to lodge FIRs for sexual harassment cases, especially where the harassment occurred sometime ago.

Employer's obligations

Note that the Vishaka Guidelines are not sufficient for legal compliance for employers as the same has been replaced by a full fledged statute of the Parliament. Although the statute mostly retains the framework provided in the Guidelines, there are significant differences and it is the statute that the employers must follow. For instance, the definition of sexual harassment has significantly changed.^[6] From this perspective, the Vishaka Guidelines is of only historical and academic importance now. It will also be relevant in cases that were brought up before 2013 enactment of the law.

Recently the minister for Women's Welfare Maneka Gandhi has stated that government will take tough steps against any organisations, including NGOs that do not implement the new law. It is a good idea to use a checklist to make sure that your organisation is compliant with the law. A sample checklist for sexual harassment compliance is available here.

Internal Complaints Committee and Local Complaints Committee: The Sexual Harassment Act requires an employer to set up an 'Internal Complaints Committee' ("ICC") at each office or branch having more than 10 employees of any gender.




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The government is in turn required to set up a 'Local Complaints Committees' ("LCC") at the district level to investigate complaints regarding sexual harassment 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.

The Sexual Harassment Act, 2013 also sets out the constitution of the committees, process to be followed for making a complaint and inquiring into the complaint in a time bound manner.

Interim Reliefs : The Sexual Harassment Act empowers the ICC and the LCC to recommend to the employer, at the request of the aggrieved employee, interim measures such as (i) transfer of the aggrieved woman or the respondent to any other workplace; or (ii) granting leave to the aggrieved woman up to a period of 3 months in addition to her regular statutory/ contractual leave entitlement.

In addition to ensuring compliance with the other provisions stipulated, the Sexual Harassment Act casts certain obligations upon the employer to, inter-alia,

- provide a safe working environment
- display conspicuously at the workplace, the penal consequences of indulging in acts that may constitute sexual harassment and the composition of the Internal Complaints Committee
- organise workshops and awareness programmes at regular intervals for sensitizing employees on the issues and implications of workplace sexual harassment and organizing orientation programmes for members of the Internal Complaints Committee
- treat sexual harassment as a misconduct under the service rules and initiate action for misconduct.
- The employer is also required to monitor the timely submission of reports by the ICC.




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If an employer fails to constitute an Internal Complaints Committee or does not comply with any provisions contained therein, the Sexual Harassment Act prescribes a monetary penalty of up to INR 50,000 (approx. US\$1,000). A repetition of the same offence could result in the punishment being doubled and / or de-registration of the entity or revocation of any statutory business licenses.

Complaints mechanism

All women who draw a regular salary, receive an honorarium, or work in a voluntary capacity in the government, private sector or un-organised sector come under the purview of these guidelines.

- All workplaces should have an appropriate complaints mechanism with a complaints committee, special counsellor or other support services.
- A woman must head the complaints committee and no less than half its members should be women.
- The committee should include an NGO/individual familiar with the issue of sexual harassment.
- The complaints procedure must be time-bound.
- Confidentiality must be maintained.
- Complainants/witnesses should not experience victimization/discrimination during the process.

Preventive steps

- Sexual harassment should be affirmatively discussed at workers' meetings, employer-employee meetings, etc.
- Guidelines should be prominently displayed to create awareness about the rights of female employees.
- The employer should assist persons affected in cases of sexual harassment by outsiders.
- Central and state governments must adopt measures, including legislation, to ensure that private employers also observe the guidelines.




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- Names and contact numbers of members of the complaints committee must be prominently displayed.

From Guidelines to Act

The Sexual harassment at workplace Bill was passed by the Lok Sabha on the 2nd of September, 2012. It is now The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. It defines sexual harassment as laid down by the Supreme Court in Vishakha and others v State of Rajasthan (1997) case.¹

Recommendations

National Commission for Women has asked the government to ensure constitution of Internal Complaints Committee (ICC) in accordance with Supreme Court guidelines in its departments, institutions and autonomous bodies to address such cases. It has also recommended conducting gender sensitisation workshops for top level management officials. NCW recommended publicizing committee using posters, etc. and explicitly mention the contact details of the members. The commission also highlighted the need for orientation programs for employees to sensitize them on sexual harassment. Another recommendation was to enhance communication strategies to combat violation against women.

The rules for the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 have come into force on 9th Dec, 13'. <http://www.lawyerscollective.org/wp-content/uploads/2013/12/Sexual-Harassment-at-Workplace-Rules.pdf>




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