

# Sexual Harassment of Women at Workplace

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**NO WOMEN SHALL BE  
SUBJECTED TO SEXUAL  
HARASSMENT AT ANY  
WORKPLACE IN INDIA.**

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THE PRECISE OBJECTIVE OF THE LAW

# Background

- The Supreme Court of India, in 1997, in its landmark judgement in Vishaka and others v. State of Rajasthan (Vishaka Judgement), laid down guidelines making it mandatory for every employer to provide a mechanism to redress grievances pertaining to sexual harassment at workplace and enforce the right to gender equality of working women. In its judgement the SC outlined the Guidelines making it mandatory for employers to provide sympathetic and non retributive mechanisms to enforce the right to gender equality to working women.



## Implementation in Bihar

- In compliance of Vishaka Guidelines the General Administration Dept, Bihar(then Personal & Administrative reforms dept ) issued detailed instructions to all depts., directorates, PSUs, Commissioners, DMs, vide resolution no 2058 dated 17.04.2001 to make all the workplaces under them aware of this resolution and assure the compliance of the attached directives.
- The GAD also made amendments in the Rule 3 of Bihar Government Servants Conduct Rules, 1976 with vide notification No. 2404 dated 04-05-2001 by adding sub rule (4) . Along with this GAD also constituted a state level committee to monitor the implementation of VG under the chair of a senior lady IAS Officer Ms. Deepika Paddah. This committee was reconstituted from time to time. In Feb. 2013 this committee was reconstituted under the chair of Ms. Amita Paul, IAS.



# Why a law on Workplace Sexual Harassment

Sexual Harassment violates women's right to equality, life and liberty

It creates an insecure/hostile work environment,

It discourages women's participation in work &

It adversely affect women's social & economic empowerment.





## Present Scenario

- The current Status on Prevention of Sexual Harassment
- The Sexual Harassment of Women at workplace (Prevention, Prohibition and Redressal) Act 2013 &
- The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules 2013
- The law replaced the Vishaka Guidelines 1997 of the Supreme Court issued by Justice JS Verma

# What Constitutes Sexual Harassment

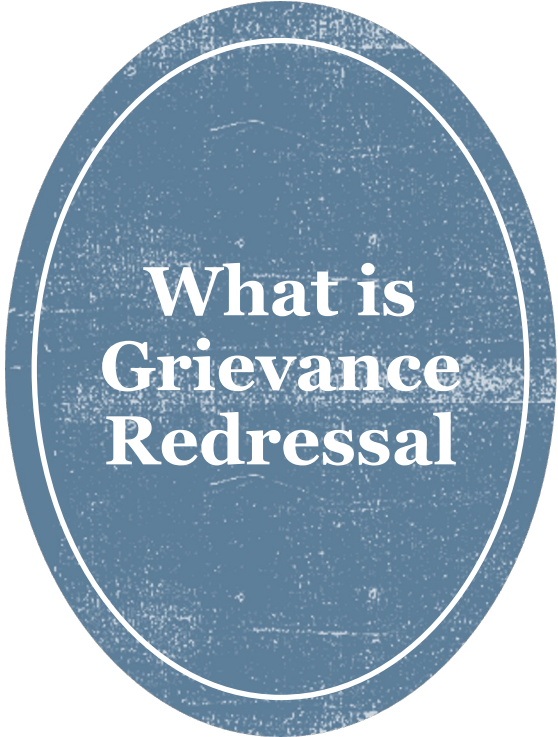
- It includes unwelcome sexual behaviour of direct or implied nature such as:
  - Physical contact & advances
  - Request for Sexual favours
  - Sexually colored remarks
  - Showing pornography &
  - Unwelcome physical, verbal or non-verbal sexual conduct.
- If the complainant, as evident from facts, had welcomed the respondent's conduct being questioned, the incident cannot be considered sexual harassment



# Sexual harassment : Some Examples

- ❑ Staring, leering, obscene gestures, howling, making kissing sound, smacking lips
- ❑ Showing sexually obscene/suggestive signs, objects or pictures
- ❑ Indecent comments, dirty jokes, making suggestive sound, comments on woman's dress or body
- ❑ Using power position to request for favour or threats on loss of job
- ❑ Touching, patting ,caressing , kissing brushing against another's body





## What is Grievance Redressal

- **Grievance Redressal** here is focused on governance related process used commonly in India.
- "Grievance Redressal" primarily covers the acceptance and processing of complaints from citizens. A wider definition includes actions taken on any issue raised by them to avail services more effectively.

*We are going to focus on problems and redressal of working women through Institutional Mechanism*

# Agenda

- What is Grievance Redressal
- Why Grievance Redressal
- Institutional Mechanism
  - Law
  - Process
  - Scope
- Your role in the process



# Cont.

- Grievance Redressal Mechanism is an important cog in the wheel of any Government.
- Without efficient grievance redressal mechanisms, the Government and its administration can never be accountable and effective.
- In Democracy, citizens make the Government and hold them accountable.



# Why Grievance Redressal?

Current  
Scenario

Change in  
work force  
demographics

Work life  
balance

Equal Pay

Gender Bias

Harassment

Career  
Opportunities



# Safeguards to working women through Laws

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National/State  
Commission for  
Women

Reservation

Maternity benefit  
Act, 1961

Sexual harassment  
of women at  
workplace Act, 2013

Child care Leaves

Special Leaves

Women helpline

RTI



# 'Workplace' means

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Organization,  
departments, institution,  
office branch unit etc. in  
the public/private sector,  
both organized and  
unorganized

Hospitals, nursing homes,  
educational institutions,  
sports institutes,  
stadiums, sports  
complex,

NGOs trusts,  
cooperatives societies,  
service providers &

Any place visited by the  
employee in the course  
of employment including  
transportation



# 'Employer' means

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The head or



The person responsible for  
formulation &  
administration of policies  
of the workplace



The person discharging  
contractual obligation  
with respect to his/her  
employees and



For a domestic worker,  
the person who benefits  
from that employment





REGULAR/TEMPORARY/AD-HOC/DAILY WAGE EMPLOYEES, WHETHER FOR REMUNERATION INCLUDING VOLUNTEERS



CONTRACTUAL WORKER, PROBATIONER, TRAINEE, APPERTICE ETC



IN SHORT, ANY WOMAN AT THE WORKPLACE AS PART OF EMPLOYMENT

# Types of Employees covered by the Law





**Every  
Woman at  
Workplace  
Covered**

- ❑ The law covers all women employees
- ❑ In the organisation / unorganised sectors
- ❑ Public or private and
- ❑ Clients, customers and domestic workers
- ❑ Irrespective of their age/ employment status



A domestic worker is one employed for household work for remuneration



They can approach the LCC in case of any complaint



Relatives of the employer cannot file a complaint

**Even a  
Domestic  
worker  
can file a  
complaint**



# Steps Employers must take

- Prohibit sexual harassment & its penalties in the rules & publicize it
- Private employers should include the prohibition in the standing orders under the Industrial Employment (Standing Orders) Act, 1940 or its equivalent
- Set up complaint committee and notify its details
- Provide fair condition in respect of work, leisure, health and hygiene with no hostile environment towards women
- Ensure attendance of the respondent for enquiry
- Support the complainant to file criminal petition etc



# Kinds of committees to be set up

- An Internal Complaints Committee (ICC), at least a 5-member committee, at all workplace employing 10 or more workers
- A Local Complaint Committee (LCC) A five-member committee at the district level for handling complaints from workplace employing less than 10 workers
- When the complaint is against the employer, it will be handled by LCC



# Internal Complaints Committee (ICC): Structure

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Presiding Officer must be a senior woman officer employed at the workplace/organisation

Not less than two member from person with experience in social work/law and committed to women's cause

One member who knows about issues of sexual harassment from NGOs working on women's causes

Half of the members of ICC should be women



Chair Person: A Woman in social work committed to the cause of women

One member from women working in block, taluka , ward or municipality in the district

Two person committed to the cause of women who have either 5 years experience in social work or knowledge in labour , service , civil or criminal law for 7 years. Either of the two should be a woman as well as either belong to an SC/ST/OBC/ minority community notified by GOI

District Social Welfare Officer: convenor or

Half of the members of ICC should be women

## **Local Complaints Committee (LCC): Structure**





A complaint shall include 6 copies with supporting documents



The complaint committee should send one copy to the respondent within 7 working days to get a reply



The respondent has to file his reply within 1 working days



The complaint committee has to inquire into the complaint, with principles of nature justice

## **Procedures for filing a complaint**



# On preparing a complaint

- Be specific about the incident
- Don't make any general allegations such as the officer harassed me.
- Tell exactly what happened with details, dates, witnesses & documents
- Be honest, don't lie, as the complainant can be sued for lying or false submission
- Also, request what the complainant wants like, "I want the head to reassign me to a different officer".
- The employer need not have to accept her suggestion, but her input would be helpful





**Time  
Limit for  
Filing a  
Complaint**

- A complaint of sexual harassment needs to be filed within 3 months
- The period may extend to another 3 months, in grave circumstances that prevented her from filing the complaint in time.

# **Provision for Conciliation**

- The ICC/LCC can take steps to settle the matter between the aggrieved woman & the respondent,
- This option will be used only at the request of the woman,
- Monetary settlement shall not be the basis of conciliation
- If the settlement is not reached, the complainant can go back to the Committee & Initiate an inquiry



# In Prima Facie Criminal Case Exist

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If the complaint discloses a criminal offence, the committee should pass on the complaint within 7 days to the police for criminal action under IPC

Crime can be charged under IPC 509 or any other section as the incident discloses



# Period of Inquiry & Action

- The Committee is required to complete the inquiry within 90 days
- On completion of the inquiry, the report should be sent to either the employer or the District Officer within 10 days of its completion
- They are mandated to take action on the report within 60 days.
- If allegation is not proved the committee has to send a report stating that no action is required



# Interim Action During Inquiry

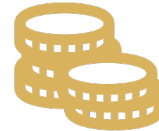
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The aggrieved or the respondent can be transferred to avoid face to face contact



Grant leave to the aggrieved up to 3 months



Other reliefs to the aggrieved as prescribed in the rules



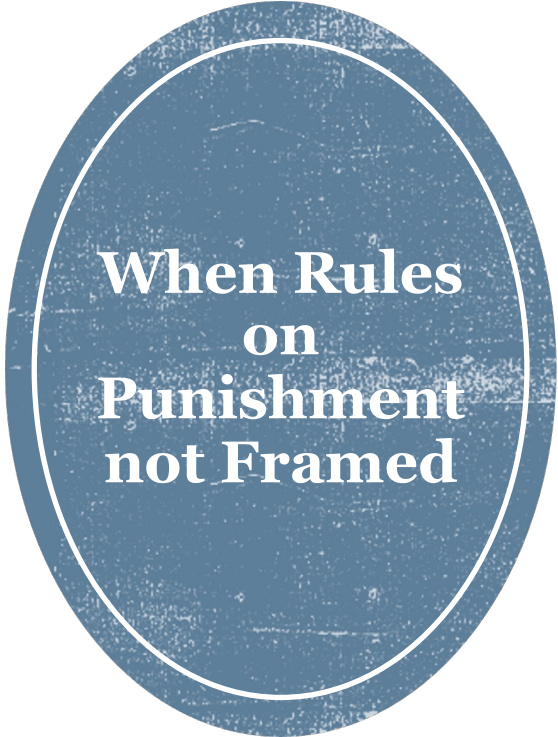
The employer should implement the above recommendation and inform the committee about it



# Committee Should Recommend Action

- Against the respondent as per the rules in force
- It may be a deduction of an appropriate sum from the respondent's salary or asking him to pay the sum
- If the amount is not paid, it can be recovered as an arrear of land revenue
- The committee can recommend for restraining the respondent from supervision of complainant's work





**When Rules  
on  
Punishment  
not Framed**

- If the institution has not framed its rules for punishment, the complaint committee can recommend an appropriate punishment
- Such a punishment can be a written apology, a warning, a reprimand or censure, withholding of promotion/pay rise/increments, termination of service, subjecting to counselling or forcing to do community service.

# On Arriving at the Amount to be Paid

- The complaints committee should consider the following factors:
- The trauma, pain or distress caused
- The loss of career opportunity due to the incident
- Medical expenses incurred
- Income of the respondent
- Feasibility of such payment in lump sum etc.



If complaint is false with malicious intent, the complainant can be penalized as per the service Rules

An enquiry to be conducted prior to establishing malicious intent

Mere inability to prove a complaint will not attract penalty

A malicious complaint by a woman will attract the same punishment, a man who has been found guilty of the offence at the workplace suffers.

## **Dealing with a False/Malicious Complaint**

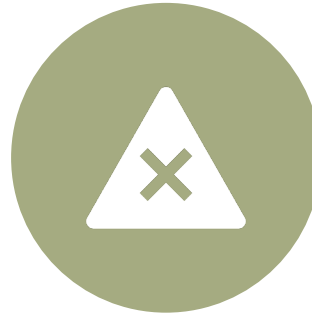


# **Prohibits Disclosure of Identity**

- Prohibits disclosure of the identity & address of the aggrieved woman respondent and the witness
- Anyone who discloses the name or identity of the aggrieved woman or witness will be liable to pay a penalty of Rs 5,000
- But information regarding the justice secured to any victim, without disclosing the identity, can be publicised



THE COMPLAINTS COMMITTEE CAN  
TERMINATE THE INQUIRY  
PROCEEDINGS OR GIVE AN EX-PARTE  
DECISION



IF THE COMPLAINANT OR THE  
RESPONDENT FAILS, WITHOUT  
SUFFICIENT CAUSE, TO PRESENT  
HERSELF OR HIMSELF FOR THREE  
CONSECUTIVE HEARINGS



EX-PARTE OR TERMINATION ORDER  
WILL NOT BE PASSED WITHOUT GIVING  
THE COMPLAINANT/RESPONDENT A  
15-DAY NOTICE IN WRITING.

# Ex-Parte Decision





**The Law  
Recognizes**

- Gender equality under Article 14 of the Constitution of India and
- The right to life & live with dignity under Article 21 of the Constitution
- Which, in essence, includes a right to a safe environment free from sexual harassment

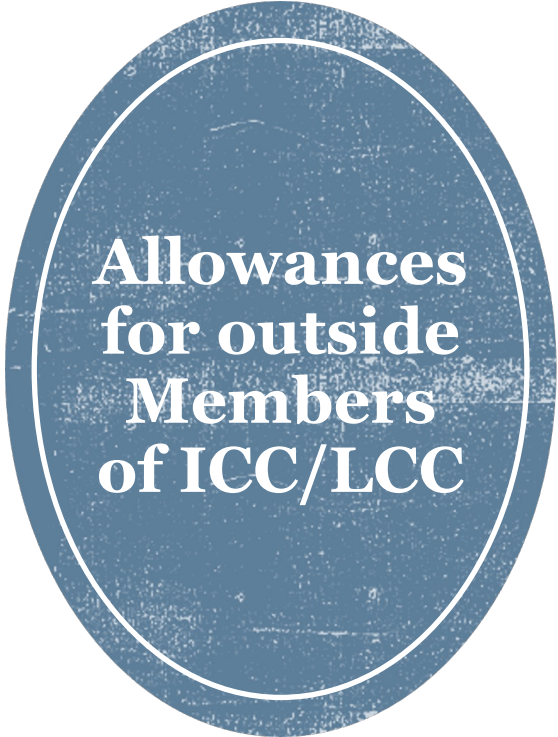
# The Law Lays down

- A uniform procedure for conducting an enquiry into the complaint on sexual harassment
- Across a very wide range of employers
- Including the government, armed forces, private organized sector as well as the unorganized sector such as agriculture, domestic work, construction work and the service industry.

# CIVIL SUIT FOR DAMAGES

- Civil suit may survive for damages under tort laws
- For mental anguish, physical harassment, loss of income and employment caused by the sexual harassment.





## Allowances for outside Members of ICC/LCC

- The chairperson of the LCC should get Rs 250 per day's proceedings + III AC/AC Bus/ Auto- Taxi
- The outside members of the LCC and ICC are eligible for Rs 200 per day + III AC/AC Bus/ Auto- Taxi
- The District Officer will pay for the LCC members
- But the Employer will pay for the ICC member.

# Creating Awareness on Preventive Measures

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Employers must disseminate sexual harassment prevention policy to all concerned

Must carry out orientation programme for members of the ICC

Must conduct employee's awareness programmes at regular intervals to sensitize all stakeholders about the procedures

Must provide training for ICC members & create an enabling environment to implement the law

Provide and publicize contact details of the members of the internal complaints committee



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The ICC to prepare and submit its annual report to the employer

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The Employer should include the report in organization's administration report. If a report is not being prepared, he/she should send the report to the District Officer.

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The LCC should prepare and submit its report to the District officer & the officer in turn should send the report to the government

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The annual report should include the number of complaints received, disposed & pending, and the number of workshops conducted, and the nature of action taken on complaints.

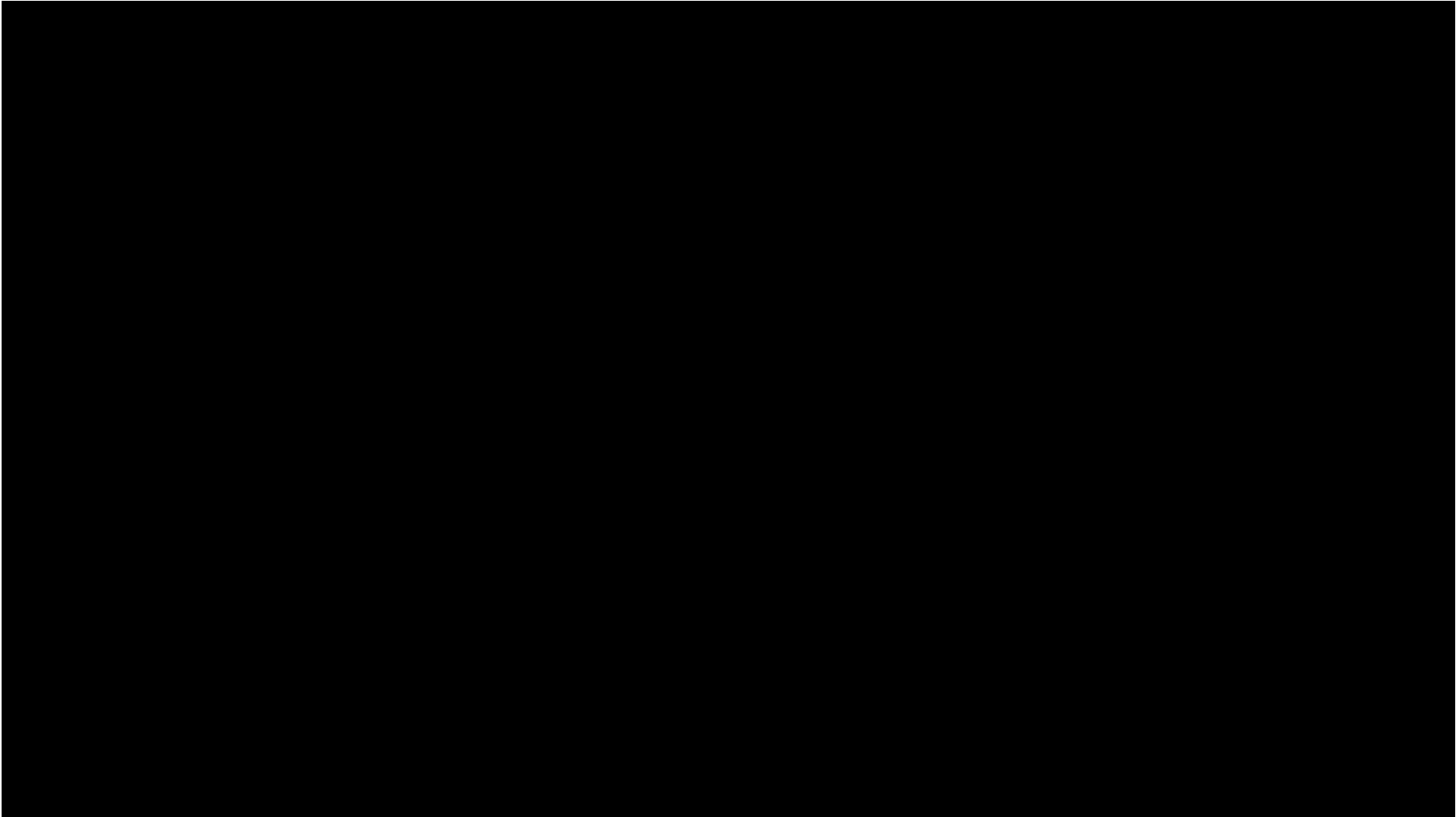
# **The ICC & LCC should prepare Annual Reports**



# The Government should

- Develop information, communication and training materials
- Organize orientation programmes
- To make the public understand the provisions of this law.





# Conclusion

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The law makes sexual harassment at workplace a legal wrong.

It aims at man-woman harmony at workplace

It aims to build up confidence amongst female employees to stand up against harassment

It makes the employer duty-bound to ensure a harassment-free atmospheres for woman to enhance work productivity



# **File Criminal Case for Criminal Harassment**

- This Law Provides a Civil Remedy if the Harassment is of Criminal nature, the Complaint is to be filed with the Police under IPC 354/509

## **BARRING OF COURTS FROM TAKING SUO MOTO COGNIZANCE**

- No court can take cognisance of an offence punishable under this act, except on a complaint made by the aggrieved or on her behalf
- Every offence under this law shall be non-cognisable
- It means, no police officer can take suo moto action on it without any direction from a judicial magistrate



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Leaves

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Accommodation

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Hygiene and  
Sanitation

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Physical violence

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**Other  
Grievances**



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**THANK  
YOU**

