Rajasthan State Human Rights Commission

Projects by Law Students, Jaipur

Under the guidance of
Chairperson,
Justice N.K. Jain
(Former Chief Justice
High Court of Madras & Karnataka)

With best Compliments
RSHRC

Chief Minister Shri Ashok Gehlot
Justice N.K. Jain,
Chairperson
Members
Justice Jagat Singh
Shri D.S.Meena
Shri Pukhraj Seervi

Hon’ble Chairperson and Members of Rajasthan State Human Rights Commission are:
From 06-07-2005

Hon’ble Chief Minister Shri Ashok Gehlot

Prepared by:
Internship students of various law university and colleges.

Project on Sexual Harassment at Workplace

BY:
MAMTA ROHILA KRISHNA CHAUDHARY BHAWNA MEENA
What is sexual harassment?

As defined in the Supreme Court guidelines (Vishakha Vs the State of Rajasthan, August 1997) Sexual harassment includes such unwelcome sexually determined behaviors:

- Physical contact
- A demand or request for sexual favors
- Sexually colored remarks
- Showing pornography
- Any other unwelcome physical, verbal or non-verbal conduct of a sexual nature e.g. Leering, dirty jokes, sexual remark about a person’s body etc.

Definition

“Assaults or uses criminal force to any women, intending to outrage or knowing it to (this is a definition under sec 354 ipc)”

Places of sexual assault

- sexual assault at work place
- sexual assault at home
- sexual assault in transport
- sexual assault at hospital /care homes/ police stations/ remand homes/ public transport
**Warning signs**

- Inappropriate behavior such as:
  - Sexual comments & jokes.
  - Sexual phone calls & stories.
  - Sexual looks & gestures
  - Explicit videos, pictures, screen savers, websites and calender
  - Unwelcomed flirting
  - Insisting on dates

**Warning signs**

- Behaviors coworkers/ manager
- Hostility between coworkers
- Lack of friendship amongst coworkers
- Complaints regarding opposite sex actions
- Women who act angrily/defensively towards opposite sex
- Avoided glances or murmurs made when the opposite sex walks past them
- Job loss if sexual advances not met

**Warning signs**

- Inappropriate Physical Contents
- Purposeful touching or cornering
- Forceful neck massages
- Sexual intercourse with coworkers
Sexual harassment (Not)

- Compliments pertaining one’s performance
- Being courtsey i.e opening door for someone saying “please” & “thanks”.
- Lunch or dinner mutual or voluntary.

What sexually harassed employee should do?

- Not to ignore the SH
- Not to blame herself
- Talk to others about SH
- Maintain a SH notebook
- Name or describe the harassment
- Create a witness to the harassment
- Avoid delay in reporting
- File a formal complaint

In any case, all employees must ensure that their employer/organization frames a SH policy and no SH complainant is victimized

Benefits of SH policy for the employer

- A safe work environment
- Improved interpersonal relations
- Higher work performance & productivity
- Less absenteeism
- Retention of valued employees
- Increased profitability
- Reduction in imposed costs
- Enhances public image
- Better practice

Guidelines

It is the duty of the employer or other responsible persons in the workplaces or other institutions to prevent sexual harassment, and to provide mechanisms for resolution of complaints.

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

• All workplaces should have an appropriate complaints mechanism with a complaints committee, special counsel or other support services.
• The complaints committee must be headed by a woman and not less than half its members should be women.
• The committee should include an NGO/individual familiar with the issue of sexual harassment.
• The complaint procedure must be time bound.
• Confidentiality must be maintained.
• Complainants/witnesses should not experience victimization/discrimination during the process.

Third party harassment

Where sexual harassment occurs as a result of an act or omission by any third party or outsider, the employer and person in charge will take all steps necessary and reasonable to assist the affected person in terms of support and preventive action.

Preventive Steps

• Sexual harassment should be affirmatively discussed at workers’ meetings, employer-employee meetings, etc.
• Guidelines should be prominently displayed to create awareness of 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 guidelines.
• Names and contact numbers of members of the complaint committee must be prominently displayed.

Criminal proceeding

Where such conduct amounts to a specific offence under the Indian Penal Code or under any other law, the employer shall initiate appropriate action in accordance with law by making a complaint with the appropriate authority.
Sexual harassment

- Case law:
- In Vishakha v State of Rajasthan [AIR 1997 SC 3011] the Supreme Court has declared sexual harassment of a working woman at her place of work as amounting to violation of rights of gender equality and right to life and liberty which is clear violation of Article 14, 15 and 21.

Disciplinary action

Where such conduct amounts to misconduct in employment as defined by relevant service rules, appropriate disciplinary action should be initiated by the employer under them.

Employer’s Responsibilities

- Recognize sexual harassment as a serious offence
- Recognize the responsibility of the company/factory/workplace to prevent and deal with sexual harassment at the workplace
- Recognize the liability of the company etc. for sexual harassment by the employees or management. Employers are not necessarily insulated from that liability because they were not aware of sexual harassment by the staff.

Cont…

- Formulate an anti-sexual harassment policy. This should include
  1. A clear statement of the employer’s commitment to a workplace free of unlawful discrimination and harassment
  2. Clear definition of sexual harassment (using examples), and prohibition of such behavior as an offence
  3. Constitution of a complaints committee to investigate, mediate, counsel and resolve cases of sexual harassment N.B. The Supreme Court guidelines envisage a pro-active role for the complaints committee and PREVENTION of sexual harassment at work is a crucial role. It is thus imperative that the committee must consist of persons who are sensitive and open to the issues faced by women.
4. A statement that anyone found guilty of harassment after investigation will be subject to disciplinary action.
5. The range of penalties that the complaints committee can levy against the offender.
6. Explicit protection of the confidentiality of the victim of harassment and of witnesses.
7. A guarantee that neither complainant nor witnesses will be subjected to retaliation.

**Victim protection**

- The employer should ensure that victims or witnesses are not victimized or discriminated against while dealing with complaints of sexual harassment.
- The victim of sexual harassment should have the option to seek transfer of the perpetrator or her own transfer.

**Cont…**

- Publish the policy and make copies available at the workplace. Discuss the policy with all new recruits and existing employees. Third party suppliers and clients should also be aware of the policy.
- Conduct periodic training for all employees, with active involvement of the complaints committee.
Employer's Duty

Freedom from sexual harassment is the condition of work that an employee is entitled to expect.

"LET'S TOGETHER WORK FOR SOCIETY WHERE WOMEN CAN LIVE WITHOUT FEAR AND ANY KIND OF VIOLENCE"

WOMEN'S RIGHT AT WORK PLACE ARE HUMAN RIGHTS

राज्य मानवाधिकार आयोग द्वारा विशिष्ट परिधानों में दिये गये निर्देश

परिधान संख्या— 08/17/1842 में आयोग के समक्ष विभिन्न शैक्षणिक संस्थाओं में महिलाओं के उत्पीडन की आ ही शिक्षायतों के मददनजर माध्यमिक शिक्षा बोर्ड—अजमेर व वीसीएसई—उज्जैन, प्रिंसिपल सेकेंडी— प्राथमिक शिक्षा, माध्यमिक शिक्षा, उच्च शिक्षा, राजस्थान सरकार तथा सभी शिक्षानीतियां से अपेक्षा की कि वे माननीय उच्चतम न्यायालय द्वारा विशाखा बनाम राजस्थान राज्य एकादेश 1997 (एकादेशी) 3011 में दिए गये निर्देशों की अनुपालना में कमेंट का गठन कर उनका नियमानुसार क्रियान्वयन सुनिश्चित कराये।
These books are kept in the Libraries of different schools and colleges for awareness of students as well as the teaching and ministerial staff. Some books are even kept in the UN-Congress Library at New Delhi.

Teachers of various school are interacting with the students on these issues during zero hours.

About legal aid committees, NGO’s / Educational Institutions above 55, and some Newspapers have re-printed/Published these booklets as intimated and about 80,000 booklets titled on women, child rights, dalits, arrest, human rights and HIV have been published and distributed free of cost among the general public to create awareness.

Legal Awareness Programmes

- For the awareness of the human rights in public at large, Justice Jain has wrote about 31 booklets of various legal issues. Out of these booklets 18 booklets have been published by the R.S.H.R.C. Many other organizations, District Legal Aid Authorities, Departments, Schools, Colleges etc. has also published some booklets like Women, Children, Dalits, Arrest, HIV/AIDS, Human Rights etc. by the permission of the Commission. They have distributed these booklets in 80000 in numbers.

Some of these booklets are available on Commission’s website www.rshrc.nic.in and justicenagendrakjain.com. English translation of Some booklets are also available on a German website herenow4u.de.

These books are:
रानक टाइम्स, रायपुर
मानवविधिकारी के संख्यान में राज्य मानवविधिकार
आयोग ने निभाई महत्वपूर्ण भूमिका

मानवविधि रक्षा के लिए आयोग की कार्यक्षमता के विकास से संबंधित
मानवविधि आयोग ने 2018 में गठन किया जा रहा है। इसे राज्य का एक महत्वपूर्ण
विभाग है जो मानवविधि के लिए निर्देशित करता है। इसमें आयोग के कार्यक्षमता का
विकास होता है।

आयोग के अनुसार, मानवविधि के लिए आयोग का हिस्सा रहने वाला है। इसके
विकास में आयोग का महत्वपूर्ण भूमिका है।

आयोग के अनुसार, मानवविधि के लिए आयोग का हिस्सा रहने वाला है। इसके
विकास में आयोग का महत्वपूर्ण भूमिका है।

आयोग के अनुसार, मानवविधि के लिए आयोग का हिस्सा रहने वाला है। इसके
विकास में आयोग का महत्वपूर्ण भूमिका है।

आयोग के अनुसार, मानवविधि के लिए आयोग का हिस्सा रहने वाला है। इसके
विकास में आयोग का महत्वपूर्ण भूमिका है।

आयोग के अनुसार, मानवविधि के लिए आयोग का हिस्सा रहने वाला है। इसके
विकास में आयोग का महत्वपूर्ण भूमिका है।

आयोग के अनुसार, मानवविधि के लिए आयोग का हिस्सा रहने वाला है। इसके
विकास में आयोग का महत्वपूर्ण भूमिका है।
Students reciting the oath of section 51(A) of Constitution of India under the guidelines of RSHRC.

In addition to that in legal literacy and awareness program, chairman motivated students and even general public to recite the pledge as mentioned in article 51(A) of Constitution of India. It is good sign that so many schools have started taking prayer as per instructions of different concerned authorities as per the request of the commission. Some of them are as follows:
Students of some institutions reciting the Oath as per Article 51(A) of Constitution of India under the guidelines of RSHRC.

Rajasthan State Human Rights Commission

"Beware of your rights and discharge duty with devotion"
Chairperson: Justice N.K. Jain

"The destiny of human rights is in the hands of all our citizens in all our communities."
Eleanor Roosevelt
ACKNOWLEDGEMENT

It gives us great pleasure to express our deep sense of gratitude to all concerned for the encouragement. We have completed this project. We are very much thankful to Rajasthan State Human Rights Commission in particular Chairperson, Hon’ble Justice N. K. Jain for giving us a chance to do the internship in this Rajasthan Human Rights Commission.

BY:-
MAMTA ROHILA
KRISHNA CHOUDHARY
BHAWNA MEENA