

# ANTIM NAAGRIK

SHO 38

## Society for Human Rights/Consumer Rights

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### Some observations and suggestions on the proposed

#### “Sexual Harassment Of Women At Their Workplace (Prevention) Bill, 2003”

##### Highlights

- It is a welcome step – it will go a long way in securing a conducive atmosphere for women at their workplace.
- The Draft Bill attempts to define the relevant terms exhaustively (Section 2), though there is room for a little modification as suggested below in Action Points.
- Burden of Proof is on the accused (Section 7).
- There is provision enabling women’s organizations or trade unions to plead the case of a woman victim of sexual harassment at her workplace. However, the condition of membership should be removed (Section 8).
- The Draft Bill provides for ‘Trial to be Held in Camera’ (Section 9).

##### Lowlights

- There is no provision on taking action against the concerned organizations/authorities in the event of their failure to constitute ‘Complaint Committee’ as provided for in Section 13.
- There is no criteria for a female officer to be designated ‘Special Officer’ (Section 16).
- The provision for appointment of ‘District Level officer’ does not specify qualifications for such post. (Section 17)
- The Draft Bill leaves out provision on ‘Awareness’.
- There is no provision with regard to Preventive Steps – as in Vishaka.
- The Section specifying duty of the employer (Section 20) does not include ‘the duty of the employer or other responsible persons in work places or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, settlement or prosecution of acts of sexual harassment by taking all steps required’ (Vishaka includes this).

##### Action Points

- Section 2 (e) definition of workplace – it should also include places which a woman visits to enquire about job vacancies or to appear for interviews etc. in connection with a job.
- Section 7 Burden of Proof – there should be some safeguard to prevent misuse of this provision.

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- Section 10 (ii) – provision for transfer – adequate safeguards should be there to prevent its misuse.
- A provision for interim relief to the victim and her interim protection should be included in the Bill.
- There should also be a provision for blacklisting organizations which do not comply with the provisions of the Act, apart from initiating other appropriate actions against them.
- There should be provision making it mandatory for head of a work place to adopt fair, just and transparent procedure in granting leave, assigning overtime etc. to employees – discretion in these matters often results in *quid pro quo* sexual harassment.
- There should be a provision establishing a mechanism involving NGOs and the civil society, to monitor the implementation of the provisions of the proposed instrument (would be Act).

Drafted by

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on behalf of 'Antim Naagrik'