

# Protection of women at workplace

Sexual Harassment at the workplace is a violation of women's right to equality, life and liberty. It vitiates the work environment and serves to discourage women from participating in work, gravely affecting women's social and economic empowerment.

In 1997, the Supreme Court reaffirmed that sexual harassment at the workplace is a form of discrimination against women and that it violates the constitutional right to equality. Despite its direction to the government to enact a suitable legislation for prevention of sexual harassment at the workplace, it took more than 13 years for the government of India to introduce the Protection of Women against Sexual Harassment at Workplace Bill in the Lok Sabha on 7 December 2010. This, despite the repeated demands for such a legislation by trade unions, women's organisations and other sections, since the incidents of sexual harassment at the workplace have increased at a rapid pace, often with tragic consequences.

The Bill introduced in the Parliament has several shortcomings which tend to defeat its very purpose. Several changes need to be incorporated to make it effective in achieving its objectives. The workplace should include all premises where women are employed, including houses and homes where women domestic workers work.

But, the draft bill specifically excludes domestic workers, thereby leaving out a huge number of working women who comprise around 30% of the female workforce in the service sector. These women are especially vulnerable for abuse since they work in a private, restricted space as has been evidenced by many recent cases highlighted by the media, in India and abroad. Their economic compulsions often force them to work in difficult conditions, at odd hours, in the solitary company of males, and there are many reported cases of sexual abuse and harassment of domestic workers in this sector. Domestic workers should be included in the ambit of this legislation.

The first part of section 14 (1) woman will prevent women from lodging a complaint, since the situation is often one in which a subordinate has to muster up the courage to complain against her superior in the workplace, and also has to face social stigma from the others in her workplace. Hence it should be deleted. The section also goes against the Supreme Court judgement which had stated clearly that no action should be taken against a woman for making a complaint. If any

complaint by a woman is found to be false or malicious, then it can be dealt with as per the service rules prevailing in that workplace. This need not be incorporated in the Bill.

The Bill should specify the nature and range of punishment for different forms of sexual harassment– from minimum to maximum, commensurate with the degree of gravity of the offence. Further, the Bill should specifically incorporate a provision that if the moral character of the complainant is challenged there should be strong punishment for the respondent.

The process of conciliation, if requested by the aggrieved woman, should be a part of the enquiry proceedings of the Internal Complaints Committee/Local Complaints Committee, with a record maintained by it of all such proceedings. In case of violation of the settlement, the complainant should have the right to reopen the complaint. The compensation should be determined not only on the basis of compensating the victim on the counts mentioned, but should be a heavy fine which can act as a deterrent.

Since the Bill states that every employer shall provide a safe working environment at the workplace which shall include safety from the persons coming into contact at the workplace, punishment should be prescribed for employers/administrative heads that do not form the redressal mechanism at the workplace. Punitive measures and penalty should also be imposed on those employers/administrative heads/district officers who try to shield or defend perpetrators of sexual harassment and those who take vindictive action against complainants.

The aggrieved woman should be allowed the option to have someone to assist her in the conduct of the enquiry by the Internal Complaints Committee/Local Complaints Committee, in case she is in need of such help and requests it. Time limits should be set for imposition of the punitive measures on the perpetrator/s and delivery of the compensation to the victim. The mechanism for recovery of the compensation should be specified.

Trade unions, as representatives of workers and committed to the protection of workers' rights, have an important role to play on the entire issue of sexual harassment at the workplace. Trade unions should be involved at every stage in the effort to prevent sexual harassment at workplace and provide a safe and democratic work environment to working women – in the formulation of policies, in their implementation and in monitoring their implementation. However, where no trade unions exist, NGOs that have experience/expertise in dealing with cases of sexual

harassment may be associated with complaints committees. Sensitisation on the issue and creating awareness among the workers/employees and employers, both men and women, is of crucial importance in preventing sexual harassment (India Current Affairs, 29-12-11).