

RAJASTHAN STATE HUMAN RIGHTS COMMISSION, JAIPUR

Projects by Law Students



Under the guidance of

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

With best Compliments
RSHRC

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RAJASTHAN STATE HUMAN RIGHTS COMMISSION



SECRETARIAT

Under the guidance of Hon'ble Mr. Justice N.K. Jain.
(Former Chief justice of Madras and Karnataka High Court)
Chairperson, RSHRC

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

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Hon'ble Chairperson and Members Of Rajasthan State Human Rights Commission are :

From 06-07-2005

Justice N K Jain,
Chairperson

Members

Justice Jagat Singh

Shri D.S.Meena

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Hon'ble Chief Minister Shri Ashok Gehlot

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PROJECT ON SEXUAL HARASSMENT AT WORK PLACE

BY:-
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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 work places 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 unorganised sector come under the purview of these guidelines.

Complaints Mechanism

- All work places should have an appropriate complaints mechanism with a complaints committee, special counselor 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.

Cont...

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

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.

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.

Allegations of sexual harassment swarm around this 'super-manager' Rao: Some people just bent on making mischief

Violence against women is human rights violation

Violence against women will be the next issue to be challenged in courts - activists

The guarantee of freedom from violence is a Fundamental Human Right. This action has been affirmed not only by the Botswana Government, through its constitution, but by governments across the world.

However, given the prevalence of rape and domestic violence in this country, as well as the large number of rape kits and medical records handed down in their cases, it is questionable whether our government takes these matters seriously.

While the Botswana Constitution guarantees every individual the right to life, liberty, and security of person, and the right to be free from discrimination on the basis of race, sex, or other grounds, these rights seem to be compromised when it comes to Botswana women.

The effect of such violence is not only physical - or even worse - but also psychological. The victim is often left with a sense of helplessness and fear, which can have long-term effects on their mental health.

While the problem may seem overwhelming at times, there is hope. In the past few years, there has been a significant increase in the number of women reporting cases of violence to the police. This is a clear sign that women are becoming more empowered and are no longer afraid to speak out against their abusers.

It is time that our government takes a stand against violence against women. We must ensure that every woman has the right to live in a safe and secure environment. We must also ensure that the legal system is fair and just, and that every woman who is victimized has access to the justice system.

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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"

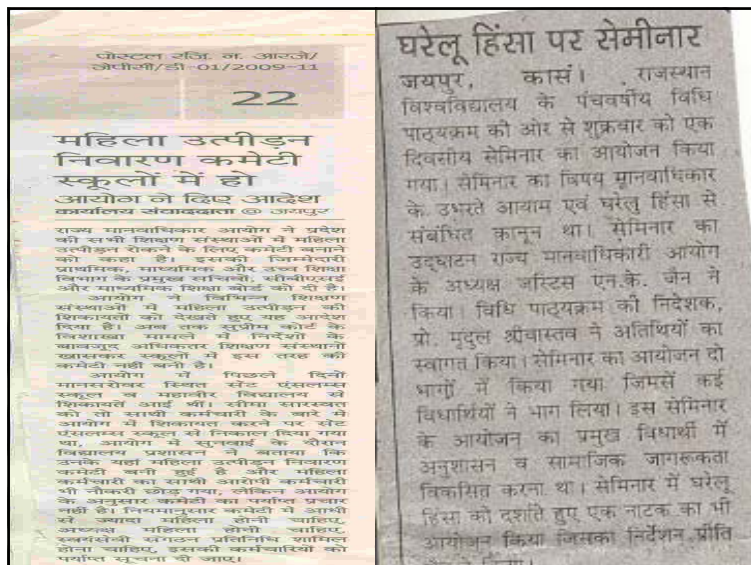


WOMEN'S RIGHT AT WORK PLACE ARE HUMAN RIGHTS



राज्य मानवाधिकार आयोग द्वारा विभिन्न परिवारों में दिये गये निर्देश

परिवाद संख्या— 08/17/1842 में आयोग के समक्ष विभिन्न शैक्षणिक संस्थाओं में महिलाओं के उत्पीडन की आ रही शिकायतों के मद्देनजर माध्यमिक शिक्षा बोर्ड—अजमेर व सीबीएसई—अजमेर,, प्रिंसिपल सेक्रेट्री— प्राथमिक शिक्षा, माध्यमिक शिक्षा, उच्च शिक्षा, राजस्थान सरकार तथा सभी शिक्षण संस्थाओं से अपेक्षा की कि वे माननीय उच्चतम न्यायालय द्वारा *विशाखा बनाम राजस्थान राज्य ए0आई0आर0 1997 (एस0सी0) 3011* में दिए गये निर्देशों की अनुपालना में कमेटी का गठन कर उनका नियमानुसार क्रियान्वयन सुनिश्चित करावें।



घरेलू हिंसा पर सेमिनार
 जयपुर, कासं। राजस्थान विश्वविद्यालय के पंचवर्षीय विधि पाठ्यक्रम की ओर से शक्रवार को एक दिवसीय सेमिनार का आयोजन किया गया। सेमिनार का विषय मानवाधिकार के उभरते आवाम एवं घरेलू हिंसा से संबंधित कानून था। सेमिनार का उद्घाटन राज्य मानवाधिकारी आयोग के अध्यक्ष जस्टिस एन.के. जैन ने किया। विधि पाठ्यक्रम की निदेशक, प्रो. मृदुल श्रीवास्तव ने अतिथियों का स्वागत किया। सेमिनार का आयोजन दो भागों में किया गया जिसमें कई विधार्थियों ने भाग लिया। इस सेमिनार के आयोजन का प्रमुख विधार्थी में अनुशासन व सामाजिक जागरूकता विकसित करना था। सेमिनार में घरेलू हिंसा को दूर करने के लिए एक नाटक का भी आयोजन किया जिसका निर्देशन प्रो. वि.के. जैन ने किया।

BOOKS PUBLISHED

- 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 in 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.


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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:

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31 booklet have been written by Justice Nagendra Jain (Chairperson RSHRC, Jaipur) on different legal and important issues



DIVERSIFIED BOOKS

- मानवीय न्यायमूर्ति श्री एन.के. जैन, अध्यक्ष, राजस्थान राज्य मानव अधिकार आयोग, (पूर्व न्यायाधिकारि मंत्र एवं कर्नाटक उच्च न्यायालय)ने विविध विषयों पर लेख/लघु पुस्तिकाएँ आदि लिखी हैं। जिनका प्रकाशन भी किया गया है। इन लेखों/लघु पुस्तिकाओं में से कुछ निम्न हैं—
1. सन्ध्या/सन्देशखना (हिन्दी व अंग्रेजी में) www.herenow4u.de (Eng.)
2. भारतीय संस्कृति में अहिंसा व मानव अधिकार (हिन्दी व अंग्रेजी में)
3. अप्रयुक्त व मानवाधिकार
4. खेल, खिलाड़ी व खेल भावना
5. बालकों के अधिकार। (पुनः प्रकाशित)
6. अलौकिक मानवाधिकार दिवस 10 दिसम्बर। (पुनः प्रकाशित)
7. एच.आई.वी. एड्स एवं मानवाधिकार। (पुनः प्रकाशित)
8. मानवाधिकार और जैन धर्म। (हिन्दी व अंग्रेजी में)
9. आयोग की कार्यविधि, शक्तियाँ एवं परिचायों की निवृत्तारण प्रक्रिया।
10. आयोग द्वारा जारी दिशा-निर्देश एवं अन्य गतिविधियाँ।
11. भारतीय संविधान की अनुच्छेद-21 'प्राण और वैदिक स्वतंत्रता का संरक्षण'।
12. महिलाओं के अधिकार- संबंधित अधिनियमों की संक्षिप्त जानकारी। (पुनः प्रकाशित, पुनः प्रकाशित 2008)
13. दलितों के अधिकार। (पुनः प्रकाशित)
14. मानव अधिकार और राज्य की जनोपयोगी योजनाएँ।
15. गिरफ्तारी (ARREST) (पुनः प्रकाशित)
16. विधायक स्थानीय क्षेत्र विकास योजना।
17. जेल, कारावास से संबंधित प्रावधान व गतिविधियाँ।
18. आयोग के महत्वपूर्ण कार्यकलाप दिशा-निर्देश एवं अन्य गतिविधियाँ 2007
19. आयोग के महत्वपूर्ण कार्यकलाप दिशा-निर्देश एवं अन्य गतिविधियाँ (पुनः प्रकाशित-2008)
20. Judicial Values & Ethics for Judicial Officers, www.rshrc.nic.in
21. Advantage to Litigant Public by Brihat Lok Adalat.
22. Alternative Dispute Resolution, Conciliation & Mediation (ADR).
23. Institutional Arbitration Intellectual & Information Technology (IPR & IT).
24. Cyber Law.
25. Copyright Law.
26. e-governance and Court Automation.
27. Article-14 Right to Equality.
28. Gender Justice in Employment & in Profession, Empowerment of Women.
29. Law of Precedent, Preference to Art. 141.
30. Directive Principal of State Policies.
31. Public Interest Litigations & others.

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Reciting the Pledge — fundamental duties mentioned in Article 51-A, Constitution of India

"We are proud to be Indian"

It shall be the duty of every citizen of India:

- to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;
- to cherish and follow the noble ideals, which inspired our national struggle for freedom;
- to uphold and protect the sovereignty, unity and integrity of India;
- to defend the country and render national service when called upon to do so;
- to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic, and regional or sectional diversities; to renounce practices derogatory to the dignity of women;
- to value and preserve the rich heritage of our composite culture;
- to protect and improve the natural environment including forests, lakes, rivers and wild life and to have compassion for living creatures;
- to develop the scientific temper, humanism and the spirit of inquiry and reform;
- to safeguard public property and to abjure violence;
- to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavor and achievement.

"BE AWARE OF YOUR RIGHTS AND DISCHARGE DUTY WITH DEVOTION."
Chairperson : Justice N.K. Jain (Former Chief Justice - Madras and Karnataka High Court)

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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:-

बियानी गर्ल्स कॉलेज विद्याधर नगर, जयपुर में राजस्थान राज्य मानवाधिकार आयोग के निर्देश पर छात्राओं को भारत के संविधान के अनुच्छेद 51ए का संकल्प दिलाते कॉलेज के वाइज प्रिंसीपल पी.सी. जांगिड़।





Bibliography



- National Human Rights Commission, New Delhi, www.nhrc.nic.in/
- Rajasthan State Human Rights Commission, Jaipur, <http://rshrc.nic.in>
- Ministry of Women and Children Development, Government of India
- www.herenow4u.de
- www.justicenagendrakjain.com
- www.legalservices.com



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