

# **Booklet on POSH Act & SDG 5- Tools for Women Empowerment**



**Women Members Empowerment Committee**  
**The Institute of Chartered Accountants of India**  
(Set up by an Act of Parliament)  
New Delhi

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## Foreword

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The Agenda 2030 for Sustainable Development established by the United Nations (UN) includes SDG5 “Achieve gender equality and empower all women and girls” as one of the 17 Sustainable Development Goals (SDGs). It is believed that providing women and girls equal access to education, health care, technology, decent work, and representation in economic and political decision-making processes will nurture the sustainable economies and benefit humanity and societies at large.

Towards empowerment of women at workplace, the Ministry of Women and Child Development on 9th December 2013 introduced the “Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013-POSH Act” with the objective to make the workplaces safer for women.

The Institute of Chartered Accountants of India (ICAI), under the aegis of its Women Members Empowerment Committee (WMEC), has released “Booklet on POSH Act & SDG 5-Tools for Women Empowerment” containing important excerpts and provisions of “Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013” and “Sustainable Development Goal 5” for spreading awareness amongst women.

This booklet will prove to be a handy resource to provide our members basic understanding and importance of SDG5 and will empower them to access available redressal mechanism in case of any kind of sexual harassment at workplace. It also provides crucial information on how the POSH Act came into force.

I complement CA. Kemisha Soni, Chairperson, CA Pramod Jain, Vice-Chairman, Women Members Empowerment Committee and all other members for their valuable inputs in bringing out this booklet for the benefit of Women members and disseminating knowledge amongst them. I am sure that this publication would be immensely informative and useful for the safety of women members.

Date: 24<sup>th</sup> January, 2022  
Place: New Delhi

**CA Nihar N Jambusaria**  
President, ICAI



## Preface

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As enshrined in the Preamble to the Constitution of India and its Article 14, “equality of status and opportunity” must be secured for all its citizens. Equality of every person under the law is guaranteed under the Constitution. Therefore a safe workplace is a woman’s legal right.

The 2030 Agenda for Sustainable Development, which was adopted by 193 Member States at the historic UN General Assembly Summit in September 2015 also includes Sustainable Development Goal 5 (SDG5) – “Achieve Gender Equality and empower all women and girls”. SDG 5 aims at eliminating all forms of discrimination and violence against women in the public and private spheres and to undertake reforms to give women equal rights to economic resources and access to ownership of property.

Considering the importance of Women empowerment, the Women Members Empowerment Committee of ICAI has come out with “Booklet on POSH Act & SDG 5-Tools for Women Empowerment”. ICAI is committed to empowerment of women and to provide equal opportunities to them. This booklet provides insights into the key information about POSH Act and SDG5 and aims to ensure that all the members of the Institute are aware of the basics of these Acts. This booklet also covers Important Frequently Asked Questions related to POSH Act.

We are thankful to CA Nihar N Jambusaria, President ICAI and CA (Dr.) Debashis Mitra, Vice President ICAI for their support and guidance in bringing out this booklet.

We appreciate the efforts put in by CA Shanu Goel, Secretary WMEC, Ms. Ruchi Gupta and CA Jaya Kumari for providing the technical and administrative support.

We hope this will be a comprehensive yet straight forward reference for our members. It also provides additional links and references to more detailed information, so that our members are able to delve into detailed references. We are confident that this booklet will be beneficial to all the stakeholders of the Institute.

**CA Pramod Jain**  
Vice Chairman  
WMEC, ICAI

**CA Kemisha Soni**  
Chairperson  
WMEC, ICAI

Date: 24<sup>th</sup> January 2022



# Acknowledgement

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The Women Members Empowerment Committee of ICAI acknowledges the contribution made by following group members for the purpose of contributing inputs in this “Booklet on POSH Act & SDG 5-Tools for Women Empowerment”. We place on record our appreciation and gratitude for their contribution in enrichment of knowledge of our members:

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## Chapter-I

# Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act)

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Sexual harassment results in violation of the fundamental rights of women to equality as per Article 14 and 15 and her right to live with dignity as mentioned under section 21 of the constitution, the government of India enacted the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 which came into effect from 9<sup>th</sup> December 2013 this act is an extension of Vishaka Guidelines issued by Supreme Court in 1997 further acts also reflects the commitment on the UN Convention on the Elimination of all Forms of Discrimination against Women (CEDAW).

### ORIGIN /SOURCE

#### A. Vishakavs State of Rajasthan (1997)

The framework of this women harassment act which was termed as POSH Act was laid down in the landmark judgement by the Supreme Court in ***Vishakavs State of Rajasthan (1997)***. ***Another case was of Bhanwari Devi***.

In 1992, State government employee, Bhanwari Devi was working towards the prevention of the practice of child marriages. During the course of her work, she prevented the marriage of a one-year old girl in the community. Her work was met with resentment and attracted harassment from men of that community. Bhanwari Devi reported this to the local authority but no action was taken. That omission came at great cost – Bhanwari was subsequently gang raped by those very men. Bhanwari Devi, faced many hardship in lodging her complaint and in getting any medical attention. She did not even get justice from Rajasthan High Court, resulting in alleged rapists to be allowed to go unpunished.

Disappointed women activists and lawyers filed a Public Interest Litigation (PIL) in the Supreme Court of India under the collective platform of Vishaka. The landmark judgement pronounced by the supreme court in PIL resulted in what are popularly known as the Vishaka Guidelines.

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The Supreme Court held that, it is fundamental right of women to have freedom from sexual harassment at workplace. It also came out with various important guidelines which the employers have to follow to avoid sexual harassment of women at workplace. The main objective behind the guidelines framed by Supreme Court was to ensure no discrimination towards female gender at the workplace and to ensure gender equality.

### **B. UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),**

The protection against sexual harassment and the right to work with dignity are universally recognised human rights by international conventions and instruments such as Convention on the Elimination of all Forms of Discrimination against Women, which has been ratified on the 25th June, 1993 by the Government of India;

### **C. Article 14, 15,19& 21 of the Constitution**

Preamble to the Constitution of India contains, “equality of status and opportunity” must be secured for all its citizens. sexual harassment results in violation of the fundamental rights of a woman to equality under articles 14 and 15 of the Constitution of India and her right to life and to live with dignity under article 21 of the Constitution and right to practice any profession or to carry on any occupation, trade or business under article 19 with includes a right to a safe environment free from sexual harassment.

Safe workplace is therefore a woman’s legal right.

### **POSH ACT**

Preamble, of POSH Act

*“Whereas sexual harassment results in violation of the fundamental rights of a Woman to equality.....”*

### **What is Sexual Harassment**

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 clearly defines sexual harassment as unwelcome acts or behaviour (whether directly or by implication) namely, physical contact and advances, a demand or request for sexual favours, making sexually coloured remarks, showing pornography, any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

## **Sexual Harassment of Women at Workplace (Prevention, Prohibition ...**

The Act also provides the circumstances under which an act may amount to sexual harassment. These are:

- (i) implied or explicit promise of preferential treatment in her employment; or
- (ii) implied or explicit threat of detrimental treatment in her employment; or
- (iii) implied or explicit threat about her present or future employment status; or
- (iv) interference with her work or creating an intimidating or offensive or hostile work environment for her; or
- (v) humiliating treatment likely to affect her health or safety.

Physical contact with aggrieved women is not necessary for terming an act as sexual harassment. Any such act, action or communication that creates a hostile work environment is Sexual harassment. Circulating inappropriate rumours, sharing lewd jokes or verbally abusing a female worker also amounts to sexual harassment.

The Act has a clearly defined complaint mechanism to ensure time bound treatment of complaints. It should be noted that nowhere time limit for filing a report against the perpetrator is suggested, however early reporting of such incidences are encouraged as a matter of personal right and dignity.

### **IMPORTANT TERMS USED IN ACT**

**Aggrieved Woman**-Section 2(a) of the Act defines who is an 'aggrieved woman'. In relation to a workplace, aggrieved woman is a woman of any age, whether employed or not, who alleges to have been subjected to any act of sexual harassment. In relation to a dwelling place or house, a woman of any age, who is employed in such a dwelling place or house.

Section 2(a) does not necessitate the woman to be an employee, she may be even a customer/client who may be sexually harassed at a workplace and she can claim protection under the POSH Act.

**Work place**-Section 2 (o) defines what work place is. It is a wider definition and includes-

- a) Government department/undertaking Organisation/office/Branch/Unit/Institute/office, company

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- b) private sector organisation / private venture / undertaking / enterprise / institution/establishment / society / trust / non-governmental organisation / unit or service provider
- c) Hospitals/Nursing Homes;
- d) any sports institute, stadium, sports complex, games venue;
- e) places visited by employee arising out of or during the course of employment, including transportation provided by employer for undertaking journey.

**Employee-**Section 2(f) defines who is an employee. The definition of an 'employee' under the POSH Act is fairly wide to cover regular, temporary, ad hoc employees, individuals engaged on a daily wage basis, either directly or through an agent, contract labourers, co-workers, probationers, trainees, and apprentices, with or without the knowledge of the principal employer, whether for remuneration or not, working on a voluntary basis or otherwise, whether the terms of employment are express or implied.

### **GRIEVANCE REDRESSAL FORUMS**

The Act provides for Local Complaints Committee (LCC) and Internal Complaints Committee (ICC) as redressal forums.

**Internal Complaints Committee (ICC):** In terms of Section 4 of the Act, every employer is required to set up an 'internal committee' at each office or branch, of an organization employing 10 or more employees, to hear and redress grievances pertaining to sexual harassment. The Act provides for a minimum of four members for the ICC and half of members shall be women and the presiding officer for ICC shall also be a woman at a senior level in that office. The ICC should also include an external member (ie independent member) being a person familiar with issues relating to sexual harassment, or from a non-governmental organization or association committed to the cause of women.

**Internal Complaints Committee (LCC):** If a workplace has less than 10 employees, then it need not form an ICC. All complaints in such case will go to the LCC set up as per the Act by District officers of each district.

## Sexual Harassment of Women at Workplace (Prevention, Prohibition ...

### **COMPLAINT FILING**

Chapter IV of the Act provides for filing of complaint against sexual harassment, conciliation and inquiry in to the complaint. Any aggrieved woman can file a complaint of sexual harassment to ICC within 3 months of the incident. The period within which one can file the complaint can also be extended to another period of three months. **(Section 9)**

Before initiating action on the complaint, the ICC at the request of the aggrieved woman, can initiate steps to settle the matter between the parties through conciliation. Conciliation is an informal method of resolving complaints before the complaint escalates into a fully ledged formal enquiry. **(Section 10)**.

In case, no amicable settlement is arrived at between the parties, the ICC will conduct inquiry into the complaint by affording an opportunity of hearing to both the parties. The inquiry shall be completed within a period of 90 days. **(Section 11)**

### **INTERIM RELIEFS:**

**(Section 12)**-Pending inquiry, at the request of the complainant, the ICC/LCC may recommend to the employer for-

- a) transfer of the aggrieved woman or the respondent to any other workplace; or
- b) granting leave to the aggrieved woman up to a period of 3 months in addition to her regular statutory/ contractual leave entitlement; or
- c) grant such other relief as may be prescribed.

### **PUNISHMENT AND COMPENSATION**

**(Section 13)**- The Act prescribes the following punishments that may be imposed by an employer on an employee for indulging in an act of sexual harassment:

- i. to take action against the respondent as misconduct in terms of service rules of the employer; where no such service rules have been made in such manner as prescribed;
- ii. to deduct from the salary, wages of Respondent such sum as determines as compensation payable to the victim;

The Act also envisages payment of compensation to the aggrieved woman.

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### **DUTIES OF THE EMPLOYER (Section 19) Ever employer shall -**

- a) provide a safe working environment at the workplace which shall include safety from the persons coming into contact at the workplace.
- (b) display at any conspicuous place in the workplace, the penal consequences of sexual harassments: and the order constituting, the Internal Committee.
- (c) organise workshops and awareness programmes at regular intervals for sensitising the employees with the provisions of the Act and orientation programmes for the members of the Internal Committee.
- (d) provide necessary facilities to the Internal Committee for dealing with the complaint and conducting an inquiry.
- (e) assist in securing the attendance of respondent and witnesses before the Internal Committee.
- (f) make available such information to the Internal Committee as it may require having regard to the complaint.
- (g) provide assistance to the woman if she so chooses to file a complaint in relation to the offence under the Indian Penal Code.
- (h) cause to initiate action, under the Indian Penal Code or any other law for the time being in force, against the perpetrator, or if the aggrieved woman so desires, where the perpetrator is not an employee, in the workplace at which the incident of sexual harassment took place.
- (i) treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct.
- (j) monitor the timely submission of reports by the Internal Committee.

An aggrieved person can file an appeal against the recommendations made by the ICC/LCC before the court or tribunal, within 90 days from the recommendations.

It may be noted that there is a provision of prohibition on publication of identity of the aggrieved woman, respondent, witnesses, and contents of the complaint, inquiry proceedings or recommendations of the committee. Only the information pertaining to the justice secured to any victim of sexual harassment can be published. In case of non-compliance of this provision, guilty person



## **Sexual Harassment of Women at Workplace (Prevention, Prohibition ...**

shall be liable for penalty in accordance with service rules and in absence of service rules, in accordance with Rule 12 of the Act.

Section 19 and 20 of the Act also lays down certain duties of the employer and District Officer such as creating awareness on sexual harassment at workplace, sensitize the employees, assist the complaints committee in conducting the inquiry, act upon recommendations of the committee, monitor timely submissions of reports of the committee etc.

### **The employer should ensure the implementation of the following:**

- PoSH policy
- Sensitisation of all employees
- Formation of Internal Committee (IC)
- Training of IC on investigation procedure, confidentiality, timelines, the format of reports etc
- Mandatory external member, who ensures fairness, neutrality, right steps for implementation of PoSH policy
- Filing of the annual report to appropriate authorities and PoSH compliance to be part of Director's report.

**Non Compliance:** The non-compliance of the provisions of the Act by the employer may result in fine which may extend to fifty thousand rupees and can also lead to cancellation of his license or withdrawal, or non-renewal, or approval, or cancellation of the registration, as the case may be.

If any employer, after having been previously convicted of an offence punishable under this Act, subsequently commits and is convicted of the same offense, he shall be liable to twice the punishment.

To ensure safety of workplaces in the private sector, the Ministry of Corporate Affairs, vide a notification dated 31.7.2018 has amended the Companies (Accounts) Rules, 2014. The amendment makes it mandatory for all private companies to make disclosure of compliance under Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013 ("**POSH Act**") through their Annual Board Report. As per the amended law, every company will now have to submit a statement in their annual Board Report that the company has complied with the provisions relating to the constitution of Internal Complaints Committee under the POSH Act. **Non-**

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**compliance** with this Section attracts heavy fines under the Companies Act 2013, which could lead to imprisonment as well.

Sexual harassment is a social evil that can affect not only the aggrieved woman but also all the employees working in the Organization because it creates an oppressive, insecure and hostile work environment that make it harder for employees to succeed. Every individual, have right to Equality, life and liberty and any kind of Sexual harassment at a workplace violates that fundamental right of women.

Victims of sexual harassment often suffer emotional and psychological harm, including stress, depression, and anxiety thereby adversely affecting their social and economic empowerment and the goal of inclusive growth.

When an Organization fails to prevent, adequately handle and address cases of sexual harassment, it can face heavy losses in expensive lawsuits apart from loss of goodwill and reputation.

It has been more than 7 years, the Act is in force, however the awareness about the Act, what constitutes Sexual harassment, its consequences and associated redressal mechanism is very limited.

For effective implementation, it is imperative to create an environment where women can speak up about their grievances without fear and get justice. It is also equally important to sensitize men towards proper and just treatment of women at workplace.

### **Frequently Asked Questions (FAQs) based on Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal Act 2013\***

#### **Q1. What is Sexual Harassment at Workplace?**

**Ans.** Sexual Harassment is any unwelcome act or behaviour (whether express or implied), such as:-

- Physical contact or advance
- A demand or request for sexual favours
- Making sexually coloured remarks
- Showing pornography
- Any other physical, verbal or non-verbal conduct of a sexual nature.

## **Sexual Harassment of Women at Workplace (Prevention, Prohibition ...**

Sexual harassment at workplace can take various forms. It can involve conduct such as:

- unwelcome touching, hugging or kissing
- staring or leering
- suggestive comments or jokes
- unwanted or persistent requests to go out
- intrusive questions about another person's private life or body
- Deliberately brushing up against someone
- insults or taunts of a sexual nature
- sexually explicit pictures, posters, screen savers, emails, twitters, SMS or instant messages
- accessing sexually explicit internet sites
- inappropriate advances on social networking sites
- behaviour which would also be an offence under the criminal law, such as physical assault indecent exposure sexual assault, stalking or obscene communications.
- implied or explicit promise of preferential treatment in her employment; or
- implied or explicit threat of detrimental treatment in her employment ; or
- implied or explicit threat about her present or future employment status; or interference with her work or creating an intimidating or offensive or hostile work environment for her; or
- humiliating treatment likely to affect her health or safety.

**Q2. What is 'hostile work environment' kind of sexual harassment at workplace?**

**Ans.** Creation of a hostile, intimidating or an offensive work environment with the purpose of unreasonably interfering with woman's work performance or subjecting woman to humiliating treatment likely to affect her health and safety.

**Q3. Who can complain about of sexual harassment at workplace?**

**Ans.** Any a woman above 18 years of age can complain about of sexual harassment at workplace. Those who are under 18 years of age can lodge an FIR under the Protection of Children from Sexual Offences Act, 2012.

**Q4. Does the act constituting sexual harassment have to exactly occur at work place?**

**Ans.** No. The act does not necessarily have to occur at workplace only. It could occur in any of the following places:

- Social event organised by an employer,
- During work-related travel,
- At a client or customer's premises,
- At training events, business lunches or dinners, promotional campaigns or public relations events with clients, customers or prospective partners or
- During the course of work-related phone conversations or communications via electronic media.

**Q5. What is Internal Complaints Committee (ICC)?**

**Ans.** Every organization has to constitute an Internal Complaints Committee (ICC) having following members

- Chairperson – Women working at senior level in the organisation
- 2 Members (at least) – Amongst employees committed to women issues, have legal knowledge or experience in social work
- 1 External Member – familiar with issues relating to sexual harassment, or from a NGO or association committed to the cause of women.

If the organisation has workplaces located at different places or division or sub-division level, then ICC will be constituted at every workplace.

**Q6. What is Local Complaints Committee (LCC)?**

**Ans.** The State Government will notify the District Magistrate/Additional District Magistrate/ Collector/ Deputy Collector as District Officer in

## **Sexual Harassment of Women at Workplace (Prevention, Prohibition ...**

every district, who will constitute a Local Complaints Committee (LCC) so as to enable women in the unorganised sector or small establishments to work in an environment free of sexual harassment. The LCC will have following members:

- Chairperson- Nominated from amongst the eminent women in the field of social work and committed to the cause of women
- Member- Nominated from amongst the women working in the block, taluka or tehsil or ward or municipality in the district
- 2 Members- Nominated from amongst such NGO/ associations/persons committed to the cause of women or familiar with the issues relating to sexual harassment, provided that:
  - At least one must be a woman
  - At least one must have a background of law or legal knowledge
- Ex Officio member - The concerned officer dealing with social welfare or women and child development in the district

### **Q7. How can one locate LCC in a particular district?**

**Ans.** For locating LCC or one of its members, one can adopt following measures:

- Contact the District Officer's office
- Contact One Stop Centre/Women Helpline (toll free through 181, 100 etc.) functioning in their district/State
- Contact the State Commission for Women
- Contact the State Department of Women and Child development/department looking after women issues

### **Q8 What if ICC/LCC is not constituted in the organisation/district?**

**Ans.** Non constitution of Complaints Committee is punishable with a fine of Rs. 50,000/- and repeat offenders will be punished with cancellation/withdrawal of licence/registration required for carrying on business activities. Non-compliance attracts heavy fines under the

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Companies Act 2013, which could lead to imprisonment as well. The aggrieved can approach the court to complain about the same.

### **Q9 .Who can make a complaint?**

- Aggrieved Women Herself, or
- In case of physical incapacity-Her relative, Friend, Co worker, Officer of NCW or SCW, Any person who has knowledge of incident with the written consent of complainant
- In case of mental incapacity-Her relative, Friend, Special educator, Qualified psychiatrist or psychologist, Guardian or authority under whose care she is receiving treatment or care,
- Any person who has knowledge of incident jointly with any person mentioned above
- In case woman is unable to file complain for any other reason, by any person who has knowledge of incident with her written consent
- In case of woman's death by Any person who has knowledge of incident with the written consent of her legal heir
- Legal Heir

### **Q10. What is the action taken by the Complaints Committee ,when a complaint is submitted to it?**

**Ans.** The Complaints Committee (ICC/LCC) will conduct an inquiry into the complaint by calling all the concerned parties i.e. complainant, respondent [the person(s) against whom complaint is being made], witnesses etc. Later, on the basis of the testimonies of the concerned parties and evidences (documentary or otherwise) gathered, the Committee will frame its findings, which will be shared with the employer.

If the Committee comes to the conclusion that the allegations against the respondent are genuine, it shall recommend action that needs to be taken by the employer against such person. However, if the Committee concludes after inquiry that no case is being made against the respondent, it shall recommend that no action to be taken against the respondent.

## **Sexual Harassment of Women at Workplace (Prevention, Prohibition ...**

**Q11 Can the complainant ask for some interim relief during the inquiry from ICC?**

**Ans.** During the inquiry, at the written request of complainant, ICC can provide following interim reliefs to the complainant:

- Transfer the complainant or respondent to any other place
- Grant leave to the complainant for upto 3 months in addition to her entitled leave
- Restrain the respondent from reporting on the work performance/ writing confidential report of aggrieved
- Restrain the respondent from supervising academic activities of aggrieved

**Q12. What kind of punishment could be awarded under the Act?**

- As prescribed under the Service Rules
- In case service rules do not exist
  - Disciplinary action including written apology, reprimand, warning, censure
  - withholding of promotion/ pay raise/ increment
  - Termination of employment
  - Undergo counselling
  - Community service
- Deduction from salary for:
  - Mental Trauma, pain, suffering and emotional distress caused
  - Medical expenses incurred
  - The loss of career opportunity
  - The income and financial status of respondent
- If the amount is not paid it can be recovered as arrear of land revenue

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**Q13. Is the inquiry under the POSH Act has to be completed in a given time frame?**

**Ans.** Yes, the POSH Act envisages a time bound inquiry which needs to adhere to following timelines:

<b>Description</b>	<b>Timeframe</b>
Submission of Complaint	Within 3 months of the last incident
Completion of Inquiry	Within 90 days
Submission of Report by ICC/LCC to employer/DO	Within 10 days of completion of the inquiry
Implementation of Recommendations by employer	Within 60 days
Appeal	Within 90 days of the recommendations

**Q14. What about maintaining confidentiality of the cases related to sexual harassment at workplace?**

**Ans.** The Act prohibits the disclosure of:

- Identity and address of complainant, respondent and witnesses
- Information pertaining to conciliatory/ inquiry proceedings or recommendation of ICC or action taken by the employer.

Breach of confidentiality will invite a penalty of Rs. 5,000/- which will be collected by the employer

Exception: Dissemination of information regarding the justice secured without disclosure of name, address, identity and particulars of complainant or witnesses

**Q15. Can someone register both FIR and lodge complaint with Complaints Committee at the same time?**

**Ans.** Yes, a woman if she chooses to do so may both file the FIR with the police and complaint with Complaints Committee simultaneously.



## **Sexual Harassment of Women at Workplace (Prevention, Prohibition ...**

The contents of this document has been sourced from following –

- 1) Ministry of Women & Child Development website (<http://www.shebox.nic.in/user/faq>). Handbook issued by Ministry of Women & Child Development.
- 2) [https://en.wikipedia.org/wiki/Sexual\\_Harassment\\_of\\_Women\\_at\\_Workplace\\_\(Prevention,\\_Prohibition\\_and\\_Redressal\)\\_Act,\\_2013](https://en.wikipedia.org/wiki/Sexual_Harassment_of_Women_at_Workplace_(Prevention,_Prohibition_and_Redressal)_Act,_2013)
- 3) [https://www.mondaq.com/india/employee-rights-labour-relations/876830/sexual-harassment-of-women-at-workplace-a-brief-analysis-of-the-posh-act-2013#\\_ftnref5](https://www.mondaq.com/india/employee-rights-labour-relations/876830/sexual-harassment-of-women-at-workplace-a-brief-analysis-of-the-posh-act-2013#_ftnref5)
- 4) [https://en.wikipedia.org/wiki/Vishakha\\_and\\_others\\_v\\_State\\_of\\_Rajasthan](https://en.wikipedia.org/wiki/Vishakha_and_others_v_State_of_Rajasthan)
- 5) <https://www.ungender.in/disclosure-posh-act-2013-annual-reports-of-private-companies-mandatory/#:~:text=2018%20has%20amended%20the%20Companies,through%20their%20Annual%20Board%20Report>.
- 6) [https://www.mca.gov.in/Ministry/pdf/companisAccountsRules\\_31072018.pdf](https://www.mca.gov.in/Ministry/pdf/companisAccountsRules_31072018.pdf)

## Chapter- 2

# Sustainable Development Goal 5

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### **1 About Sustainable Development Goal 5 (SDG 5): Achieve gender equality and empower all women and girls**

The Sustainable Development Goals (SDG's) are a collection of 17 global goals designed to be a "blueprint to achieve a better and more sustainable future for all". The SDG's, set in 2015 by the United Nations General Assembly and intended to be achieved by the year 2030, are part of a UN Resolution called "The 2030 Agenda". The broad goals are linked yet each has its own targets to achieve. The SDGs cover a broad range of social and economic development issues. They address the global challenges including those related to poverty, inequality, climate change, environmental degradation, peace and justice.

The SDGs replaced the Millennium Development Goals (MDGs). The Outcome Document of the UN Summit on the 2030 Agenda is the document called "Transforming our world: the 2030 Agenda for Sustainable Development". It includes an emphasis on the importance of achieving progress on peaceful and inclusive societies, access to justice and rule of law, and effective, accountable and inclusive institutions.

World leaders took a major step forward in agreement for achieving a sustainable future at the Rio+20 Conference on Sustainable Development in June 2012 in Rio de Janeiro, Brazil. The Rio+20 outcome document, "The Future We Want", set a mandate to establish an Open Working Group to develop a set of Sustainable Development Goals. These goals build upon the Millennium Development Goals and converge the post-2015 development agenda into one global development agenda with sustainable development at its core. The SDGs share a universal common global vision of progress towards a safe, just and sustainable

The 17 Goals are all interconnected, and for balanced growth for all, it is considered important that all are achieved by 2030. These 17 SDGs recognize that action in one area will affect outcomes in others, and that development must balance social, economic and environmental sustainability. A system thinking approach is the base for global sustainability.

## Sustainable Development Goal 5

These 17 Sustainable Development Goals (SDGs) are an urgent call for action by all countries - developed and developing - in a global partnership to achieve common goals. The Goals aim at ending poverty and other deprivations along with strategies that improve health and education, reduce inequality, and spur economic growth – all while tackling climate change and working to preserve natural reserves like oceans and forests.



The Sustainable Development Goal no. 5 is to achieve gender equality and empower all women and girls. SDG 5 aims to grant women and girls equal rights, opportunities to live free without discrimination including workplace discrimination or any violence. This is to achieve gender equality and empower all women and girls.

Since its creation 70 years ago, the United Nations (UN) has paid due importance and achieved important results in advancing gender equality since gender inequalities are prevalent globally. The UN explains: "Gender equality is not only a fundamental human right, but a necessary foundation for a peaceful, prosperous and sustainable world. Providing women and girls with equal access to education, health care, decent work, and representation in political and economic decision-making processes will fuel sustainable economies and benefit societies and humanity at large."

In most of the countries, Women suffer from lack of access to decent work and face occupational segregation and gender wage gaps. At times, they are denied access to basic education and health care and are victims of violence and discrimination. It is a well known fact, that they are also under-represented in political and economic decision-making processes. Considering all these facts, UN Women was established in the year, 2010 with the aim of better addressing these challenges and to identify a single recognized driver to lead

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and coordinate UN activities on gender equality issues. UN Women works for the elimination of discrimination against women and girls, empowerment of women, and achievement of equality between women and men as partners and beneficiaries of development, human rights, humanitarian action and peace and security.

The vital role of women and the need for their full and equal participation and leadership in all areas of sustainable development was reaffirmed in the Open Working Group Proposal for Sustainable Development Goals. The Sustainable Development Goal 5 addresses this and reads "Achieve gender equality and empower all women and girls".

### **2 Targets of Sustainable Development Goal 5**

The targets of Sustainable Development Goal 5 are:

- 5.1 End all forms of discrimination against all women and girls everywhere
- 5.2 Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation
- 5.3 Eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation
- 5.4 Recognize and value unpaid care and domestic work through the provision of public services, infrastructure and social protection policies and the promotion of shared responsibility within the household and the family as nationally appropriate
- 5.5 Ensure women's full and effective participation and equal opportunities for leadership at all levels of decision making in political, economic and public life
- 5.6 Ensure universal access to sexual and reproductive health and reproductive rights as agreed in accordance with the Programme of Action of the International Conference on Population and Development and the Beijing Platform for Action and the outcome documents of their review conferences
- 5.A Undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws

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**5.B** Enhance the use of enabling technology, in particular information and communications technology, to promote the empowerment of women

**5.C** Adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels

There are six targets under SDG 5 as we discuss below with total 16 indicators (5+3+2+2+1+3). Besides, three 5a, b and c which reflect means of implementation – legal reforms and technology. Although the focus of SDG 5 is ideal and essential for development, its operationalisation leaves something to be desired. Many of the targets are of crucial importance (e.g. “eliminate all forms of violence against all women and girls”). These have long been agreed upon and can easily be captured by appropriate indicators. They are well-suited to have considerable impact, but they do not have a timeframe to make them binding especially for action and reporting. Targets specify the goals and Indicators represent the metrics by which the world aims to track whether these Targets are achieved. Progress towards targets is measured by indicators. By strengthening the commitment towards a more gender equal world, the targets help in making the goals more specific. Indicators represent the metrics by which the world aims to track whether these targets are achieved.

The targets and proposed indicators are discussed in Table 1 with comments on support, addition or issues of effectiveness.

**Table 1**

<b>Targets</b>	<b>Proposed Indicator</b>	<b>Comments</b>
Target: 5.1 end all forms of discrimination against women and girls everywhere.	5.1.1 Whether or not legal frameworks are in place to promote, enforce and monitor equality and nondiscrimination on the basis of sex.	The gender dimension will have to be separately seen even among different groups and communities. These will need to be supplemented by documentation of implementation/impact across geographical areas.

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Target: 5.2 eliminate all forms of violence against all women and girls in public and private spheres, including trafficking and sexual and other types of exploitation	5.2.1 Proportion of ever-partnered women and girls aged 15 years and older subjected to physical, sexual or psychological violence by a current or former intimate partner in the previous 12 months, by form of violence and by age	Will have to address the problem of non reporting. Need of more inclusive programme support for encouraging them to break silence in this issue
	5.2.2 Proportion of women and girls aged 15 years and older subjected to sexual violence by persons other than an intimate partner in the previous 12 months, by age and place of occurrence	
Target: 5.3 eliminate all harmful practices, such as child, early and forced marriage and female genital mutilations.	5.3.1 Proportion of women aged 20-24 years who were married or in a union before age 15 and before age 18	The issue relevant here is child marriage on which legal and social initiatives have been initiated.
	5.3.2 Proportion of girls and women aged 15-49 years who have undergone female genital mutilation/cutting, by age	5.3.2 Proportion of girls and women aged 15-49 years who have undergone female genital mutilation/cutting, by age
Target: 5.4 recognise and value unpaid care and domestic work through the	5.4.1 Proportion of time spent on unpaid domestic and care work, by sex, age and location	This is valuable target and indicators may be inadequate and therefore will need to be evolved with further

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<p>provision of public services, infrastructure and social protection policies, and the promotion of shared responsibility within the household and the family as nationally appropriate.</p>		<p>discussion of experience. However the paid and unpaid care have to be separate not combined.</p>
<p>Target: 5.5 ensure women's full and effective participation and equal opportunities for leadership at all levels of decision making in political, economic and public life.</p>	<p>5.5.1 Proportion of seats held by women in national parliaments and local governments</p>	<p>Includes welcome addition of sub-national level elected offices. It does not of course take care of how much capacity they will have to stand for gender issues. In party based representation and with use of whips and anti defection law, it will have limitation in effectiveness in pursuing gender related issues.</p>
	<p>5.5.2 Proportion of women in managerial positions</p>	
<p>Target: 5.6 ensure universal access to sexual and reproductive health and reproductive rights as agreed in accordance with the Programme of</p>	<p>5.6.1 Proportion of women aged 15-49 years who make their own informed decisions regarding sexual relations, contraceptive use and reproductive healthcare</p>	

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<p>Action of the ICPD and the Beijing Platform for Action and the outcome documents of their review conferences.</p>		
	<p>5.6.2 Number of countries with laws and regulations that guarantee women aged 15-49 years access to sexual and reproductive healthcare, information and education</p>	
<p>Target: 5.a undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources in accordance with national laws.</p>	<p>5.a.1 (a) Proportion of total agricultural population with ownership or secure rights over agricultural land, by sex; and (b) share of women among owners or rights-bearers of agricultural land, by type of tenure</p>	<p>Should be supplemented by percentage of girls who effectively used their rights and did not surrender in favour of parents or siblings.</p>
	<p>5.a.2 Proportion of countries where the legal framework (including customary law) guarantees women's equal rights to land ownership and/or control</p>	



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Target: 5.b enhance the use of enabling technologies, in particular ICT, to promote women's empowerment.	5.b.1 Proportion of individuals who own a mobile telephone, by sex	
Target: 5.c adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels.	5.c.1 Proportion of countries with systems to track and make public allocations for gender equality and women's empowerment.	As under Target 5.5 above.

It is noted that of the 17 goals, SDG 5 is the only goal that does not have a single time bound target. So much for the commitments of the national and international community to gender equality and women's empowerment. The inclusion of time bound targets is indispensable if we want to track the progress of societies regarding such an important goal as the elimination of gender disparities.

SDG 5 proposes a range of targets to end discrimination, violence and harmful practices, recognise and value unpaid care work, participation and leadership in decision-making, and universal access to sexual and reproductive health and reproductive rights. These are welcome additions. However it is still to be seen how SDG 5 and its proposed targets finally translate into indicators, and whether these will be effective and usable for monitoring. Each SDG has its attached targets and means of implementation. Those linked to SDG 5 mention legal reforms and technology (5.a, 5.b and 5.c), but there is no reference about funding. The challenge of funding SDG 5 seems therefore to be a major stumbling block unless it becomes central to its means of implementation which does not appear to be the case so far.

Women and girls represent half of the world's population and therefore also half of its potential. Gender equality and women's empowerment have advanced in recent decades. Women's and girls' access to education has

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improved; the rate of child marriage has fallen and progress has been made in the area of sexual and reproductive health and reproductive rights, including fewer maternal deaths, more women are serving in parliament and positions of leadership, and laws are being reformed to advance gender equality. The commitment to advancing gender equality has brought improvements in some areas, but the promise of a world in which every woman and girl enjoys full gender equality and all legal, social and economic barriers to their empowerment, including digital empowerment is still wanting. Today gender inequality persists everywhere and stagnates social progress. Women continue to be underrepresented at all levels of political leadership. Across the globe, women and girls perform a disproportionate share of unpaid domestic work. Inequalities faced by girls can begin right at birth and follow them all their lives. In some countries, girls are deprived of access to health care or proper nutrition, leading to a higher mortality rate.

Disadvantages in education translate into lack of access to skills and limited opportunities in the labour market. Women's and girls' empowerment is essential to expand economic growth and promote social development. The full participation of women in labour forces would add percentage points to most national growth rates— double digits in many cases. Advancing gender equality is critical to all areas of a healthy society, from reducing poverty to promoting the health, education, protection and the well-being of girls and boys. Achieving gender equality will require enforceable legislation that promotes empowerment of all women and girls and requires secondary education for all girls.

The targets call for an end to gender discrimination and for empowering women and girls through technology. There is a direct relationship between technology advancement and women empowerment.

The borderless economy has opened up vistas of opportunities for the global population. To effectively exploit the opportunities presented by the dynamic open economy, a change in the working demography, change in the mindset is a must-Equal participation of women workforce. This change can have a direct impact on creating a more equitable international system, ultimately driving sustainable development across the world. Equal participation of women workforce will not only increase women's economic participation and foster an inclusive economy but also has the potential to drive growth and positively impact all global citizens.

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Some of the data representing contribution of women in profession/work across the globe is as under-

While women have made important inroads into political office across the world, their representation in national parliaments at 23.7 per cent is still far from parity.

In 46 countries, women now hold more than 30 per cent of seats in national parliament in at least one chamber.

Only 52 per cent of women married or in a union freely make their own decisions about sexual relations, contraceptive use and health care.

Globally, women are just 13 per cent of agricultural land holders.

Women in Northern Africa hold less than one in five paid jobs in the non-agricultural sector. The proportion of women in paid employment outside the agriculture sector has increased from 35 per cent in 1990 to 41 per cent in 2015.

More than 100 countries have taken action to track budget allocations for gender equality.

In Southern Asia, a girl's risk of marrying in childhood has dropped by over 40per cent since 2000.

Gender equality by 2030 requires urgent action to eliminate the many root causes of discrimination that still curtail women's rights in private and public spheres. More particularly, achieving gender equality and the empowerment of women requires following: an enabling and inclusive environment for meaningful and substantive participation of women; gender equality in participation in the work and governance structure and gender equality in deliberations and decisions.

### **The Way Forward**

National and International environment has to be more supportive of women's voice and agency. Promoting the ability of women to articulate their views in a meaningful way (voice) and to become the agents of their own empowerment (agency) is essential in any initiative to help them to overcome engrained sociocultural conditioning and the gendered division of labour. Empowerment requires a more comprehensive approach. This includes efforts to improve women's access to resources (e.g. credit, training, inheritance and land rights) and their capacity to use them (e.g. through anti-discrimination and gender-

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based violence legislation, gender-aware justice systems, and government mechanisms to improve gender equality). Proactive measures are needed to combat policy evaporation – the dilution of gender equality commitments during policy implementation – and to ensure that a gender lens is used by all sectors. New modalities are also needed to give civil society groups working on gender equality, adequate resources and capacity strengthening support to facilitate their representation in policy dialogues. Innovative approaches are also needed to raise the awareness of the private sector on gender issues. They underscore the accountability of national governments and the international community in putting resources and institutional mechanisms in place to achieve gender-based rights.

The main feature of SDG 5 of promoting gender equality and empowering women is that it challenges cultural norms and traditions and requires deep changes in day to day individual behavior and practices, which are normally regarded as a “private matter”. Changing the role of women and empowering them modifies household arrangements substantially which in many cases still not regarded as a desirable change for specific family members. Identifying effective public policies for promoting gender equality is particularly difficult in the context of deeply entrenched traditions and cultural patterns. If the laws and mechanisms by which society operates and the underlying cultural patterns are not modified, policy will be swimming against the tide, making it difficult to identify efficient policy interventions to address gender disparities (ibid).

The 17 SDGs include SDG 5 to achieve gender equality and empower all women and girls. SDG 5 is both a cross cutting issue as well as a goal in its own right. Consequently, most of the general targets within SDG 5 overlap with targets in other goals that explicitly mention the gender aspect. But it has not been followed in operationalisation of the goal. Literally none of the six suggested targets under this goal are time bound, and hence not binding at all. Even worse, SDG 5 is the only goal that does not have a single time bound target.

The fulfilment of SDG 5 and achieving the targets under it also mean that the concerned countries meet this commitment by achieving their national goals for women and girls. What they do nationally and sub-nationally is reflected in their monitoring and reporting for SDG. The issue of gender equality and women’s empowerment being a cross cutting objective and requiring inter-sectoral action and initiatives (to address the challenges of traditions, cultures,

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the practices in private domain) will need a national plan of action with strong mechanism and funding and policy commitment for reforms and transformative approach. Similar plans and commitment are needed at state levels. The programmes particularly for right to education and universalisation of elementary education and support for education of girls, that have shown promise, need to be strictly implemented and monitored at regular intervals. Urban and rural local bodies in which women have 50 per cent claim on membership have to be given central role in supporting women's leadership at the grass root level upto the national level in order to ensure achievement of the SDG 5 targets. A crucial role will be of civil society organisations working on women issues who must be given role and responsibility as partners. Besides adequate funding which has not been a strong case so far, perseverance of policy direction will be essential.

Source : <https://www.un.org/sustainabledevelopment/gender-equality/>