

# Gender Justice Unit, Independent Thought

## Introduction

Independent Thought (iThought – [www.ithought.in](http://www.ithought.in)) is a National Human Rights organization working towards equity, justice and mutual respect. The organisation uses law and human rights as tools for direct and indirect interventions, advocacy and judicial actions and provides technical and hand-holding support to non governments and government bodies in India. As a human rights law organization we work towards legal reform and people centric policy formulations, through engagements with law students, lawyers, teachers, law schools and judicial intervention.

## Gender Justice

The gender justice unit at Independent Thought understands that patriarchy, power and poverty are the three Ps that define gender rights in India. It is these three Ps that regulate, control and determine the agency of women across class, caste, community and creed in the country. Despite overarching work at different levels, position of women and girl children in India leaves a lot to be desired in the eyes of equality and access to justice. We understand that spaces both private and public are hostile for women and law has to be used as catalyst for social and mindset changes.

Access to justice and empowerment of women and girl children is the main thrust and focus at the unit of gender justice at iThought. The GJT currently has the following core focus areas:

- 1. POSH** [Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act & Rules, 2013]
  - Support Agencies / Corporate, IC member, Training of employees, Case Mgmt etc
  - [www.acallaway.in](http://www.acallaway.in) [Under Construction]
- 2. Legal Literacy & Legal Aid**
  - Training / Capacity Building of stakeholders on laws for women
  - Legal representation for women in courts of law
- 3. Research, Publication and Dissemination**
  - Gender Rights Booklet Posters on POSH
  - Manuals and IEC materials
- 4. Cause lawyering through PILs**
  - Child marriage – victoriously completed
  - Guidelines on Caesarian Section: Pending in the High Court of Delhi
- 5. Campaign against Child Marriage (CACM)**
  - [www.childmarriage.info](http://www.childmarriage.info)

**Landmark Gender Justice Judgment**  
**Independent Thought vs. Union of India**  
*[W.P.(C) No. 382 of 2013 in Supreme Court]*

The Hon'ble Supreme Court of India on the International Girl Child Day, 11 October 2017, gave a Landmark Judgment, read down the Exception 2 of Section 375 of Indian Penal Code, 1860 criminalizing "Sexual intercourse by a man with his own wife, the wife being under eighteen years of age, as Rape.

In our pursuit for gender justice, Independent Thought has been able instrumental in ensuring amendment of a 77 years old law; a landmark in post independence on issue of gender rights and justice.



## DETAILED NOTE ON EACH THEMATIC AREA

### 1. Internal Complaints Committee – External Member

Independent Thought is engaged as member of the Internal Complaints Committee as required under the Sexual Harassment of Women at Workplace Act, 2013, of various agencies, namely:

- Breakthrough (NGO), New Delhi
- Contata Solutions Pvt. Ltd., Noida
- Future Focus InfoTech Pvt Ltd, Chennai
- Global Logic, Noida
- Innovera School, Pune
- National Institute for the Empowerment of Persons with Intellectual Disabilities, Noida
- New Era India, New Delhi
- Newsprint Packaging India Pvt Ltd, Noida
- Panasonic India Pvt. Ltd., Gurugram
- Salam Balaak Trust (NGO), New Delhi
- Thompson Digital, Noida
- Technovaa Software & Hardware Solutions Pvt. Ltd, Indore

### 2. Trainings Conducted

- BSF Academy, Tekanpur, Gwalior
- Delhi Commission for Protection of Child Rights (DCPCR)

### 3. Training and Capacity Building of stakeholders on laws for women

- Laws Related to Violence against Women: The purpose was to create a simplified manual on gender, sexual crime against women, caste based violence, acid attacks, violence against law (procedural law), maternal mortality and morbidity, and role of lawyers/activists. Manual developed for Para Legal staff, Project Coordinators and field social workers for HRLN.
- Gender related Legislations: developed Manual on Gender related Legislation for the National Law University [NLU], Jodhpur & UNFPA Initiative.
- Training Manual on Gender: Pictorial training manual for Swati / Oxfam for community members
- IEC materials on Prohibition of Children from Sexual Offence Act: including an animation movie for Plan India.
- Training Session on Sexual Harassment at the work place and Ethics in Governance & Corruption for Officers of the Delhi Government through Department of Training (Government of NCT Delhi)
- Session on Human Trafficking and Preventive Mechanism at National Institute of Public Cooperation and Child Development (NIPCCD) to Protection Officers, ICDS functionaries and social workers from different states.

### 4. Legal aid and representation before courts of law for women

- Independent Thought is on the recommended panel of Institutions / organisations for imparting training programmes / workshop under Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 of the Ministry of Women and Child Development, Government of India.
- Independent Thought is NGO Member, Delhi High Court Legal Services Committee since 2015
- Member, Delhi Police coordinated NGOs and Women's Rights Groups; anchored by Special Police Unit for Women & Children, Nanakpura, New Delhi
- Independent Thought works as a Mediation and Arbitration Centre on issues of women

# Sexual Harassment of Women at Workplace

Prevention, Prohibition and Redressal Act, 2013

### Who is an "Employee"

- Regular employees at his workplace
- Directly through or agents/contractors
- At his or without remuneration/salaries
- Extempore/contract terms of employment
- Probationers/apprentices...

### Who is an "Employer"

- Personnel having contractual obligations with respect to the employees
- Personnel responsible for maintenance of discipline

### Duties of Employer

- Every employer for whom under sub-section (1) "Sexual Harassment Committee" is constituted or as the Local Committee (or, if not constituted) or in the Local Committee (or, if not constituted) level, for Internal Committee will be constituted at administrative units or offices

### What constitutes an offence of Sexual Harassment under the Act

Display of sexually explicit material such as photographs, videos etc.

Sexual harassment, verbal or non-verbal conduct of sexual nature

Making suggestions or remarks which are sexually explicit

Making sexually colored remarks about a person

Physically and verbally touching, pinching, dragging or forcing against a person's body

A demand or request for sexual favors

### How to make a complaint?

- Aggrieved woman(s) to make a written complaint to the Internal Committee of organization or to the Local Committee (or, if not constituted).
- Written complaint for the sake of record.
- In case of sexual harassment, written complaint to the Act is not needed.
- If a written complaint cannot be made, the Presiding Officer or any Member of the Internal Committee or Chairperson or any Member of the Local Committee will make reasonable enquiries to the aggrieved for lodging written complaint.

**Section 6(2)(b) - Act/Regulation 1987**

Meaning of sexual harassment for the purpose of this Act, includes, but is not limited to—

- display of sexually explicit material such as photographs, videos etc.
- sexual harassment, verbal or non-verbal conduct of sexual nature
- making suggestions or remarks which are sexually explicit
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**Myth 1**

Sexual harassment is rare.

**Fact 1**

Sexual harassment is extremely widespread. It touches the lives of 40 to 60 percent of working women, and similar proportions of female students in colleges and universities.

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## Internal Complaint Committee

The Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act 2013 is unique that every woman has equal opportunity at the workplace without any discrimination or disadvantages or any other including that of sexual harassment.

### The Internal Complaint Committee plays a critical role in fulfilling the Objectives of the Act, namely:

- Protection against sexual harassment of women at workplace
- Prevention
- Redressal of complaints of sexual harassment

### Internal Complaint Committee:

Every employer of a workplace shall constitute by an order in writing, a Committee to be known as the Internal Complaint Committee (ICC) or per Section 4(1) of the Act.

### Members of ICC: [Section 4(2) a, b, c]

- Presiding Officer it needs to be a Women Employee
- Members not less than 3 from employees preferably constituted for equal representation from the field of Social work or legal knowledge in most.
  - Member at least 1 from HRD.
- At least one-half of total members shall be women.

### Role of the ICC or the LCC:

- Receipt of the complaint, the ICC or LCC will proceed to register the complaint in accordance with the service rules applicable to the complainant or where no such service rules exist, in accordance with rules framed under the Act. (Section 11(3))
- The ICC may forward the complaint to the Police
- The ICC may forward a complaint to the Presiding Officer in the case under Section 26A in any other relevant provisions of Indian Penal Code or any other law.

### Role of the ICC or LCC on completion of inquiry:

- On completion of inquiry the ICC or LCC will prepare a report of the findings to the employer within 30 days from the date of completion of the inquiry and such report will be made available to the concerned parties. (Section 11(4))
- If complaint made for sexual harassment against respondent is false then ICC will file action against the person who had made the complaint. (Section 14(2))
- If witness produced to take false action will be taken under section 14(2) of this Act.

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# TIME TO ACT ACT NOW!

## SEXUAL HARASSMENT

Includes any one or more of the following **unwelcome acts** or **behaviour** whether directly or by implication, namely:

- physical contact and advances; or
- a demand or request for sexual favours; or
- making sexually coloured remarks; or
- showing pornography; or
- any other unwelcome physical, verbal or non-verbal conduct of sexual nature;

## लैंगिक उत्पीड़न

इस शब्द का अर्थ है कि एक या अधिक **निर्प्रेषण कार्य** या **व्यवहार** चाहे सीधे या अप्रत्यक्ष रूप से, नाममात्र रूप से, अंतर्भावित रूप से, इत्यादि।

- शारीरिक सम्पर्क, अथवा आगे बढ़ने का प्रयास, अथवा
- शारीरिक सम्पर्क के लिए कोई भी अनुरोध करना, अथवा
- लैंगिक अर्थ में टिप्पणी करना, अथवा
- अश्लील सामग्री दिखाना, अथवा
- किसी व्यक्ति को या किसी व्यक्ति को अप्रिय शब्दों, अथवा अन्य अश्लील व्यवहार से सम्पर्क करना।

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#### 4. Cause lawyering through Public Interest Litigation

- Landmark Judgment by Supreme Court of India – Independent Thought vs. Union of India (2017) 10 SCC 800, Supreme Court read down Ex 2 to Section 375 of IPC, declaring sex with minor wife as Rape
- Ongoing Public Interest Litigation – Independent Thought vs. Union of India [W.P. (C) 4678 of 2016 in Hon'ble High Court of Delhi] seeking for the issuance of necessary and appropriate guidelines for performance of Cesarean operations to safeguard the reproductive health rights of women and children in India. This PIL pertains to the fundamental right to health of women and children in India and that absence of such guidelines is leading to violation of reproductive health rights. <http://timesofindia.indiatimes.com/city/delhi/HC-seeks-Centres-reply-on-guidelines-for-cesarean-operations/articleshow/52361467.cms?from=mdr>

#### 5. Research, Publication and Dissemination on rights of women

- UNICEF Study on Prevention of Girls from Trafficking Project in Jashpur, Chhattisgarh to strengthen the systems and community for prevention of girls trafficking.
- Oxfam Study on "Analysis of Section 498 A, Indian Penal Code within the State of Gujarat" to understand impact of legislation on situations of domestic violence.
- Adolescent Girl Child Rights Study for Delhi Commission for Protection of Child Rights (DCPCR) on status of health, education, nutrition and protection of adolescent girls living in Delhi Urban Slums.
- Gender based violence and abuse: A Baseline Survey was conducted for Save the Children on 'Working with boys and young men to combat gender based violence and abuse' in Sitamarhi, Bihar.
- International Girls Count Initiative Project: Primary Data Collection in 7 States and analysis in the SPSS was undertaken for International Development Law Organization [IDLO]
- Mapping, Baseline and Analytical Reports
  - a. Assessing the situation of poor working women in the slums of Delhi: This assignment was carried out for CARE through the use of PRA tools to assess the overall living and working conditions of working women living in 33 slums of Delhi
  - b. Community Development with focus on Women & Child Rights and Livelihood Security: An Analytical Baseline Report on Community Development, with focus on Women and Child Rights and Livelihood Security was prepared for Asha Deep Foundation in Delhi NCR.

#### 5. Team

Gender Justice unit at Independent Thought has a multidisciplinary professional teams of lawyers, social workers and consultants with subject expertise and are continuously engaged in the areas of Law & Development; Rights of Children, Women and Marginalized Communities; Governance Intervention (ULB, PRI & Schedule Areas) and Conflict Zone; Social & Legal Studies & Action Research; Development of Legal Manuals & IEC Materials; & Imparting Trainings; Participatory and Rights Based Approach; Strategic Planning, Monitoring & Evaluations.