

Thirteenth Kerala Legislative Assembly
Bill No. 183

**THE KERALA PROTECTION OF PRIVACY AND
DIGNITY OF WOMEN BILL, 2013**

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**THE KERALA PROTECTION OF PRIVACY AND
DIGNITY OF WOMEN BILL, 2013**

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BILL

to provide for the prevention of harassment and any attempt or activity to intrude into the privacy and dignity of woman, and for matters connected therewith or incidental thereto.

Preamble.—WHEREAS, it is expedient to prevent harassment, and any other attempt or activity to intrude into the privacy and dignity of a woman and for matters connected therewith or incidental thereto;

BE it enacted in the Sixty-fourth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Protection of Privacy and Dignity of Women Act, 2013.

(2) It shall come into force at once.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) “Government” means the Government of Kerala ;

(b) “harassment” means any intentional indecent conduct or act by a person which causes hurt to the dignity of a woman and includes,—

(i) showing gestures or actions either by words or in writing in any form or through any electronic device soliciting sexual favour from a woman ;

(ii) showing pornographic material or obscene literature to a woman ;

(iii) making comments about the physical appearance of a woman with a view to insulting her ;

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(iv) misusing position or authority to sexually exploit a woman ;

(v) intruding into the privacy of a woman by Short Message Service, phone call, video graphing, voice recording, photographing, collection or circulation of images or voice clips through internet, mobile phone or any other instrument or morphing ;

(vi) blackmailing a woman ; and

(vii) committing any kind of sexual exploitation ;

(c) “misusing position or authority” means being in a position or authority to dominate the will of a woman and uses that position or authority to exploit her sexually to which she would not have otherwise consented to ;

(d) “public service vehicle” means any vehicle used or adapted to be used for the carriage of passengers for hire or reward, and includes a maxi cab, a taxicab, a motor cab, a contract carriage, a stage carriage, a train, an aircraft and a vessel ;

(e) “woman” means all female human being of any age.

3. *Prohibition of harassment against woman.*—No woman shall be subjected to harassment in any place.

4. *Punishment for harassment against woman.*—Notwithstanding anything contained in any other law for the time being in force, whoever,—

(a) commits harassment against any woman shall on conviction be punished with imprisonment for a term which may extend to seven years and with fine ;

(b) causes death of a woman due to harassment shall on conviction be punished with imprisonment for life and with fine.

5. *Abetment of suicide.*—Where a woman commits suicide and if it is proved that soon before her death, she was subjected to harassment by any person, the person who committed such harassment shall be deemed to have abetted the Commission of such suicide, unless it is proved otherwise.

6. *Duty of the person in charge of premises.*—(1) Any person who is in charge of any educational institution, cinema theatre, cyberspace or any other premises, shall,—

(a) take steps, as he deems fit, to prevent harassment within such premises ; and

(b) inform the police station having jurisdiction over the area of the occurrence of an offence of harassment against woman ; or

(c) forward to the police station the complaint, if any, made by a victim or any other person about the harassment of woman.

(2) Whoever fails to take action as provided under sub-section (1) shall on conviction be punished with imprisonment for a term which may extend to three months or with fine which may extend to five thousand rupees or with both.

7. *Duty of the person in charge of a public service vehicle.*—(1) Any crew or any person who is in charge of a public service vehicle shall,—

(a) take appropriate steps to prevent harassment in the public service vehicle ; and

(b) inform the police station, having jurisdiction, of the occurrence of an offence of harassment in the public service vehicle ; or

(c) forward to the police station the complaint, if any, made by a victim or any other person.

(2) Whoever fails to take action as provided under sub-section (1) shall on conviction be punished with imprisonment for a term which may extend to three months or with fine which may extend to five thousand rupees or with both.

8. *Power of the head of educational institution to restrict the use of any instrument.*—(1) The head of any educational institution may, by order, restrict the use of any instrument which could be used to intrude into the privacy of girl students.

(2) Whoever violates any order issued under sub-section (1) shall on conviction be punished with fine which may extend to two thousand rupees.

9. *Special procedure for lodging complaint.*—Any woman who is a victim of an offence under this Act is entitled to,—

(a) get her complaint reduced to writing by a lady officer while making the complaint in a police station; or

(b) get the services of a lady police officer to reduce the complaint into writing at the place where the victim desires on her information to the police station over telephone or by Short Message Service or by e-mail on furnishing her residential or official address; or

(c) lodge a written complaint with the Head of office or Institution where she is working or studying and the officer who receives the complaint shall immediately forward it to the nearest police station; or

(d) lodge the complaint to the police through her parents, brother, husband, close relative or authorized friends on her behalf.

10. *Possession of materials affecting the privacy and the dignity of woman.*—Whoever is found to be in possession of camera, computer, mobile phone, or any other electronic device having clippings of photographs, images, voice recordings or videos of a woman, in any indecent form which is used or intended to be used for harassing her in any manner shall on conviction be punished with imprisonment for a term which may extend to three years or with fine which may extend to twenty five thousand rupees or with both.

11. *Prohibition of publication of identifying details.*—(1) No newspaper, or media shall publish the photographs, names or identifying particulars of any woman against whom an offence under this Act has been committed except for lawful purpose.

(2) Whoever contravenes the provisions of sub-section (1) shall on conviction be punished with imprisonment for a term which may extend to six months or with fine which may extend to ten thousand rupees or with both.

12. *Special procedure for investigation.*—(1) The police officer who conducts an investigation under this Act shall not give any publicity about the woman against whom any offence under this Act has been committed or make public any material which is likely to disclose her identity except for lawful purpose.

(2) No police officer shall summon any woman against whom an offence under this Act has been committed to a police station or compel her to appear before him at any place other than at the place of her choice.

13. *Privacy during trial.*—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) the inquiry into and the trial of an offence under this Act shall be conducted *in camera*:

Provided that the presiding judge may, on an application for reasons to be recorded in writing, allow any particular person to have access to, or be or remain in the room or building used by the court.

(2) The court may formulate its own procedure appropriate to each instance to elicit answers to relevant questions in such a manner as not to offend the privacy and dignity of the woman.

14. *Order to pay compensation.*—The Court may, while imposing sentence under the provisions of this Act, order the accused person to pay compensation of such amount as may be specified in the order, to the woman against whom the offence under this Act has been committed or to her legal heir.

15. *Operation of other laws.*—The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

STATEMENT OF OBJECTS AND REASONS

Though equality of men and women is maintained in every field, it is a fact that women deserve special protection on account of certain sociological and biological reasons. Though mankind has attained a giant leap in the field of science and technology, the approach and behavior towards women have not changed with times. Atrocities against women on domestic and from all walks of society and activities to intrude into their privacy and dignity are on the increase in the Country for the past few years, paving the way among the general public for the necessity of an enactment of a law which exclusively aim to protect the privacy and dignity of women. The unfortunate incidents of harassment which occurred in the national capital recently demands immediate legislation in the society. Hence the Government have decided to make such an enactment.

This Bill seeks to achieve the above object.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any additional expenditure from the Consolidated Fund of the State.

THIRUVANCHOOR RADHAKRISHNAN.