



दिल पकड़े दिमाग का हाथ,  
आओ चलौं हम साथ-साथ!

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## 1. Introduction

Sexual Harassment at the Workplace (SHW) has remained one of the central concerns of the women's movement in India since the early-'80s. In 1997, the Supreme Court passed a landmark judgment in the Vishakha case laying down guidelines to be followed by establishments in dealing with complaints about sexual harassment. THE SEXUAL HARASSMENT OF WOMEN AT THE WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT was passed in April 2013.

In accordance with this law, **Avehi Abacus** is committed to provide facilities/mechanisms by which issues of harassment can be dealt with and the Institution become a safe environment free from sexual harassment and a more gender inclusive space.

**Avehi Abacus** believes in equal employment opportunities. We do not tolerate verbal or physical conduct creating an intimidating, offensive, or hostile environment for employees. Harassment of any kind including sexual harassment is forbidden in the Organization and every employee has the right to be protected against it. We are committed to creating a healthy working environment that enables employees to work without fear of prejudice, gender bias and sexual harassment.

The Sexual Harassment Policy has been formed under the provisions of The Sexual Harassment of Women at workplace (Prevention, Prohibition and Redressal) Act, 2013, to prohibit, prevent or deter the commission of acts of sexual harassment at workplace and to provide the procedure for the redressal of complaints pertaining to sexual harassment.

This policy visualizes a heightened Gender sensitivity and cultivation of awareness through training, education and wide communication and dissemination of the policy. It also mandates formulation and distribution of a Code of Conduct for all personnel covering all their professional and personal dealings.

It recognizes, prohibits, prevents, and deters acts of sexual harassment at workplace committed by all genders towards all genders.

(source: National Institute of Advanced Studies)

## 2. Scope

2.1 This policy is applicable to employees, workers, volunteers, probationer and trainees including those on deputation, part time, contract, working as consultants or otherwise (whether in the office premises or outside while on assignment). This policy shall be considered to be a part of the employment contract or terms of engagement of the persons in the above categories.

2.2 Where the alleged incident occurs to our employee by a third party while on a duty outside our premises, the Organization shall perform all reasonable and necessary steps to support our employee.

### **3. Definition of Sexual Harassment**

In accordance with the guidelines laid down by the Supreme Court of India on the matter of sexual harassment in the workplace, inappropriate behaviour amounting to harassment whether it be physical, verbal, written, graphic, emotional or through gestures that offend intentionally or not, the dignity and morality of a person to whom the behaviour is directed by an employee or a person acting in the name of AAP will be considered sexual harassment and invite serious disciplinary action.

**3.1 Sexual Harassment** means such unwelcome sexually determined behavior (directly or through implication), like physical contact and advances by the employee(s) including:

- A. A demand or request for sexual favors, sexually colored remarks, showing pornography, any other unwelcome physical conduct of sexual nature, lurid stares, physical contact or molestation, stalking, sounds, display of pictures, signs;
- B. Eve teasing, innuendos and taunts, physical confinement against one's will;
- C. A demand or request for sexual favors, whether verbally or non-verbally, where the submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or promotion/evaluation of work thereby denying an individual equal opportunity at employment;
- D. An act or conduct by a person in authority which makes the environment at workplace hostile or intimidating to a person or unreasonably interferes with the individual's privacy and productivity at work;
- E. Verbal harassment of a sexual nature, such as lewd comments, sexual jokes or references, and offensive personal references; demeaning, insulting, intimidating, or sexually suggestive comments (oral or written) about an individual's personal appearance or electronically transmitted messages (Jokes, remarks, letters, phone calls);
- F. Any other behavior which an individual perceives as having sexual overtones.

**3.2 Sexual Harassment** can be categorized as:

Verbal sexual harassment:

- A demand or request for sexual favours. This may be explicit or implicit especially in cases where the person approaching personnel is emotionally and mentally vulnerable.
- Comments about a person's sex or private life.
- Sexually coloured jokes or remarks.

Physical sexual harassment:

- Offensive gestures
- Touching in a sexual manner
- Assault or coerced sexual acts.

Written or graphic harassment:

- Unsolicited forwarding of pornographic pictures through email.
- The display of sexually suggestive objects, pictures, magazines, posters or cartoons in the areas of work where interaction of persons take place.
- Any form of written communication which has sexual implications.

Emotional harassment:

- Behaviour that isolates or is discriminatory towards or excludes a person on the grounds of his, her, or their gender.

## 4. Redressal system

This section deals with setting up of a mechanism which receives complaints, investigates them, gives a hearing to the parties concerned and authorizes punishment proportionate to the seriousness of the offence committed.

### Composition

**4.1 Internal Complaints Committee** is constituted for our Organization by the management to look into the matters concerning sexual harassment. The Committee consists of following persons:

- I. President<sup>1</sup>
- II. Member
- III. Member<sup>2</sup>
- IV. Independent Member<sup>3</sup>

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<sup>1</sup> According to section 4(2) (a) of The Sexual Harassment of Women at Workplace Act, The President of such committee shall be nominated by the employer and must be a woman employed at a senior level at workplace or administrative unit or office of the employer.

<sup>2</sup> According to section 4(2) (b), at least two members must be nominated who preferably have worked for the cause of women or have basic legal knowledge.

<sup>3</sup> According to section 4(2) (c), one independent member must be nominated. Such member should have experience of working with an NGO or associations committed to the cause of women or any person familiar with issues relating to sexual harassment. The external member shall be paid such fees or allowances for holding the proceedings of the Internal Committee, by the employer, as may be prescribed.

A complainant can approach any member of the committee with his/her written complaint.

4.2 The President and other members of the committee shall hold office for such period, not exceeding three years, from the date of their nomination as may be specified by the employer.

4.3 Not less than 50% of the members of the committee are women. In addition, it is headed by a woman and at least one member needs to be an independent member active on issues under consideration. The desired qualities of the members would be an empathetic attitude and the ability and the orientation to look at issues from the perspective of the survivor.

4.4 The **Chairperson** convenes and chairs the Hearings of the Committee. The **Assistant Chairperson**, a woman, would fill-in for the Chairperson in her absence. The **Redress advisor** is the one-point contact for all complaints. The **Secretary** would minute the proceedings of every meeting and would be responsible for sending out communications in relation to the hearings. The members are to be appointed by the Director / Core Team / Board giving due importance to the credentials and expertise that the shortlisted persons possess.

### Procedures

4.5 It is important that there be a one person contact to receive all the complaints. AAP will make public with whom the complaint can be registered. One of the cardinal principles driving the redress committee shall be that all complaints are treated with the highest level of confidentiality. AAP will have zerotolerance towards such practices once they are proven.

4.6 All complaints handled by the Committee should be in **writing** to ensure consistency and accuracy in the complaint being lodged. The committee will notify in writing the time and date of the meeting that should be fixed within a week of receiving the complaint. The complainant and the alleged harasser should be given a written notification to present themselves before the Committee for the meeting. A copy of the statement of the complainant should be given to the Alleged Harasser who will be allowed sufficient time to seek advice before appearing before the committee.

4.7 The Internal Complaints Committee may administer a declaration form to verify that the contents of the complaint are true and genuine, before it proceeds further with the complaint. Where necessary (for example, when the complaint is incomplete), the complainant may be contacted to provide further details in relation to the complaint to enable the Internal Complaints Committee to appreciate the situation more comprehensively.

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4.8 The complaint must be given to the persons specified above within 3 months of the occurrence (the complaint can be made within 6 months if the person is able to prove that there were some exceptional circumstances due to which complaint could not be made earlier) and it is advised that you to be vigilant and keep any document with you which can be used to substantiate an allegation. The redressal system will work based on other evidence if you cannot produce any documentary evidence.

4.9 If the complainant cannot make a written complaint because of physical or mental incapacity or death, the legal heirs can make the complaint on his/her/their behalf.

4.10 The complainant and the alleged harasser will be allowed to bring one person for support who will not be permitted to interfere directly with the proceedings except to advise each party privately. Minutes of the proceedings will be recorded. The documentation for the entire process should be in a *format provided*. The conclusions of the Committee will then be informed to the parties in writing within a fortnight following the hearing. The Committee will also recommend action to be carried out by the concerned authority. The Decisions taken by committee are to have the backing of at least 50% of members. The whole process of reaching a decision and communicating action to be taken should take not more than three months since the day of receiving the complaint. The Action to be taken with regards to the accused must reflect the recommendations given by the Redress Committee.

### Redressal Mechanism

Once the complaint is received by the Committee:

i. The person who is accused by the complainant will be informed that a complaint has been filed against him/her (he/she will be made aware of the details of the allegation and also the name of the complainant as it would be necessary for proper inquiry) and no unfair acts of retaliation or unethical action will be tolerated.

ii. The complainant has the opportunity to ask for conciliation proceedings by having communication with the accused in the presence of the Committee. Please note that in such conciliation the complainant cannot demand monetary compensation.

iii. The Committee shall provide the copies of the settlement as recorded during conciliation to the aggrieved employee and the respondent.

If the matter has been settled by conciliation but the respondent is not complying with the terms and conditions, the aggrieved party can approach the Committee for Redressal.

iv. The Committee will question both the complainant and the alleged accused separately. If required, the person who has been named as a witness will need to provide the necessary information to assist in resolving the matter satisfactorily.

v. The Committee shall call upon all witnesses mentioned by both the parties.

vi. The Committee can ask for specific documents from a person if it feels that they are important for the purpose of investigation.

vii. The complainant has the option to seek transfer or leave so that the inquiry process can continue smoothly and to prevent recurrence of similar situations or discomfort to the complainant. The leave can extend for a maximum period of 3 months. Leave granted under this provision will be paid leave and will not be counted in the number of leaves that the complainant is statutorily entitled to. The complainant may be required to work from home, if it is practicable, keeping in mind the nature of work of the complainant, health and mental condition. However, the complainant is under a good faith obligation and shall not abuse the process to request unjustifiably long periods of leave, keeping in mind the economic effects of the leave to the organization. The Committee shall have the discretion to grant leave of an appropriate duration, depending on the facts and circumstances of the case, or grant an alternate measure such as transferring the employee or the accused, as it deems fit.

Where leave is granted to the complainant, the Committee shall make best attempts to ensure speedy completion of the inquiry process and to minimize adverse economic consequences to the Organization arising out of the absence of the complainant from the workplace.

viii. The complainant and the accused shall be informed of the outcome of the investigation. The investigation shall be completed within 3 months of the receipt of the complaint. If the investigation reveals that the complainant has been sexually harassed as claimed, the accused will be subjected to disciplinary action accordingly.

A. The report of the investigation shall be supplied to the employer (or the District Officer), the accused and the complainant within 10 days of completion of the investigation.

B. The employer or the District Officer will act on the recommendations of the Committee within 60 days of the receipt of the report.

C. Any party aggrieved by the report can prefer an appeal in the appropriate Court or Tribunal in accordance with the service rules within 90 days of the recommendation given to the employer/ District Officer.

ix The contents of the complaint made, the identity and addresses of the aggrieved employee, respondent and witnesses, any information relating to conciliation and inquiry proceedings, recommendations of the Internal Committee and the action taken by the employer shall not be published, communicated or made known to the public, press and media in any manner.

## 5. Disciplinary Action

### **5.1 Procedures when an accusation is substantiated**

Where any misconduct is found by the Committee, appropriate disciplinary action shall be taken against the accused. Disciplinary action may include transfer, withholding promotion, suspension or even dismissal. This action shall be in addition to any legal recourse sought by the complainant.

### **5.2 Procedures when an accusation cannot be substantiated**

When an accusation cannot be substantiated by diocesan or civil authorities, the accuser and the accused need to be immediately informed of the results of the investigation and offered pastoral assistance as necessary. The diocese/province/congregation shall determine fitness for ministry on the part of the alleged harasser and decide on whether any restrictions of ministry are called for.

### **5.3 False Accusations**

If it is found out through evidence by the Committee that the complainant has maliciously given false complaint against the accused, disciplinary action shall be taken against the complainant as well.

## 6. Commitment

Commitment is shown through enforcement and action by the responsible authorities. Even the most comprehensive sexual harassment policies and procedures are bound to fail if an organisation does not enforce them quickly, consistently, and with determination. To be effective, AAP will take sexual harassment seriously and make certain that personnel responsible conduct prompt, thorough, and documented investigations of all complaints, even those that appear trivial. AAP will take action that is reasonably intended to end the harassment. Disciplinary action directed at the harasser could include warnings - written and verbal, transfers, suspension from ministry/employment, and, if necessary, termination of service.

Regardless of the outcome of the complaint made in good faith, the employee lodging the complaint and any person providing information or any witness, will be protected from any form of retaliation. While dealing with complaints of sexual harassment, the Committee shall ensure that the complainant or the witness are not victimized or discriminated against by the accused. Any unwarranted pressures, retaliatory or any other type of unethical behavior by the accused against the complainant while the investigation is in progress should be reported by the complainant to the Complaints Committee as soon as possible. Disciplinary action will be taken by the Committee against any such complaints which are found genuine.

## **7.Distribution of Policy**

This policy shall be disseminated to each employee of the Organization as well as new recruits who will have to acknowledge that they have read and understood the policy and that they shall abide by the policy.

## **Appendix**

- A. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013
- B. Handbook on Sexual Harassment of Women at Workplace