

# PREVENTION OF SEXUAL HARASSMENT OF WOMEN AT THE WORKPLACE

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## **I. Preamble**

The Parliament of India passed the “Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act,” in the year 2013. The ACT provides protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and for the matters connected therewith or incidental thereto.

The guidelines explicitly state the following:

*“It shall be the duty of the employer or other responsible persons in workplaces or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolutions, settlement, or prosecution of acts, of sexual harassment by taking all steps require.”*

Manbhumi Ananda Ashram Nityananda Trust (MANT) has zero tolerance policy against discrimination and sexual harassment. An act of sexual harassment is a punishable offence. In terms of the Sexual Harassment of Women at Workplace (Prevention, Harassment and Redressal) Act 2013, with a view to provide protection against discrimination and sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith or incidental there to, the Internal Complaints Committee has been constituted within MANT. The Complaints Committee will be responsible for the redressal of complaints made by employees and ensure time-bound treatment of the complaints as provided in the Act.

## **II. Objectives**

The objectives of the Internal Complaint Committee to Prevent Sexual Harassment of Women at the Workplace are as follows:

- To develop a policy against sexual harassment of women at the Organisation.
- To evolve a permanent mechanism for the prevention and redressal of sexual harassment cases and other acts of gender based violence at the Organisation.
- To ensure the implementation of the policy in letter and spirit through proper reporting of the complaints and their follow-up procedures.
- To uphold the commitment of the Organisation to provide an environment free of gender-based discrimination.
- To create a secure physical and social environment to deter any act of sexual harassment.
- To promote a social and psychological environment to raise awareness on sexual harassment in its various forms.

## **III. The Definition of Sexual Harassment**

According to THE SEXUAL HARASSMENT OF WOMEN AT THE WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT 2013, sexual harassment includes any one or more of the following unwelcome acts or behavior (whether directly or by implication) namely:

1. Physical contact and advances; or
2. A demand or request for sexual favors; or
3. Making sexually colored remarks; or
4. Showing pornography; or

5. Any other unwelcome physical, verbal or non-verbal conduct of sexual nature. Any act falling under the purview of following cases will be considered as an incident of sexual harassment (Clarification of Unwelcome acts or behavior):
- a) When submission to unwelcome sexual advances, requests for sexual favours, and verbal or physical conduct of a sexual nature are, implicitly or explicitly, made a term or condition of teaching/guidance, employment, participation, or evaluation of a person's engagement in any activity.
  - b) When unwelcome sexual advances, and verbal, non-verbal and/or physical conduct such as loaded comments, remarks or jokes, letters, phone calls or e-mails, gestures, exhibition of pornography, lurid stares, physical contact, stalking, sounds or display of a derogatory nature.
  - c) Interfering with her work or creating an intimidating, offensive, or hostile environment for her.
  - d) When a person uses the body or any part of it or any object as an extension of the body with a sexual purpose in relation to another person without the latter's consent or against that person's will, such conduct will amount to sexual assault.
  - e) When deprecatory comments, conduct or any such behaviour is based on the gender identity/sexual orientation of the person and/or when the premises or any public forum of the Organisation is used to denigrate/discriminate against person(s), or create a hostile environment on the basis of a person's gender identity/sexual orientation.
  - f) When a person shows any humiliating treatment to woman that is likely to affect her health and safety.
  - g) Teaching activities or explanation of various issues related to fertility, reproductive health and other research topics in a scientific manner will not be considered as harassment.

#### **IV. Jurisdiction**

The policy and the rules & regulations would apply to all staffs at organisation. The policy and the rules & regulations would also apply to service providers and outsiders who may be within the territory of the Organisation at time of commission of the act coming under the purview of the policy.

1. The policy would apply inside the organisation but also on off-campus official duty (workshops, field work, group holidays/excursions organized by organisation, interviews/meeting with outside people and any other activity organized by MANT outside the campus including the period of travelling for such activity).
2. In order to implement the policy, a Committee shall be appointed whose composition and mandate would be as described below.

#### **V. Constitution of the Internal Committee**

The Committee shall consist of following nine members, who shall be appointed by the Director as under, namely:

1. A senior female Faculty member from the Organisation, as the Chair person
2. Two Staff members (one female and one male)
3. One External female member (preferably lawyer by profession or a person committed to the cause of women or familiar with issues related to sexual harassment)
4. At least one of the members shall be a woman belonging to the Scheduled Castes or the Scheduled Tribes or the Other Backward Classes or minority community notified by the Central Government, from time to time
5. The term of each member shall be of three years

### Internal Complaints Committee of MANT:

Name	Designation	Contact No
Dr. Paramita Bhattacharya	Presiding Officer	8240019260
Bandana Mondal	Member	7003166393
Pramita Mukherjee	Member	8617791604
Srimanti Hembram	Member	9641651232
Somdeb Mukherjee	External	9831230511

### VI. Disqualification

No person shall be appointed or continue to be a member of the Committee, if he/she is

1. Declared insolvent by the competent Court;
2. Lunatic or a person of unsound mind;
3. Convicted for an offence involving moral turpitude;
4. Involved in a misconduct amounting to immoral trafficking;
5. Convicted in any criminal offence/s;
6. Facing any inquiry relating to sexual harassment or found guilty of sexual harassment; punished for any misbehaviour or misconduct.

### VII. Power and Duties of the Committee:

The committee is NOT to act as a moral police; neither will it intrude on anyone's privacy. The role of the Committee is to create awareness about sexual harassment and to deal with and recommend punishment for non-consensual acts of sexual harassment, and not to curtail sexual expression within the campus. Members are expected to be sensitive to the issue and not let personal biases and prejudices (whether based on gender, caste, class) and stereotypes (e.g., predetermined notions of how a "victim" or "accused" should dress up or behave) affect their functioning as members of the committee.

#### A. Preventive

1. To create and ensure a safe environment that is free of sexual harassment, including safety from persons/visitors coming into contact at the workplace.
2. To publicise the policy in English, Hindi and Marathi widely, especially through notice boards and distribution of pamphlets
3. To publicise in English, Hindi and Marathi, the names and phone numbers of members of the Committee.

#### B. Gender Sensitization

Gender Sensitization involves creating awareness about issues of gender and sexuality and working towards and creating an enabling environment of gender justice where all can work together with a sense of personal security and dignity. Sensitization and Awareness will be a basic function of the Committee formed. The following is a list of methods in which awareness and sensitization of students, staff and faculty will be conducted:

1. An orientation seminar will be organized to discuss the nature and scope of the sexual harassment of women at the workplace (Prevention, Prohibition and Redressal) Act 2013, at the beginning of the academic year.
2. One or more workshops/seminars annually where external experts on the subject will interact with all employees and students
3. Seminars, performances and discussion forums where gender sensitization and gender awareness

will be the focus – these will happen during the academic year.

4. Spreading awareness of the policy and implementation of the same through informal sessions, performances, cultural events, etc., about the policy being implemented by MANT.

### **C. Remedial**

1. The mechanism for registering complaints should be safe, accessible, and sensitive.
2. To take cognisance of complaints about sexual harassment, conduct enquiries, provide assistance and redressal to the victims, recommend punitive action or take immediate action against the harasser, if necessary.
3. To recommend disciplinary action for any complaint registered with the Committee after the enquiry to the Director/administration/or concerned authorities and to follow-up action and monitor the same.
4. To recommend Organisation to provide assistance to the complainant if she so chooses to file a complaint in relation to the offence under the Indian Penal Code or any other law for the time-being in force.
5. To recommend the Organisation to provide the medical intervention with the consent of the complainant or even without consent in such cases where the complainant is physically or mentally incapacitated to give her consent.
6. To inform the administration to arrange for appropriate psychological, emotional, and physical support (in the form of counselling, security and other assistance) to the victim if she so desires.

### **VIII. Meetings of the Committee:**

The members of the Committee shall meet at least four times in a year. The Chairperson shall preside over the meeting. In the absence of the Chairperson, the second senior female Faculty member shall preside over the meeting. The Chairperson may upon the request of not less than one third of the total members of the Committee, call a meeting on a date not later than fifteen days after the receipt of such requisition.

1. The quorum of the meeting of the Committee shall be five of its members. If the quorum is not complete in any meeting, it shall be adjourned for half an hour and thereafter, the meeting shall precede with those members who are present in the meeting.
2. All decision in the meeting will be taken through mutual consent from the members of the Committee present in the meeting. In the case of any disagreement among the members regarding any decision, Chairperson of the Committee shall hold the authority to take the final decision and her decision would be considered as final.

### **IX. Complaint Procedure**

1. Any woman employee (hereinafter mentioned as the ‘COMPLAINANT’) shall have the right to file a complaint concerning any harassment including sexual harassment against a male employee /administrative staff / any of the members of the Committee (hereinafter mentioned as the ‘COMPLAINEE’) as the case may be.
2. Any COMPLAINANT may file a complaint within a period of 3 months from the date of incident. In case of a series of incidents, COMPLAINANT should file a case within a period of 3 months from the date of last incident.
3. Where the aggrieved woman is unable to file a complaint on account of her physical or

mental incapacity or death or otherwise, her legal heir or such other person as may be prescribed may make a complaint under this section.

4. All complaints will only be accepted in writing. The Committee is allowed to take action even in the absence of a written complaint. Though a written complaint is must (as per the Vishakha Guidelines), however if the woman does not want to do the same, anybody can write on her behalf.
5. Any complaint in writing has to be signed by the COMPLAINANT and will be read out to the complainant and will not be acted upon till the same is signed by the complainant.
6. The complainant shall be afforded full secrecy at each stage.
7. The name, address, identity or any other particulars calculated to lead to identification of the COMPLAINANT shall be kept confidential and will not be disclosed even to the Committee, till the meeting in this regard is convened.
8. Within a period of 5 working days from the date of such communication, the Chairperson shall convene a meeting to deal with the complaint and make preliminary enquiry/fact finding enquiry to verify the facts of the complaint. An Enquiry Committee will be constituted if the complaint is found genuine.
9. In case, the Enquiry Committee decides to proceed with the complaint, they may have the option to settle the matter between COMPLAINANT & COMPLAINEE through conciliation. For this the wishes of the complainant shall be ascertained and if the complainant wishes that a warning would suffice then the alleged offender shall be called to the meeting of the Committee, heard and if so satisfied that a warning is just and proper, he may be warned about his behaviour. The matter shall then be treated as concluded and disposed of with a note to that effect made in the Complaint Register.

## **X. The Inquiry Process**

In case the COMPLAINANT requests that the complaint should be processed with beyond a mere warning, the same may be processed and has to be solved within a stipulated time of 90 working days.

1. Within five days of the start of the enquiry process, the Inquiry Committee shall furnish a copy of the complaint to the accused and complainant along with a written notice requiring both parties to furnish a written submission. In case the complainant does not have any additions to make to the complaint filed earlier, she can just submit a statement to that effect.
2. Within a week, both parties shall submit to Inquiry Committee their replies to the documents that have been served on them. The replies may also include a list of questions that the party wishes the Enquiry Committee to ask the other party or its witnesses.
3. Within one week of the receipt of the replies and list of question in (2) above, The Enquiry Committee shall start the process of an oral hearing.
4. In the course of the oral hearing, the complainant, the accused, and their witnesses will separately be given a chance to give an account of the instances alluded to in the complaint.
5. All parties can also submit any documentary evidence at the time of the oral hearing.
6. The Enquiry Committee shall have the power to as questions that it deems fit to all parties during the oral hearing.
7. The Enquiry Committee would also ask questions which have been submitted by the complainant and defendant for the other parties. However, The Enquiry Committee has the right to disallow any questions that it has reason to believe to be irrelevant, mischievous, or gender-insensitive.
8. The Enquiry Committee may also call upon additional witnesses and ask them any questions that it may deem fit.
9. The Enquiry Committee shall have the power to ask the relevant authorities for any official papers or documents pertaining to the complainant as well as the accused.
10. The Enquiry Committee shall conduct the proceedings in a fair manner and shall provide reasonable opportunity to the complainant and accused for presenting and defending his/her case.
11. At no time during the inquiry proceedings shall the accused and the complainant be placed face to

face, or put in a situation where they may be face to face.

12. The Enquiry Committee may consider as relevant any earlier complaints against the accused. However, at no time in the enquiry process shall the past sexual history of the complainant be probed into, as such information shall be deemed irrelevant to a complaint of sexual harassment.
13. If the accused fails, without valid ground, to present him for three hearing convened by the chairperson of the Enquiry Committee shall have right to take a decision on the complaint based upon available evidence.
14. Lawyers are not allowed during the enquiry but both sides can avail help from them.

*Note: Most cases of sexual harassment occur in private, so there may not be any eye-witness. The Enquiry Committee will have to come to a conclusion about the complaint without proof or evidence of this kind. It will rely on circumstantial evidence and the written submissions and oral testimonies of the complainant, the accused, and witnesses if any as well as any documentary evidence. This enquiry is not a criminal investigation or a proceeding in a court of law – a strong probability, rather than ‘proof beyond reasonable doubt’, is enough to take a decision on the complaint.*

## **XI. Complaint Withdrawal**

1. The COMPLAINANT may withdraw her complaint in writing at any time during the inquiry procedure. However, the Committee must ascertain the reasons for withdrawal of the complaint and record the same in writing and get it counter-signed by the complainant.
2. The complaints enquiry procedure shall, on such withdrawal, be terminated, save in instances in which the Enquiry Committee is informed, knows, or has reason to believe, that the reasons for such withdrawal are the consequences or effect of coercion and intimidation exerted by the Accused(s), or any person on her/his behalf on the complainant. In such an instance, the complaints enquiry proceedings shall continue in accordance with the procedure outlined in the policy.

## **XII. Disciplinary Actions**

Enhancement of disciplinary action, by the Committee, could depend on factors such as the nature and extent of injury caused to the complainant, the impact of the violation on the institutions as a whole, the position of the harasser in the power hierarchy, repetition of offence etc.

Where the Committee finds an employee of the Organisation involved in sexual harassment of the complainant, it can recommend disciplinary action in the form of:

1. Warning
2. Written apology
3. Bond of good behaviour
4. Adverse remarks in the performance assessment
5. Debarring from teaching duties or duties as a guide or examiner or as a resource person
6. Denial of membership of statutory bodies
7. Denial of re-employment or renewal of contract
8. Stopping of increments/promotion
9. Reverting, demotion
10. Suspension
11. Dismissal
12. Any other relevant mechanism

In the above-mentioned reports, confidentiality of the complainants will be maintained.

### **XIII. Redressal**

1. The Committee will submit a report along with recommended disciplinary actions to the DIRECTOR.
2. The Executive Director of the MANT upon receipt of the enquiry report shall implement the disciplinary action on the basis of the recommendations of the Committee under relevant service rules within two months.
3. The disciplinary action will be commensurate with the nature of the violation.
4. In case the complaint is not proved, the Committee shall recommend that no action is required to be taken in the matter. Mere inability to substantiate a complaint or provide adequate proof need not attract action against the complainant.
5. In such cases that are likely to be rare, where the Committee arrives at the conclusion that the allegation by the complainant is malicious or false with the full knowledge of the complainant or where the complainant has produced any forged or misleading document, the Committee may recommend punitive action against such COMPLAINANT.
6. If the Committee arrives at a conclusion that during the inquiry any witness has given false evidence or produced any forged or misleading document, it may recommend punitive action against the said witness,
7. Non-adversarial modes of redressal and resolution could also be considered in appropriate cases. Examples of this may be verbal warning, verbal apology, promise of good behaviour etc.
8. The victim of sexual harassment/COMPLAINANT will have the option to seek adjustments such as change of the room/location of the office room, change of the quarter, etc.
9. The Committee, in exceptional cases, can ask the Organisation to allow the complainant to proceed on leave for a period of up to three month (the leave will not be deducted from her leave account).
10. Grant such other relief to the complainant as may be prescribed.

### **XVI. Obligations of MANT Authorities**

1. Provide a safe working environment at the workplace which shall include safety from persons coming into contact at the workplace.
2. Assist the Committee to organise two or more workshops annually to sensitise the employees with the provisions of the Act and orientation programmes for members of the Committee
3. Organisation should organize gender orientation session/ human processing lab at the beginning of each academic session.
4. The Organisation through its authorities would ensure necessary facilities to the Committee and the process of an inquiry. It would assist in securing the attendance of the accused and witnesses before the Committee or its sub-committee, as the case may be. It would also make available such information to the Committee as it may require having regard to the complaint.
5. Treat sexual harassment as misconduct under the service rule and initiate action against misconduct.
6. RTIs are not applicable for sexual harassment complaints.

### **XV. Amendments in the Policy**

1. The policy will be suitably amended as per modifications in the prevailing laws.
2. In case of need, committee may amend the policy time to time.

As per the Supreme Court of India Directive, it is mandatory to ensure safety of women at workplace

**INTERNAL COMPLAINT COMMITTEE TO PREVENT SEXUAL HARASSMENT OF  
WOMEN AT THE WORKPLACE**

The document was drafted by the working Committee on the policy against sexual harassment at the workplace. The working Committee consisted of:

<b>Name</b>	<b>Designation</b>	<b>Contact No</b>	<b>Email ID</b>
Ms Arpita Ghosh	Vice President	8768452559	<a href="mailto:arpita89ghosh@gmail.com">arpita89ghosh@gmail.com</a>
Ms Srimanti Hembram	Executive Committee Member	9641651232	<a href="mailto:info@mant.org.in">info@mant.org.in</a>
Ms Sanhita Datta	Project Coordinator	7980892151	<a href="mailto:sanhita07datta@gmail.com">sanhita07datta@gmail.com</a>
Ms Pramita Mukherjee	Livelihood Promoter	8617791604	<a href="mailto:pramitamukherjee79@gmail.com">pramitamukherjee79@gmail.com</a>
Dr. Paramita Bhattacharya	Asst. Director - Research	8240019260	<a href="mailto:t2paramita@gmail.com">t2paramita@gmail.com</a>
Ms Papiya Sen	Executive Director	8420011312	<a href="mailto:papiya1953@gmail.com">papiya1953@gmail.com</a>

**Internal Complaints Committee of MANT:**

<b>Name</b>	<b>Designation</b>	<b>Contact No</b>
Dr. Paramita Bhattacharya	Presiding Officer	8240019260
Bandana Mondal	Member	7003166393
Pramita Mukherjee	Member	8617791604
Srimanti Hembram	Member	9641651232
Somdeb Mukherjee	External	9831230511
Designated Email	<b>iccmant@gmail.com</b>	
Designated Phone No	<b>+91-9007346088</b>	