

# **Centre for Social Studies, Surat**

## **POLICY DOCUMENT OF THE COMMITTEE AGAINST SEXUAL HARASSMENT (CASH)**

### **I. Preamble**

The Supreme Court of India, in a landmark judgement in August 1997 (Vishaka and Others Vs. the State of Rajasthan & Others) has stated that every instance of sexual harassment is a violation of “Fundamental Rights” under Articles 14, 15, and 21 of the Constitution of India, and also amounts to a violation of the “Right to Freedom” under Article 19 (1)(g). The Court in its judgement has made it obligatory for every employer and other responsible persons to follow the guidelines laid down by the Court and to evolve a specific policy to combat sexual harassment in the workplace. Recently, the Parliament passed the “Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 to provide protection against sexual harassment of women at workplace and for prevention and redressal of complaints or sexual harassment and related matters. Educational institutions are bound by the Supreme Court’s directive and the Act. Following this, the Centre for Social Studies, Surat is committed to uphold the Constitutional mandate ensuring the above mentioned human rights of all those who fall within its jurisdiction.

The Centre for Social Studies is committed to creating and maintaining an environment which is free of all forms of gender violence, sexual harassment, and discrimination on the basis of sex/gender. It recognises the need to proactively develop a conducive atmosphere among the community working/associated with the Centre so as to ensure the safety, security, dignity, rights and equality of women as much as of men. It also recognises that there is social stigma associated with sexual harassment, a majority of instances of sexual harassment go unreported or even unmentioned. Thus, in light of the judgements of the Supreme Court and the said Act passed by the Parliament in 2013, the Centre has decided to constitute a Committee Against Sexual Harassment (CASH).

### **II. Objectives**

The objectives of the Committee Against Sexual Harassment (CASH) are as follows:

- To fulfil the directive of the Supreme Court enjoining all employers to develop and implement a policy against sexual harassment at the work place.
- To evolve a permanent mechanism for the prevention and redressal of sexualharassment cases and other acts of gender based violence at the Centre.
- To ensure the implementation of the policy in letter and spirit through proper reportingof the complaints and their follow-up procedures.
- To uphold the commitment of the Centre to provide an environment freeof gender-based discrimination.
- To create a secure physical and social environment which will deter acts of sexualharassment.
- To promote a social and psychological environment which will raise awareness aboutsexual harassment in its various forms.
- To generate public opinion against sexual harassment and all forms of gender-basedviolence.

### **III. Scope of Reference for the Centre for Social Studies**

The Centre has a small campus adjacent to the Veer Narmad South Gujarat University. While a few faculty and staff members stay in the residential quarters in the campus, a majority of the faculty, staff members, research staff and workers commute to the Centre. The Centre occasionally receives a variety of visitors who either commute to or stay in the guest house of the Centre. In future, research scholars are likely to join the Centre. The term “work place”, for the purpose of the policy for the Centre, will extend to all public spheres that remain in contact with members of the Centre’s community. Such public spaces include not just the physical premise of the Centre, but even areas in and outside Surat, where the members reside or travel to as part of their work as members of the Centre. The jurisdiction will include fieldtrips, seminar and conferences and all other activities undertaken by any person as a member of the Centre.

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

The definition of sexual harassment is guided by the definition given by the Supreme Court in 1997 in *Vishaka vs. State of Rajasthan*. The following constitute sexual harassment:

1. 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 Centre's any activity.
2. When unwelcome sexual advances, and verbal, non-verbal and/or physical conducts 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 have the purpose and/or effect of interfering with an individual's performance or of creating an intimidating, hostile, or offensive environment.
3. When a person/s uses, with a sexual purpose, the body or any part of it or any object as an extension of the body in relation to another person without the latter's consent or against that person's will, such conduct will amount to sexual assault.
4. 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 Centre is used to denigrate/discriminate against person(s), or create a hostile environment on the basis of a person's gender identity/sexual orientation.

## **V. Jurisdiction**

The rules and regulations outlined in this policy shall be applicable to all complaints of sexual harassment made:

1. By a member of the Centre's community against any other member of the Centre's community irrespective of whether the harassment is alleged to have taken place within or outside its campus.
2. By a resident against a member of the Centre's community or made by a member against
3. A resident irrespective of whether sexual harassment is alleged to have taken place within or outside the campus.

4. By an outsider against a member of the Centre's community or by a member of the Centre's community against an outsider if the sexual harassment is alleged to have taken place within the campus.
5. By a member of the Centre's community against an outsider if the sexual harassment is alleged to have taken place outside the campus. In such cases the Committee shall recommend that the Centre's authorities initiate action by making a complaint with the appropriate authority. Further the committee will actively assist and provide available resources to the complainant in pursuing the complaint.

In the above, the following definitions will apply:

**'Members of the Centre's community'** include faculty, administrative staff, research staff, research scholars/students based in the Centre and various contractual staff.

**'Faculty'** includes any person on the staff of the Centre who is appointed to a faculty position, whether full time, temporary, ad-hoc, part-time, visiting, honorary, or on special duty or deputation and shall also include faculty employed on a casual or project basis.

**'Administrative Staff'** includes any person on the staff of the Centre who is not included in the category of faculty. It shall also include contract workers and daily wagers.

**'Research Scholars/Students'** includes students of MPhil/PhD programme under the supervision of the faculty of the Centre though they may be enrolled in different universities.

**'Resident'** includes any person who is a temporary or permanent resident of any of the accommodations allotted by the Centre in its campus.

**'Outsider'** includes any person who is not a member of the Centre or a resident. It also includes but is not limited to any private person offering residential, food and other facilities to members of the Centre or those attending any course, seminar, conference, etc. at the Centre or residing in the guest house of the Centre.

**'Campus'** includes all places of work and residence in the Centre. It includes all places of instruction, research and administration, as well as guest house, hostel, staff quarters, public places, etc. on the Centre's campus.

## **VI. Guiding Principles for Constitution of the Committee Against Sexual Harassment**

1. The Committee must be easily accessible, accountable and democratic. This Committee will act as the "Internal Complaints Committee" as directed under the Act.
2. The constitution of the Committee will be based on a mixed method of election and nomination.

3. In order to create an autonomous institutional structure of the Committee to look into complaints of sexual harassment, members from outside the institution with a known contribution to **gender issues** have been included in the Committee.
4. As per the 1997 Supreme Court Judgment, it is mandatory for the Committee to have a woman chairperson as well as at least 50 per cent women members.

## **VII. Statutory Status**

The Committee Against Sexual Harassment shall have statutory status and be empowered to carry out the mandate of the policy. It will have the powers to:

- a) summon and enforce the attendance of any person and examine him on oath; and
- b) require the discovery and production of documents.

## **VIII. Method of Constituting the Committee**

1. A woman faculty to be nominated by the Board of Governors.
2. An Administrative woman staff to be nominated by the Board of Governors.
3. A research scholar/student representative to be elected by them. The mode of election will be decided by the research scholars/students.
4. Two persons, with known contribution to women's issues, to be nominated by the Board of Governors from outside the Centre. One of these may preferably have a legal background. One of these should be from amongst non-governmental organisations or associations.
5. The Director will be the Member-Secretary of the Committee.
6. The Board of Governors to nominate one of the woman members of the Committee as its Chairperson.

The term of each member shall be two years. The previous Committee will continue till the new Committee is constituted.

In case there is a lack of females at each level, the Board of Governors would take a final call on the constitution of the committee so that the basic principles for constitution of the committee are followed in spirit and letter.

## **IX. Power and Duties 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 create an atmosphere promoting equality and gender justice by organising gender sensitisation workshops and awareness programmes at regular intervals.
3. To publicise the policy in Gujarati and English, or in any other language as need be, widely, especially through notice boards.
4. To publicise in Gujarati and English, or in any other language as need be, the names and phone numbers of members of the Committee.

#### **B. 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 to the Board of Governors and/or concerned authorities follow-up action and monitor the same.
4. 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 seek 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 make arrangements for appropriate psychological, emotional and physical support (in the form of counselling, security and other assistance) to the victim if s/he so desires.

#### **X. Procedure for Registering Complaints**

1. All complaints must be brought by the complainant in person. The exception for this will be in cases of forced confinement of the person or her physical or mental incapacity or death. In such a case, brought by another person on behalf of the complainant or by her legal heir, the committee will examine whether an investigation, intervention or some other assistance is needed. In exceptional cases, third party/witness complaints may be entertained. In such cases, the committee will ascertain whether the person alleged to have been harassed wishes to lodge a formal

complaint. Once such a complaint is received the committee shall proceed to investigate it as per the procedure specified.

2. Complaints can be given to any member of the Committee.
3. If the complainant wishes s/he can be accompanied by a representative.
4. A complainant can go directly to the Board of Governors. However, in such cases, which should be exceptional, the complainant should give reasons for doing so. In such a case, it is open to the Board of Governors to refer the complaint back to the Committee.
5. As soon as the complaint is received, the same shall be sent to the Committee within three days and the Committee should initiate the process of inquiry within a week of the date of receipt of the complaint by the Committee. The report of the Committee shall be placed before the Board of Governors.

## **XI. Enquiry Procedures**

1. All complaints made to any committee member must be received and recorded by the member, who shall then inform the Chairperson about the complaint, who in turn shall call a meeting of the committee.
2. All meetings of the committee will be called by the Member Secretary in consultation with the Chairperson and a notice of at least 3 to 5 working days must be given.
3. The committee is bound to maintain confidentiality during the time of the enquiry (in order not to prejudice the proceedings).
4. After the report has been finalised, confidentiality should be maintained, if the complainant so desires, by withholding the complainant's name and other particulars that would identify her. (Revealing the identity either in exceptional cases such as stalking may put the complainant at greater risk or as a result of social prejudices the complainant may face additional adverse effects as a result of public circulation of the finished report.)
5. During an enquiry the quorum for all committee meetings will be one-third of the total membership, and must include at least one member from the complainant's category as well as, one of the two members nominated from outside.
6. The Committee will, within ten days of the receipt of a complaint, establish a prima facie case of sexual harassment on the basis of both the definition of sexual harassment as given in this policy, and the jurisdiction of this policy. Reasons for not

pursuing a complaint must be recorded in the minutes and made available to the complainant in writing.

7. In case of a complaint filed by another person on behalf of the complainant (where the complainant is in confinement) the complaint will be investigated in order to explore whether a prima facie case of sexual harassment exists and whether intervention or some other assistance is required.
8. In case a prima facie case is established the Committee shall set up an enquiry committee (henceforth called sub-committee) of 3-5 members, with at least one member of the complainant's category, as well as a member from outside the Centre.
9. The sub-committee must inform the accused in writing about the charges made against him/her and s/he should be given a period of five days from the date of receipt of the notification to respond to the charges.
10. During the enquiry procedure, the complainant and the accused will be called separately so as to ensure freedom of expression and an atmosphere free of intimidation. The complainant will be allowed to be accompanied by one representative during the enquiry.
11. The sub-committee must submit its report to the Committee not later than 15 working days. The Committee will discuss the report and make recommendations for punitive action if required.
12. The entire process of enquiry should be completed within one month.
13. The complainant or the accused may appeal to the Board of Governors if they are dissatisfied with the decision of the Committee.

**[NOTE:**

1. *A complainant has the right to go public if s/he so desires. Going public before giving in the complaint to the committee by the complainant should not prejudice the committee members. Once a complaint has been given to the committee, the complainant should preferably not go public till the enquiry is completed unless required.*
2. *Filing of a grievance/complaint shall not adversely affect the complainant's status/job, salary/promotion, grades etc.*
3. *The Committee should make efforts to ensure that the complainants and the witnesses are not further victimised or discriminated against while it is dealing with the*



*complaint. The Committee shall take action against anyone who intimidates the complainant or members of the committee, during or after the enquiry.*

4. *Any Committee member charged with sexual harassment in a written complaint must step down as member during the enquiry into that complaint.*
5. *The Committee will also work as a crisis intervention group in case where actions are required on emergency basis.]*

## **XII. Redressal**

1. The Committee can ask the Centre to suspend the alleged harasser from administrative post/classes or send on forced leave if his/her presence is likely to interfere with the enquiry.
2. The victim of sexual harassment will have the option to seek adjustments such as change of the room/location of the office room, change of the quarter, etc.
3. The Committee, in exceptional cases, can ask the Centre to allow the complainant to proceed on leave for a period of up to one month during the period of enquiry.
4. The Director of the Centre upon receipt of the enquiry report shall refer the same to the Board of Governors and institute disciplinary action on the basis of the recommendations of the Committee under relevant service rules.
5. The disciplinary action will be commensurate with the nature of the violation.
6. In case the complaint is not proved, the Committee shall recommend to the Board of Governors 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.
7. In such cases which 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 to the Board of Governors.
8. 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 to the Board of Governors.
9. 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.

10. 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.
11. The Centre 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.

### **XIII. Disciplinary Action**

A. Where the Committee finds an employee (faculty, administrative staff or research staff) of the Centre is 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 supervisory duties or duties as resource person
6. Denial of membership of statutory bodies
7. Denial of re-employment
8. Stopping of increments/promotion
9. Reverting, demotion
10. Suspension
11. Dismissal
12. Any other relevant mechanism.

B. Where the Committee finds a research scholar/student of the Centre is 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. Debarring entry into the hostel/guest house/campus
5. Suspension for a specific period of time
6. Withholding results
7. Debarring from exams
8. Expulsion
9. Denial of admission
10. Declaring the harasser as "persona non grata" for a stipulated period of time
11. Any other relevant mechanism.

*[NOTE: The reasons for the action have to be provided in writing. Action will be taken against person(s) who try to pressurise the complainant in any way.]*

- C. In such cases where the Committee finds a third party/outsider to be guilty of sexual harassment, the Centre's authorities shall initiate action by making a complaint with the appropriate authority.

#### **XIV. Networking**

1. The Committee should also have the referral support of empathetic legal, psycho-therapy and health experts for ready first aid, consultation and guidance.
2. They should establish networks with legal experts, legal aid centres, counselling centres, health centres, police stations, Crimes against Women cells, women's groups in the city and other organisations such as the National/State Commission for Women and National/State Human Rights Commission.
3. The Committee can identify persons as volunteers to help raise awareness.

#### **XV. Monitoring and Review**

The Committee will send annual reports to the Board of Governors on the cases monitored by them. In the above-mentioned reports, confidentiality of the complainants will be maintained.

#### **XVI. Amendments to the Policy**

On the basis of their experience of the working of the policy, the Committee will have the power to make recommendations to the Board of Governors about changes in the policy.