

Policy Document to Prevent and Deal with Sexual Harassment in Workplace¹

1. INTRODUCTION

The Supreme Court of India, in a judgment delivered in 1997, on the writ petition (Criminal) No. 666-70 of 1992, has *inter alia*, issued the following directive:

“Duty of the Employer or other responsible persons in workplace and other institutions:

It shall be the duty of the employee or other responsible persons in the workplaces or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedure for resolution, settlement or prosecution of acts of sexual harassment by taking all steps required.”

As educational institutions are bound by the aforementioned directive of the Hon’ble Supreme Court, the Indian Institute of Management Ranchi (henceforth, IIM Ranchi or the Institute) has decided to formulate the policy and guidelines to deal with the problem and cases of sexual harassment in workplace.

It is the policy of IIM Ranchi to provide and maintain a working environment, free from gender discrimination and sexual harassment for its students, faculty, employees, vendors, contractors, and all others in contact with the Institute. The Institute strongly disapproves of any conduct that constitutes sexual harassment and will take all measures, disciplinary and legal, to ensure compliance. All complaints will be thoroughly investigated and appropriate action will be taken promptly as per guidelines enunciated in this document.

In line with the above policy objectives, IIM Ranchi has constituted an Internal Complaints Committee (ICC), currently consisting of a Presiding Officer who shall be a woman employed at a senior level, two faculty members amongst employees and one member from amongst non-governmental organizations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment.

The Internal Complaints Committee shall address cases of sexual harassment that they observe or of which they become aware of through verbal and written complaints. The Committee will also advise the remedial actions in case of any complaint, including punishment to the offender. Every effort will be made to maintain confidentiality to protect both the complainant and the accused to the extent possible.

The policies elaborated in this document to prevent and deal with sexual harassment in workplace shall extend to all the students, faculty (including but not limited to faculty on contract, part-time, honorary, visiting and guest faculty), research associates, academic associates, staff (including administrative and maintenance staff both permanent and on contract basis), and shall include any person working with the Institute receiving salary, wages, honorarium, etc. as the case may be, performing their duties either in the Institute or at any place where the employee might be so deputed by the Institute.

¹This policy document draws substantially from the policy documents on Sexual Harassment of the Indian Institute of Management Calcutta and the Gazette of India, No.593 and No.2733 dated December 9, 2013 of Ministry of Women and Child Development, Government of India Notifications.

2. WHAT IS SEXUAL HARASSMENT?

Sexual harassment is a form of discrimination. It is behaviour that is not welcome, is personally offensive, destroys morale and interferes with institutional effectiveness. Sexual harassment is an unlawful employment practice as per the Guidelines and norms laid down by the Hon'ble Supreme Court in case of Vishaka and Others Vs. State of Rajasthan and Others (JT 1997 (7) SC 384). In the judgment, the Hon'ble Supreme Court has held that each incident of sexual harassment results in the violation of the fundamental rights of Gender Equality and the Right to Life and Liberty. Sexual harassment is a clear violation of woman's right to gender equality as guaranteed under Articles 14 and 15, her right to live with dignity under Article 21, and her right to work with dignity in a safe environment under Article 19(1) (g) of the Constitution of India.

Consistent with the definition of sexual harassment, given by the Hon'ble Supreme Court, the Institute has adapted it to its academic environment as under:

“Sexual harassment includes such unwelcome sexually determined behaviour (whether directly or by implication), between members of the same or opposite sex, as:

- a) *unwelcome physical contact and advances (molestation, stalking);*
- b) *demand or request for sexual favours (either explicitly or implicitly), in return for (or a term or condition of) employment or a promotion, or for awarding higher marks in examination (or for other academic advancement), or in case of evaluation of a person towards any Institute or academic activity;*
- c) *sexually coloured remarks (including through letters, phone calls, e-mail, etc.);*
- d) *displaying/showing/communicating pornography, obscene letters;*
- e) *sexual or indecent gestures and indication (including display of pictures, contraceptives, signs, verbal or non-verbal communication with sexual overtones - which offends the individual's sensibilities and affects her performance);*
- f) *any other unwelcome physical, verbal or non-verbal conduct of sexual nature (including eve teasing, innuendos and taunts, physical confinement against one's will and which is likely to intrude upon one's privacy);*
- g) *entry into private place marked for female employees and students, with the intent to commit mischief and harassment;*
- h) *taking of photographs of female workers/ staff without permission and converting it in to pornographic material and circulating the same by means of electronic media;*
- i) *harassment through telephone calls or email, uninvited following, blackmailing in or outside the campus; and*
- j) *all such acts and conducts against women employees and students, which amount to commission offence defined in the Indian Penal Code.*
- k) *The following circumstances, among other circumstances, if it occurs or is present in relation to or connected with any act or behaviour of sexual harassment may amount to sexual harassment—*
 - (i) *implied or explicit promise of preferential treatment in her employment, or*
 - (ii) *implied or explicit threat of detrimental treatment in her employment, or*

- (iii) *implied or explicit threat about her present or future employment status, or*
- (iv) *interference with her work or creating an intimidating or offensive or hostile work environment for her, or*
- (v) *humiliating treatment likely to affect her health or safety.”*

An Act of Sexual Harassment shall be deemed to have been committed, when any of the above acts is committed within the workplace (including any place visited by the employee arising out of or during the course of employment including transportation provided by the employer for undertaking such journey), classroom or within the campus or outside in the circumstances where the victim of such an act and conduct has a reasonable apprehension that in relation to the victim's employment or work or study (whether she is drawing salary, or honorarium, or voluntary) - such conduct is humiliating, hurts the dignity, causes mental torture, fear and anxiety - and which constitute health and safety problem, causing restricted movement, fearful living and discrimination in service or recruitment or promotion in the event of raising any objection and not obliging or consenting to such conduct.

3. JURISDICTION

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

- (i) By a member of IIM Ranchi against any other member of IIM Ranchi, irrespective of whether the harassment is alleged to have taken place within or outside the campus;
- (ii) By an outsider against a member of IIM Ranchi or by a member of IIM Ranchi against an outsider if sexual harassment is alleged to have taken place either within the campus or outside the campus.

In cases where an outsider is involved, the role of the Internal Complaints Committee would be to provide necessary support in the form of counselling, facilitating for legal recourse, etc.

4. DEFINITIONS

- (i) **Victim:** Person upon whom sexual harassment is attempted or perpetuated;
- (ii) **Complaint:** Information either oral or written made by the victim against sexual harassment attempted or perpetuated;
- (iii) **Complainant:** Victim intimating in writing or orally complaining of commission of Sexual Harassment in workplace classroom or hostel or within the campus;
- (iv) **Delinquent:** Person alleged to have committed Sexual Harassment, named in the complaint;
- (v) **Employee:** Refers to any person employed by the Institute for reward or wage, including any teaching or non-teaching staff, temporary, part-time, honorary, employee including maintenance staff by whatever name called and would include employees employed on a casual or project basis and also employed through contractor;
- (vi) **Student:** Refers to any person who is enrolled for any Programme of IIM Ranchi (PGDM/PGDHRM/FPM/PGEXP/PGPEM), which may include exchange programme,

Management Development Programme (MDP), In-company Training Programme or any such programme conducted by or through IIM Ranchi. It also includes a student of another Institute/College/University who is a visitor at the Institute premises;

- (vii) **Contractual Labour:** Labourer supplied by the Contactor and not in the roll of the Institute who are paid directly by the Contractor;
- (viii) **Contractual Employees:** Employees supplied by agency under contract and paid by the Institute;
- (ix) **Campus:** It includes all places of instruction, research and administration, as well as hostel, health centers, sports grounds, parks, streets, lanes and canteens, etc. within the boundary of the Institute and student residences.
- (x) **Work Place:** This shall mean any space in which Institute related academic or administrative or other activities take place;
- (xi) **Preliminary Enquiry:** Fact finding enquiry undertaken to find out the veracity of the Complaint;
- (xii) **Criminal Proceeding:** Proceeding registered in the Criminal Court by State authorities on the basis of complaint filed with the local police or registered on filing written complaints before the Court for commission of offence of Sexual harassment as defined by the Hon'ble Supreme Court;
- (xiii) **Prevailing Law:** Law declared under Article 141 of the Constitution of India by Hon'ble Supreme Court in its judgment in the matter of Vishaka and Others Vs. State of Rajasthan and Others (JT 1997 (7) SC 384);
- (xiv) **Internal Complaints Committee (ICC):** Committee constituted in IIM Ranchi to implement the Sexual Harassment Order and Rule vested with the power to counsel, receive complaints, enquire and prepare a report with findings and recommendation to the Disciplinary Authority for taking appropriate decision and award punishment;
- (xv) **Disciplinary Authority:** Appropriate authority vested with the power to initiate Disciplinary proceeding and take action and pass final order; as given in the schedule;
- (xvi) **Disciplinary Action and Proceeding:** Proceeding initiated on the basis of the report and finding of commission of sexual harassment by the Internal Complaints Committee (ICC) and action taken thereof by the Disciplinary Committee in issuing final order;
- (xvii) **Appellate Authority:** Authority vested with the power to receive and dispose of Appeals preferred against the final order of the Disciplinary Authority; receive and dispose of appeal against the Order of dismissal of complaint by the Director as given in the schedule;
- (xviii) **Director:** Director of Indian Institute of Management Ranchi;
- (xix) **Institute:** Indian Institute of Management Ranchi;
- (xx) **Faculty:** Member of the teaching staff of the Institute;
- (xxi) **Administrative Staff:** Personal engaged in general administration of the Institute;
- (xxii) **Staff:** All other employees of the Institute;
- (xxiii) **Act:** "Act" means the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (14 of 2013);

- (xxiv) **Internal Complaints Committee:** The Internal Complaints Committee means the Committee constituted by the Director to look into the cases of Sexual Harassment;
- (xxv) **Incident:** “Incident” means an incident of sexual harassment as defined in clause (a);
- (xxvi) **Section:** “Section” means a section of the Act;
- (xxvii) Words and expressions used herein and not defined but defined in the Act shall have the meanings respectively assigned to them in the Act.

5. POWER, FUNCTION AND OBJECTIVES OF THE COMMITTEE

- a) To receive, entertain, hear complaints lodged by victims of sexual harassment in the workplace, enquire, prepare and submit the report with findings to the Director, who shall after considering the report forward such report to the disciplinary authority for initiating disciplinary proceeding if required and pass necessary orders;
 - b) To evolve an effective mechanism and steps in the matter of effective prohibition and prevention of acts of Sexual Harassment in work place and suggest implementation of the same by notification and order, to make in-depth study of the reasons and factors attributing to occurrence of Sexual Harassment in the work place and suggest remedial measures, engage in counselling of victims and persons complained against;
 - c) To help and advice the victims and their family to seek legal protection from the court of law and prosecution of the persons complained against and involved in perpetuating Sexual Harassment, who are outsiders and not the employees of the Institute and or persons acting at the instance of any employee of the Institute, within the workplace or outside;
 - a) To ensure and promote a healthy work environment and successful implementation of the sexual harassment policy;
 - b) The Committee shall review the effectiveness of the order and rules framed herein in curbing the acts of sexual harassment and suggest amendment of the order and rule as may seem fit and proper;
 - c) The Committee shall provide fair, sensitive, and quick redressal;
 - d) The Committee should make efforts to ensure that the complainants and the witnesses are not further victimized 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.
 - e) During the pendency of an inquiry, on a written request made by the aggrieved woman, the Internal Complaints Committee may recommend to the employer to:
 - (i) Transfer the aggrieved woman or the respondent to any other workplace, or
 - (ii) Grant leave to the aggrieved woman up to a period of three months, or
 - (iii) Grant such other relief to the aggrieved woman as may be prescribed.
- The leave granted to the aggrieved woman under this section shall be in addition to the leave she would be otherwise entitled.
- f) The Annual Report which the Complaints Committee shall prepare under Section 21, shall have the following details:
 - (i) number of complaints of sexual harassment received in the year;

- (ii) number of complaints disposed of during the year;
- (iii) number of cases pending for more than ninety days;
- (iv) number of workshops or awareness programme against sexual harassment carried out;
- (v) nature of action taken by the employer.

6. PROCEDURES

6.1 Procedure for Complaints

- a) Complaints must be made by the victim in writing, except in case when the victim is incapacitated and is not in a normal state of mind due to the act of sexual harassment perpetuated; complaint may then be made by the victim's friend and or person accompanying the victim. The complaint must be prompt and unpremeditated, and the complaint should be duly signed by the victim.
- b) All complaints in writing shall be addressed to the Chairperson of the Committee. If a written complaint is made to the Director, Dean, CAO or any of the faculty members, the complaint shall be forwarded to the Chairperson of the Committee.
- c) Oral Complaints are to be lodged in person or by person accompanying the victim before the Chairperson or to any member of the Committee.
- d) All oral complaints when made shall be reduced in writing by the Chairperson or person designated and signed by the victim and person accompanying the victim.
- e) In exceptional cases, third party complaint may be entertained subject to confirmation by the victim on call.
- f) Anonymous complaints, would in general not be taken up by the Committee for action. However, the content of such complaints may be used for sensitization purposes, if deemed relevant.
- g) The mechanism for registering complaints should be safe and sensitive. The Committee will maintain complete confidentiality of the entire proceedings. Only such a Committee will provide the needed courage, comfort and trust for someone to make a complaint.
- h) Any faculty, staff or student who comes to know about an incident of harassment, shall advise the affected person to approach a member of the Committee or report to a member themselves.
- i) Where the aggrieved woman is unable to make a complaint on account of her physical or mental incapacity, a complaint may be filed by -
 - (i) An officer of the National Commission for Woman or State Women's Commission; or
 - (ii) Any person who has knowledge of the incident, with the written consent of the aggrieved woman; or
 - (iii) Any person who has knowledge of the incident jointly with her relative or friend or a special educator or qualified psychiatrist or psychologist, or guardian or authority whose care she is receiving treatment or care.

