

MAJHIPARA AMBEDKAR CENTRE FOR HUMAN RESEARCH AND DEVELOPMENT

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MACHRD POLICY AGAINST SEXUAL HARASSMENT AT WORK PLACE

PREAMBLE

Majhipara Ambedkar Centre for Human Research and Development (MACHRD) has always searched for avenues to make its presence felt in the hearts of the economically, socially and culturally marginalized through its committed activities at grass root level.

Envisioning the formation of a just and sustaining social order, where the eternal values of love, equality and peace are nurtured and lived, MACHRD's mission is to restore the human dignity of the marginalized and unwanted in society through the process of their involvement in collective decision making action and reflection.

Protecting the rights, promoting safe and secure workplace environment for all its family members/employees, is at the core of its mission.

MACHRD IS COMMITTED TO GENDER EQUALITY

MACHRD's commitment to *Gender Equality* is rooted in the Indian Constitutional vision of the wholesome human being, created in the image and likeness of the Creator. It lays emphasis on internalizing the spiritual values such as compassion, sharing, equality, justice, integrity and solidarity required for promoting a just social, economic, political and cultural order, which ensures the dignity of the human person. It is built on a holistic spirituality that integrates all the dimensions of human existence and blends the material and spiritual dimensions of life.

MACHRD believes that *gender inequality* is about unequal power relations between persons (men and women). It emphasizes on removing this inequality and attempts to eradicate gender discriminatory attitudes and structures within MACHRD and its organizations. While valuing the nature-endowed differences between men and women, it places emphasis on the commonalities between them, nurturing the endowed quality of partnership, mutual understanding and respect for each other as members of the human race. MACHRD believes that both men and women as human persons have a right to bodily integrity, sexual autonomy and has complete control over their bodies and decisions. *MACHRD's Policy against Sexual Harassment at workplace is based on this understanding.*

SEXUAL HARASSMENT AT WORKPLACE

MACHRD recognizes that sexual harassment is a serious criminal offence, creates an atmosphere of disharmony in the workplace and contributes towards destruction of dignity of persons. MACHRD believes that the workplace should be *sexual harassment free* and to that end has created structures for providing redressal within the Organisation.

UNDERSTANDING SEXUAL HARASSMENT

MACHRD defines sexual harassment to include any behavior by any person either individually or in association with other persons or by any person in authority whether directly or by implication leading to:

- Eve-teasing.¹

¹ *Eve-teasing will include any person willfully and indecently exposing his/her person in such a manner as to be seen by other employees or use indecent language or behave indecently or in a disorderly manner in the work place. It will also include any word, gesture or act intending that such work or sound shall be heard or that such gesture or object shall be seen by such person (man/woman) or intrudes upon the privacy of an employee (man/woman).*

- Unsavory remarks.
- Jokes causing or likely to cause awkwardness or embarrassment.
- Innuendos and taunts.
- Gender based insults or sexist remarks.
- Unwelcome sexual overtones in any manner including but not limited to e-mails, text messages, telephone calls and the like.
- Touching or brushing or attempting to touch or brush, against any part of the body and the like.
- Displaying pornographic or other offensive derogatory pictures, cartoons, pamphlets or sayings.
- Forcible physical touch or molestation.
- Physical confinement against one's will and any other act likely to violate one's privacy. and includes any act or conduct by a person in authority and belonging to one sex which denies or would deny equal opportunity in pursuit of career development or otherwise making the environment at the work place hostile or intimidating to a person belonging to the other sex, only on the ground of sex.

In addition to the above, where any comment, act or conduct is committed against any person and such person has a reasonable apprehension that;

- It can be humiliating and may constitute a health and safety problem, or
- It is discriminatory, as for instance, when the person has reasonable grounds to believe that his/her objection would disadvantage his/her in connection with future employment or study, including recruitment or promotion or advancement or when it creates a hostile environment, or
- It would result in adverse consequences if s/he does not consent to the conduct or raises any objection, it shall be deemed to be sexual harassment.

Sexual harassment shall also include any act by any person in charge of the management or any person employed by it to exploit the sexuality or sexual identity of a subordinate employee to harass her/him in a manner which prevents or impairs the employee's full utilization of employment benefits or opportunities. It also includes behavior that covertly or overtly uses the power inherent in the status of the employer or the head of the institution or management to affect negatively an employee's work experience or career opportunities and/or to threaten, coerce or intimidate an employee to accept sexual advances or making employment decision affecting the individual or create an intimidating, hostile or offensive working environment.

RESPONSIBILITIES OF THE MANAGEMENT

It shall be the duty of the management to prevent or deter the commission of acts of sexual harassment and to provide the procedure for the resolution, settlement or prosecution for acts of sexual harassment by taking all steps required.

The management will ensure that in addition to conducting regular sessions/ interactions to create awareness on sexual harassment at workplace,

Prohibition of sexual harassment as defined above at the work place shall be notified and widely circulated in all the offices and in the offices of the partners;

If anyone is found guilty of the above act, speedy action is taken to implement the recommendations;

Where such conduct amounts to a specific offence under the Indian Penal Code or under any other law, the management shall initiate appropriate action in accordance with the law by making a complaint with the appropriate authority or assist the complainant in making such a complaint by herself/himself.

REDRESSAL MECHANISMS

MACHRD has set up redressal mechanisms to address sexual harassment at workplace by setting up Complaints Committee to deal with sexual harassment issue. Based on the draft Bill *"the protection of*

women against sexual harassment at work place bill, 2010” passed by Union Cabinet on 4th Nov. 2010 and supreme court directive 1997, MACHRD will have a Complaint committee with three members, *Secretary, one* management representative, and *one* external/internal expert on law and gender. The external expert should preferably be a woman. The constitution of the Committee shall be circulated to all the Branch/ Regional offices and its partners.

PROCEDURE FOR ACCESSING THE COMPLAINTS COMMITTEE

1. COMPLAINT

An aggrieved person may approach any one, more or all the members of the Complaints Committee and submit a written or an oral complaint within one month of the incident. Complaint after one month without sufficient reasons will not be entertained.

Complaints received orally will be reduced to writing by the concerned Member of the Complaints Committee and the signature of the Complainant would be taken.

A copy of the complaint would be given to the Complainant with a proper receipt from the Committee.

The proceedings of the complaint would be deemed to have commenced upon the receipt of the Complaint from the Complainant.

2. PRELIMINARY HEARING

Upon receipt of the Complaint, the Committee shall meet and examine the complaint to determine whether the allegations in the Complaint constitute sexual harassment.

The Committee can requisition the presence of the Complainant in its determination of the same and also hear her/him orally after explaining to her/him the nature of this hearing.

If the Committee comes to a conclusion that the complaint does not disclose any instance of sexual harassment, the Committee shall record its reasons in writing and close the complaint and hand over a copy of its reasons to the Complainant.

The Committee must give an oral hearing to the Complainant before coming to the conclusion that the complaint does not disclose any instance of sexual harassment.

It would be open to the Committee to direct the Complainant to submit a fresh complaint if during the preliminary hearing, the complainant discloses instances of sexual harassment.

In cases where the Committee comes to the conclusion that the complaint does contain ingredients of sexual harassment, the Committee shall formally summon the alleged perpetrator and fix a hearing.

The Committee shall ensure that the preliminary hearing commences within *15 days* of the receipt of the Complaint and is concluded within *45 days* from the date of receipt of the same.

HEARINGS BEFORE THE COMPLAINTS COMMITTEE

3A. NOTICE TO THE ALLEGED PERPETRATOR

The Complaints Committee shall give opportunity for the alleged perpetrator to *respond in writing* to the allegations made against him/her.

It shall be made known to the alleged perpetrator that the contents of the complaint and the subsequent statement recorded by the Committee would constitute charges against him/her and the response may be addressed on the same.

3B. REPRESENTATION

Both the complainant and the alleged perpetrator can seek the assistance of another colleague to represent them before the Complaints Committee.

In certain cases where the Complainant/alleged perpetrator is unable to get any colleague to represent him/her, the Committee may help them identify persons to represent him/her;

At all times, the Committee shall ensure that both the sides are given *reasonable and equal* opportunity to be heard.

3C. RECORDING OF STATEMENTS OF WITNESSES

Following receipt of the response of the alleged perpetrator, the Complainant and the alleged perpetrator shall be given time to submit to the Committee a list of their witnesses who shall depose before the Committee.

The Committee shall be at liberty to identify persons to depose before the Committee as the Committee deems fit who shall be in addition to and independent of the witnesses submitted by either party.

The deposition of the witnesses shall be in writing and both the parties would be given opportunity to cross examine the witnesses.

It shall be the duty of the Committee to ensure that witnesses are not intimidated and are given immunity from wrongful disciplinary action that may be taken against them as a consequence of their deposition.

The Committee shall also advise the witnesses their rights and the protection that would be given to them.

3D. CONCLUDING STATEMENT

Upon conclusion of the recording of evidence, the Complainant and the alleged perpetrator shall be given time to give their concluding statement to the Committee.

The Concluding statement shall be submitted within 15 days from the date the last witness deposes and the copy of the same is handed over to both the parties;

4. INTERIM ORDERS/DIRECTIONS

During the pendency of the proceedings before the Committee, the Committee shall have the powers to recommend interim directions including suspension, transfer or non-punitive leave of the alleged perpetrator.

Transfer of the Complainant shall not take place unless s/he requests for the same.

5. REPORT OF THE COMMITTEE

- a. The Committee shall give its final report indicating reasons for the conclusions and the recommendations arrived at to the Management and or Governing board within 60 days (two months) of receipt of the complaint;
- b. The report shall contain the entire proceedings of the Committee including the complaint, reply by the alleged perpetrator and the deposition of the witnesses.
- c. In cases where the conclusions and/or recommendations are not unanimous, the dissent report may also be submitted to the Management or Governing Board
- d. The majority opinion shall however prevail.

The Management shall confirm with or without modification the penalty recommended after duly following the prescribed procedure. The recommendation shall be implemented within *60 days* (two months).

CONFIDENTIALITY

Proceedings before the Committee shall be confidential and the committee shall direct every person to ensure that the proceedings of the Committee are not discussed outside;
As far as possible, the identity of the complainant and alleged perpetrator shall be kept confidential;

DISCIPLINARY ACTION

Where the conduct of an employee amounts to misconduct in employment as defined in the relevant service rules the employer should initiate appropriate disciplinary action in accordance with the relevant rules.

THIRD PARTY HARASSMENT

Where sexual harassment occurs as a result of an act or omission by any third party or outsider the employer and the person's incharge shall take all steps necessary and reasonable to assist the affected person in terms of support and preventive action.

It is the moral responsibility of MACHRD to provide referral services with minimum basic support including finance to initiate the process of legal justice if the victim so desire. However, the extent of financial support will be decided case by case by the Complaint Committee and Management.

ANNUAL REPORT

The Complaints Committee shall prepare an Annual Report giving a full account of its activities during the previous year and forward a copy thereof to the Head of the Organization concerned.

SAVINGS

Nothing contained in this code shall prejudice any right available to the employees or prevent any person from seeking any legal remedy under the National Commission for Women Act 1990, Protection of Human Rights Commission Act 1993 or under any other law for the time being in force in the country.

When such conduct amounts to a specific offence under the Indian Penal Code or under any other law, MACHRD shall initiate appropriate action in accordance with law by making a complaint with the appropriate authority.

(SECRETARY)

(PRESIDENT)