



POLICY AGAINST SEXUAL HARASSMENT AT WORKPLACE

Institute of Chinese Studies, Delhi

The Institute of Chinese Studies (ICS) is committed to providing a place of work free of sexual harassment, intimidation or exploitation. No person shall be subjected to sexual harassment at the workplace at the the ICS. Anyone violating this policy is subject to disciplinary action.

I. WHAT IS SEXUAL HARASSMENT

“Sexual harassment” shall include but will not be limited to the following:

- (i) 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, promotion, participation or evaluation of a person’s engagement in any Institution activity;
- (ii) When unwelcome sexual advances, and verbal, non-verbal and/or physical conduct such as loaded comments, remarks or jokes, letters, phone calls, text messages or e-mails, gestures, exhibition of sexually explicit or offensive material in any medium including pornography, lurid stares, physical contact, stalking, sounds or display of derogatory nature have the purpose and/or effect of interfering with an individual’s performance or of creating a hostile environment
- (iii) When a person/s use/s, with a sexual purpose, the body or any part of it or any object as an extension of the body in relation to an/other person/s without the latter’s consent or against that/those person/s’s will, whether or not such conduct amounts to sexual assault;
- (iv) When deprecatory comments, conduct or any such behaviour is based on the gender identity/sexual orientation of the person(s) and/or when the classroom or other public forum or academic activities of the Institution is used to denigrate/discriminate against person(s), or create a hostile environment on the basis of a person’s gender identity/sexual orientation.

Explanation: A “hostile environment” is said to be created when any act of sexual harassment has the purpose or effect of interfering with an individual’s work performance or creating an intimidating, hostile or offensive employment, education or living environment.

II. WHO IS COVERED BY THIS POLICY?

All constituents of the ICS, comprising employees and fellows (Emeritus, Honorary, Adjunct) of the Institute, including those who are in temporary or short term positions, all research and non-research staff, are subject to this policy. This would include persons affiliated to the Institution, employed on a regular, temporary, ad hoc or daily wage basis, either directly or indirectly, whether for remuneration or working on a voluntary basis or otherwise, and whether the terms of employment are express or implied.

In certain situations, the Policy may also apply to outsiders (see Section III).

III. WHERE DOES THIS POLICY APPLY?

The “work place” for the purposes of this policy, will extend to all public spheres under the jurisdiction of the ICS which remain in contact with constituents of the Institute. Such public spaces include the physical premises under the supervision of the Institute, where the constituents of the Institute reside or travel to as part of their work, and would include fieldtrips, conferences, events and all other activities undertaken by any person in his/her capacity as a constituent of the ICS.

Therefore, this Policy is applicable to all instances of sexual harassment as provided herein:

- (a) occurring on the ICS premises, irrespective of the parties;
- (b) between or among the constituents of the ICS in a situation related to the ICS;
- (c) where the complaint is made by a third party against a constituent of the ICS in a situation related to the ICS; and
- (d) any other situation involving a constituent of the Institute in which the Internal Complaints Committee (ICC) thinks it is necessary to intervene.

IV. ACTION TO BE TAKEN IN CASES OF SEXUAL HARASSMENT

Determining what constitutes sexual harassment depends upon the specific facts and the context in which the conduct occurs. Sexual harassment may take many forms – subtle and indirect, or blatant and overt.

For example:

- It may be conducted towards an individual of the opposite sex or the same sex.
- It may occur between peers or between individuals in a hierarchical relationship.
- It may be aimed at coercing an individual to participate in an unwanted sexual relationship or it may have the effect of causing an individual to change behaviour or work performance.
- It may consist of repeated actions or may even arise from a single incident.

Reports of sexual harassment are taken seriously and will be dealt with promptly. The specific action taken in any particular case depends upon the nature and gravity of the conduct reported.

The ICS recognises that confidentiality is important and will respect the confidentiality and privacy of individuals reporting or accused of sexual harassment to the extent reasonably possible and in accordance with law. Reprisals against an individual who in good faith reports, or provides information in an investigation, about behaviour that may violate this policy, are against the law and will not be tolerated. Intentionally providing false information, however, is grounds for disciplinary action.

V. i. WHAT TO DO IF YOU FEEL YOU ARE BEING SEXUALLY HARASSED AT THE WORKPLACE

Know your rights – Sexual harassment is illegal.

Speak up – If you can, tell the person to stop, state clearly and firmly that you want a particular behaviour to cease.

Get information and support – If you feel you cannot speak up, ask your friends to help you and bring it to the notice of the Institute. Keep records that might be useful for pursuing the case.

ii. WHAT NOT TO DO

Do not blame yourself. Sexual harassment is not something one brings on oneself. It is not a consequence of certain ways of dressing or acting. It is a violation of an individual's right to work and live with dignity.

Do not ignore it. Ignoring sexual harassment does not make it go away. The harasser may misinterpret a lack of response as approval of the behaviour.

Do not delay. Delay in action increases the probability that unwanted behaviour will continue or escalate.

Do not hesitate to ask for help. Speaking up may prevent others from being harmed as well.

VI. INTERNAL COMPLAINTS COMMITTEE (ICC)

The Internal Complaints Committee constituted will be appointed for a period of three years. Following are the nominated members (November 2018):

1. **Dr. Madhurima Nundy** (madhurima.nundy@gmail.com), Assistant Director, ICS - Convener
2. **Dr. P.K. Anand**, Research Associate, ICS
3. **Dr. Ritu Agarwal**, Adjunct Fellow, ICS
4. **Prof. Mary John**, Senior Fellow, Centre for Women's Development Studies, New Delhi – external member

Apart from enquiring into complaints it may receive, the ICC is also responsible for ensuring a positive work environment in the Institute through awareness raising initiatives. The ICC shall submit an annual report detailing the enquiries conducted, if any, and the other programmes undertaken by it during the year.

VII. PROCEDURE FOR REGISTERING COMPLAINTS

The complainant can make, in writing, a complaint of sexual harassment at workplace to the ICC. If the complainant is unable to write the complaint, the ICC or any other member of the Institute shall render all reasonable assistance to the individual seeking assistance for making the complaint in writing. If the individual is unable to write the complaint on account of physical or mental incapacity, any family member or authorised person can make the complaint.

Complaints can be submitted by email or post to the ICC, on condition that these are signed and/or a signed copy is submitted to the ICC at the earliest opportunity. WhatsApp and other social media shall not be a valid mode of complaint.

VIII. ENQUIRY PROCEDURES

1. Immediately upon receipt of a complaint, and not later than two days thereafter, the Convener of the ICC shall request the External Member and one other member to examine the complaint and determine if it falls within the jurisdiction of the ICC. The ICC will proceed with an enquiry in cases where it finds in the affirmative, and in other cases may provide the necessary advice and assistance

to the complainant to explore other remedies.

2. The Enquiry shall be conducted by a four-member Enquiry Committee, where at least one member is an external member, and at least 50% of the members are women.

3. Within 7 days of receiving the complaint, the Enquiry Committee shall forward a copy to the respondent, and thereafter give him an opportunity to place his written response, documents on record.

4. The Enquiry Committee may, on a written request from the complainant, make interim arrangements during the pendency of the enquiry, including transfer of the complainant or the respondent, granting of leave to the complainant (upto a maximum of three months), restraining the respondent from any performance evaluation or supervision of academic work of the complainant.

5. For the purpose of making an enquiry the Enquiry Committee shall have the powers to summon and enforce the attendance of any person and examining him/her on oath;

6. Both the complainant and the respondent may also examine witnesses in support of their case, but shall not be entitled to cross examine the witnesses of the opposite party. Questions for witnesses can be submitted in writing to the Enquiry Committee, which shall have the discretion to put the same to the witness.

7. The enquiry shall be completed within a period of ninety days.

8. Within a period of ten days of completion of the enquiry, the Enquiry Committee shall provide a report of its findings with recommendations to the Director, with copies to the complainant and respondent. If the Enquiry Committee reaches a finding of sexual harassment at workplace, it may recommend:

i. a monetary compensation to the complainant, to be deducted from the salary of the respondent, and/ or

ii. any of the penalties in the Box below.

9. Based on the report and its recommendations, and within sixty days of receipt of the ICC's report, the Governing Council will take a decision whether and what action is required to be taken.

10. Either party can file a statutory appeal before the Industrial Tribunal-cum-Labour Court (Appellate Authority) against the report of the ICC and/or the decision of the Governing Council, within three months.

IX. PENALTIES

One or more of the following penalties may be imposed upon the respondent, in case there is a finding of sexual harassment at workplace:

- i. Warning
- ii. Written apology
- iii. Bond of good behaviour
- iv. Adverse remarks in the Confidential Report
- v. Debarring from supervisory duties
- vi. Denial of membership of statutory bodies
- vii. Denial of re-employment
- viii. Stopping of increments/promotion
- ix. Reverting, demotion
- x. Suspension
- xi. Dismissal
- xii. Undergoing counselling sessions
- xiii. Community service
- xiv. Any other mechanism

Notes

1. Once a complaint has been given to the ICC, all persons connected with the enquiry, including the ICC members, the complainant, the respondent, witnesses appearing on their behalf, support staff, and any other concerned person, are bound by confidentiality. Breach of confidentiality is a punishable offence under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

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.

Additional resources:

Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013
http://www.iitg.ac.in/iitgicc/docs/Sexual_Harassment_Act_2013.pdf

Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013
https://www.iitk.ac.in/wc/data/Rules_Sexual-Harassment-at-Workplace.pdf

Handbook on Sexual Harassment at Workplace, Ministry of Women and Child Development, GoI (2015)

<https://www.iitk.ac.in/wc/data/Handbook%20on%20Sexual%20Harassment%20of%20Women%20at%20Workplace.pdf>

FAQs on Sexual Harassment at the Workplace: A Handbook for ICC members, WomenPowerConnect (2016)

<http://www.womenpowerconnect.org/wp-content/uploads/2017/06/2.ICC%20Handbook.pdf>